



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

H-2

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-6200 • Fax (562) 499-1097

May 9, 2017

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the hearing and approve the Hearing Officer's recommendation and Planning Commission determination to revoke Business Licenses Nos. BU21338610, BU21338620, and BU21338630, issued to Enaid's Way, Inc., dba Miko's Sports Lounge (Miko's), located at 710 W. Willow Street; and,

Approve the Hearing Officer's recommendation to allow the commercial/industrial Business License No. BU90057720, issued to the Mark, Ronald, and Colleen Mackey (Property Owners), to remain and be modified by adding a condition to the Business License requiring the Property Owners not operate or lease the premises to any tenant engaging in the sale of alcohol for the property located at 710-714 W. Willow Street. (District 7)

DISCUSSION

The Long Beach Municipal Code (LBMC) requires a hearing be held before the City Council whenever the revocation of a business license is appealed.

On November 3, 2016, the Planning Commission voted to revoke the Business Licenses and Conditional Use Permit (CUP) issued to Miko's and the Property Owners after an eight hour long public hearing. Both Miko's and the Property Owners appealed the revocation of their respective Business Licenses. Neither party appealed the Planning Commission's decision to revoke the CUP.

On December 20, 2016, the City Council referred the appeals of the Business License revocations to Hearing Officer Richard Terzian and the joint appeal hearing was held on March 15, 2017. When the City Council appoints a Hearing Officer to conduct the appeal proceedings, the LBMC also requires the City Council to review and consider the Hearing Officer's written determination. The City Council may adopt, reject or modify the recommended decision. The City Council has the discretion to take additional evidence at the hearing or refer the matter back to the Hearing Officer with instructions to consider additional evidence.

Attached for your review is Hearing Officer Attorney Richard R. Terzian's written determination (Attachment A).

Background

Relevant background for this matter includes a series of events related to the operation of Miko's at the property:

On October 23, 1990, the Property Owners were issued a Business License for commercial/industrial space rental.

On June 15, 1995, the Property Owners were granted a CUP and a Standards Variance for the property located at 710-714 W. Willow Street to allow the operation of a bar.

In December 2013, Miko's was issued a Business License to operate a bar at the property. This Business License was issued conditionally for a period of six months and later a regular license was issued. Since Miko's has been in operation, there have been numerous nuisances occurring at the location. Between January 2014 and May 2016, there were approximately 250 calls for police service attributed to Miko's. There have also been unpermitted entertainment activities and Health Code violations. Below is a summary of testimony and evidence presented at the previous hearings, organized by category. More detail regarding these matters can be found in the Hearing Officer's report, the transcripts of the Planning Commission hearing (Attachment B), and the subsequent hearing conducted by the Hearing Officer (Attachment C).

Noise

- The largest number of complaints from neighbors resulted from undue noise, primarily late on Friday and Saturday nights.
- The greatest impact was to residents on Maine Avenue.
- Noise came from a bar jukebox and sometimes from a live DJ.
- Noise from the bar jukebox could be heard in the neighborhood, but Miko's would not lower the volume despite being asked by neighbors and City officials to do so.
- Noise could have been mitigated by Miko's keeping its rear door closed (as requested by LBPD). However, Miko's failed to consistently implement this practice, which resulted in noise related nuisances.
- Noise was constantly generated by patrons as they left Miko's to reach cars in the parking lot, which is located in the back and along adjacent side streets (primarily Maine Avenue).
- Noise from patrons' car radios while parked in the Miko's parking lot was a constant issue.
- Additional security would have helped curtail noise in the neighborhood, but sufficient security was not provided by Miko's.
- Noise became so intolerable that a resident across the alley from Miko's back parking lot sold his home at a loss and left the neighborhood with his family.

Defecation and Other Activities in Public

- Video evidence depicted people relieving themselves on nearby residential and commercial properties.
- Residents along Maine Avenue reported witnessing sex acts by Miko's bar patrons in public.
- Video and other evidence depicted Miko's patrons drinking in cars behind Miko's and the surrounding streets and neighborhood.
- Neighbors testified as to liquor bottles and cans strewn around the neighborhood by Miko's patrons (photos provided by residents).

Intimidation

- Neighbors testified being intimidated by Miko's patrons, and that there was insufficient security to address these issues, particularly in the parking lot behind Miko's and along Maine Avenue.
- When residents complained to patrons regarding nuisance activity, they were met with tirades of obscenity and threats of bodily harm (testimony of Maine Avenue residents).
- Residents testified to being fearful of harm to themselves or their families by patrons of Miko's.
- Residents testified to being afraid to go out late at night due to the activity and conduct of Miko's patrons in the neighborhood.

Parking

- Miko's lacked required parking (a violation to their CUP conditions), causing patrons to park on nearby residential streets. This activity was particularly acute on weekends.
- Patrons of Miko's frequently took up available street parking in the residential neighborhood (such as Maine Avenue), particularly on weekends, resulting in a lack of parking for neighborhood residents.

Police Activities

- Miko's owner, Ms. Yancey, refused to allow the Police Department real time access to security cameras, even after the Police Department informed her that this would help curtail nuisance-related issues.
- There was a shooting of a patron from Miko's in December 2015.
- A stabbing occurred outside of Miko's in March 2016.
- The Police Department reported approximately 250 calls for Police service attributed to Miko's between January 2014 and May 2016.

Entertainment

- Various entertainment activities were advertised for Miko's on social media for which entertainment permits had not been issued.
- Occasional Entertainment Permits (OEPs) were denied by the City because of frequent noise complaints lodged by neighborhood residents.
- The Police Department discovered, twice, that Ms. Yancey chose to operate without an OEP. As a result, she was convicted of a misdemeanor violation for operating without an appropriate permit.

Food

- Food was provided from a non-approved catering service and Miko's failed to operate within the scope of the Health Permit approved for the business.
- Miko's was cited by the City's Health Department for health and safety-related reasons.

Chronology

In June 2016, the Development Services Department and the Police Department recommended the revocation of the CUP and the Business Licenses associated with the property. The continued violations of the terms of the CUP, ongoing nuisance activities, and public safety concerns formed the basis for the revocation of the property entitlements and the right to operate a business at the property.

On August 9, 2016, the City Council referred to the Planning Commission the consolidated public revocation hearing of the CUP and the Business Licenses issued to the Property Owners and Miko's.

On November 3, 2016, the Planning Commission voted to revoke the CUP associated with the property and the Business Licenses issued to the Property Owners and Miko's after an eight- hour long public hearing, wherein:

- Both Miko's and the Property Owners were given timely and adequate notice of the Planning Commission Hearing on November 3, 2016.
- Both Miko's and the Property Owners were represented by counsel.
- All witnesses testified under oath and were subject to cross-examination.
- A written record of the hearing was made available to the parties.

On November 10, 2016, Miko's filed an appeal of the Business License revocation, but did not appeal the revocation of the CUP (Attachment D).

On November 11, 2016, the Property Owners filed an appeal of the commercial/industrial Business License revocation, but did not appeal the revocation of the CUP (Attachment E).

On March 15, 2017, a six-hour long consolidated public appeal hearing for the revocation of Business License Nos. BU21338610, BU21338620, BU21338630, and BU90057720 was held. The presiding hearing officer, assigned by the City Clerk's Office, was Attorney Richard R. Terzian.

On April 4, 2017, Hearing Officer Terzian submitted his written conclusions of law and recommendations, which are as follows:

Conclusions of Law

- Miko's has been, and is operating in violation of Section 5.06.020(1), (3) and (5) of the LBMC and the conditions of the CUP.
- Miko's has been operating in violation of Section 5.72.110 of the LBMC.
- The operation of Miko's at the property is a public nuisance within the meaning of Section 9.37.090(G), (H), (M), (O), and (U) of the LBMC.
- The Property Owners exercised inadequate control over their tenant at the property, but such lack of control does not justify prohibiting lease of the property for any purpose aside from dispensing of alcohol on site.

Recommendations

- Business License Nos. BU21338610, BU21338620 and BU21338630 held in the name of Enaid's Way, Inc., dba Miko's Sports Lounge, be revoked.
- Business License No. BU90057720 held by Mark, Ronald and Colleen Mackey with respect to the property be modified by adding a condition to said Business License that the property may not be leased to a tenant dispensing alcoholic beverages on site.
- That both the operation of Miko's and lease of the property to Miko's be deemed a public nuisance to be abated forthwith and both licensees jointly and severally be ordered to pay costs of abatement to the City.

Therefore, staff requests that the City Council uphold the recommendations of the Hearing Officer and Planning Commission and revoke Business License Nos. BU21338610, BU21338620 and BU21338630 held in the name of Enaid's Way, Inc., dba Miko's Sports Lounge, and reverse the City's decision to revoke Business License No. BU90057720 held by Mark, Ronald and Colleen Mackey and add a condition onto the business license stating that **the property may not be leased to any tenant dispensing alcoholic beverages on site.**

This matter was reviewed by Deputy City Attorney Art D. Sanchez on April 17, 2017.

TIMING CONSIDERATIONS

The hearing date of May 9, 2017, has been posted on the business location, and the property and business owner has been notified by mail.

HONORABLE MAYOR AND CITY COUNCIL

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FISCAL IMPACT

There is no fiscal or local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

JG:SP:EA
K:\EXEC\COUNCIL LETTERS\BUSINESS SERVICES\HEARING LETTERS\5-9-17 HEARING - MIKO'S SPORTS LOUNGE - COUNCIL REVIEW AND
CONSIDER HO REPORT.DOCX

ATTACHMENTS

APPROVED:



PATRICK H. WEST
CITY MANAGER

ATTACHMENT A

**Hearing Officer Terzian's Report and
Recommended Decision, April 4, 2017**

**BEFORE THE ADMINISTRATIVE HEARING OFFICER
FOR THE CITY OF LONG BEACH, CALIFORNIA**

BUSINESS LICENSE REVOCATION APPEAL
HEARING TO SHOW CAUSE WHY
BUSINESS LICENSE NUMBERS
BU21338610, BU21338620, BU21338630 AND
BU90057720 SHOULD NOT BE REVOKED
PURSUANT TO LBMC 3.80.429; ENAID'S
WAY, INC. doing business as MIKO'S
SPORTS LOUNGE, RONALD L. and PEGGY
C. MACKEY TRUST

**REPORT AND
RECOMMENDED DECISION**

**I
INTRODUCTION**

Hearing on the referral from the City Council on revocation of the above-numbered business licenses of Enaid's Way, Inc. doing business as Miko's Sports Lounge (Miko's) and Ronald L. and Peggy C. Mackey Trust (Mackey) was held before the undersigned as the designated hearing officer on March 15, 2017 in the City Council Chambers of the Long Beach City Hall. Arturo D. Sanchez, Deputy City Attorney, appeared for the City of Long Beach (City). Joshua Kaplan appeared for Miko's and Larry Clough appeared for Mackey.

**II
PROCEDURAL HISTORY**

This matter with respect to the business licenses, along with proposed revocation of a conditional use permit for operation of a bar at real property owned by Mackey at 710 West Willow St. (Property), was referred to the Planning Commission by the City

Council for hearing. The Planning Commission held a hearing on the matter on November 3, 2016.

Upon conclusion of the hearing the Planning Commission voted to revoke said business licenses of Miko's and Mackey and the conditional use permit of Mackey for the Property. Administrative appeal of the business license revocations was made to the City Council and on December 20, 2016 the City Council referred them to a hearing officer.

III ISSUES

With respect to Miko's the issue is whether the business has been operated in breach of applicable law and permits in such manner and to such extent as to justify revocation of its license to operate a bar on the Property.

With respect to Mackey, the issue is whether allowing its tenant, Miko's, to operate in violation of applicable law and permits justifies revocation of its business license to lease the Property.

IV THE HEARING

A. Exhibits

At the hearing on March 15, the City offered the administrative record in the form of an Evidence Binder consisting of Exhibits A through E, to which are attached Exhibits 1 through 47. The City also offered a transcript of the above-mentioned hearing before the Planning Commission. Both were received in evidence. Also received in evidence were additional exhibits submitted at the March 15 hearing and described below.

Mr. Kaplan submitted the following designated exhibits for Miko's:

- A- Notice of hearing on revocation dated October 18, 2016 directed to Miko's.
- B- Notice of revocation dated November 4, 2016 directed to Miko's.
- C- Appeal letter of Miko's dated November 10, 2016
- D- Letter dated January 31, 2017 from Mr. Kaplan related to Haas issues.
- E- Letter dated February 10, 2017 from Mr. Sanchez in response to Exhibit D.

Mr. Clough submitted Exhibit F, consisting of certain medical records of Ronald L. Mackey, and a notice of hearing dated October 18, 2016 addressed to Mackey as Exhibit G.

The City submitted the following additional exhibits:

- H- Notice of Public Hearing by the Planning Commission.
- I- Video of activities around Miko's at various times.
- J- Conditional business license issued to Miko's on December 27, 2013.

B. Testimony

The following witnesses gave testimony, under oath, before the undersigned and were subject to cross-examination:

- 1- Brett Yakut- business services officer for the City's Business License Division.
- 2- Christopher Koontz- advance planning officer for the Development

Services Department of the City.

3- Heidi Eidson- Bureau Secretary for the Planning Bureau and Development Services of the City.

4-Vivian Session-a resident of the community.

5-Joshua Barker- a resident of the community.

6-Katwuan Sauldsen- a security guard for Miko's.

7-Damitresse (Dede) Yancey- operator of Miko's and sole owner of Enaid's Way, Inc.

8- Ronald Mackey-owner of the Property.

9-Dana Dittman- a resident of the community.

10- Laurie Barajas- City police officer.

All the witnesses before the Planning Commission testified under oath and were subject to cross-examination by counsel representing Miko's and Mackey. The undersigned considered all that testimony and the documents presented at the Planning Commission hearing as well as the oral testimony given at the March 15 hearing and additional documentary evidence presented thereat, including the video.

The foregoing presented a full evidentiary picture on which the following discussion, analysis, findings and conclusions are based.

V DISCUSSION AND ANALYSIS

The evidence and applicable law differ with respect to Miko's and Mackey. Each will be discussed separately.

A. Miko's

Miko's is located at 710 West Willow in a commercial zone. A small parking lot is on the southern part of the Property, separated by an alley from single-family residences behind it to the south. The street to the east adjacent to Miko's is Maine Avenue which is lined with single family residences. The next adjacent street to the west is Oregon Avenue, which is also lined with such residences.

Miko's operates under Conditional Use Permit No.9505-01 (CUP) issued on June 15, 1995 for operation of a tavern with a variance to allow six parking spaces instead of the 11 spaces normally required. Like most such permits the CUP here had conditions attached; three of them are significant in evaluation of this case. Condition No. 11 prohibited "loitering in all parking and landscaped areas serving the use during and after hours of operation; Condition No. 14 required "security measures to the satisfaction of the Chief of Police;" Condition No. 20 mandated an additional five parking spaces by agreement with adjoining property owners for use "after 5:00 P.M. 7 days of the week to the satisfaction of the Director of Planning and Building" which was to be recorded with the County Recorder. The purpose of these conditions was to keep the noise and the actions of bar patrons under control and prevent late-night patrons from using adjacent streets for parking.

After issuance of the CUP, two bars occupied the Property in succession. Their operations caused some problems, but not enough to justify revocation of their business licenses or revocation of the CUP.

On December 9, 2013 Ms. Yancey applied for a business license for Miko's listing a starting date of December 27, 2013. Although the application form warned that the bar could not operate until a business license was issued, Ms. Yancey started anyway. The result was a series of calls to the police and complaints from neighbors about noise and a notice of violation issued by the City on February 24, 2014 for operating without a business license.

Ms. Yancey's response to the neighbors, in a meeting that month, was that she had "bent over backwards" by hiring security guards for weekends and she could not be there 24 hours a day to monitor the establishment. Ms Yancey added that they should not have moved next door to a bar if it bothered them so much and to call the police if their peace was disturbed.

In March, 2014 the City suggested Ms. Yancey put a camera at the bar perimeter with Police Department access, put up "no-loitering" signs, keep the rear door closed and increase security. Ms Yancey agreed to put up the signs and keep the rear door closed, but did not want police access to the camera in real time.

On March 26, 2014 the City issued a nuisance warning letter to Ms. Yancey and on the same day issued a conditional business license to Miko's which required two no-loitering signs, closure of the rear door at all times except for deliveries and emergencies and compliance with the City noise ordinance.

From that point onward for the next 2 ½ years there were a series of meetings by Ms. Yancey with City officials, warnings of violations, complaints from neighbors and calls for police services. A summary of these problems follow, broken down into the categories of complaints.

1-Noise

The largest number of complaints from neighbors resulted from undue noise from Miko's, primarily late on Friday and Saturday nights and early mornings. The greatest impact was to the residents of Maine Avenue.

The noise came from music generated by a juke box, and sometimes by a live DJ, emanating from the interior of the bar through the open rear door. Significant noise was also generated by patrons as they left to reach their cars in the parking lot and the side streets where they had parked because there was insufficient security personnel at the premises. There was also noise from patrons playing the radios in their cars. One witness testified she was awakened "about 50 times" because of the noise from Miko's late at night. Another was awakened regularly by "loud screaming after midnight" and "cars racing down the block with music blaring".

The video showed much shouting and screaming by patrons with little effort by the lone visible security guard to control it, aside from directing traffic out of the parking lot. The noise was so intolerable to one neighbor on Maine that he had to sell his home at a price less than he would have obtained had it been located further away. The witnesses testifying to the excessive noise were credible. Two witnesses, who lived a further distance away, testified that they heard no noise. They were less credible.

The music noise could have been mitigated by keeping the rear door closed, as required by the City, but Miko's rarely complied. It could have also been reduced by more security, but there was never enough.

2-Defecation and other activities in public

Witnesses testified to, and the video showed, a number of patrons relieving themselves on nearby properties and in the alley behind Miko's. Witnesses also testified to observing sex acts in cars parked behind the bar and vomiting in public view. Witnesses testified to drinking in the open and in cars behind Miko's and surrounding streets. There were also bottles strewn about the premises.

3- Intimidation

There was insufficient security to prevent the activities described above. When some residents complained to the patrons, they were met with tirades of obscenity and threats of bodily harm. Some of those residents reported being fearful of harm to themselves or their families from patrons of Miko's. Others were afraid to go out late at night.

4- Parking

On weekend nights there was insufficient parking on the lot behind Miko's, which resulted in its patrons taking up most of the available parking spaces on adjacent streets and crowding out parking available for residents and their guests. There was always a parking deficit of five spaces at the Property, which Miko's was obligated to relieve by obtaining a recorded parking agreement with a neighboring property owner. Ms. Yancey purported to obtain such an agreement which had a term of only one day and was never recorded. Again, the lack of security aggravated the problem.

5-Police Activities

Ms. Yancey would not allow the police real time access to her security cameras in the bar from the beginning of its operations, Miko's generated over 250 calls for police services over a period of 2 ½ years. Most of them resulted from complaints called in by the neighbors for the activities described above, but some were for more serious matters. The police would come almost every day in response to calls. During the period in question, there was one murder which had its inception in the bar and a stabbing which took place immediately outside the bar.

6- Entertainment

This category is related to the noise issues described above but is worthy of separate mention since it demonstrates a lack of concern on the part of Ms. Yancey for compliance with legal requirements. Many of the noise complaints were generated by entertainment events with loud music and many patrons. Some of these events were advertised on social media. It is because of this potential for noise that the City requires entertainment permits. Ms. Yancey obtained temporary permits on occasion, but when they generated noise complaints, the City refused to issue any more. That did not stop Ms. Yancey from allowing entertainment in the bar on a number of occasions. Ms. Yancey was charged with operating without an entertainment permit and pled no contest. She was sentenced to "informal diversion".

7-Food

In connection with entertainment events, Miko's provided food from a non-approved catering service and failed to operate within the scope of the health permit approved for the business.

All of the foregoing matters resulted in numerous warning letters, citations and meetings with police, other City officials and Ms. Yancey over a period of almost three years. The City made many suggestions for Ms. Yancey to mitigate the problems but they went uncorrected for the most part. The foregoing was testified to by neighbors and City officials, all of whom the undersigned found to be credible.

Ms. Yancey testified she was not aware of the CUP on the Property or its conditions. She further testified that she did not know of the need for security unless she was providing entertainment. She attempted to get the additional five parking spaces and had an oral agreement to use nearby spaces after 5 PM. She had never seen any of the activities depicted on the video and was unaware of any patrons creating a disturbance. She said the police would come almost every day due to calls from the neighbors, but they never discovered anything. She believes the calls were made by neighbors who have "nothing else to do". She is not aware of any outside drinking, drunk and disorderly conduct, or intimidation by her patrons directed to the neighbors.

As to the video she stated there was no proof that the people shown were her patrons and a majority of them were in fact not her patrons. She did not speak to complaining neighbors because "I don't have to, that's not part of my business." She believes the bar has no effect on the community because she hasn't been evicted from the premises by the landlord.

Ms. Yancey is employed by the State of California in licensing daycare facilities. She should be familiar with the requirements of governmental permits and other aspects of complying with the laws regulating business. In her words "I know about compliance". The undersigned believes her denial of knowledge of what her legal obligations were and what was going on at and around Miko's to be less than credible.

B. Mackey

Ronald Mackey testified he has owned the subject property for some 38 years and it has been a bar since the CUP was obtained in 1995. He has had two other bars as tenants on the Property. The Puka Bar created no public problems. The Sand Bar did create problems with parking and noise, so he evicted them although their failure to pay rent was also a reason.

Mr. Mackey had several meetings with the City and with Ms. Yancey on the issues described above. He warned Ms. Yancey several times that she had to resolve the complaints about her operations. He also wrote her several letters warning her that she had to comply with the terms of the lease that she was to comply with all applicable laws. Ms. Yancey told him that all the corrections required by the City had been made.

Mr. Mackey also met with the neighbors and was surprised when they told him of the problems because he thought they had been corrected. He was injured in April, 2016 and has been in poor health recently with a number of physical issues. He has recently commenced eviction proceedings against Miko's.

C. Discussion

The documents, video and testimony at both the Planning Commission and before the undersigned showed beyond a doubt that Miko's was operated from its

inception in violation of the requirements of the CUP and the Municipal Code as to entertainment, noise, health and protection of surrounding properties.

The operator, Ms. Yancey could have done a great deal to mitigate the impacts the operation of her bar had on the surrounding community and chose not to do so. She failed to keep her commitments to the City and misled Mr. Mackey into believing she had corrected the violations. Her testimony showed a refusal to take responsibility for any problems arising out of the operations. Instead, she blamed others, primarily the neighbors who complained to the City because they "had nothing better to do". She made no showing that she would do anything to improve the situation if she was allowed to retain her business license.

As to Mackey, the City proposes to revoke his business license for the business of leasing the Property. With revocation of the CUP it cannot be used for a bar, but it still can be leased for any purpose consistent with its zoning and not requiring a CUP. Mackey was made aware of the problems created for the community by the operations of his tenant and he had the power to evict Miko's under the terms of the lease; he has belatedly commenced such proceeding.

Mackey made some attempts to rein in the problems at Miko's but did not even attempt to evict the business until quite recently. The City's position is that this is "too little and too late".

Taking all the above factors into consideration, including the current frail health of Mr. Mackey, it appears to the undersigned that preventing Mackey from leasing to any prospective tenant is too harsh a remedy for what has occurred here and the goal of the City in protecting the public can be achieved by placing a condition on his business

license prohibiting a lease to any tenant dispensing alcoholic beverages on site at the Property.

VI FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Based upon the foregoing the undersigned hereby finds based upon a preponderance of the evidence:

- 1- Damitresse (Dede) Yancey is the sole owner of Enaid's Way, Inc. doing business as Miko's Sports Lounge(Miko's).
- 2- Enaid's Way, Inc. was issued a conditional business license to operate a bar at 710 W. Willow Street in the City on December 27, 2013 and a permanent business license on June 24, 2014.
- 3- The real property commonly known as 710 W. Willow Street (Property) is owned by the Ronald L. and Peggy C. Mackey Trust (Mackey).
- 4- Mackey holds a business license for the business of leasing commercial and industrial spaces within the City.
- 5- Mackey was also holder of a Conditional Use Permit No. 9505-1 issued on June 15, 1995 (CUP) with respect to sale of alcoholic beverages on the Property.
- 6- Pursuant to proposed revocation of the CUP and both business licenses, the Planning Commission held a public hearing on said revocations on November 3, 2016.
- 7- Both Miko's and Mackey were given timely and adequate notice of said Planning Commission hearing.
- 8- At said Planning Commission hearing:

- a. Miko's and Mackey were represented by counsel.
 - b. All witnesses testified under oath and were subject to cross-examination.
 - c. A written record of the hearing was made available to the parties.
- 9- Upon conclusion of the hearing, the Planning Commission voted to revoke the CUP of Mackey and the business licenses of both Miko's and Mackey.
- 10-Thereafter both Miko's and Mackey duly appealed revocation of their respective business licenses to the City Council.
- 11-On December 20, 2016 the City Council referred the matter to a hearing officer.
- 12-The undersigned was thereafter designated as the hearing officer.
- 13-Commencing in January, 2014 and continuing thereafter until August, 2016. Miko's regularly violated the terms of the CUP in not keeping the back door to the bar closed and not providing adequate off-street parking.
- 14-Throughout the period described in Finding No. 13 above, Miko's was the source of loud and offensive noise during late evening and early morning hours on Fridays and Saturdays to the great discomfort of nearby residents.
- 15-Throughout the period described in Finding No. 13 above, Miko's failed to provide adequate security as required under the CUP. As a result, its patrons loitered on the premises, defecated and urinated in public and on adjacent private property; and also threatened and intimidated nearby residents.

- 16-Throughout the period described in Finding No. 13 above, Miko's failed to provide adequate off-street parking resulting use of parking on adjacent streets, thus denying parking spaces to residents and their guests.
- 17-During the period described in Finding No. 13 above, the activities at Miko's resulted in some 250 calls for police services.
- 18-Throughout the period described in Finding No. 13 above, Miko's often provided entertainment at the premises without a permit.
- 19-On several occasions Miko's provided food to patrons without compliance with the applicable health law.
- 20-On numerous occasions Ms. Yancey was warned orally and in writing of the above violations, but they were not corrected.
- 21-Ms. Yancey refused to take responsibility for, and made no significant attempts to mitigate the impact of, the activities described in Findings Nos. 13-18 above.
- 22-The residents near Miko's suffered significant adverse effects from the activities described in Findings No. 13-18 above.
- 23- Ms. Yancey was convicted of a crime of providing entertainment at Miko's without a permit.
- 24- Mackey was informed by the City of the activities described in Findings Nos. 13-18 above and made some effort to make Miko's comply with City requirements.
- 25-The problems arising from the operation of Miko's on the property resulted from the sale of alcoholic beverages on site.

Based on the foregoing Findings, the undersigned reaches the following Conclusions of Law:

1. Miko's has been, and is operating in violation of section 5.06.020(1),(3) and (5) of the Long Beach Municipal Code and the CUP.
2. Miko's has been operating in violation of Section 5.72.110 of the Long Beach Municipal Code.
3. The operation of Miko's at the Property is a public nuisance within the meaning of Section 9.37.090(G),(H),(M),(O), and (U) of the Long Beach Municipal Code.
4. Mackey exercised inadequate control over its tenant at the Property, but such lack of control does did not justify prohibiting lease of the Property for any purpose aside from dispensing of alcohol on site.

VII RECOMMENDED DECISION

The undersigned hereby recommends that:

- A- Business License Nos. BO21338610, BO21338620 and BO21338630 held in the name of Enaid's Way, Inc. dba Miko's Sports Lounge be revoked.
- B- Business License No. BU90057720 held by the Randall L. and Peggy C. Mackey Trust with respect to the Property be modified by adding a condition to said license that the Property may not be leased to a tenant dispensing alcoholic beverages on site.

C- That both the operation of Miko's and lease of the Property to Miko's be deemed a public nuisance to be abated forthwith and both licensees jointly and severally, ordered to pay costs of abatement to the City.

Dated: April 4, 2017


Richard R. Terzian
Hearing Officer

ATTACHMENT B

**Planning Commission Public Hearing Transcript,
November 3, 2016**

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COMMISSIONERS:

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MICHAEL J. MAIS, Assistant City Attorney
ARTURO D. SANCHEZ, Deputy City Attorney
AMY BODEK, Director, Long Beach Development Services
CHRISTOPHER KOONTZ, Advance Planning Officer
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HEIDI EIDSON, Clerk

PARTIES' ATTORNEYS:

MICHAEL K. CERNYAR, Attorney for Dede Yancey/Miko's
Sports Lounge
LARRY HAAKON CLOUGH, Attorney for Ronald and Peggy
Mackey, Mackey Trust

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1 THURSDAY, NOVEMBER 3, 2016; 5:03 P.M.

2 LONG BEACH, CALIFORNIA

3

4 CHAIRWOMAN VAN HORIK: Good evening. We'd like to
5 get the Planning Commission meeting for November 3rd
6 started. Please silence your iPhones right now.

7 We're not going to proceed. I want to make
8 sure that the property owner and the business owner are
9 here. Can you please indicate you're here if you are
10 certain.

11 MR. CERNYAR: Yes. Michael Cernyar for the
12 business owner, and yes, she's present.

13 CHAIRWOMAN VAN HORIK: Thank you.

14 And the property owner?

15 Mr. Mais, should we --

16 MR. MAIS: Chair Van Horik, Art Sanchez, who's the
17 City's Code Enforcement/Nuisance Abatement attorney, did
18 receive a call earlier this afternoon from the attorney
19 that represented Mr. Mackey, who is the property owner.

20 He indicated that he was on his way from
21 Chatsworth, I believe. That was approximately 3:30. In
22 order to provide due process to both the property owner
23 and the business owner and, of course, the residents
24 that are here to testify, I would suggest that we wait a
25 few minutes to give them an opportunity, maybe say 'til

1 5:15, 5:20 -- didn't realize it was that late -- to see
2 if they show up. And if they don't show up, I would
3 suggest that we start.

4 I note for the record that the property
5 owner, as the business owner, were duly noticed that the
6 hearing and the start time of 5:00 o'clock. And we do
7 have a number of people -- my estimate would be 30 or 40
8 or more -- in the audience that are here to participate,
9 I assume, in the hearing.

10 So if they don't show up in a reasonable
11 period of time, I'd suggest that we start.

12 CHAIRWOMAN VAN HORIK: Okay. So we'll wait about
13 five more minutes, six more minutes, and then we will
14 proceed. Thank you for your patience.

15 (Brief recess.)

16 CHAIRWOMAN VAN HORIK: All right, ladies and
17 gentlemen, we have waited a little more than five
18 minutes. It's now 5:15 according to our clock, so we
19 are going to proceed.

20 Let the record reflect that we have waited
21 15 minutes to start so that the property owner would be
22 able to join us, and I don't believe she's here yet, she
23 or he. Are you here?

24 MR. MAIS: Mr. Mackey or representative from
25 Mr. Mackey, are you in the chambers?

1 Let the record reflect that no one
2 responded.

3 CHAIRWOMAN VAN HORIK: Would everyone who is here
4 tonight who plans to speak before this body please stand
5 up right now and raise your right hand. We need to
6 swear you in.

7 Do you solemnly swear or affirm that the
8 evidence you shall give in this Planning Commission
9 meeting shall be the truth, the whole truth and nothing
10 but the truth?

11 MASS PARTICIPANTS: Yes.

12 CHAIRWOMAN VAN HORIK: Thank you.

13 And let's go ahead and start with our
14 agenda item.

15 MS. EIDSON: The agenda item is a recommendation
16 to receive supporting documentation into the record,
17 conclude the public hearing and accept Categorical
18 Exemption CE 16 dash 247, revoke the Conditional Use
19 Permit and Standards Variance, Case Number 9505 dash 01,
20 for a tavern, revoke the business licenses for the
21 operator, Enaid's Way, dba Miko's Sports Lounge,
22 including but not limited to BU21338610, BU21338620 and
23 BU21338630, and revoke the property owner's business
24 license, Ronald Mackey and Peggy Mackey Trust, including
25 but not limited to BU90057720, for the property located

1 at 710 West Willow Street in the Community Commercial
2 Automobile-Oriented zoning district.

3 CHAIRWOMAN VAN HORIK: Thank you.

4 We have a staff report?

5 MS. BODEK: Madam Chair and Members of the
6 Planning Commission, thank you for your attention
7 tonight. Tonight is going to be a little bit of an
8 unusual meeting for you, so I wanted to give you a
9 30-second overview of the context of why we're here
10 tonight, and then I will be turning it over to Mr. Mike
11 Mais, our Assistant City Attorney, who will be
12 discussing the procedures for this evening.

13 You as a Planning Commission have the
14 purview over conditional use permits. The issuance of
15 those permits, the enforcement of those permits and then
16 ultimately the revocation of those permits.

17 You also as a Planning Commission can be
18 assigned to the responsibility to be the hearing body in
19 accordance with a section of the Municipal Code,
20 2.93.050.

21 In August of 2016, the City Council
22 designated the Planning Commission as the hearing body
23 for the purposes of considering a business license
24 revocation.

25 Since staff is also considering the

1 revocation of the conditional use permit for the same
2 address and the same location, we do have the ability to
3 combine those two hearings with purview of the Planning
4 Commission, and then that's what we're doing tonight.

5 So I do want you to understand the purview.
6 You will be acting as a hearing body for both the
7 revocation of the business license for the property and
8 the tenant, as well as the revocation of the conditional
9 use permit that goes with the property.

10 With that, I'm going to turn it over to
11 Mr. Mike Mais. Thank you.

12 MR. MAIS: Chair Van Horik, Members of the
13 Planning Commission, Mr. Cernyar, who is the attorney
14 here representing the business owner tonight,
15 Miss Yancey, has indicated I think to Mr. Sanchez that
16 he is going to make a motion to continue the matter.

17 So what I would like to do is explain a
18 little bit about the procedure that we will follow
19 tonight, and then I think it would be appropriate if
20 Mr. Cernyar is intending to request a continuance, that
21 he be allowed to come to the microphone and deal with
22 that issue before -- if we're going to take testimony,
23 but before that were to happen, let that go forward
24 first.

25 As Miss Bodek indicated, this is a rather

1 unusual hearing this evening for the Planning
2 Commission. Procedure will be slightly different
3 tonight because unlike most hearings where you're
4 actually making a recommendation to the City Council,
5 tonight you're really sitting in an adjudicative-type
6 fashion and you are acting more as a judge or a jury
7 would act in a court of law in a civil case.

8 You will basically be asked to hear the
9 evidence from witnesses who come forward to testify and
10 then be asked to form conclusions based on the evidence
11 that you receive at the end of the hearing.

12 As always and in conformance with the rules
13 of the Planning Commission, findings have been submitted
14 together with the City staff report, and as always,
15 these findings support the recommendation of the
16 Planning staff in this case, and in this case also the
17 Business License staff.

18 Should the Planning Commission not follow
19 the directions of Business Licensing or the Planning
20 staff and go in a different direction, we would have to
21 bring the matter back for alternative findings at a
22 later date.

23 I should point out to everyone here that
24 this matter is appealable to the City Council should any
25 party or person be aggrieved by the decision that the

1 Planning Commission does make in this case.

2 Unlike most hearings that come before the
3 Planning Commission, in this particular case the
4 parties, or at least one of the parties, will be
5 represented by an attorney who will be able to ask
6 questions of the witnesses should they find it necessary
7 to do this.

8 This is still an administrative-type
9 hearing. It's not a court of law. So the strict rules
10 of evidence do not apply, although we will maintain
11 courtroom-like decorum throughout the proceeding.

12 Witnesses -- although I mentioned that
13 attorneys have the ability to ask questions of
14 witnesses, attorneys -- or witnesses will be able to
15 testify as they always do before the Commission in a
16 narrative fashion. In other words, tell their story as
17 they come before the Commission.

18 For the parties or their representatives
19 that make a presentation before the Planning Commission
20 or the witnesses that are called by a representative,
21 the normal three-minute rule will not apply.

22 Those speakers will be allowed by the
23 Planning Commission to have a reasonable time to present
24 their position. However, in keeping with the Brown Act,
25 we do have a spot on the agenda for members of the

1 public to talk about this particular case, and they will
2 be subject to the normal Planning Commission
3 three-minute rule.

4 Oh, obviously apparent, unlike most
5 Planning Commission meetings, we do have a court
6 reporter. And this is for folks in the audience, as
7 well as the Planning Commission.

8 The court reporter is here to take down all
9 of the testimony and spoken words at the Commission
10 meeting tonight, and that will later be transcribed if
11 it's necessary to do that.

12 If you are speaking before the Planning
13 Commission tonight, please speak as clearly as possible
14 so that the court reporter can take down all of your
15 testimony, and try to keep your testimony at a
16 reasonable pace, again, for the court reporter's benefit
17 so we can capture everything that's said by all the
18 parties and the representatives tonight.

19 Because this matter involves the revocation
20 of both a conditional use permit and a business license
21 or business licenses, the City has the burden of proof
22 on those issues. That is, the City has the burden to
23 convince the Planning Commission that it's appropriate
24 to revoke the CUP and the business licenses.

25 This means because the City has the burden

1 of proof, they will both start the case and end the
2 case. So the City through the staff report will make
3 the initial presentation.

4 At the conclusion of the hearing, the
5 parties or the parties' representatives, including the
6 City's representatives, will have an opportunity to make
7 a summation of what they believe the pertinent evidence
8 has been before the Planning Commission.

9 So with that, I'll turn the matter back
10 over to the Chair, and I do think it's appropriate, if
11 Mr. Cernyar is intending to make a motion to continue
12 this matter, that he come to the microphone and do so.

13 CHAIRWOMAN VAN HORIK: And should he provide his
14 name and address for the clerk?

15 MR. MAIS: It's not necessary to provide an
16 address unless you want to be contacted later, but
17 certainly provide your name again for court reporter so
18 she can track who is saying what.

19 MR. CERNYAR: Thank you.

20 My name is --

21 MR. MAIS: There's a button on the -- that should
22 turn your microphone on. And it does raise it up, too.
23 There should be another button that turns the microphone
24 on.

25 MR. CERNYAR: There's only two buttons.

1 CHAIRWOMAN VAN HORIK: Try it now.

2 MR. CERNYAR: Does this work? Okay.

3 Thank you. Ladies and gentlemen of the
4 Planning Commission, Miss Chairman, my name is Michael
5 Cernyar, spelled C-e-r-n-y-a-r. My address is
6 1000 Wilshire Boulevard, Suite 2150, Los Angeles,
7 California 90017.

8 CHAIRWOMAN VAN HORIK: Thank you.

9 MR. CERNYAR: I've known this particular matter
10 very shortly, for a few months. I think the last time
11 was a City Council meeting. The business owner
12 contacted me. We had some discussions. I had not been
13 retained for that.

14 I did -- I had requested some documents
15 regarding 250 calls. I wanted to follow up on what
16 happened to those specific calls.

17 After that City Council meeting, the
18 business owner felt as though she didn't need my
19 services anymore and she's going to work this out with
20 the community, and therefore, I was not involved with
21 this until last week when I heard there was a -- this
22 meeting was present.

23 Again, I asked for some discovery. I had
24 been doing some due diligence. I'm also in trial up in
25 Ventura, so traveling back and forth makes it a little

1 bit difficult.

2 But I had been out here on the weekend and
3 I had done some checking on some of the things that were
4 submitted, including photographs which didn't quite
5 match up. Had taken some photographs. I haven't
6 printed them out for tonight.

7 But I'd still like to see the results of
8 those 250 phone calls, and I had requested them I think
9 late last week because of my schedule.

10 And I'm asking for a continuance so I can
11 complete my due diligence in this particular matter so
12 my client is treated fairly and justly through this
13 process. And with that, I'll submit.

14 CHAIRWOMAN VAN HORIK: I'm going to ask for some
15 advice from Counsel.

16 MR. MAIS: Chairperson Van Horik, Members of the
17 Planning Commission, anytime a party or anyone that's
18 appearing before the Commission requests a continuance,
19 it's incumbent upon them to establish that there's good
20 cause for the continuance.

21 I believe that the request -- and,
22 Mr. Cernyar, please correct me if I'm wrong. The
23 request for discovery that was made was actually made to
24 Deputy City Attorney Art Sanchez this week, and it was
25 based on an earlier request that was made by Mr. Cernyar

1 or his client in a different matter, which is a criminal
2 matter that involved the bar.

3 And I think it's Mr. Cernyar's position, if
4 I understood Mr. Sanchez, that the City Prosecutor's
5 office had not yet complied with that request. That
6 does not -- I don't know. Is that correct?

7 MR. CERNYAR: That's somewhat correct, yes. I
8 thought was for a different matter, but -- I thought was
9 for the City Council meeting, but -- instead of the
10 criminal matter, but --

11 MR. MAIS: At any rate, the request was not
12 received in the City Attorney's office until this week.

13 Is that correct, Mr. Sanchez?

14 MR. SANCHEZ: Yes.

15 MR. MAIS: So again, we go back to the issue of
16 good cause. It's incumbent upon parties when they
17 receive notice of a hearing -- and in this case there's
18 no question that the notices were properly and timely
19 served of this hearing.

20 Mr. Cernyar indicated that his client at
21 some point in time engaged him near the time that the
22 City Council referred this matter to the Planning
23 Commission, the business license portion of it, and then
24 for whatever reason indicated that she no longer needed
25 his services and didn't contact him until earlier or

1 about a week ago I think is what he said. That in and
2 of itself would not seem to establish good cause.

3 I note based on the number of people that
4 stood to take the oath that there are probably 30 or
5 more people in the audience that have come down here
6 tonight intending to present evidence to the Planning
7 Commission.

8 I'd also note that the Planning Commission
9 set aside a special meeting tonight with only one item
10 on the agenda, thereby pushing back other matters that
11 would typically come before the Planning Commission on a
12 Thursday night.

13 That's about it. And so if someone wants
14 to make a motion either to grant Mr. Cernyar's request
15 for a continuance or deny the request for a continuance,
16 that would be appropriate.

17 If the request is to put the matter over to
18 another date, I think it would be appropriate for City
19 staff to provide a date at this time.

20 CHAIRWOMAN VAN HORIK: Thank you.

21 So you've heard the suggestion from and the
22 advice from the City Attorney's office, and he's now --
23 we now need a motion to act on this. Is there any
24 discussion?

25 Commissioner Lewis.

1 COMMISSIONER LEWIS: Thank you, Chairperson.

2 Counsel, could you tell us when the hearing
3 was for City Council for the same matter?

4 MR. SANCHEZ: I think it was August 7th, I
5 believe.

6 MR. MAIS: I believe it was August 7th, and it
7 wasn't --

8 MS. BODEK: It was August 9th, 2016.

9 MR. MAIS: And it involved this matter, but it was
10 not the same matter. It was a decision that the City
11 Planning Commission, the City Council made to
12 consolidate the two matters, the revocation of the
13 business license and the revocation of the CUP that was
14 the subject on August 9th.

15 COMMISSIONER LEWIS: But the business owner knew
16 at that point that this hearing was moving forward?

17 MR. MAIS: The business owner would not have known
18 the precise date, I don't think, at that time, but we
19 did comply with the normal noticing requirements for
20 this particular hearing.

21 COMMISSIONER LEWIS: Thank you.

22 MR. CERNYAR: Is that normal process ten days'
23 notice? How many days' notice was that?

24 MS. BODEK: For a CUP hearing, it would be a
25 14-day notice, and that was properly noticed on both the

1 building and by mail. And then for a business license,
2 it's a ten-day notice, and that was delivered by hand, I
3 believe by Mr. Sanchez' office.

4 MR. SANCHEZ: And I believe that was for 15 days
5 notice, as well.

6 CHAIRWOMAN VAN HORIK: So we have a motion to be
7 offered, Commissioner Perez?

8 COMMISSIONER PEREZ: Yes. I make a motion to deny
9 the request to continue it.

10 CHAIRWOMAN VAN HORIK: And a second from
11 Commissioner Templin?

12 COMMISSIONER TEMPLIN: I do second that.

13 CHAIRWOMAN VAN HORIK: Thank you.

14 We have a motion and a second to deny the
15 request. Please vote.

16 MS. EIDSON: Motion passes unanimously.

17 MR. CERNYAR: May I make a request to split the
18 hearing since the witnesses are here, the resident
19 witnesses are here for their part, and then for our part
20 to come at a different date?

21 CHAIRWOMAN VAN HORIK: That just -- we've got a
22 lot of residents here, and we have a lot of City
23 employees here that have been working on this matter for
24 two years. So I'm going to again pass it back to you,
25 Mr. Mais.

1 MR. MAIS: So, Chair Van Horik, what I suggest is
2 that we start the hearing now. As I indicated, the City
3 will present its part of the case first, which will
4 include the witnesses, I believe, that are going to be
5 called, neighbors and residents that are going to be
6 called as part of that case.

7 See how far we get with that, and if it's
8 an appropriate time to break, that would be fine to put
9 it over to another date.

10 But if we can conclude the entire hearing
11 tonight within a reasonable time period, that's also
12 appropriate.

13 So I guess my sense is that we should start
14 and see how far we get, and if we can get it all done
15 tonight, that would be fine. And if we can't do that,
16 we can put it over to a date certain.

17 CHAIRWOMAN VAN HORIK: Does that sound reasonable
18 to you, Mr. Cernyar?

19 MR. CERNYAR: That sounds reasonable. Thank you.

20 CHAIRWOMAN VAN HORIK: Thank you.

21 You may be seated.

22 Okay. Christopher Koontz is going to start
23 the staff report on this item.

24 MR. KOONTZ: Thank you, Commissioners. And if I
25 could have the Planning staff PowerPoint presentation.

1 So as we're all aware, we are here to hear
2 the revocation of a CUP at a property at 710 West Willow
3 Street, and that will be the subject of my presentation,
4 and there will be further presentations that will also
5 deal with the business license and the general nuisance
6 at the property.

7 So this shows you the location. There's a
8 red star. The location is within the CCA zone, but what
9 will be critical as we go through tonight's proceedings
10 is to pay careful attention to what is directly north
11 and directly south of this site, noting that that is an
12 R1N neighborhood. So that's a standard single-family
13 neighborhood.

14 This particular establishment was granted a
15 CUP by the Planning Commission on June 15th, 1995. The
16 current operator opened around December 27th, 2013, and
17 the Willow Street commercial corridor, as I mentioned,
18 is surrounding single-family.

19 So here's an aerial view of the site, and I
20 want to draw attention to the Commissioners to the alley
21 in this picture. There is a rear door of this
22 establishment along that alley.

23 You're going to hear testimony throughout
24 this evening regarding that rear door. But if you take
25 a look at this picture and the proximity of that

1 alleyway to the residences immediately behind, that's
2 going to be critical to understanding the impacts
3 associated with this particular case.

4 What you'll also notice in this picture is
5 that there is limited parking on Willow and limited
6 parking for this site, and there's a specific condition
7 that was added to the CUP because of that situation.

8 And as already mentioned, while there is a
9 front door on Willow, there is a back door to a parking
10 area and the rear alley of this establishment. That
11 alley is known as 25th Way.

12 So what staff is recommending is, as you
13 know, the fair hearing revoking the conditional use
14 permit, standards variance, revoking the business
15 license for the operator and the property owner.

16 So this Commission is very familiar with
17 conditional use permits. They're on most of your
18 regular agendas. But I think it's important to step
19 back and understand what is a CUP and why do we issue
20 them.

21 So a CUP is a way of imposing conditions on
22 a use that because of its physical setting or the
23 characteristics of that use would cause detrimental
24 impacts if conditions were not imposed.

25 The conditions are imposed specifically to

1 mitigate and lessen those impacts down to a level that
2 is acceptable to meet community standards, and those
3 conditions are imposed through a transparent public
4 process, a Commission hearing before this body, and they
5 become a public document that's known to the operator
6 and the property owner, and those approval and
7 conditions run with the land.

8 So revocation of a CUP happens as the last
9 step in an enforcement proceeding where staff and other
10 administrative means have not been able to bring a
11 facility into compliance.

12 The Planning Commission has both the
13 authority and the obligation, in fact, to revoke a CUP
14 if it finds that the approved use is not operating in
15 compliance with the conditions that were imposed. And
16 we're going to talk about two specific conditions this
17 evening.

18 But in addition to that strict adherence, a
19 CUP can also be revoked because the City has a broader
20 police power, and if that use has created a public
21 nuisance, which we'll present to you this evening, that
22 is additional grounds.

23 And a public nuisance is generally creating
24 a situation that's harmful to health or offensive to the
25 senses and the general well-being of the community in a

1 defined way to a significant number of persons.

2 In addition, tonight the City Council has
3 designated the Planning Commission as the body to hear
4 the business license. The business license, which the
5 speaker after me will go into further detail, but it may
6 be revoked for violations of the Municipal Code, as well
7 as for the creation of the public nuisance.

8 So while those actions are related, they
9 are separate actions before you this evening.

10 So moving onto the CUP itself, the imposed
11 CUP has a specific condition, number 14, that relates to
12 security. So we mentioned in a previous slide that this
13 facility -- the current operator opened in 2013. The
14 first police call for service was in January of 2014.

15 Security plan was not actually submitted to
16 the Police Department until May of 2016. On May 11th of
17 2016, the Police Department came to the conclusion that
18 the proposed security plan was insufficient.

19 No subsequent security plan has been
20 submitted, and frequent police calls for service
21 continue to date at this facility.

22 So there were three primary objections from
23 the Long Beach Police Department to the security plan.
24 The first was that on non-event nights or less busy
25 nights, the establishment proposed to employ one

1 security guard.

2 This one security guard was responsible for
3 controlling the front door, the back door, the rear
4 parking lot, as well as impacts on Maine Avenue. In
5 addition, the security guard was assigned to
6 non-security tasks, including clearing tables and
7 stocking ice.

8 On busier nights, two security guards are
9 used, but they do not effectively control the rear
10 parking lot, in the opinion of the Police Department are
11 ineffective in controlling noise, they're ineffective at
12 controlling behavior in the rear parking lot.

13 You'll hear testimony both from the Police
14 and from the City's Health Department, which is the
15 responsible party for issuing noise violations.

16 And for planned events, one security guard
17 per every 50 patrons is the required provision not only
18 for this establishment, but that's standard procedure
19 and recommendation by the Long Beach Police Department,
20 but the security plan proposed by the operator is not
21 consistent with that requirement.

22 So this is not a case of simply being out
23 of compliance and a paper violation. What staff wants
24 to impress upon you is that the violation of this
25 condition results in serious consequences.

1 And in terms of inadequate security, some
2 of those consequences include over 250 calls for service
3 between January 2014 and May 2016 -- those are calls to
4 the Police Department regarding this facility --
5 consistent noise complaints, including noise violations
6 verified by the Health Department.

7 Failure to secure the back door contributes
8 to these noise impacts, and you will hear testimony
9 throughout this evening that shows that the business
10 operator has been given numerous notice and numerous
11 opportunity to correct that situation by properly
12 controlling that rear door and has failed to do so.

13 Again, we talked about the 50 patrons,
14 which is not unique to this establishment. That is
15 standard practice. And just to give you a discrete
16 example, in December of 2015 an argument that begins
17 inside Miko's ends in the shooting of an innocent victim
18 on Maine Avenue, and in March of 2016 a stabbing occurs
19 just outside of Miko's bar, and, in fact, the victim
20 reenters the bar, as well as the assailant, and the
21 assailant is not apprehended at that location.

22 The second condition I want to draw your
23 attention to is CUP condition number 20, which requires
24 that the Applicant Developer shall be required to
25 maintain five additional parking spaces because of the

1 inadequate parking on the site.

2 The parking agreement that was turned in to
3 staff from this facility was a one-day agreement.

4 Additionally, the parking agreement was never recorded.

5 It's not an enforceable document. And the parking
6 agreement is from 9:00 p.m. to 2:00 a.m., and the
7 condition requires the parking begin at 5:00 p.m.

8 Again, these are not paper violations.
9 Reminding the Commission of the aerial photograph, you
10 saw parking intrusion and shortages are acutely a
11 problem on Maine Avenue, as well as on Oregon Avenue,
12 spillover impacts from the business.

13 Keeping in mind that a bar/tavern has very
14 late hours, not only on weekends but even on weeknights,
15 and that's an issue that is not consistent with normal
16 sleeping patterns for much of the population,
17 particularly drawing your attention to those residents
18 on Maine and Oregon Avenue.

19 So patrons coming to and from their cars,
20 whether they're simply coming to and from their cars or
21 they're engaged in verbal altercations at that time,
22 cause disturbance to residents and their sleep patterns.
23 They leave litter behind.

24 And the inability to secure and control the
25 patron parking area itself to the rear of the facility

1 has caused problems interspersed throughout the
2 community.

3 So additionally, you will hear testimony
4 this evening from the City Attorney and the Long Beach
5 Police Department about repeated Municipal Code
6 violations, such as noise violations, failure to receive
7 what's called an occasional entertainment permit.

8 This particular facility, because it is
9 small, because it does not have parking and because they
10 have a pattern and practice of impacts from this
11 facility was denied the ability to have regular
12 entertainment.

13 They were subsequently, as the impacts
14 continued, denied the ability to have special events
15 under what is called an OEP, occasional entertainment
16 permit.

17 The operator willfully held special events
18 at this location in violation of the requirement to
19 obtain an OEP and was twice charged with a misdemeanor
20 for that violation at this location.

21 You also will hear testimony regarding
22 public nuisance activity, the disruption of the quiet
23 enjoyment of the neighborhood adjacent to this structure
24 business. You'll also hear about incidences of violence
25 and crime that contribute to this public nuisance.

1 That concludes staff's initial presentation
2 from the Planning point of view, and at this time I'm
3 going to turn the presentation over to Mr. Art Sanchez
4 from the Office of the City Attorney.

5 MR. SANCHEZ: And before we do that, we do have
6 Mr. Jason MacDonald from -- formerly from the Business
7 License Department, who is going to provide a
8 presentation on behalf of the Business License
9 Department.

10 MR. MacDONALD: Commissioners, Jason MacDonald for
11 Business License.

12 I am the former Purchasing and Business
13 Services Manager, and I was responsible for the Business
14 License division from March of 2014 until September of
15 2016.

16 I would like to highlight a few points in
17 the staff report that are pertinent to the Business
18 License Division's involvement in this situation.

19 Drawing your attention to page two of
20 eight, the last paragraph, the record demonstrates that
21 the operation of the subject bar has created a nuisance
22 to the general area and to the adjacent residential
23 neighborhood in particular. The record is summarized in
24 the condensed chronology of events, and the City
25 interactions with the operator of Miko's Sports Lounge

1 and events and City interactions with the property
2 owner, which are summarize on Exhibit D, summary of
3 chronology of events and interactions.

4 A detailed folder of exhibits, including
5 documents, records, communication, as well as the
6 comprehensive chronology of events, interactions between
7 the City, Miko's operator, and the property owner is
8 also included under Exhibit E, City Attorney exhibits.

9 Drawing your attention to page six of
10 eight, so about halfway down, in summer of 2013, as was
11 mentioned, this -- the owner, Miss Yancey, was issued a
12 business license to operate a bar by the Business
13 License Division at the property doing business as
14 Miko's Sports Lounge.

15 The owner of the building voluntarily
16 agreed to additional conditions at the time of issuance
17 that included additional signage and a requirement to
18 keep the door closed.

19 This license was issued conditionally for a
20 period of up to six months, and then June of 2014 the
21 regular business license was issued.

22 Since that time, Long Beach Police
23 Department has responded to hundreds of calls for
24 service regarding the business. Though City
25 representatives have met and spoken with the business

1 owner as listed above, the business owner is either
2 unwilling or unable to abate the nuisance activities
3 caused by the business.

4 And to summarize for the Business License
5 Division's involvement sort of began in this process
6 today, on June 30th of this year, the Chief of Police
7 requested the Department of Financial Management revoke
8 the business license for Miko's Sports Lounge, which is
9 highlighted in Exhibit B, the request for the business
10 license revocation.

11 In my closing comments, I would just like
12 to highlight that our office received repeated
13 complaints from neighbors, from the neighboring
14 residents to the Miko's Sports Lounge.

15 The Business License Division reviewed the
16 requests by the Chief of Police and concurred with the
17 recommendation. This coordinated hearing considers the
18 revocation of both the CUP and the two primary business
19 licenses allowing operation.

20 I'm available for additional questions, if
21 needed.

22 MR. MAIS: And before Mr. Sanchez takes the
23 microphone, I should have said when I was running
24 through the procedure that as with all Planning
25 Commission hearings, the Planning Commission members, of

1 course, are able to ask any questions of staff or
2 members of the public or witnesses that testify before
3 the Commission. That's perfectly appropriate.

4 CHAIRWOMAN VAN HORIK: Thank you.

5 MR. SANCHEZ: So Members of the Commission, at
6 this point I will be calling up various witnesses from
7 the neighboring location, as well as various witnesses
8 from the Long Beach Police Department, as well as other
9 departments from the City of Long Beach.

10 At this time I would like to call up
11 Mr. Ricky Oropeza.

12 And, Mr. Oropeza, if you could please state
13 your name for the record.

14 MR. OROPEZA: Sure. My name is Ricky Oropeza, and
15 I lived at 2569 Maine Avenue, which is the house right
16 behind the bar.

17 MR. SANCHEZ: So with that, Mr. Oropeza, would you
18 make a presentation at this time?

19 MR. OROPEZA: Thank you.

20 First of all, I thank you for this hearing,
21 and I'm in favor of the revocation of the business
22 license and the permit for 710 West Willow, Miko's Sport
23 Lounge.

24 As I mentioned earlier, my house was right
25 behind the bar separated by a ten-foot alleyway. Lived

1 there for over 16 years with my three kids.

2 Been a member of the community, you know,
3 the business community for 20 years. I'm a business
4 owner, so I know what it's like to have a business and
5 the responsibility that come with it.

6 For nearly three years, we had to deal with
7 number of problems there, not only from patrons, you
8 know, urinating, number one and number two, screaming,
9 yelling, doing drugs, music out of their cars -- you
10 know what I'm talking about -- throughout the -- from
11 6:00 p.m. all the way to 3:00, 4:00 o'clock in the
12 morning sometimes.

13 The beginning when they first arrived, they
14 -- the very first greeting that we had -- I didn't know
15 -- the bar was empty for a few months, and we didn't
16 know, my family, my wife, we didn't know that it had new
17 tenant already.

18 We lived through three other business
19 owners operated the location, three different bars, and
20 when the first started, they did -- this is like the
21 greeting time for us -- they did a barbecue in their
22 parking lot. So they blocked the whole alleyway.

23 Our entrance to our house was through our
24 garage. We hardly ever used the front door. So we go
25 through the garage, and then we enter through the rear

1 of the house.

2 So when my wife was coming back from
3 picking up the kids from soccer practice, she was denied
4 the access to the alley. It was a whole bunch of people
5 barbecuing and drinking, and she had to go around to
6 make it to our house, and they had to move a couple of
7 cars.

8 At that point -- I mention this to you
9 because I want to point it out to you that I was showing
10 lots of patience myself to work with them before I
11 started calling the police or started going to the City
12 asking for help.

13 So at the very first day, I couldn't reach
14 anyone at that moment that can answer what's going on,
15 so we just kind of let it go. My wife was very upset.
16 I was upset, obviously, and -- but we just deal with it.

17 The very next day, I walk up to the bar,
18 introduce myself, told them who I was and where I lived
19 and what happened, and I was not greeted very politely,
20 to say the least, until I met Dede Yancey, which she
21 introduced to me like she was the owner, very nicely,
22 very politely. Exchanged numbers, and I thought we were
23 going to be able to work together.

24 I mentioned it in the past with other bar
25 owners, there were issues of, you know, patrons drunk

1 and yelling and stuff, and then I would mention to her
2 if there's any of those cases.

3 So we agreed to that. For about two
4 months, month and a half, we exchanged a number of
5 texts. And then right in the beginning I mentioned the
6 first violation that I noticed, it was people coming in
7 and out of the bar through the back door, which has
8 stayed open, and even though at that time they had just
9 the jukebox playing very loud music.

10 I mean, the windows on my house are -- I
11 mean, it was impossible to be in the living room or the
12 dining area, which is directly facing, you know, the
13 back of the bar.

14 So I mentioned to her that, and I mentioned
15 that I notice a lot of patrons going out to their cars,
16 drink out of their cars, do whatever it is that they do,
17 and then go back inside for the entertainment. As a
18 business owner, I mentioned that that can't be good for
19 business.

20 So I had really thought she was going to
21 put a stop to it. A couple of times she answered, and
22 at one time she suggested, like, I was lying. I give
23 them the year, make and model of the car where the
24 patron was drinking off, how the person was dressed, and
25 at that point this conversation she call me, and it was

1 not a pleasant conversation.

2 And from that point, my other options, then
3 I started calling the police. At that point, for a
4 month and a half or so, never called the police once.

5 And let me point out also, too, that in all
6 the years prior to Miko's bar arriving, if I made one
7 call to the police in all those years, I think it was
8 because they were fighting right outside the house.

9 So I'm very, very conscious, being a
10 business owner, of what it takes. The previous business
11 owner would make an effort to prevent people, patrons
12 from parking on the street or parking in areas where
13 they know there's going to be disturbances when they get
14 out or when they go to their cars.

15 So -- excuse me for a second.

16 I want to point out that all the stress
17 that this caused us. To me personally, has affected my
18 health to a point that I'm in trouble with my business.
19 So not only did it affected our business, affected my
20 life, my wife, my kids, but also affected 11 other
21 families that work for me. So we're in trouble.

22 Due to all this, you know, Miss Yancey has
23 mentioned on the past in other hearings, Council hearing
24 that we had, that, you know, her American dream and she
25 wants to be an entrepreneur, but she's stepping all over

1 me and other families that are behind me just by being
2 irresponsible and not being a business friendly towards
3 the community.

4 I understand there's some scenarios, some
5 situations where she cannot control up to a point once
6 the people are drunk, but there's, at least to me, make
7 an effort, and that would show me your good intentions.
8 She showed me differently.

9 And two occasions -- and I mention only two
10 occasions because I have proof of that where she was
11 bragging. I talked to her, I mentioned to please keep
12 it low. This is at 1:00 o'clock, 2:00 o'clock in the
13 morning.

14 After calling the police several times,
15 sometimes they didn't show up for 30, 40 minutes, an
16 hour on the weekends they didn't show up, so my
17 frustration was enormous.

18 So if I was to see her outside, please keep
19 it down. She was always bragging about how much pull
20 she has with the City, how many people she knows. And I
21 have it on recording of a video.

22 And also another time where it was right
23 after they closed the bar, she was with two other
24 employees, and told them also to lower their voice, and
25 she told me -- excuse me. She told me to go F myself.

1 And instead of to avoid confrontation, just went right
2 back inside. And just get more frustrated.

3 My family, my kids prevented me many times,
4 my wife, from going outside. We've been in a situation
5 where patrons will either knock on our door or start
6 yelling, screaming.

7 As I understand, later on how the staffers
8 will blame us directly for some of the problems that
9 they had. So some of the patrons, whether they were
10 related, friends or anything to them, once they were
11 drunk, they would take it up with us.

12 There's several incidents that we had that
13 we recorded. We had cameras, and they were recorded,
14 including with the police, having the police on the
15 phone, how we were threatened many times and people
16 walking around my house telling me to -- you know, to be
17 a man and to go outside. And, you know, usually they
18 would not call me -- would call me names, derogatory
19 names, including -- you know, racial. I don't want to
20 repeat those, but yes.

21 So the frustration has been there for a
22 long time, and finally after so long dealing with this,
23 about two, three months ago we had no choice but to
24 sell, move. Had to move.

25 We worked with several different

1 departments. It's a long process. It's a long process,
2 and we don't have gas. I mean, we felt, my family felt
3 that one day we were gonna get up, you know, someone was
4 gonna show up with a gun and start shooting our house.
5 We would not feel safe in our house.

6 Just by being a regular bar, it was hard
7 just with the music being so loud. At one point, the
8 City make them or they suggested -- I don't know how to
9 say it, but one of the recommendation was to keep the
10 door, the back door, closed.

11 There was no one to enforce it, so people
12 would come in and out. And every time they would open
13 the door, the music would blast -- I mean, my windows.
14 This bass, you know, it was very bad.

15 The situation became so bad when they had
16 -- or worse when they had some sort of entertainment,
17 which it either included a deejay or live entertainment,
18 band. Forget it. Those days we just had to pack up and
19 leave. There was -- throughout three years, we probably
20 left our house those weekends for a good 60 to 70
21 percent of the time.

22 Luckily, we have a lot of family, we have a
23 lot of friends. And then my kids, they play soccer all
24 over the place, so we would make kind of a weekend
25 getaway so we try to make the best of it. Certainly, I

1 was trying to keep my family in one piece.

2 But I invited just about everybody that was
3 willing to listen not to believe me, to come to my
4 house. Just come on Saturday. My house is here. You
5 know, just get up -- I know from the Health Department
6 Daniel Phillips went several times.

7 One of those times he was afraid to leave.
8 He had to wait until everybody left. I mean, that's how
9 bad it gets or used to get when I was there. And I
10 offered to call the police so he can have some sort of
11 an escort.

12 So we were being harassed left and right,
13 our family. I have -- in the years that I lived there
14 never had any problems, and even though I cannot
15 directly show the camera, did not have that angle, but,
16 you know, I have two attempts of breaking into my garage
17 door.

18 One time I have to call about 11:00
19 o'clock, and staffers from the bar, you know, came out
20 through the bar. They were laughing and smoking like
21 they were enjoying that I was -- that I had to do that.
22 I cannot prove it, but never had any incidents in the
23 past.

24 And I can go on with people going outside
25 to urinate, but not the streets. I mean, my -- I had a

1 beautiful yard, beautiful settings. So they would come
2 up to my yard and start engaging not only in urination
3 or other social -- there's some occasions of people
4 having oral sex. I mean, I can go on and on and on.

5 And for them it might be funny, but it's
6 not. As you can see, I'm struggling right now. And my
7 health, I'm still struggling with that. I take a lot of
8 medicines. Never been sick before in my life, and a lot
9 of stress and a lot of problems that they have caused
10 me, I'm in this situation.

11 So, I mean, I have tons of stuff that I can
12 go over, but I like to keep it a little bit short so we
13 can please get this over with tonight. We deserve it.
14 We -- I don't know how to say it. This is just too
15 long, and, you know, we need to enjoy our neighbor, our
16 community, and one business cannot destroy a
17 neighborhood.

18 Thank you.

19 MR. SANCHEZ: Now, Mr. Oropeza -- and if I can get
20 the City Attorney presentation up on the screen, please.

21 So, Mr. Oropeza, if you can look at the
22 screen now.

23 MR. OROPEZA: Yes.

24 MR. SANCHEZ: And let me -- so looking at this
25 photograph that's up on the screen -- and here.

1 Can you just point out where your house is
2 located in this picture.

3 MR. OROPEZA: Right there, that's my house.

4 MR. SANCHEZ: Can you point out the rear portion?

5 MR. OROPEZA: This is the back door.

6 MR. SANCHEZ: Of the bar?

7 MR. OROPEZA: Of the bar.

8 MR. SANCHEZ: Next one.

9 So if you can point here with the red dot
10 where your home is.

11 MR. OROPEZA: This is my home. This is the front
12 entrance, which this is Maine, and this is my garage
13 where we usually go in through here to the alleyway to
14 go in.

15 MR. SANCHEZ: And then the rear of the bar, the
16 parking lot?

17 MR. OROPEZA: The rear of the bar is right there.

18 MR. SANCHEZ: Thank you.

19 So this is actually better, same as you
20 look.

21 So here. Can you just point to where your
22 garage is located that you were just indicating?

23 MR. OROPEZA: Right here and right here.

24 MR. SANCHEZ: That's the rear door?

25 MR. OROPEZA: Correct.

1 MR. SANCHEZ: And then this whole property, that
2 light blue painted property --

3 MR. OROPEZA: This was my property, which I lost
4 -- I lost some money.

5 MR. SANCHEZ: Okay. So now point now is this --
6 well, describe what this is.

7 MR. OROPEZA: This is the front of my house. This
8 is the porch area. This is what separates this alleyway
9 from the bar. The door comes here. Those parkings
10 right here belong to other businesses. The only parking
11 that they had is where this Tahoe, Chevy Tahoe is
12 parked. I believe there are very tight spots for, like,
13 six or nine small little spaces.

14 And right here, this is the area where
15 everybody would hang out, start doing their -- they
16 didn't pee much over here. They would come over here on
17 this side, on the inside and to this whole area right
18 there, and then they would hang out right in front of my
19 house.

20 For some reason, they loved my sidewalk to
21 either be on the phone, to smoke weed and to do other
22 stuff, being very loud 1:00, 2:00, 3:00 o'clock in the
23 morning.

24 MR. MAIS: Mr. Sanchez, when you speak, can you
25 speak into the microphone, as well, so people in the

1 back can hear?

2 MR. SANCHEZ: Sorry.

3 So if you can point to that section of your
4 home that's closest to the alleyway.

5 MR. OROPEZA: It's right here.

6 MR. SANCHEZ: What part of your house is that?

7 MR. OROPEZA: This area right here right at the
8 entrance is the living room, and right where the air
9 conditioner is at is the living room, but the dining
10 area right here.

11 So every time they would open this back
12 door, the whole music would come directly to this area.
13 We actually had -- let me point it out -- that we had
14 three levels of noise. Our family kind of created a
15 code, one, two and three.

16 So code one was, like, the lowest, the
17 jukebox, not a whole lot going on in the bar, so the
18 music was not as loud. Level two was jukebox loud, so
19 we could not be in this area. We have to go into our
20 rooms, which is the back, and close the door and, you
21 know, put the TV on a little bit louder.

22 And level three was entertainment, which we
23 cannot be near this area, period. That's when we had to
24 leave for the weekend.

25 MR. SANCHEZ: Now, so you indicated or you

1 testified to the noise that you would experience and the
2 different levels right now. Were there any other things
3 that your family had to experience as a result of the
4 patrons behind the bar or behind that parking lot area?

5 MR. OROPEZA: One incident that I can mention,
6 Mr. Sanchez, my daughter's quinceañera. We did not have
7 a party at our house. We had at a separate location.

8 So when we were done in that location,
9 three other kids, their parents were not able to pick up
10 their kids, so we got them home. So when the parents
11 came over to our house to pick up their kids, the first
12 parent that came to look at the house, there were people
13 urinating here in this area and on this area as they
14 were coming in.

15 So that's my daughter's, you know, memory
16 quinceañera. I mentioned to woman we have been
17 recording. I mentioned to them that we have recording
18 because it's been told in the past that -- I don't know
19 if I should say this -- almost make me feel like I'm
20 lying. Almost make me feel like I'm not telling the
21 truth. It feels so -- it's very disappointed and act of
22 desperation that no one would listen.

23 So with proof, you know, that was our
24 memory, quinceañera memory.

25 MR. SANCHEZ: At some point, were you or was a

1 camera set up in your home?

2 MR. OROPEZA: Yes. Right at the beginning we were
3 talking to Peter Ronca, which was the nuisances
4 department, for some time, for over a year, and he
5 pretty much told us -- you know, he was almost like a or
6 felt like it was a mediator who go to the bar and talk
7 to them, and then would talk to me and talk to some of
8 the neighbors.

9 So he would ask me for, like, more proof.
10 So had to be a little bit more. That's why we installed
11 the cameras.

12 The cameras are -- let me point it out to
13 you. Have one camera right there, that little dot, and
14 then one camera right there.

15 MR. SANCHEZ: You said, "We installed it." What
16 do you mean, "we"?

17 MR. OROPEZA: Well, I had to get with some of the
18 neighbors, and we got together and we purchased this
19 sophisticated sound, you know, video system that worked
20 really well, and we had it connected online where all
21 the neighbors can view it, and then we give access to
22 the police, as well, too.

23 MR. SANCHEZ: Okay. And were those -- all those
24 incidents, were they recorded onto a device?

25 MR. OROPEZA: That is correct.

1 MR. SANCHEZ: And this was, like, a hard drive or
2 something?

3 MR. OROPEZA: It's a DVR.

4 MR. SANCHEZ: So you have a log of regular
5 activity that occurred outside in that area?

6 MR. OROPEZA: Yeah. We kind of have to become
7 kind of like detectives and became very organized where
8 we had to, again, write down the call to the Police
9 Department, the incident and then the time so we can
10 later on match it because there were lots and lots and
11 lots of calls for incidents.

12 But by the time the police would show up,
13 the people either leave or they will be told by their
14 staffers of the bar that popo is coming, and everybody
15 would rush inside.

16 MR. SANCHEZ: So let me go back.

17 So you yourself made a number of calls to
18 the police regarding the bar?

19 MR. OROPEZA: Yes.

20 MR. SANCHEZ: And those complaints consisted of
21 what?

22 MR. OROPEZA: Noises, urination, verbal
23 aggression, aggression towards me, threats, physical
24 threats, by staffers. I mean, could go on and on.

25 MR. SANCHEZ: And you mentioned that a majority --

1 or I won't say majority -- a large number of calls that
2 you made to the police, by the time they arrived, the
3 people or whatever incident was happening was no longer
4 there or --

5 MR. OROPEZA: Very frustrating that I mentioned to
6 the police several times. We had several meetings at
7 the Police Department, were trying to find solutions,
8 and their response is, you know, sometimes was good,
9 within 15 minutes, sometimes an hour.

10 And, you know, those calls it was like a
11 hit and miss because they go in and out, because they
12 keep going in, they keep going out. They use this area
13 where those two cars are parked right there.

14 That was a very troubling area where a lot
15 of those bars, they had booze, you know, were drinking
16 out of there, smoking. I mean, you name it. All kinds
17 of stuff would happen.

18 And they would be there for 10, 15 minutes
19 playing really loud music, and they would turn it off,
20 finish their drink, and then go right back inside, dance
21 or do whatever it is that they were doing, and come back
22 half an hour later, serve themselves another drink, and
23 that's how it would go.

24 MR. SANCHEZ: Now, what date did you -- or what
25 date were the cameras installed at your residence, do

1 you recall?

2 MR. OROPEZA: I would say probably about a year or
3 so after they moved in. A year to a year and a half.

4 MR. SANCHEZ: So sometime in the middle of 2015?

5 MR. OROPEZA: To best of my recollection. I'm not
6 really sure. May 2015.

7 MR. SANCHEZ: All right. So if I could request
8 that the video that's on the -- in the back be played
9 and pause really quickly.

10 (Video played.)

11 MR. SANCHEZ: Thank you.

12 Now, does this appear to be footage from
13 the cameras that were installed at your home?

14 MR. OROPEZA: Yes.

15 MR. SANCHEZ: And is that one of the angles where
16 the camera was positioned in relation to the rear of the
17 bar?

18 MR. OROPEZA: Yes, it is. You can see those are
19 my bushes right there also.

20 MR. SANCHEZ: Where was the -- I know you pointed
21 to the corner when the photograph was up of the
22 residence, but the other angle of the camera was
23 positioned towards where?

24 MR. OROPEZA: Towards the street, which is, like,
25 on the right side, like on this end.

1 MR. SANCHEZ: Okay.

2 MR. OROPEZA: Maine Avenue and in front of my
3 house.

4 MR. SANCHEZ: Thank you.

5 So we can go ahead and play the whole
6 video. Thank you.

7 MR. OROPEZA: He was calling me out at that time.
8 Thank you.

9 Was not just men. Was women, too. Also
10 urinating. When they have the bottle, they're drinking.

11 MR. SANCHEZ: So that footage that comprised
12 approximately seven minutes, was that all footage taken
13 from the cameras on your home?

14 MR. OROPEZA: Absolutely not, sir. I mean, I
15 have, like, a year and a half. We have months of
16 recordings.

17 MR. SANCHEZ: But all that footage was taken
18 from --

19 MR. OROPEZA: Some of those were shown because
20 that's where we could match up some of the calls to show
21 the reason we were calling for. There's a number of
22 incidents that I have, including Miss Yancey, you know,
23 with those two incidents that I mentioned right in the
24 beginning where she was very proud of people she knows
25 and she can get away with anything and threatened me

1 pretty much and then -- for physical confrontation, and
2 the last time told me to go F myself.

3 MR. SANCHEZ: So Mr. Oropeza --

4 MR. OROPEZA: Yes.

5 MR. SANCHEZ: -- what was depicted in that video,
6 is that part of the reason why you moved from that
7 location?

8 MR. OROPEZA: Absolutely, sir.

9 MR. SANCHEZ: Okay.

10 MR. OROPEZA: Yes.

11 MR. SANCHEZ: And is that -- let me ask this
12 question. Is that what it was like on weekends?

13 MR. OROPEZA: Most of those, there was no
14 entertainment. When it was entertainment, it was, like,
15 really crazy. So what you guys got to see was nothing,
16 and I'm not exaggerating. Welcome to see any more
17 videos if necessary, as many as you want to show you
18 that that was -- that location is absolutely crazy for
19 -- when we bought our house, we knew we were buying a
20 house next to a bar.

21 But three years ago, when we move into our
22 house, it was not a bar. Something different. And
23 that's what caused us to move, sir, yes.

24 As you pointed out, one of the gentlemen
25 very shortly was calling all kinds of names. We had

1 some problems with the audio on one of the cameras, but
2 I wish that you would had or we would had the time and
3 the opportunity to show everything that he said, that he
4 has something for me.

5 What happens, that gentleman was urinating
6 right in front of my daughter's room. When I pointed
7 out -- when she pointed out to me there was someone
8 outside, I told him -- excuse me. Told him, "You have
9 to be fucking kidding me. Go somewhere else."

10 He told me to "Shut the fuck up," finish
11 his business.

12 At that time I went inside 'cause I went
13 out to my porch, I opened the front door. He went to
14 his car. I called the police, and this guy came back,
15 put a jacket on, and he has something on his waist.

16 I didn't see a gun, I didn't see a weapon,
17 but I know he didn't came empty-handed. He said, "Now
18 I'm ready for you, bitch, come outside, say all those
19 fucking things you were saying to me," and on and on and
20 on.

21 The guy left, moved towards the Maine and
22 Willow, and he was there for, like, five or ten minutes,
23 and I was very upset. And the police didn't show up.
24 And I was going outside, and my wife pretty much put
25 herself in the door, and my kids started crying.

1 I mean, I was very desperate. Didn't know
2 how to -- I needed to defend myself. Didn't know what
3 to do as a parent. I don't know what you guys would be
4 willing to do to defend your kids. And I leave it at
5 that.

6 MR. SANCHEZ: Let me show you a couple things real
7 quick.

8 CHAIRWOMAN VAN HORIK: Can I just interrupt for a
9 second?

10 You don't need to use all the colorful
11 language to give us the picture. We understand.

12 MR. OROPEZA: I'm trying to clear my language, but
13 I'm very, very upset and very --

14 CHAIRWOMAN VAN HORIK: I understand.

15 MR. OROPEZA: -- different emotions.

16 You have no idea how hard it is for me to
17 try to be polite and use the correct words to define
18 people, but this is -- to me it's taking this long, and
19 I don't understand. Seems like the system has failed
20 us, failed me.

21 You know, work so hard, do everything
22 right. You know, my American dream, I work for years
23 and years, and for this to be happening to us is --
24 apologize. I'll try to clean it up.

25 CHAIRWOMAN VAN HORIK: Thank you.

1 MR. SANCHEZ: I'll direct you to it.

2 So that notebook I just handed you has been
3 identified as Exhibit E to the staff report. If you
4 could turn to Exhibit 24 or tab 24 on that.

5 MR. OROPEZA: Yes.

6 MR. SANCHEZ: And in it, page two I think, it's on
7 the bottom.

8 First of all, do you recognize what that
9 exhibit is, Exhibit 24?

10 MR. OROPEZA: Yes.

11 MR. SANCHEZ: Okay. And what is it?

12 MR. OROPEZA: It's a complaint that we had to sign
13 to -- a report that you have to do with the police so
14 they can -- I don't know if they can go out there and do
15 ticket or proceed, but it was a formal complaint, not
16 just a phone call to 911 or phone call to the police.

17 You have to be able to, you know, show that
18 you're the victim of some sort of a crime. In the
19 beginning we were not -- I was not willing to do it
20 because of the number of threats. So we were afraid,
21 you know, for our safety and for my family safety, but
22 it became so bad that I was willing to overcome that and
23 expose even my family. So we started signing those
24 complaints.

25 MR. SANCHEZ: So when you say that in terms of

1 signing, so this report was taken by a police officer?

2 MR. OROPEZA: That is correct.

3 MR. SANCHEZ: In this case, it was Officer Jose
4 Flores?

5 MR. OROPEZA: Yes.

6 MR. SANCHEZ: And that was based on a complaint
7 that you had regarding the bar?

8 MR. OROPEZA: Yes.

9 MR. SANCHEZ: And looking at the Exhibit 24, it
10 was regarding an issue that occurred on or about, looks
11 like, October 21st? Am I reading that correctly?

12 MR. OROPEZA: There's two of them. So I have in
13 front of me September 19th.

14 MR. SANCHEZ: I apologize. So the 19th.

15 MR. OROPEZA: It's for noise.

16 MR. SANCHEZ: Right.

17 Now, looking to exhibit -- if you can, go
18 to Exhibit 26. And again, to the second page. And it
19 looks like this was regarding an incident from
20 October 4th; is that correct?

21 MR. OROPEZA: Correct.

22 MR. SANCHEZ: And it looks like you had some video
23 footage that Officer Flores was viewing?

24 MR. OROPEZA: There were so many of them that I'm
25 not exactly sure if this is -- we had one where a

1 gentleman was pounding -- I say gentleman -- was
2 pounding on my wall, very upset for whatever -- no
3 reason known to us, and this is on the alley, and
4 telling us to come outside.

5 I, you know, very cautiously went through
6 the back door, almost through the -- the side of the --
7 from the garage it has a side door also, which I opened
8 that and went, took a peek, and this gentleman was -- it
9 looks to me like a gang member, had his hat and
10 everything, and he was talking to other friends and
11 saying that I'm gonna blast this MF, and I didn't know
12 he was referring to me.

13 So I immediately picked up my cell phone,
14 call the police, and when I had the police on the phone,
15 I'm describing the car and the license plate because I
16 don't know what's going on as I'm proceeding to come
17 inside the house.

18 When the police arrived, we open the front
19 door, there were two ladies that were coming from the
20 bar. They were very upset, and they said that it's not
21 their business and they didn't want any trouble, but
22 they heard some of the staffers blaming us for whatever
23 reason that they were not able to go in the bar because
24 we were gonna call the police, something to that
25 respect.

1 So those people were upset with us. We
2 have no idea. We have no clue.

3 The police talk to a -- the staffer, which
4 at that point the staffer became very aggressive and
5 verbally aggressive towards me. In the beginning, I
6 have no clue what's going on. He said he was trying to
7 protect me.

8 And I told him, I said, "You know, you're
9 on my property, you know, move away."

10 And then when those ladies told us that
11 when the police was there, that all came together. So
12 they were blaming us or they didn't know or I don't know
13 if they were prepared how to deal with problems with
14 patrons. They would just say or blame anybody else
15 other than themselves.

16 And, obviously, they put ourselves in
17 jeopardy, our lives in jeopardy, over something could
18 have been handled differently by them. But we have no
19 idea. But that's how the report was taken.

20 MR. SANCHEZ: So as a result of that incident --
21 and then if you could look at Exhibit 47 for me very
22 quickly.

23 MR. OROPEZA: Yes.

24 MR. SANCHEZ: And hold on a second.

25 Let me just go back. If you can look at

1 Exhibit 20. I apologize. Exhibit 20.

2 MR. OROPEZA: 20?

3 MR. SANCHEZ: Yes.

4 So you'd mentioned that you'd made a formal
5 complaint to the City's Health Department regarding the
6 noise that was coming from Miko's. Is this a letter
7 that you received from the Bureau of Environmental
8 Health?

9 MR. OROPEZA: That is correct.

10 MR. SANCHEZ: And this letter that you received
11 was after you made the complaint; is that correct?

12 MR. OROPEZA: That's correct. I did a verbal
13 complaint, and I had to do a written complaint.

14 MR. SANCHEZ: And then looking at Exhibit 21, if
15 you could really quickly. Have you ever seen this
16 Exhibit 4, this letter that's depicted in Exhibit 21?

17 MR. OROPEZA: No, I have not.

18 MR. SANCHEZ: Okay. You mentioned that an
19 individual from the Health Department came out to take
20 readings at your home?

21 MR. OROPEZA: Yes. Mr. Phillips.

22 MR. SANCHEZ: Daniel Phillips?

23 MR. OROPEZA: Yes.

24 MR. SANCHEZ: And according to this letter, it
25 looked like the reading was taken on January 17th of

1 2015. Was that the date that he was at your home taking
2 readings?

3 MR. OROPEZA: He was there three times. So it
4 sounds about right, around that time.

5 MR. SANCHEZ: Thank you.

6 MR. OROPEZA: You're welcome.

7 MR. SANCHEZ: I don't have any further questions.
8 I'm not sure if anybody has any questions.

9 MR. CERNYAR: I do.

10 MR. MAIS: So Mr. Cernyar is indicating that he
11 has some questions for the witness. We can do it one of
12 two ways. We can do it now, or we can wait until
13 Mr. Sanchez is completed, and then Mr. Cernyar can call
14 witnesses back. It might be better to do it now just in
15 case this goes longer and their witnesses aren't
16 available.

17 So Mr. Cernyar, I think we're going to need
18 you to be at a microphone, as well. So you can sit
19 behind us.

20 MR. SANCHEZ: And excuse me, but I think Larry
21 Clough from -- representing the property owner is
22 present in chambers now or in Council chambers.

23 MR. CLOUGH: Good evening.

24 MR. MAIS: Mr. Clough, my name is Mike Mais. I'm
25 the Assistant City Attorney.

1 Just to indicate, we did wait for 15
2 minutes.

3 MR. CLOUGH: No, I appreciate it. Was a
4 last-minute thing for me, and I did my GPS, gave me
5 plenty of time.

6 MR. MAIS: Well, we appreciate that you're here
7 now.

8 And Mr. Clough represents the property
9 owner, Mr. Mackey and the Mackey Family Trust, I
10 believe.

11 CHAIRWOMAN VAN HORIK: Mr. Clough, do you plan on
12 questioning this witness?

13 MR. CLOUGH: Just a couple questions.

14 CHAIRWOMAN VAN HORIK: I need to swear you in.
15 Can you stand up, please, and raise your right hand?

16 Do you solemnly swear or affirm that the
17 evidence you shall give in this Planning Commission
18 meeting shall be the truth, the whole truth and nothing
19 but the truth?

20 MR. CLOUGH: Yes.

21 CHAIRWOMAN VAN HORIK: Thank you.

22 This may not apply to what you're doing,
23 but just in case.

24 MR. CLOUGH: That's fine.

25 MR. CERNYAR: I'm sorry. Operator error.

1 Good evening, Mr. Oropeza.

2 MR. OROPEZA: Good evening, sir.

3 MR. CERNYAR: Now, you mentioned before you made
4 many calls. Do you recall the date of your first phone
5 call?

6 MR. OROPEZA: Could be sometime in the end of
7 February or March. Right after we finished the
8 conversation with what was trying to resolve something
9 with Miss Yancey.

10 MR. CERNYAR: And what year would that be?

11 MR. OROPEZA: That's in 2014.

12 MR. CERNYAR: Okay.

13 MR. OROPEZA: I believe. Right when she moved in,
14 we had about a month or month and a half period of texts
15 or phone conversations.

16 MR. CERNYAR: And do you recall your last call?
17 Do you recall the date of your last call?

18 MR. OROPEZA: Probably the last day that I was at
19 my house.

20 MR. CERNYAR: Which date is that?

21 MR. OROPEZA: Don't know exactly. Three months
22 ago.

23 MR. CERNYAR: Do you have a specific date?

24 MR. OROPEZA: No, I do not.

25 MR. CERNYAR: Would you have a month?

1 MR. OROPEZA: I'm sorry?

2 MR. CERNYAR: A month?

3 MR. OROPEZA: About three months ago.

4 MR. CERNYAR: August?

5 MR. OROPEZA: Sounds about right.

6 MR. CERNYAR: How many phone calls do you think
7 you made between those dates?

8 MR. OROPEZA: No idea, sir. Lots.

9 MR. CERNYAR: Lots.

10 More than a hundred?

11 MR. OROPEZA: Could be 200. I have no idea.

12 MR. CERNYAR: Okay. So 200 out of 250 phone calls
13 could have been from you?

14 MR. OROPEZA: No, sir. I have no idea.

15 MR. CERNYAR: You have no idea?

16 MR. OROPEZA: I have no idea.

17 MR. CERNYAR: And you mentioned that you started
18 recording at some period; is that correct?

19 MR. OROPEZA: Yes, sir.

20 MR. CERNYAR: When was that?

21 MR. OROPEZA: Probably right when we installed the
22 camera, so sometime in May of 2015.

23 MR. CERNYAR: Now, that video we saw had only 13
24 dates to it. Was that the only dates that you recorded?

25 MR. OROPEZA: No, sir.

1 MR. CERNYAR: Where is the rest of the recordings?

2 MR. OROPEZA: We have some other match with calls,
3 police calls, so some of them were just played just for
4 example, but we don't have nearly as many.

5 MR. CERNYAR: When you say "we," who are you
6 talking about?

7 MR. OROPEZA: Well, the City, Peter Ronca has a
8 flash drive that I provided with a number of calls of
9 incidents.

10 MR. CERNYAR: Could you spell Peter's last name?

11 MR. OROPEZA: Ronca. It's R-o-n-c-a.

12 MR. CERNYAR: Okay. And so he has a flash drive
13 of everything?

14 MR. OROPEZA: I gave it to him.

15 MR. CERNYAR: And when did you hand that to him?

16 MR. OROPEZA: Sometime in the beginning of 2015.

17 MR. CERNYAR: In 2015?

18 MR. OROPEZA: In 2016, I believe. I'm not sure of
19 the dates.

20 MR. CERNYAR: Okay. So it would be after -- I
21 think the last one was January 6th, 2016. Is that
22 correct?

23 MR. OROPEZA: No idea exact the date, sir.

24 MR. CERNYAR: Did you stop recording at that
25 period?

1 MR. OROPEZA: No.

2 MR. CERNYAR: Okay. So what happened to the rest
3 of those recordings?

4 MR. OROPEZA: They get -- it gets put in a -- the
5 recording is 30 days or 45-day period. So if we had an
6 incident or so, maybe a phone call, we needed to put it
7 in a separate -- a flash drive or so to save it, and the
8 rest of it is gone. Some of it it's in the computer
9 laptop, and some of them is just gone.

10 MR. CERNYAR: So you say you have no recordings of
11 2016 other than what you presented here tonight?

12 MR. OROPEZA: That's not what I'm saying, sir.

13 MR. CERNYAR: Okay.

14 MR. OROPEZA: What I'm saying is the recordings we
15 present or the recordings that we have is to match up
16 with the police phone calls that we have. Some of the
17 incidents are in the flash drive or in the laptop, but
18 we were recording 24/7, sir.

19 MR. CERNYAR: All right. Let me clarify this.

20 My understanding is the last flash drive
21 you handed over to the City was in 2016, January 2016.

22 MR. OROPEZA: To the best of my recollection, I'm
23 gonna say yes. But like I said, it's been a number of
24 departments, a number of people that I talked to that we
25 kind of providing the evidence. The Health Department

1 has them, too.

2 MR. CERNYAR: All right. So the rest of those
3 recordings, where are they located now? The recordings
4 in February, March, April, May, June, July.

5 MR. OROPEZA: I have some of them my phone. I
6 have some of them my phone. I have some flash drives
7 with me, and some of them in a personal laptop that I
8 have.

9 MR. CERNYAR: All right. Now, at one point you
10 were shown an alleyway to your garage; is that correct?

11 MR. OROPEZA: Can you repeat that, please?

12 MR. CERNYAR: At one point you were shown a
13 photograph of an alleyway that led to your garage; is
14 that correct?

15 MR. OROPEZA: Yes.

16 MR. CERNYAR: And that's right behind Miko's?

17 MR. OROPEZA: Correct.

18 MR. CERNYAR: And Miko's is on the east end of
19 that alley; is that correct?

20 MR. OROPEZA: Miko's is facing north and south.
21 My house is facing east and west.

22 MR. CERNYAR: Okay. At the end of the west end of
23 that alley, there's a liquor store; is that correct?

24 MR. OROPEZA: Yes, sir.

25 MR. CERNYAR: And somewhere on Willow, there used

1 to be a medical marijuana dispensary; is that correct?

2 MR. OROPEZA: Yes, it was there for a number of
3 months, yes.

4 MR. CERNYAR: Is that still there, to the best of
5 your knowledge?

6 MR. OROPEZA: No, sir. That was gone for, like,
7 two, three months or so. Maybe longer. Short period of
8 time.

9 MR. CERNYAR: And do you still live in the
10 community?

11 MR. OROPEZA: Yes.

12 MR. CERNYAR: How far do you live now from Miko's?

13 MR. OROPEZA: About a mile or so.

14 MR. CERNYAR: And it's no longer a burden to you?

15 MR. OROPEZA: That all depends on -- not directly
16 like it was.

17 MR. CERNYAR: Okay. And Mr. Sanchez had you look
18 at Exhibit No. 24; is that correct?

19 MR. OROPEZA: I saw a number of exhibits.

20 MR. CERNYAR: Could you turn to 24? Do you have
21 a --

22 MR. OROPEZA: I can, sure.

23 MR. CERNYAR: Thank you.

24 That call there, that was on the video we
25 just saw; is that correct?

1 MR. OROPEZA: I believe so, yes.

2 MR. CERNYAR: And he also had you take a look at
3 -- I believe Mr. Sanchez had you take a look at number
4 27?

5 MR. OROPEZA: You're asking me?

6 MR. CERNYAR: Yes.

7 MR. OROPEZA: I've looked at a number of -- I
8 don't know the sequence of it. I don't memorize which
9 ones exactly were they.

10 MR. CERNYAR: Okay. Could you take a look at
11 number 27?

12 MR. OROPEZA: Yes, I can.

13 MR. CERNYAR: And that also was one of the 13
14 dates that was on that video; is that correct?

15 MR. OROPEZA: I'm not sure if all of them or part
16 of that because some of those calls there was a police
17 officer that witness the incident or the occurrence.

18 MR. CERNYAR: I have nothing further. Thank you.

19 MR. CLOUGH: I just have a few questions, if I
20 might.

21 MR. OROPEZA: Sure.

22 MR. CLOUGH: I'm sorry I missed the beginning of
23 your testimony. What is it that you --

24 MR. OROPEZA: Sorry. I didn't hear what you said.

25 MR. CLOUGH: When is it that you moved into the

1 neighborhood, Mr. Sanchez?

2 MR. OROPEZA: That I moved in?

3 MR. CLOUGH: Pardon. Oropeza. I'm sorry.

4 When did you move into the neighborhood,
5 yes.

6 MR. OROPEZA: Sometime in 2000.

7 MR. CLOUGH: And the primary complaints that I
8 think you've discussed occurred when Miss Yancey had
9 started operating Miko's bar?

10 MR. OROPEZA: That is correct.

11 MR. CLOUGH: So previous to that, there had been
12 other bars that had been operating in that location; is
13 that correct?

14 MR. OROPEZA: That is correct.

15 MR. CLOUGH: And those owners had, in your
16 judgment, I believe you testified, been able to control
17 the parking to some extent and the noise to some extent?

18 MR. OROPEZA: When it was operated as exclusive
19 just a bar, they put a number of -- like a barricade to
20 prevent people from parking on Maine and/or they had
21 some sort of security controlling the parking lot to
22 minimize the noise and all that.

23 They didn't allow anybody in the back.
24 Even though there were noises and problems, we were, as
25 I mentioned to you, being a business owner, that I was

1 very tolerant of that.

2 MR. CLOUGH: That's what I was trying to get to is
3 the previous owners had been able to control to a large
4 extent most of the problems that you're talking about?

5 MR. OROPEZA: I will give them some credit for
6 trying. I don't know if they can control it, sir.

7 MR. CLOUGH: Okay. Nothing certainly such as what
8 you indicated on your videos?

9 MR. OROPEZA: No.

10 MR. CLOUGH: Now, you also mentioned that the back
11 door, they tried to keep it closed?

12 MR. OROPEZA: Correct.

13 MR. CLOUGH: And that minimized the noise to a
14 large extent?

15 MR. OROPEZA: Yes. To a point, yes.

16 MR. CLOUGH: Now, at some point in time was there
17 a change in the parking handicapped signage in the back
18 that you can recall?

19 MR. OROPEZA: I believe when Miko's moved in, they
20 had to separate some of the spaces, and at that point
21 was included a handicapped spot, yes.

22 MR. CLOUGH: So are you aware that at that point
23 in time there was a handicapped requirement to keep the
24 back door open or unlocked for access?

25 MR. OROPEZA: I'm not aware of whatever condition

1 was that.

2 MR. CLOUGH: Have you ever met anyone from the
3 Mackey's Trust?

4 MR. OROPEZA: No, I have not.

5 MR. CLOUGH: Have you ever met Ron Mackey?

6 MR. OROPEZA: No, I have not.

7 MR. CLOUGH: Have any of the neighbors, to your
8 knowledge, had any discussions with him to try to do
9 anything to manage any of the problems?

10 MR. OROPEZA: Yes, some of my neighbors have.

11 MR. CLOUGH: With Mr. Mackey directly?

12 MR. OROPEZA: With Mr. Mackey and some City
13 representatives, as well, too.

14 MR. CLOUGH: When was that, sir?

15 MR. OROPEZA: No idea, sir.

16 MR. CLOUGH: How many occasions was that?

17 MR. OROPEZA: No clue. Sorry.

18 MR. CLOUGH: You have no knowledge of that?

19 MR. OROPEZA: Have to be more than two occasions.
20 I have no idea. Maybe some of my neighbors could answer
21 that.

22 MR. CLOUGH: Would it be correct that the problems
23 got worse over a period of time after Miss Yancey moved
24 in?

25 MR. OROPEZA: As I recall, there have been three

1 bars. One was called the KB, which they finish their
2 operations, you know, sometime, like, around 9:00
3 o'clock at night.

4 So the problems were -- you know, we were
5 still able to sleep. Then it came another bar. I don't
6 know if it was Puka Bar or Sandbar. One of the two.
7 And then they start expanding their hours. So became
8 problem because now it's like we're going to 1:00, 2:00
9 o'clock in the morning.

10 And then another one came along, and that
11 was really -- getting worse and worse because now they
12 wanted to do some sort of entertainment. Now they
13 wanted to turn it into a nightclub.

14 And I'm not sure which of the two is which,
15 but when it was KB Bar for number of years, you know, it
16 was kind of a -- seemed like a bikers kind of, you know,
17 bar, and they would come after work. Yeah, there were
18 noises and they would laugh, but they would leave about
19 8:00 or 9:00 o'clock, and that wasn't much of a problem.

20 When the other bars came, it was getting
21 worse and worse.

22 MR. CLOUGH: Okay. But the real complaints, if
23 you will, didn't occur until the period when the current
24 bar opened up?

25 MR. OROPEZA: Complaints. Complaining, you know.

1 Obviously, my wife, my kids and myself, we would talk
2 among each other, but we would not call the police.

3 MR. CLOUGH: Okay. I don't have anything further.
4 Thank you.

5 MR. SANCHEZ: And you may have mentioned,
6 Mr. Oropeza, but did you say as a result of the sale --
7 let me just ask you this. Did you make money on the
8 sale of your home?

9 MR. OROPEZA: Absolutely not, sir. We had to
10 actually lower our beginning asking price to get some
11 actions and some people that were interested, and we had
12 to mention -- I was advised that we had to mention, but
13 I didn't want to -- believe me, I didn't want to mention
14 that we had a big problem, but we had to.

15 And I have from investors, people offering
16 ridiculous amount of money to buy the property so they
17 can rent it out or so. And so we -- it was a struggle
18 to sell the house, so we have to make some sacrifices.
19 And we believe that we sold the house 30 to \$50,000
20 below market.

21 MR. SANCHEZ: Thank you. I have nothing further.

22 CHAIRWOMAN VAN HORIK: Thank you, Mr. Oropeza.

23 MR. OROPEZA: Thank you.

24 CHAIRWOMAN VAN HORIK: Next witness.

25 MR. SANCHEZ: Yes. Miss Tonette Kadrmas.

1 MR. SANCHEZ: If you could state your name for the
2 record, please.

3 MS. KADRMAS: Hi. My name is Tonette Kadrmas. I
4 live at the 2500 block of Maine Avenue.

5 MR. SANCHEZ: And go ahead, if you have something.

6 MS. KADRMAS: Little bit here.

7 MR. SANCHEZ: Go ahead.

8 MS. KADRMAS: I'm a little nervous. If I read
9 some things, please bear with me.

10 I moved into my house almost 30 years ago,
11 and I love my neighborhood. I love the Wrigley area,
12 and I love my neighbors.

13 When I first moved in, the bar -- the
14 location we're speaking about was a hole-in-the-wall
15 bar, basically called the KB Bar for decades. Never
16 really any trouble.

17 But anyway, when the -- when Miko's Sports
18 Lounge opened, a group of my neighbors and I and some
19 others met with Miss Yancey in January, I think it was,
20 of -- January 20th of 2014 to introduce ourselves and
21 welcome her to the neighborhood.

22 And basically, as Mr. Oropeza had said,
23 there were a couple of bars in that location after KB
24 Bar moved on that were starting to cause nuisances.

25 So when we met with Ms. Yancey, we told her

1 about those problems from the past and if anything
2 should happen down the road, why don't we meet together,
3 nip things in the bud if need be. So I felt that was a
4 good thing to do, and we welcomed her to the
5 neighborhood.

6 Well, anyway, the nuisances pretty much
7 started within the week after we met with her in terms
8 of calling the police and because of, you know, the loud
9 music from the bar.

10 The people, the patrons would park on the
11 street, and lots of times they would blare the really
12 loud radios from their cars, and it literally shook our
13 windows, and, you know, get out of the cars noisily and
14 walk to the bar and things like that, you know, all
15 hours of the morning.

16 So I tried to call Ms. Yancey a couple
17 times, left her a message. I think -- let's see. We
18 met with her on the 20th of January. I called her on
19 the 26th and the 29th, I believe, and left her a message
20 saying, well, could we meet, we have to talk about some
21 things related to your bar.

22 But I didn't get any return call. So my
23 neighbor and I, Steve, he and I walked into her bar
24 thinking maybe she'd be there, we could talk to her then
25 on the 3rd of February.

1 She wasn't there, but we asked the
2 bartender, Priscilla, to give Miss Yancey a message we'd
3 like to meet with her.

4 Anyway, long story short, Miss Yancey did
5 finally call me -- it was about three weeks later -- and
6 we agreed to meet to discuss things, and we actually met
7 her in her bar.

8 Pretty noisy, but anyway, we talked -- my
9 neighbor and I -- well, two of us actually, two of the
10 neighbors, Ricky and another neighbor that's not here
11 tonight, Steve, and I met with her and told her about
12 the disturbances, as we had talked about before, is
13 there some way to resolve this.

14 In other words, we were reaching out to her
15 to figure out how to resolve the problem because the
16 nuisances were pretty bad.

17 And I will have to say that she was not
18 receptive, and, you know, if I could sum it up I would
19 say that she felt that she couldn't control her patrons
20 outside the bar, and if they were noisy and causing me a
21 disturbance, I should call the police.

22 So, you know, I could go on with that one,
23 but so we did. We called the police. And I was one of
24 the people that called the police quite a lot because of
25 the disturbances.

1 So we worked -- my neighbors and I sort of
2 got together and talked about ways -- we figured she
3 wasn't going to be receptive, so how can we work
4 together to try to find some way to resolve the issues.

5 For her to become a good business neighbor,
6 that would be one, but we really wanted to work together
7 with her even though it didn't seem possible.

8 So we started working with a couple of City
9 departments, nuisance abatement, certainly the Police
10 Department, and then they had meetings, as I understand
11 it, with Miss Yancey to try to come up with solutions to
12 become a better business owner.

13 And that's how I felt we were also trying
14 to work with the bar through the City, go through the
15 channels, and, you know, just seemed the right thing to
16 do. But the nuisances continued. This is almost three
17 years later.

18 I'm just going to cut to the chase.

19 It's almost three years later. I feel that
20 our neighborhood has really suffered from the bar having
21 moved in. The other bars, there were some troubles.
22 There was never any trouble with the KB Bar, but the
23 other bars, we could tell that -- I think they started
24 to view themselves maybe as a nightclub, sort of like
25 entertainment destination.

1 But this bar, Miko's Sports Lounge, has
2 been horrible. And my personal experience is that I
3 tried to work with the owner of that bar, and I thought
4 I did what I should as a neighbor to reach out. I
5 worked with the City.

6 We met with her initially when she opened
7 her bar and welcomed her to our neighborhood. And, you
8 know, I really feel that -- I've lived here almost 30
9 years. I love my community.

10 She moved that bar in three years ago and
11 was welcomed, and this is wrong. I would love for you
12 to take some kind of action tonight to resolve this
13 tonight because I really think that three years is a
14 long time to go through this, the noises, the people
15 yelling all hours of the night, the boom, boom, boom
16 radios and looking for places to park on the street,
17 urinating, throwing liquor bottles in the streets. I
18 guess they're drinking in the cars and then throwing the
19 bottles.

20 We brought some pictures of -- lots of
21 pictures I took of the liquor. I would -- I'd see them
22 on the street, I'd take the picture, never knowing one
23 day it would come to this, but it's a documentation.

24 I walked my neighborhood with my neighbors,
25 with a neighbor. I have about 82 signatures, but I have

1 80 households within a two- to three-block area of the
2 bar saying please revoke the business license and the
3 conditional use permit.

4 That's a lot of people.

5 And we have pictures also that were taken
6 from the camera that Mr. Oropeza referred to of the back
7 -- the bar door being opened. I mean, if we thought the
8 bar -- working with the City, we thought the -- the
9 establishment, Miko's, was supposed to keep the back
10 door shut.

11 Of course, if they have deliveries and
12 staff leaving at night, that's different. But we have
13 pictures, samplings really, of the back door being
14 opened all the time, and I guess -- I don't know.

15 I was kind of surprised that -- I'm not
16 surprised, but I just brought those pictures along so
17 you would know that the back door was open a lot.

18 I feel bad for my neighbor. He's a good
19 neighbor. It's a wonderful family. We hated to lose
20 them, but he couldn't wait any longer. This is my
21 personal opinion. He hung in there for us.

22 We really wanted some resolve. That's why
23 we're here tonight. He's -- he was a really good
24 neighbor to us. He's a good asset to the City of Long
25 Beach, and I don't think it's right that he got chased

1 out of his home, and I don't want any of the rest of us
2 to get chased out of our homes either, these homes that
3 we love.

4 So thank you for listening to me, and do
5 you have any other questions?

6 MR. SANCHEZ: Miss Kadrmas, could you just
7 describe some of the activities that you were witness to
8 as a result of the bar, resulting from the bar?

9 MS. KADRMAS: Well, we certainly witnessed people
10 drinking in their cars, people standing in front of my
11 house making loud noises, screaming, hollering, having a
12 good time.

13 By the way, for the record, in my heart I
14 know most people that go into that bar are not bad
15 people. Of course they're not. We're not saying that.
16 But sometimes people get carried away, and the ones that
17 did are what brought us here tonight.

18 So I would see -- well, I saw a lewd act.
19 Anyway, people having sex in the street. Of course we
20 called the police. That was the first year.

21 I know that Ricky has said -- excuse me --
22 Mr. Oropeza, that people kind of hid around the bushes
23 here in his place and had sex. But the thing is we
24 would go outside. Of course we were afraid to
25 sometimes, but we would see people standing on the

1 corner loitering, and we thought it was against the law
2 to loiter.

3 So you're talking, that's different. But
4 usually when they would loiter on the streets, well,
5 they would -- like on Maine at Willow, they're just
6 carrying on loudly and having fun. And I understand,
7 but it would wake me up. It's pretty stressful.

8 MR. SANCHEZ: Now, you live farther down the
9 street than Mr. Oropeza along Maine Avenue?

10 MS. KADRMAS: Yes.

11 MR. SANCHEZ: Okay. And you mentioned that you
12 were afraid to go outside?

13 MS. KADRMAS: Yes.

14 MR. SANCHEZ: When were you afraid to go outside?

15 MS. KADRMAS: Well, certainly after the shooting
16 because that was right after Christmas last year. Yeah,
17 I'm afraid to go outside at night. What we used to do
18 is -- again, to document the nuisances, we were working
19 with the City, nuisance control.

20 We'd have to go outside. You know, there
21 would be a noise, a disturbance. It's, like, 1:00 in
22 the morning, but we gotta go outside and see, well, is
23 that the bar? It could be bar people, but, you know,
24 yelling and stuff.

25 So we'd go outside. And sometimes -- and

1 to see where it was coming from. And sometimes that we
2 would do that, my partner and I, and lo and behold there
3 would be somebody sitting in their car drinking or
4 something, getting out of their car right then and there
5 and walk to the bar.

6 So here I'm outside, it's 1:00 in the
7 morning, so that made me afraid. But the shooting made
8 me very afraid. That's very stressful. It could have
9 been my house that was shot at.

10 I can't bring -- my mom's 90 years old.
11 She's had a couple of heart attacks this year, and I
12 would have loved to have brought my mom home to help
13 take care of her. She lives in Seal Beach. But I can't
14 bring her home to this. She's stressed out enough as it
15 is.

16 Sorry. I kind of went off.

17 MR. SANCHEZ: That's okay.

18 So you mentioned being woke up at 1:00 in
19 the morning. At least that was your last example. How
20 often would that happen in last two and a half years?

21 MS. KADRMAS: Oh, my goodness. Well, probably
22 about 50 times. Now, if you're asking did I call the
23 police every time? No.

24 MR. SANCHEZ: So fair to say that it's affected
25 your sleep pattern?

1 MS. KADRMAS: Oh, my gosh. Yes.

2 MR. SANCHEZ: Okay. The video that was shown a
3 little while ago on the screen, were you part of
4 preparing that video?

5 MS. KADRMAS: Yes.

6 MR. SANCHEZ: What was your part in the
7 preparation of that video?

8 MS. KADRMAS: Well, we had some video recordings,
9 and knowing that we were -- there was going to be a
10 Planning Commission hearing, I went through some of the
11 recordings of some disturbances that were on my camera
12 app, I guess you would call it, and -- to narrow those
13 down to make a presentation if we could at the hearing
14 today.

15 MR. SANCHEZ: So you had access to the video
16 footage?

17 MS. KADRMAS: Yes, because if you could log onto
18 that camera application -- and I'm not sure the
19 technical terms because I'm just not technologically --
20 I don't understand all that stuff.

21 But yes, I had access to it, so I could
22 record things like the disturbances if I observed them,
23 and that's -- you know, we provided some of that to the
24 police last year, I think it was.

25 MR. SANCHEZ: And then you mentioned the attempts

1 to speak with Ms. Yancey, and I think you mentioned the
2 attempt at the bar was the last time. When was that?
3 What date was that?

4 MS. KADRMAS: Let's see. Well, we met with her in
5 the bar on the -- I think it was the 20th of February of
6 2014.

7 MR. SANCHEZ: Okay. So since that date, as far as
8 you know, has she made any attempt to reach out to
9 anyone in the neighborhood or to the neighborhood
10 association at all?

11 MS. KADRMAS: Not to my knowledge.

12 MR. SANCHEZ: And is there a neighborhood
13 association?

14 MS. KADRMAS: Well, we call ourselves the
15 Neighborhood Maine Avenue Group. It's not an actual
16 association.

17 MR. SANCHEZ: Okay. So since that time in 2014,
18 there have been no other attempts to reach out to
19 anybody else in the neighborhood, as far as you know?

20 MS. KADRMAS: On her behalf as far as I know, no.
21 But I do know that after the -- let's see.

22 Oh, it was in that City Council meeting
23 August 9th, I believe it was, this year. I think it was
24 Councilman Uranga encouraged both parties, so to speak,
25 to maybe -- he would offer to mediate or something along

1 those lines.

2 And we told Councilman Uranga's office that
3 -- or I called the Celina Luna, his chief of staff, and
4 said, okay, we would be willing to talk if that was the
5 case, but we hadn't heard anything from Ms. Yancey.

6 MR. SANCHEZ: Thank you.

7 I have nothing further. No further
8 questions.

9 MR. CLOUGH: Just briefly.

10 So you had met with Miss Yancey in February
11 of 2014?

12 MS. KADRMAS: Yes.

13 MR. CLOUGH: Had you ever made any contact with
14 anyone from Mackey Trust?

15 MS. KADRMAS: I never reached out to anybody from
16 the Mackey Trust, no. But I know that the City of Long
17 Beach was trying to interact with them regarding the
18 nuisance bar.

19 MR. CLOUGH: And do you know when that was?

20 MS. KADRMAS: Well, it's probably in the summer, I
21 think, of 2014 and could have been other times, but
22 you'd have to ask the City.

23 MR. CLOUGH: You don't have any knowledge of
24 what --

25 (Audience interruption.)

1 COURT REPORTER: I'm sorry. I couldn't hear the
2 question. There's voices in the audience that
3 distracted me.

4 MR. CLOUGH: You didn't have any knowledge -- any
5 activities with the City reaching out to anyone from the
6 Mackey Trust; correct? You don't have any knowledge
7 about that?

8 MS. KADRMAS: What -- I'm sorry. I don't know
9 what you mean.

10 MR. CLOUGH: Do you know whether or not the Mackey
11 Trust had ever been contacted by anyone from the City in
12 2014?

13 MS. KADRMAS: Yes, I believe they were.

14 MR. CLOUGH: You say you believe they were. What
15 is your knowledge of that?

16 MS. KADRMAS: Well, we were told that -- by the
17 nuisance abatement officer, Peter Ronca, that he met the
18 City -- some City representatives met with him.

19 MR. CLOUGH: This was 2014?

20 MS. KADRMAS: Yes.

21 MR. CLOUGH: Okay. And who was that?

22 MS. KADRMAS: Peter Ronca, the then nuisance
23 abatement officer for Long Beach.

24 MR. CLOUGH: Okay. When did your concerns about
25 the activities that were going on in the bar begin,

1 would you say, as a neighbor?

2 MS. KADRMAS: January of 2014.

3 MR. CLOUGH: January of 2014?

4 MS. KADRMAS: When the nuisances began, yes.

5 MR. CLOUGH: And previous to that, there was
6 nothing exceptional? I mean, things may have happened,
7 but there was nothing exceptional that had happened?

8 MS. KADRMAS: Well, they had just happened, so...

9 MR. CLOUGH: Previous to 2014, other bars had been
10 operating at that location; correct?

11 MS. KADRMAS: Right.

12 MR. CLOUGH: And you had no problems with those
13 bar owners; correct?

14 MS. KADRMAS: No, I didn't say that. I said there
15 were some issues with those bars, the Puka Bar and the
16 Sandbar, after the KB Bar closed its doors after decades
17 being in that location and never causing problem. The
18 other bars -- the bar changed hands several times.

19 MR. CLOUGH: Okay. But there was never any major
20 disturbances that you can recall, is there or was there?

21 MS. KADRMAS: Well, if -- there were -- yes, there
22 were disturbances, but in comparison to Miko's Sports
23 Lounge, Miko's Sports Lounge is on steroids with
24 disturbances, sir, in comparison.

25 MR. CLOUGH: And there was nothing that you would

1 demand that anyone shut this bar down for before Miko's
2 sports bar was open, was there?

3 MS. KADRMAS: No.

4 MR. CLOUGH: That's all I --

5 MS. KADRMAS: But I did want to say that I met
6 Mr. and Mrs. Mackey --

7 MR. CLOUGH: Okay.

8 MS. KADRMAS: -- in March of 2016 with a group of
9 City representatives at the time, and my neighbor Steve,
10 who's not here tonight, and I met with them.

11 And he was told about all the disturbances,
12 and he said something to the effect that she was in
13 violation -- the bar was in violation of the lease.

14 I was hoping that he would take care of the
15 situation or at least get it to improve, but here we are
16 tonight.

17 MR. CLOUGH: And since that date, you've noticed
18 that there has been work done on the back of the
19 property; correct?

20 MS. KADRMAS: I --

21 MR. CLOUGH: Yeah, there have been handicapped
22 spaces marked, signs put up and that sort of thing?

23 MS. KADRMAS: Yes.

24 MR. CLOUGH: Have you noticed that the usage in
25 the back of the bar has increased since that signage and

1 that handicapped parking had been put in?

2 MS. KADRMAS: By "usage," what do you mean?

3 MR. CLOUGH: Well, there are more people that went
4 back there after that had all taken place; correct?

5 MS. KADRMAS: Sir, I'm sorry. I don't mean --
6 maybe I'm slow. I don't know what you mean.

7 MR. CLOUGH: What I'm trying to ascertain is at
8 some point in time, the back door to this particular bar
9 was not something that was being used as much prior to
10 the handicapped lineage being put in; would that be
11 accurate?

12 MS. KADRMAS: I just don't understand what you're
13 getting at.

14 MR. CLOUGH: I've been told that before. Just
15 trying to help.

16 MS. KADRMAS: We're on the same team on that one.

17 MR. CLOUGH: What I'm trying to find out is was
18 there a change in the usage in the alley at some point
19 in time when the work was done on the back of the bar?

20 MS. KADRMAS: I don't think that that -- I'm
21 sorry. No. The answer is no.

22 MR. CLOUGH: No?

23 MS. KADRMAS: The problem was the back door being
24 opened constantly and blaring music out into the
25 neighborhood.

1 MR. CLOUGH: And do you have any idea of when that
2 began?

3 MS. KADRMAS: When the bar first opened.

4 MR. CLOUGH: So when the first owner first
5 opened --

6 MS. KADRMAS: Miko's.

7 MR. CLOUGH: -- the bar?

8 I have nothing further.

9 MR. CERNYAR: Good evening.

10 MS. KADRMAS: Hi.

11 MR. CERNYAR: Now, you mentioned earlier that
12 there were several bars in that place?

13 MS. KADRMAS: It changed ownership several times,
14 yes.

15 MR. CERNYAR: And you also mentioned at one point
16 that you had no problems when the bar was closing
17 earlier when it was the KB Bar?

18 MS. KADRMAS: I never had any problems with the KB
19 Bar.

20 MR. CERNYAR: And you mentioned because you
21 thought that was an earlier closing time?

22 MS. KADRMAS: I didn't mention that. I hadn't
23 spoken to them. I said I never had any problems with
24 the KB Bar.

25 MR. CERNYAR: Didn't you mention that it closed

1 around 8:00 or 9:00?

2 MS. KADRMAS: No.

3 MR. CERNYAR: No? Okay.

4 What would you say was the difference then
5 between the KB Bar, the Sandbar, the Puka Bar and now
6 Miko's Sports Lounge?

7 MS. KADRMAS: The differences between all three or
8 four?

9 MR. CERNYAR: Well, let me rephrase that.

10 You mentioned that the KB Bar you had no
11 issues with?

12 MS. KADRMAS: No. I moved into my house 30 years
13 ago when the KB Bar was there.

14 MR. CERNYAR: Okay. But there were problems with
15 the Sandbar and the Puka Bar and then Miko's --

16 MS. KADRMAS: Miko's Sports Lounge.

17 MR. CERNYAR: -- Sports Lounge?

18 MS. KADRMAS: Yes.

19 MR. CERNYAR: What do you think the difference is?

20 MS. KADRMAS: Well, I think the Puka Bar and the
21 Sandbar tried to curb some of the disturbances, in my
22 opinion, some of the disturbances that they knew were
23 generated from their bar patrons.

24 MR. CERNYAR: All right.

25 MS. KADRMAS: But I don't believe that to be the

1 case for Miko's Sports Lounge.

2 MR. CERNYAR: Now, you mentioned that you met
3 several times with City officials.

4 MS. KADRMAS: Uh-huh.

5 MR. CERNYAR: Did anyone discuss closing the bar
6 earlier?

7 MS. KADRMAS: In a meeting that I was at?

8 MR. CERNYAR: Yes.

9 MS. KADRMAS: No.

10 MR. CERNYAR: Did anyone discuss parking permits
11 for your street?

12 MS. KADRMAS: I believe -- I believe Peter Ronca,
13 nuisance abatement, mentioned something along those
14 lines, but it seemed -- it seemed like it was going to
15 be expensive. And I'm sorry. I can't remember the
16 exact information, but also that, you know, might
17 curtail the ability for us to have our family or
18 visitors come to our place, our neighborhood to park.

19 MR. CERNYAR: Was there any mention of just having
20 that permit after a certain hour, 10:00 o'clock?

21 MS. KADRMAS: Which permit?

22 MR. CERNYAR: Say parking permit.

23 MS. KADRMAS: Any discussion beyond that I don't
24 know.

25 MR. CERNYAR: Okay.

1 MS. KADRMAS: Really.

2 MR. CERNYAR: Now, you mentioned that you tried to
3 contact Councilman Uranga a few times?

4 MS. KADRMAS: I tried. I talked to his chief of
5 staff several times, yes.

6 MR. CERNYAR: Okay. And do you have any knowledge
7 of whether or not Miko's sports bar also contacted him?

8 MS. KADRMAS: Do I have knowledge?

9 MR. CERNYAR: Yes.

10 MS. KADRMAS: I'm sure that they've had contact,
11 yes.

12 MR. CERNYAR: Okay. But that meeting never took
13 place?

14 MS. KADRMAS: Which meeting?

15 MR. CERNYAR: A meeting with the Councilman.

16 MS. KADRMAS: So can you tell me what it is you're
17 referring to?

18 MR. CERNYAR: Meeting with the Councilman and the
19 community and the sports bar, that never took place?

20 MS. KADRMAS: Together, no. We didn't even talk
21 about that.

22 MR. CERNYAR: I have nothing further. Thank you.

23 MS. KADRMAS: Can I make a comment?

24 And thank you. I know we're running long,
25 I suppose.

1 Like I said, I moved into my neighborhood
2 almost 30 years ago. I love my neighborhood. I love
3 that we're diverse. I love that we have a good,
4 wonderful mix of people in the Wrigley area.

5 And lastly, again, I'm hoping we can
6 resolve this tonight and that none of us feel like we
7 would need to move from our neighborhood that we love
8 like Ricky had to.

9 Thank you.

10 CHAIRWOMAN VAN HORIK: Thank you, Miss Kadrmas.

11 And we're at almost 7:30, and I'm going to
12 call a five-minute break. So we will reconvene at 7:32.

13 Thank you.

14 (Brief recess.)

15 CHAIRWOMAN VAN HORIK: Like to ask everyone to
16 return to their seats, please. We're going to start
17 again.

18 I'd like for us to all resume, and if you
19 please call your next witness.

20 MR. SANCHEZ: Thank you.

21 We call Dolores Williams.

22 MS. WILLIAMS: Hello, everyone.

23 CHAIRWOMAN VAN HORIK: Good evening.

24 MS. WILLIAMS: So I was going to read a statement,
25 but pretty much everybody's covered it. I know we're

1 running late, so should I just say a few things or --

2 MR. SANCHEZ: If there's a couple things you want
3 to talk about, or I can ask you a specific question.

4 MS. WILLIAMS: Well, I would like to say that CUP
5 was written in '95. This is the 21st century. It's
6 obsolete and it no longer protects our homes. So I
7 would like it revoked and rewritten for the 21st century
8 so our homes are protected now and in the future.

9 MR. SANCHEZ: So, Miss Williams --

10 MS. WILLIAMS: Yes.

11 MR. SANCHEZ: So you're familiar with the bar, the
12 Miko's bar establishment and the events it would have
13 periodically?

14 MS. WILLIAMS: Yes.

15 MR. SANCHEZ: And are you familiar with some
16 advertisements with those events?

17 MS. WILLIAMS: Yes.

18 MR. SANCHEZ: And were any of those advertisements
19 placed on social media?

20 MS. WILLIAMS: That's where I saw them, on social
21 media, yes.

22 MR. SANCHEZ: What sites did you see them on
23 social media?

24 MS. WILLIAMS: On Miko's Facebook. And when there
25 was a performer, it might be on the performer's

1 Facebook.

2 MR. SANCHEZ: And how did you come across those
3 advertisements?

4 MS. WILLIAMS: How did I come across?

5 MR. SANCHEZ: Yes.

6 MS. WILLIAMS: I looked for them.

7 MR. SANCHEZ: And those advertisements that you
8 saw were for events that were occurring at Miko's before
9 they occurred, prior to the event?

10 MS. WILLIAMS: Oh, yeah, yeah.

11 MR. SANCHEZ: And once you saw those, did you
12 notice a difference in the amount of people that were
13 going to Miko's?

14 MS. WILLIAMS: Yeah. Usually there was a lot more
15 people. In fact, whole street, the 2500 block of Maine
16 and the surroundings areas, the cars would just be
17 parked all over, and then you'd have people cruising by
18 real slow looking for a parking space.

19 So there was lots of traffic. It was like
20 a big parking lot that we were living in.

21 MR. SANCHEZ: Okay. And these were the nights
22 that the events were occurring?

23 MS. WILLIAMS: Yes. Usually entertainment nights
24 or when she advertised a big event, lot of people came.

25 MR. SANCHEZ: Okay. And so on those particular

1 nights when those particular advertisements were on
2 social media, you would have those parking issues along
3 the street where basically --

4 MS. WILLIAMS: Absolutely, yes.

5 MR. SANCHEZ: Okay. I have nothing further.

6 MR. CERNYAR: Good evening, Miss Williams.

7 MS. WILLIAMS: Hello.

8 MR. CERNYAR: I have a couple questions for you.

9 Those advertisements you saw on Facebook,
10 were they related to occasional events permits?

11 MS. WILLIAMS: Some she had without OEPs.

12 MR. CERNYAR: And how do you know that?

13 MS. WILLIAMS: Because I would call and ask if she
14 pulled one, and then I would just look at the dates of
15 the fliers. Some had OEPs, and sometimes she had
16 entertainment there without -- quite a few times without
17 OEPs.

18 MR. CERNYAR: Okay. And who would you contact?

19 MS. WILLIAMS: Who would I contact?

20 MR. CERNYAR: Right.

21 MS. WILLIAMS: The people who -- the City
22 department who handles permits. It's public.

23 MR. CERNYAR: Sometimes you said there were
24 fliers?

25 MS. WILLIAMS: Yes.

1 MR. CERNYAR: Did the fliers mention who was
2 responsible for those fliers?

3 MS. WILLIAMS: Yeah. It was Miko's Sports Lounge
4 inviting people to a party or an event.

5 MR. CERNYAR: Now, do you know for a fact whether
6 it was Miko's Sports Lounge that put those fliers out or
7 if it was somebody that just put Miko's name on there?

8 MS. WILLIAMS: No, I don't know, no. I would
9 assume though it came from Miko's.

10 MR. CERNYAR: Nothing further.

11 MS. WILLIAMS: Is that it?

12 MR. CLOUGH: Yeah, I had -- you had discussed some
13 events that had taken place. Was this an event or a
14 thing that happened during any particular time in the
15 past, or when did they begin?

16 MS. WILLIAMS: Right away when she first opened.

17 MR. CLOUGH: When she first opened?

18 MS. WILLIAMS: Yes.

19 MR. CLOUGH: Were there any such events before she
20 first opened --

21 MS. WILLIAMS: Yes.

22 MR. CLOUGH: -- that you recall?

23 MS. WILLIAMS: The Puka Bar had quite a few
24 entertainment nights, and sometimes they didn't have
25 OEPS.

1 MR. CLOUGH: You say sometimes they didn't?

2 MS. WILLIAMS: Yeah.

3 MR. CLOUGH: Okay. It's not an event that
4 occurred quite often at the Puka Bar?

5 MS. WILLIAMS: No. I think they were having a lot
6 of events. We -- they actually -- that's what happened.
7 They actually got a permanent entertainment permit about
8 a year after they moved in without dancing, and that's
9 when stuff started ticking up, the problems.

10 MR. CLOUGH: Okay. So they got -- there was --
11 previous to the current owners, there were permits that
12 were secured?

13 MS. WILLIAMS: Yes.

14 MR. CLOUGH: Okay. I have nothing further.

15 MS. WILLIAMS: Thank you. Is that it or -- can I
16 say one thing?

17 I hope this goes fast, this whole
18 proceedings, because we've suffered for three years.
19 We've been waiting for this day. So one lawyer is not
20 prepared, but we are, and we'd like to get this over,
21 please.

22 Thank you.

23 CHAIRWOMAN VAN HORIK: Mr. Sanchez, do you have
24 anything else?

25 MR. SANCHEZ: No, I have nothing further. Thank

1 you.

2 MS. WILLIAMS: Oh, by the way, I have pictures if
3 any of you want to see of -- might as well get my time
4 here. Back door. Miss Yancey says they never use the
5 back door. There's 34 pictures.

6 MR. MAIS: Ma'am, if you have pictures, after
7 you're done describing them, if you can hand them to the
8 clerk.

9 MS. WILLIAMS: Absolutely.

10 MR. MAIS: She can pass them around.

11 MS. WILLIAMS: Loitering crowds, drunk people.
12 There are over 50 pictures of empty alcohol containers,
13 and we're not talking about individuals. We're talking
14 about big bottles of booze.

15 It's incredible how many bottles we've
16 taken pictures of, and my experience has been watching
17 people drink in front of my house out of the trunk of
18 their car, drinking inside the car. So -- and that's
19 one of the -- that's one of the nuisances. Anyway.

20 Oh, here's some urination. And I guess
21 that's enough.

22 All right. Thank you very much for your
23 time.

24 CHAIRWOMAN VAN HORIK: Thank you for coming.

25 MR. SANCHEZ: Like to call up Mr. Ted Kane.

1 MR. KANE: I thank you for having this hearing.
2 My name is Ted Kane. I live on the 2600 block of Maine,
3 so north of the bar with a view of the bar.

4 MR. SANCHEZ: Thank you, Mr. Kane.

5 And, I mean, you've heard everyone else's
6 testimony, so we're trying to -- if there's things that
7 have already been said, we're trying to focus on some
8 things to add than reiterating what's already been said.

9 So one thing is is there a specific event
10 that occurred that relates to the bar that relates to
11 you?

12 MR. KANE: Well, there's probably a couple of
13 things. I would say my first contact with the bar, I
14 actually went when it opened a couple of times. I had
15 actually -- we moved in in 2007, so we were after the
16 KB, but we did go to Puka Bar when it was open.

17 And I would say with the Puka, they were a
18 bar initially. That building has kind of a bar, and
19 then there's sort of subsequent rooms that follow
20 through. And then after they got the license to open
21 the entertainment, they opened this other part of the
22 building, and that's when they started having events,
23 and I think the character, that changed and the noise
24 sort of changed.

25 Initially when it was just one small part

1 of a bar it was one type of a thing, and then when it
2 became a larger space it became kind of another.

3 And -- but we liked the Puka Bar. It was a
4 neighborhood bar. We met people there that we still
5 know from the neighborhood, you know. It was a place
6 that we went. It kind of went downhill, I would say,
7 and then that space closed.

8 We went to the Sandbar when it opened, and
9 it wasn't really -- wasn't really a place for us. It
10 was a little too noisy. I would say that impacted us.

11 But when Miko's opened, we were -- we
12 wanted to give it a shot because we would really like to
13 have a place in the neighborhood that we felt
14 comfortable to go.

15 Couple times we went there, I would say
16 that it -- we didn't really feel very welcome,
17 particularly the second and last time that we went. I
18 remember going there. Was a Sunday. It was maybe eight
19 people in the bar.

20 I remember going to put money in the
21 jukebox and being told by a couple people there not to
22 play any money in the jukebox because they were having a
23 party and they didn't want us to spoil it.

24 So when you're told something like that,
25 even though I live across the street from this

1 establishment, I did not feel that I was welcome there,
2 and I never returned.

3 So I would say that was my first experience
4 with the bar. And, you know, we experienced some of the
5 same things in terms of the noise and the parking, but
6 not to the degree of the people that are right, right
7 there.

8 We get kind of an echo of that. You know,
9 at night especially when the bar closes, we'll hear --
10 sometimes we'll hear arguments or loud music sometimes
11 from people in their cars. We'll hear noise from the
12 bar.

13 I remember -- actually, was the weekend
14 before the hearing, the last hearing that was held, the
15 City Council. I remember trying to watch the Olympics
16 on TV, like at midnight, you know, 12:30 on a Saturday
17 and having to actually close my windows.

18 And I'm far enough away from the bar, I
19 thought that was kind of crazy because I couldn't hear
20 the TV, and I closed up the windows. I would have
21 rather had a breeze, but just was too loud.

22 But the biggest incident was certainly
23 December, the morning of December 27th. I remember
24 going to take my dog for a walk. My dog was indicating,
25 as they do, that she needed to go outside.

1 I opened up the door. There's this chaotic
2 scene. People are in the street in front of my house
3 screaming. I looked to my left. I see what appears to
4 be a body. People are screaming about there being a
5 shooting.

6 So naturally, my dog did not get that walk.
7 We went back inside the house, we dialed 911 and, you
8 know, just stayed inside and, you know, obviously very
9 in fear for our well-being at that time.

10 MR. SANCHEZ: So did someone get shot?

11 MR. KANE: Yes.

12 MR. SANCHEZ: And that was on the street in front
13 of your house?

14 MR. KANE: Yes.

15 MR. SANCHEZ: So you live on, I guess, the north
16 side of Maine across from Willow and basically across
17 from the front of the bar?

18 MR. KANE: Right. You can see the bar from
19 outside. If you step outside to my porch, you can see
20 the bar.

21 MR. SANCHEZ: And was that -- so did you actually
22 hear the gunshot?

23 MR. KANE: I heard something. I didn't know what
24 it was. But when I came out and I saw that, I knew what
25 it was.

1 MR. SANCHEZ: Okay. And so you described some
2 commotion. Has that changed the way you go about your
3 daily business now where you live now?

4 MR. KANE: Yeah. Especially subsequently hearing
5 that there was a stabbing there and the suicide attempt
6 that took place outside from a bar patron there. I
7 definitely -- the Sandbar was noisy, but it wasn't
8 violent.

9 So yeah, I definitely feel much less safe.
10 If I see there's a crowd of people there, I -- that
11 concerns me because I know what -- some of the things
12 that happened at that bar.

13 So I don't appreciate having a business in
14 the neighborhood that brings that kind of uncertainty
15 and, you know, opportunity for havoc into my
16 neighborhood.

17 MR. SANCHEZ: Thank you. I have nothing further.

18 MR. CLOUGH: Your primary concern is the crowd
19 that goes there?

20 MR. KANE: Yeah, I observe the crime that has gone
21 on around out there. There's -- you know, I don't know
22 how many shootings is -- would be too many for you to
23 have around your house. One is probably for me, that's
24 -- that's a lot.

25 MR. CLOUGH: During the previous years, previous

1 -- you talked about previous places being opened. Those
2 places never concerned you, did they, in terms of any
3 violence or anything?

4 MR. KANE: I would say the Sandbar, it was too
5 loud for the neighborhood. As far as I don't remember
6 there being violence, but I remember there being too
7 many people.

8 I remember it overwhelmed the
9 infrastructure of the neighborhood in terms of parking,
10 that they were doing something that wasn't really
11 possible within that property.

12 And I think that the Puka, the problems
13 that the Puka ran into were because, again, is not there
14 for that kind of a business in that property.

15 I would say in their first year when they
16 basically had a bar that they were doing okay, but once
17 they expanded into trying to do something that was
18 larger there, doing something that was not consistent
19 with the needs of the neighborhood.

20 MR. CLOUGH: Yet you had, in fact, gone over to
21 the various places to see if they were places that you
22 could enjoy; is that right?

23 MR. KANE: Yes, that's right.

24 MR. CLOUGH: Okay. I have nothing further.

25 MR. CERNYAR: Good evening, Mr. Kane.

1 MR. KANE: Good evening.

2 MR. CERNYAR: Now, you live north of Willow; is
3 that correct?

4 MR. KANE: Yeah. Just a couple buildings north.

5 MR. CERNYAR: Do you have any parking issues?

6 MR. KANE: For us we have -- we do have a parking
7 spot. So for us it's -- we are able to park. If we
8 have guests, if we have people staying, it can be an
9 issue. But for us personally, we have a spot.

10 MR. CERNYAR: Okay. How about hours. You've
11 mentioned that some of this stuff happens after certain
12 hours or --

13 MR. KANE: Yeah. I would say that it's -- you
14 know, it can be noisy there at 10:00. It can be noisy
15 there at any time. The later that it is -- and I don't
16 know if the law is 10:00 or 11:00 -- obviously, that's
17 more impactful.

18 You can expect to hear a certain amount of
19 -- it's one thing if it's 8:00 o'clock at night. Just
20 as a human, I know those are your normal hours. When
21 things go on into the morning, you know, that gets to
22 impact, you know, your life.

23 MR. CERNYAR: Now, would you say the traffic on
24 Willow kind of muffles the sound during -- when there is
25 traffic on Willow?

1 MR. KANE: I think traffic abates on Willow
2 probably in the early evening. I mean, it's very loud
3 in the afternoon or the rush hour, but I don't know.
4 Maybe after 7:00 it's not -- traffic's not really such
5 an issue.

6 MR. CERNYAR: And that's when you start to hear
7 more of the sound, or is it later in the evening?

8 MR. KANE: I'm generally home later in the
9 evening. I work, so I usually work -- I'm not really
10 home. I'm generally out and about until sometime after
11 7:00.

12 MR. CERNYAR: Okay. And I'm sorry. I may have
13 asked you this question earlier, but do you find it more
14 of an issue after 10:00 o'clock or --

15 MR. KANE: Yeah. I would say it's more -- well,
16 it's more of an issue for me. The later it gets, the
17 more of an issue it is just in terms of, you know,
18 there's a certain amount of live and let live. You have
19 a business in your neighborhood, after a certain point
20 you expect something to wind down rather than ramp up.

21 MR. CERNYAR: And what time would that be for you?

22 MR. KANE: I would say anywhere after, let's say,
23 9:00.

24 MR. CERNYAR: Anytime after 9:00? Okay.

25 And parking after 9:00, is that still an

1 issue for visitors?

2 MR. KANE: Visitors would be -- would I have
3 people come over to my house at 9:00?

4 MR. CERNYAR: Yes.

5 MR. KANE: Generally if I'm having -- we might
6 have a couple, you know, parties or something throughout
7 the course of the year, so maybe, but not generally as
8 an issue for me, no.

9 MR. CERNYAR: Nothing further.

10 MR. KANE: Although I would say that, you know, if
11 the street is full of cars from a business and the
12 people coming from there are involved in any of this
13 behavior like arguing or playing stereos loud, that's an
14 issue for me anytime of day.

15 MR. CERNYAR: Anytime of day?

16 Okay. Thank you.

17 MR. KANE: Yeah.

18 MR. CERNYAR: Nothing further.

19 MR. SANCHEZ: Thank you, Mr. Kane. I have nothing
20 further.

21 MR. KANE: Thank you.

22 MR. SANCHEZ: And like to call Dana Dittman.

23 MR. DITTMAN: Good evening.

24 MR. SANCHEZ: So, Mr. Dittman, if you could state
25 your name for the record, please.

1 MR. DITTMAN: Dana Dittman.

2 MR. SANCHEZ: And what block do you live on?

3 MR. DITTMAN: I live --

4 MR. SANCHEZ: Can you let us know that much?

5 MR. DITTMAN: I live on the 2500 block. I can see
6 part of the Miko's parking lot from my living room
7 window.

8 MR. SANCHEZ: Okay. And how long have you lived
9 there?

10 MR. DITTMAN: I bought my house in 1989.

11 MR. SANCHEZ: So you've been there and you've seen
12 all these different bars that have occupied that
13 location; is that correct?

14 MR. DITTMAN: Yes, sir.

15 MR. SANCHEZ: And I guess starting with the KB
16 Club, then the Puka Bar, the Sandbar Lounge and then
17 Miko's?

18 MR. DITTMAN: Correct.

19 MR. SANCHEZ: How would you describe the, I guess,
20 noise level or noise disturbances from each of those
21 establishments from starting with KB Club up to now?

22 MR. DITTMAN: KB Club was no problem at all. It
23 was basically a daytime bar, and people would go there
24 right after work and drink a little bit and then leave.

25 The -- which was the next one, the Puka

1 Bar?

2 MR. SANCHEZ: Puka Bar.

3 MR. DITTMAN: Puka Bar was bad. We called the
4 police many times. The Sandbar was worse. We called
5 the police a lot. And then Miko's, once again, is on
6 steroids.

7 MR. SANCHEZ: So would it be fair to say that the
8 noise level has increased steadily from that point from
9 the KB all the way up to Miko's now?

10 MR. DITTMAN: Absolutely.

11 MR. SANCHEZ: Okay. And with regard -- so what do
12 you do for a living?

13 MR. DITTMAN: I'm a financial analyst, but I also
14 have a California real estate license.

15 MR. SANCHEZ: And you, obviously, are aware that
16 Mr. Oropeza sold his home recently?

17 MR. DITTMAN: Yes.

18 MR. SANCHEZ: Have you looked into the property
19 values lately regarding homes along the 2500 block of
20 Maine Avenue?

21 MR. DITTMAN: Yes, I did. I went onto the MLS
22 last weekend, pulled up homes that have sold on the
23 street in the last six months and compared Mr. Oropeza's
24 sale price to other comparable homes on the street and
25 found that Mr. Oropeza's house sold for at least 10

1 percent below the other comparable homes, which is about
2 40 to \$50,000.

3 MR. SANCHEZ: And do you have a reason or opinion
4 as to why that is or why that happened?

5 MR. DITTMAN: Yeah. I believe it's because he had
6 to disclose all the nuisances that were occurring
7 because of the bar. I mean, when you fill out one of
8 those disclosure statements, you have to disclose that
9 there's loud music and bass coming out of the bar, and
10 you have to disclose that there's loitering on the
11 street and loud talking and bad language. You have to
12 disclose that people will pee on your lawn.

13 You know, there's just all of these things,
14 like, you have to disclose, there was a shooting, a
15 stabbing and an attempted suicide due to the bar. All
16 of those things have to be disclosed or you can be taken
17 to arbitration or have a lawsuit against you.

18 MR. SANCHEZ: And are you aware if Mr. Oropeza
19 disclosed that?

20 MR. DITTMAN: I'm sure he did. We discussed that.

21 MR. SANCHEZ: Okay. And if you can, just in, you
22 know, ten words or less, just describe what the effect
23 has been to you and your living arrangement since Miko's
24 bar started doing business?

25 MR. DITTMAN: Well, it's been a nightmare, as

1 well, just like all the rest of my neighbors. I'm a
2 little luckier than they are because I live across the
3 street and not just down the street from them, so I get
4 a little less noise issue than they do, but it's
5 certainly not been pleasant.

6 And I'd actually like to sell my house, but
7 because of the conditions of having to disclose it and
8 having to take a hit and also pay a commission, I can't
9 do it.

10 MR. SANCHEZ: Now, you are part of the Maine
11 Avenue Group?

12 MR. DITTMAN: Yes, I am.

13 MR. SANCHEZ: And did the Maine Avenue Group
14 submit a folder to the Planning Commission for their
15 review?

16 MR. DITTMAN: Yes, we did.

17 MR. SANCHEZ: Let me just show you.

18 Now, looking at what I just handed you, is
19 that the folder that was submitted on behalf of the
20 Maine Avenue Group?

21 MR. DITTMAN: Yes, it is.

22 MR. SANCHEZ: And what involvement did you have in
23 the preparation of that notebook?

24 MR. DITTMAN: I had a pretty major involvement. I
25 wrote the cover letter, I did the tabs, gathered all the

1 information to insert into it, had the printing done and
2 put the books together with the help of another
3 neighbor.

4 MR. SANCHEZ: Okay. And there's an initial
5 section that has statements in there?

6 MR. DITTMAN: Yes.

7 MR. SANCHEZ: And were you responsible for
8 obtaining the statements from each of the residents that
9 are identified in the notebook?

10 MR. DITTMAN: I pretty much made sure that
11 everybody turned them in and made sure that I got them
12 in time to get them to the Planning Commission ten days
13 in advance.

14 MR. SANCHEZ: Okay. And then there's a section in
15 the rear portion that has some photographs attached to
16 it?

17 MR. DITTMAN: Right.

18 MR. SANCHEZ: Looks like it's tab number 7.

19 MR. DITTMAN: Uh-huh.

20 MR. SANCHEZ: And they're all identified. One
21 looks like it has "litter." Other has -- multiple have
22 "litter." However they're identified.

23 Did you put that together yourself?

24 MR. DITTMAN: Actually, these were done by another
25 neighbor. I didn't have -- well, I had access to the

1 pictures, but they weren't taken by me. And we sort of
2 divided up this task, and somebody else did this.

3 MR. SANCHEZ: Okay. But the items that are
4 depicted in the photographs in the notebook in tab
5 number 7, have you seen those before?

6 MR. DITTMAN: Absolutely, yeah.

7 MR. SANCHEZ: And is that an accurate depiction of
8 some of the litter and vomit and excrement and all the
9 good stuff that you've been witness to outside of your
10 home?

11 MR. DITTMAN: Yes, it is. And there's much, much
12 more than what we have here.

13 MR. SANCHEZ: Okay. And then there's a video that
14 was attached to the notebook, and was that the same
15 video that was shown earlier on the screen when
16 Mr. Oropeza was providing his statement?

17 MR. DITTMAN: Yes, it is.

18 MR. SANCHEZ: Okay. Thank you. I have nothing
19 further.

20 MR. CERNYAR: Good evening, Mr. Dittman.

21 MR. DITTMAN: Good evening.

22 MR. CERNYAR: I'm taking a look at these
23 photographs, and I think it's tab 7, and the very first
24 page says "litter" in the middle of the page on the left
25 side.

1 Do you see that?

2 MR. DITTMAN: I do.

3 MR. CERNYAR: The top or two bottoms; correct?

4 MR. DITTMAN: Correct.

5 MR. CERNYAR: Do you know where this was taken?

6 MR. DITTMAN: No.

7 MR. CERNYAR: The bottom left photograph has a red
8 curb with a trash can on it; is that correct?

9 MR. DITTMAN: Yes.

10 MR. CERNYAR: In front of Miko's or Miko's --
11 Miko's, Miko's sports bar, in front of the sports bar,
12 no trash can like that exists; is that correct?

13 MR. DITTMAN: I don't know.

14 MR. CERNYAR: Let's turn the page where it says
15 "more litter." Seems to be a -- in the center, top
16 center, a photograph of a green curb, a blue bicycle and
17 looks like an anchor to some type of line or pole.

18 Do you see that?

19 MR. DITTMAN: Is that the one with the beer can
20 and the plate with --

21 MR. CERNYAR: Yes, correct.

22 MR. DITTMAN: Okay. Yes. I remember that.

23 MR. CERNYAR: All right. To the best of your
24 knowledge, where was this taken?

25 MR. DITTMAN: That is taken on the west side of

1 Maine at the corner of Willow and Maine. I can see
2 Ricky's hedges there and my neighbor Steve's SUV in the
3 picture. So it's right around the corner from Miko's.

4 MR. CERNYAR: All right. The other day I took a
5 walk on that block. I didn't see that anchor. What
6 happened to that anchor?

7 MR. DITTMAN: I'm not sure what you're referring
8 to as an anchor.

9 MR. CERNYAR: In front of the bicycle, about three
10 or four feet in front of the bicycle is an anchor. Do
11 you see that?

12 MR. DITTMAN: No. I see what appears to be guide
13 wires holding up telephone pole or something. I'm not
14 sure.

15 MR. CERNYAR: That's what we're talking about.
16 You call them guide wires. I call it an anchor.

17 MR. DITTMAN: Okay. Gotcha.

18 MR. CERNYAR: Also on that particular sidewalk,
19 isn't to the right of that sidewalk a business?

20 MR. DITTMAN: Yes.

21 MR. CERNYAR: And the best of your knowledge, have
22 you ever been in Miko's sports bar?

23 MR. DITTMAN: No, I haven't.

24 MR. CERNYAR: Do you know if they serve food?

25 MR. DITTMAN: I know that they have served food

1 from time to time and that they've also had food truck
2 out in front from time to time.

3 MR. CERNYAR: Let's take a look at the bottom of
4 that page. There's a photograph of looks like
5 Mr. Kirkpatrick's wall. Has an Olde English 800 can,
6 24-ounce.

7 MR. DITTMAN: Uh-huh.

8 MR. CERNYAR: And it's dated 11/6/15.

9 You see that sign under the "06," the sign
10 on the wall?

11 MR. DITTMAN: Yes.

12 MR. CERNYAR: That's no longer there. Do you know
13 when that was removed?

14 MR. DITTMAN: No, I don't.

15 MR. CERNYAR: Now, to the photograph to the right
16 of that is another trash can.

17 MR. DITTMAN: Yes.

18 MR. CERNYAR: There's no trash cans in front of
19 Miko's, is there?

20 MR. DITTMAN: Well, there may not be now, but this
21 is very clearly Miko's in the photo.

22 MR. CERNYAR: How can you tell?

23 MR. DITTMAN: Because of the brickwork and those
24 wooden slats going up across the windows.

25 MR. CERNYAR: This same block that Miko's is on,

1 isn't there a liquor store also?

2 MR. DITTMAN: Yes, there is.

3 MR. CERNYAR: Okay. Turn the page where it says
4 "drug litter." Any of those a picture of Willow Avenue?

5 MR. DITTMAN: I have no idea.

6 MR. CERNYAR: Okay. Did you take these pictures?

7 MR. DITTMAN: No, I didn't.

8 MR. CERNYAR: You live on Maine?

9 MR. DITTMAN: Yes, I do.

10 MR. CERNYAR: Does any of this look familiar to
11 you from Maine Street or Maine Avenue?

12 MR. DITTMAN: I don't think I've ever seen drug
13 litter in my yard.

14 MR. CERNYAR: Okay.

15 MR. DITTMAN: However, the next page looks very
16 familiar.

17 MR. CERNYAR: How's that?

18 MR. DITTMAN: That page titled "Vomit and
19 Excrement," there's a picture of some excrement. That's
20 my yard. And there's bar napkins that were used as
21 toilet paper.

22 MR. CERNYAR: And those bar napkins, do they say
23 "Miko's Sports Lounge" on them?

24 MR. DITTMAN: No.

25 MR. CERNYAR: I'm going to ask you a question.

1 Were you there when KB was there?

2 MR. DITTMAN: Yes.

3 MR. CERNYAR: How would you rate KB as far as a
4 neighborhood bar?

5 MR. DITTMAN: Excellent.

6 MR. CERNYAR: Why is that?

7 MR. DITTMAN: Because they never bothered us at
8 night and, frankly, never bothered me during the day.

9 MR. CERNYAR: There was some testimony earlier
10 that KB closed earlier than the other bars.

11 MR. DITTMAN: You know, I don't think that's true.
12 I think it closed at 2:00 a.m. It's just that they
13 didn't have any patronage at 2:00 a.m.

14 MR. CERNYAR: Well, you're a real estate person.
15 Would you stay open at 2:00 a.m. if you had no
16 patronage?

17 MR. DITTMAN: No, I wouldn't.

18 MR. CERNYAR: Okay. One last question for you.
19 You mentioned that I think it was Mr. Oropeza, value of
20 his home was 10 percent less?

21 MR. DITTMAN: Correct.

22 MR. CERNYAR: There's other reasons why it would
23 be 10 percent less, isn't there?

24 MR. DITTMAN: That's possible.

25 MR. CERNYAR: Okay. Thank you. Nothing further.

1 MR. CLOUGH: Good afternoon.

2 MR. DITTMAN: Hi.

3 MR. CLOUGH: Let me ask you this. What was your
4 role in connection with putting this particular book
5 together?

6 MR. DITTMAN: I was instrumental in putting this
7 book together.

8 MR. CLOUGH: Did you provide at any point in time
9 any of the information in this book to anyone related to
10 the Mackey Trust?

11 MR. DITTMAN: I believe it was provided.

12 MR. CLOUGH: Did you, sir?

13 MR. DITTMAN: No, I did not.

14 MR. CLOUGH: Do you have any personal knowledge
15 that it was ever provided to the Mackey Trust? And I
16 mean personal knowledge.

17 MR. DITTMAN: I was told that it was going to be
18 provided to the Mackeys' lawyer, and I wasn't happy
19 about it.

20 MR. CLOUGH: Okay. Why weren't you happy about
21 it?

22 MR. DITTMAN: I didn't want you to have that
23 information. I wanted it to be a surprise.

24 MR. CLOUGH: Is there something that Mr. Mackey or
25 the Mackey Trust has done personally to you or any of

1 your neighbors that you're aware of?

2 MR. DITTMAN: Yes. They haven't curtailed their
3 people that rent their building. They haven't curtailed
4 their activities.

5 MR. CLOUGH: And how do you believe that that's
6 the case? Do you know just because it's happening?

7 MR. DITTMAN: Yes. Because the Mackeys met with
8 my neighbors and some City officials, were told about
9 these nuisances, and it continued after they met with
10 them.

11 MR. CLOUGH: And when was that, sir?

12 MR. DITTMAN: I don't know. You'll have to ask --

13 MR. CLOUGH: Was that within the last year?

14 MR. DITTMAN: Yes.

15 MR. CLOUGH: So if there's any complaints before
16 that last year period, then Mr. Mackey and the Mackey
17 Trust wouldn't have any knowledge of it; would that be
18 accurate?

19 MR. DITTMAN: I don't know.

20 MR. CLOUGH: Let me ask you, you said that KB --
21 and I'm a little familiar with a few things. I haven't
22 gotten all the information. But KB, what is KB? Was
23 that a bar that was located --

24 MR. DITTMAN: It was. It was called the KB Club.

25 MR. CLOUGH: Where was that located?

1 MR. DITTMAN: At 710 West Willow.

2 MR. CLOUGH: So at the same place?

3 MR. DITTMAN: Yes.

4 MR. CLOUGH: And that was excellent as a
5 neighborhood bar?

6 MR. DITTMAN: Yes.

7 MR. CLOUGH: So it has nothing to do with
8 Mr. Mackey that it was an excellent bar, was it?

9 MR. DITTMAN: I --

10 MR. CLOUGH: Wouldn't it be fair it's not Mackey's
11 responsibility all the time, right there, to handle
12 things? Would it be accurate?

13 MR. DITTMAN: I think when Mr. Mackey knows about
14 instances like Miko's, he should have taken action much
15 sooner.

16 MR. CLOUGH: So you're assuming he knew about all
17 this?

18 MR. DITTMAN: Yeah.

19 MR. CLOUGH: You're assuming?

20 Okay. I have nothing further.

21 MR. SANCHEZ: I have nothing further. Thank you.

22 Like to call up --

23 CHAIRWOMAN VAN HORIK: Excuse me.

24 One of the Commissioners has a question for
25 you.

1 COMMISSIONER TEMPLIN: For the gentleman that's
2 just sitting down, but actually what the lawyer's
3 talking about, because I know he has this in front of
4 him.

5 CHAIRWOMAN VAN HORIK: Wait, wait, wait.

6 COMMISSIONER TEMPLIN: Can I ask that question for
7 clarification?

8 CHAIRWOMAN VAN HORIK: Do you have your mike on?

9 COMMISSIONER TEMPLIN: Sorry.
10 When you were asking if Mr. Mackey knew
11 about it, there's some -- there's a letter in here dated
12 6/5/2014 from Shawn Mackey, Ronald Mackey, about the
13 nuisance, the abatements, the cost of it, and then I
14 guess it was brought to his attention.

15 Was that part of the record, or is this not
16 part of the record?

17 MR. CLOUGH: I don't have a copy of that.

18 MR. MAIS: Commissioner, can you tell us exactly
19 what -- under what tab are you referring?

20 COMMISSIONER TEMPLIN: It's under 8. It's about
21 nine pages from the end. It's the ninth page from the
22 end.

23 MR. MAIS: There's a letter of numbers in there.
24 Can you tell us what the date of the letter is?

25 COMMISSIONER TEMPLIN: 6/5/2014, regarding

1 complaints from the City of Long Beach.

2 When you give this to us, we read it. So
3 when questions are asked, we're wondering if the lawyer
4 also has this information.

5 MR. CLOUGH: I received this information
6 yesterday. Excuse me. But I haven't had an opportunity
7 to read it, and I thought there was going to be a
8 continuance.

9 COMMISSIONER TEMPLIN: It's the ninth page from
10 the end.

11 MR. CLOUGH: Pardon?

12 COMMISSIONER TEMPLIN: It's the ninth page from
13 the back.

14 MR. CLOUGH: No, I have it. I'm reading it now.

15 COMMISSIONER TEMPLIN: Okay. Thank you.

16 CHAIRWOMAN VAN HORIK: Is that it, Commissioner
17 Templin?

18 COMMISSIONER TEMPLIN: Thank you.

19 CHAIRWOMAN VAN HORIK: Mr. Sanchez?

20 MR. SANCHEZ: Yes.

21 CHAIRWOMAN VAN HORIK: You want to call another
22 witness?

23 MR. SANCHEZ: I'm sorry.

24 CHAIRWOMAN VAN HORIK: You want to call your
25 witness or --

1 MR. SANCHEZ: You're asking me about the letter?

2 MR. MAIS: No. The next witness.

3 MR. SANCHEZ: Oh, I'm sorry.

4 Yes. Like to call Jose Flores, Long Beach
5 police officer.

6 Can you state your name for the record,
7 please?

8 SERGEANT FLORES: Jose Flores, spelled J-o-s-e
9 F-l-o-r-e-s.

10 MR. SANCHEZ: And who are you employed by?

11 SERGEANT FLORES: I'm employed by the City of Long
12 Beach as a police officer currently assigned to West
13 Division as a sergeant on watch three.

14 MR. SANCHEZ: Okay. And you are familiar with
15 710 West Willow, the establishment there?

16 SERGEANT FLORES: Yes, I am.

17 MR. SANCHEZ: Can you describe to me what "COPS"
18 stands for, C-O-P-S?

19 SERGEANT FLORES: It's Community Oriented Public
20 Safety.

21 MR. SANCHEZ: And is that a particular program
22 within the Long Beach Police Department?

23 SERGEANT FLORES: It is.

24 MR. SANCHEZ: Were you involved in that program?

25 SERGEANT FLORES: Yes.

1 MR. SANCHEZ: And what was the focus of that
2 program?

3 SERGEANT FLORES: My last duty as a Police Officer
4 before promoting to Sergeant, I was a Patrol Resource
5 Officer. Part of that, we work long term problem
6 locations that created high calls for service to the
7 Police Department.

8 We worked with other City entities pretty
9 much to find results, to bring those calls for service
10 down and basically be able to focus our resources as a
11 police department into other areas that needed it, like
12 for public safety.

13 MR. SANCHEZ: Okay. And while you were working in
14 that program, did this location come under an
15 investigation relating to COPS?

16 SERGEANT FLORES: Yes, it did.

17 MR. SANCHEZ: Why was that?

18 SERGEANT FLORES: It was a high level of calls for
19 service that were continuously coming from that location
20 from the neighborhood, not particularly one resident but
21 numerous residents that were calling, at times sometimes
22 being -- they wanted no contact from the police.

23 But even if an officer arrived to that
24 calls for service, because of the low priority maybe,
25 because we have a priority one, priority two, priority

1 three, at that time of night we're being dispatched to a
2 lot of high priority calls.

3 So a lower priority call can take longer,
4 like a noise complaint or a group complaint as long as
5 nothing's happening where public safety, someone in
6 danger, a fight, weapons being seen.

7 So by the time the officer would arrive,
8 there would probably be no call. The call would
9 probably be at that time either unfounded or advised
10 because whatever was occurring at that time had already
11 happened, and the officers didn't arrive within that
12 time frame to see it happening.

13 MR. SANCHEZ: And let me just give you a copy.

14 And if you could turn to tab No. 42 on
15 Exhibit E, and can you describe to us what that is in
16 Exhibit -- or No. 42 in Exhibit E?

17 SERGEANT FLORES: What it is is a call slip from
18 the date of 12/1/2013 to 10/18/2016. It's dated with
19 top left, if I recall, the date. Then you would have
20 the actual call numbers, the priority of the call, the
21 type of the call and the area and reporting district.

22 MR. SANCHEZ: Now, when it says "unit" in one of
23 the columns, what does that refer to?

24 SERGEANT FLORES: The unit, that would refer to
25 the police unit that was actually dispatched to that

1 calls for service.

2 MR. SANCHEZ: And then the "from" and "to" is
3 what?

4 SERGEANT FLORES: The "from" and "to" is from when
5 the call was entered to dispatch and an officer was
6 actually dispatched to when it was actually dispo'd by
7 the officer.

8 MR. SANCHEZ: When you say "dispo'd," it means
9 completed?

10 SERGEANT FLORES: Completed, correct.

11 MR. SANCHEZ: And lastly, on the location, that's
12 actually -- in this case it says "Sandbar" on the first
13 one, but those are just addresses for the location?

14 SERGEANT FLORES: That's correct. Sometimes our
15 system, when you pull up an address, it actually refers
16 to maybe a business or a location that's had on record
17 for that address.

18 MR. SANCHEZ: And then looking through these 14
19 pages, what is this a representation of?

20 SERGEANT FLORES: What it is, it's a
21 representation of the high call volume at this address
22 actually generated to the Police Department.

23 MR. SANCHEZ: Okay. And how does the Police
24 Department use this type of information like Exhibit --
25 or tab 42 in Exhibit E?

1 SERGEANT FLORES: What it does, helps us identify
2 these high call locations and create an investigation
3 why this location is creating so many calls for service
4 for the Police Department and so many resources that are
5 being used by the Police Department to address these
6 issues.

7 MR. SANCHEZ: Okay. And have you been involved
8 with the Miko's bar since it was first started doing
9 business?

10 SERGEANT FLORES: Yes, I was.

11 MR. SANCHEZ: And were you part of -- well, did
12 you respond to that location when it first started doing
13 business?

14 SERGEANT FLORES: When it first started doing
15 business, I believe we had a meeting at the station
16 prior, before it started.

17 MR. SANCHEZ: And why was that?

18 SERGEANT FLORES: Because its location had a
19 history for high -- it had a history for high calls for
20 service to the Police Department.

21 MR. SANCHEZ: So you're talking about the bar
22 before Miko's came in to start doing business?

23 SERGEANT FLORES: Correct.

24 MR. SANCHEZ: And what was the Police's concern
25 with a new bar opening up at that location?

1 SERGEANT FLORES: Our concern was either the call
2 volume continuing to be high or possibly even increasing
3 at that location.

4 MR. SANCHEZ: And what happened in the first few
5 months that Miko's was in operation?

6 SERGEANT FLORES: Within the first few months of
7 operation, what we expected, what we actually were
8 dreading, the high calls for service were coming in and
9 at times were even higher than what we were seeing
10 before.

11 MR. SANCHEZ: Okay. And at that point or
12 somewhere around that time, did you have a meeting with
13 the business owner?

14 SERGEANT FLORES: Yes, we did.

15 MR. SANCHEZ: What was the purpose of that
16 meeting?

17 SERGEANT FLORES: The meeting was to make
18 suggestions from the Police Department on how we could
19 bring the calls for service, sometimes changing
20 environment from lighting to maybe even recommending
21 cameras.

22 And we have a system here in the City of
23 Long Beach called LB Cop which would allow their cameras
24 to also be tied in with our system.

25 MR. SANCHEZ: Now, was there anyone else involved

1 in that meeting besides the Long Beach Police
2 Department?

3 SERGEANT FLORES: There was ourselves and Business
4 Licensing, as well.

5 MR. SANCHEZ: Do you know why Business License was
6 in that meeting?

7 SERGEANT FLORES: It was basically because they
8 had not received their business license yet, and we were
9 asking also for conditions to be put on the license that
10 would probably help bring these calls for service down.

11 MR. SANCHEZ: Okay. So you mentioned some
12 suggestions you made to the business owner during that
13 meeting?

14 SERGEANT FLORES: Yes.

15 MR. SANCHEZ: And was that Miss Yancey?

16 SERGEANT FLORES: Yes.

17 MR. SANCHEZ: And did she follow through and
18 implement any of the suggestions that Long Beach Police
19 made to her?

20 SERGEANT FLORES: Some of the suggestions were
21 implemented, like the no loitering signs in the back,
22 but one of the biggest ones that we asked for was
23 actually allowing us access to their camera system.

24 MR. SANCHEZ: And why was that important to the
25 Long Beach Police Department?

1 SERGEANT FLORES: A lot of times when businesses
2 allow us access to those camera systems and people or
3 patrons know that we have access to the camera systems,
4 it helps bring down a lot of the nuisance activity when
5 people think or know that the Police Department can
6 actually go into these cameras and see what they're
7 doing.

8 MR. SANCHEZ: So does that increase your response
9 time, in other words, make it -- allow you to respond
10 quicker to an incident?

11 SERGEANT FLORES: Well, not necessarily. Won't
12 allow us to respond quick to one incident, but if there
13 was an emergency and we had access to those cameras, we
14 would be able to possibly direct officers to that
15 emergency a lot faster than someone not knowing how to
16 explain to a dispatcher would be able to.

17 MR. SANCHEZ: Okay. And were there any other
18 suggestions that you made to Miss Yancey at that
19 meeting?

20 SERGEANT FLORES: Also keeping the back door
21 closed so the music wouldn't come out in the back,
22 lighting in the back so it would be well lit.

23 MR. SANCHEZ: Were there any mention or any
24 suggestions made to her regarding security?

25 SERGEANT FLORES: There was.

1 MR. SANCHEZ: And what was that?

2 SERGEANT FLORES: We were asking for security in
3 the back, as well, to help minimize the loitering and
4 the noise activity that was occurring in the back of the
5 bar.

6 MR. SANCHEZ: And if you recall, what was
7 Miss Yancey's response to that suggestion?

8 SERGEANT FLORES: That suggestion, I don't recall
9 that actual suggestion, what her response was.

10 MR. SANCHEZ: You don't recall?

11 SERGEANT FLORES: No.

12 MR. SANCHEZ: So as a result of that meeting, what
13 did Miss Yancey agree to do?

14 SERGEANT FLORES: At the conclusion of that
15 meeting, I think about the only thing that she agreed to
16 do was to keep the door closed.

17 MR. SANCHEZ: And you also mentioned put up some
18 no loitering signs?

19 SERGEANT FLORES: And put up no loitering signs,
20 too, yeah.

21 MR. SANCHEZ: What effect did that have on the
22 calls for service?

23 SERGEANT FLORES: Looking at the calls for
24 service, it had very little effect for the amount of
25 calls that we received.

1 MR. SANCHEZ: Okay. Now, did you have any other
2 meetings with the business owner after that initial
3 meeting?

4 SERGEANT FLORES: I did not.

5 MR. SANCHEZ: And do you recall the date of that
6 meeting you had with the business owner?

7 SERGEANT FLORES: I do not. Towards the beginning
8 of when -- prior to them opening for business or right
9 at the beginning when they actually took over the bar.

10 MR. SANCHEZ: So in 2014?

11 SERGEANT FLORES: Yes.

12 MR. SANCHEZ: So the early part of 2014?

13 SERGEANT FLORES: Yes.

14 MR. SANCHEZ: Okay. At some point, were you
15 requested to do anything specific to 710 West Willow
16 Street?

17 SERGEANT FLORES: Yes.

18 MR. SANCHEZ: What were you instructed to do?

19 SERGEANT FLORES: I was instructed to create a --
20 what's called a COPS DR, and what it is is an actual
21 police report that chronicles anything that's been
22 occurring from the time of the opening of that DR from
23 any team inspections that have occurred, any meetings
24 with community members, emails or anything with the City
25 also, as well, like entertainment permits being

1 requested or any kind of activity that actually occurred
2 at this location.

3 MR. SANCHEZ: Now, turning to tab number 47 of
4 Exhibit E and looking at that document that's there, is
5 that the report that you created?

6 SERGEANT FLORES: Yes, it is.

7 MR. SANCHEZ: And as you said, it's a running
8 police report documenting all the interactions with that
9 location?

10 SERGEANT FLORES: Correct.

11 MR. SANCHEZ: And from what date did that begin?

12 SERGEANT FLORES: That actually began October 9th
13 of 2015.

14 MR. SANCHEZ: Okay. And then looking to, I guess,
15 the rear portion of tab number 47, there's some
16 photographs that are attached to the report. I don't
17 have a page number. It just says "Supplement 0018," and
18 it's page four of seven. I guess we can start there.

19 SERGEANT FLORES: Page four of seven?

20 MR. SANCHEZ: Yeah.

21 SERGEANT FLORES: Yes, I'm there.

22 MR. SANCHEZ: The photographs depicted there,
23 where did -- did you obtain that photograph from
24 somewhere?

25 SERGEANT FLORES: I did. I believe I obtained it

1 from the community group.

2 MR. SANCHEZ: And that would be the Maine Avenue
3 Group?

4 SERGEANT FLORES: Maine Avenue Community Group,
5 correct.

6 MR. SANCHEZ: So the photographs that are depicted
7 in that supplement on page four, five, six and seven
8 were obtained from the Maine Avenue Group?

9 SERGEANT FLORES: Yes.

10 MR. SANCHEZ: Okay. And then now looking to,
11 looks like, supplement number seven, and it's page three
12 of three of supplement number seven to that report,
13 looks like there's a photograph of looks like a flier.

14 Do you recognize that?

15 SERGEANT FLORES: Yes, I do.

16 MR. SANCHEZ: Do you know what that is?

17 SERGEANT FLORES: It's a flier for a New Year's
18 Eve event party.

19 MR. SANCHEZ: Do you know how this was
20 distributed?

21 SERGEANT FLORES: I believe it was distributed
22 through a social media.

23 MR. SANCHEZ: Okay. And how do you know that?

24 SERGEANT FLORES: That was coming from also the
25 Maine Avenue Community Group.

1 MR. SANCHEZ: Okay.

2 Now, you heard Mr. Oropeza testify earlier.
3 Were you present when he was testifying?

4 SERGEANT FLORES: Yes, I was.

5 MR. SANCHEZ: And he was mentioning a police
6 report, or I asked him a question about a police report.
7 Was that you involved in the report that was taken from
8 Mr. Oropeza?

9 SERGEANT FLORES: Yes, I was.

10 MR. SANCHEZ: Was it you that reviewed the video
11 footage that he had from his home?

12 SERGEANT FLORES: Yes, I was. Yes, I did.

13 MR. SANCHEZ: And were you able to see the
14 incident that he had described to you from the video
15 footage?

16 SERGEANT FLORES: Yes.

17 MR. SANCHEZ: And from that footage is how you
18 prepared that report?

19 SERGEANT FLORES: Correct.

20 MR. SANCHEZ: Okay. And have you ever met with
21 the property owner in this matter, Mr. Mackey?

22 SERGEANT FLORES: Yes, I have.

23 MR. SANCHEZ: And when was that?

24 SERGEANT FLORES: It was earlier this year, I
25 believe March or April.

1 MR. SANCHEZ: And did anything -- well, based on
2 your knowledge and experience with the location, did the
3 calls for service go down after that meeting?

4 SERGEANT FLORES: I don't believe so.

5 MR. SANCHEZ: I have nothing further. Thank you.

6 MR. CLOUGH: Just let me, if I can, touch on that.
7 You say you met with Mr. Mackey?

8 SERGEANT FLORES: Yes, we did.

9 MR. CLOUGH: When was it you met with Mr. Mackey?

10 SERGEANT FLORES: Earlier this year, I believe
11 March or April.

12 MR. CLOUGH: And in connection with that meeting,
13 where did that meeting take place, here?

14 SERGEANT FLORES: Yes, it did, here in the City.

15 MR. CLOUGH: And what is it that you discussed
16 with Mr. Mackey at that point?

17 SERGEANT FLORES: At that point, we also discussed
18 the high calls for service that were being caused by his
19 property.

20 MR. CLOUGH: And you're aware of previously that
21 he had advised the tenant that there were problems and
22 that they needed to rectify them?

23 SERGEANT FLORES: Did I know that previously? No.

24 MR. CLOUGH: Did you know that he had done that
25 previously?

1 SERGEANT FLORES: No.

2 MR. CLOUGH: So you're unaware of that?

3 SERGEANT FLORES: Yes.

4 MR. CLOUGH: Okay. So is there anything that you
5 specifically told him that he should be doing to try and
6 rectify some of the problems?

7 SERGEANT FLORES: From speaking to their actual
8 property owner and working with them to find a solution
9 to --

10 MR. CLOUGH: Did you make any suggestions to him
11 at that point?

12 SERGEANT FLORES: Did we make any suggestions to
13 him?

14 MR. CLOUGH: Yes.

15 SERGEANT FLORES: We brought up also the camera
16 system at that time, as well. We spoke to him about the
17 high calls for service.

18 MR. CLOUGH: But what did you suggest to him that
19 he do as the owner?

20 SERGEANT FLORES: To work with his tenant to
21 reduce the calls for service, for him to work with his
22 tenant to figure out a solution.

23 MR. CLOUGH: And are you aware that, in fact, he
24 had made attempts to work with his tenant?

25 SERGEANT FLORES: No, I am not aware. He didn't

1 make that aware to me during the meeting.

2 MR. CLOUGH: So you're not aware of any
3 communication between the landowner and the tenant as to
4 efforts that the landowner made to try and resolve the
5 complaints?

6 SERGEANT FLORES: No.

7 MR. CLOUGH: Okay.

8 SERGEANT FLORES: After the meeting, I had no
9 communication with Mr. Mackey.

10 MR. CLOUGH: Pardon?

11 SERGEANT FLORES: After the meeting, I had no
12 communication with Mr. Mackey.

13 MR. CLOUGH: And you didn't follow up with
14 Mr. Mackey about anything?

15 SERGEANT FLORES: No.

16 MR. CLOUGH: Okay. Did you follow up with anyone
17 else?

18 SERGEANT FLORES: No.

19 MR. CLOUGH: Did you call the owner of the bar?

20 SERGEANT FLORES: No.

21 MR. CLOUGH: Okay. Did you make contact with any
22 of the other neighbors?

23 SERGEANT FLORES: We made contact with the
24 neighbors regularly.

25 MR. CLOUGH: And when you made these contacts with

1 the neighbors regularly, did you follow up with

2 Mr. Mackey --

3 SERGEANT FLORES: No.

4 MR. CLOUGH: -- at that point in time?

5 Did you follow up with the owner at that
6 point in time --

7 SERGEANT FLORES: No.

8 MR. CLOUGH: -- to try to resolve these issues?

9 SERGEANT FLORES: After the meeting, no.

10 MR. CLOUGH: So would it be fair to say one time
11 you called Mr. Mackey and talked with him?

12 SERGEANT FLORES: No, I did not call him. We met
13 him here at the City Hall in a meeting.

14 MR. CLOUGH: One time?

15 SERGEANT FLORES: Yes.

16 MR. CLOUGH: And after that, you never had another
17 meeting with him related to whether things had been
18 successfully resolved or not?

19 SERGEANT FLORES: No, because at that point it had
20 already gone above us and was already being dealt with
21 at the City Attorney's office.

22 MR. CLOUGH: So how much time had passed from the
23 time you met with him and the time it went to the City
24 Attorney's office?

25 SERGEANT FLORES: Actually, when it went to the

1 City Attorney's office, that was when the meeting was
2 actually created.

3 MR. CLOUGH: So it was at the City Attorney's
4 office?

5 SERGEANT FLORES: Correct.

6 MR. CLOUGH: So the problems had already existed
7 when Mr. Mackey was contacted by you?

8 SERGEANT FLORES: Yes.

9 MR. CLOUGH: Okay. And what was suggested at that
10 particular meeting, that they were just going to proceed
11 with the City Attorney hearings?

12 SERGEANT FLORES: Say again, that we were going to
13 proceed with the City Attorney hearings?

14 MR. CLOUGH: As opposed to doing anything to
15 rectify it?

16 SERGEANT FLORES: I believe he was going to work
17 with the owner.

18 MR. CLOUGH: You believe that?

19 SERGEANT FLORES: Yes.

20 MR. CLOUGH: But what is your belief based on?

21 SERGEANT FLORES: After that meeting, that he told
22 us he was going to work with the property owner.

23 MR. CLOUGH: And do you know what was done with
24 that idea after that?

25 SERGEANT FLORES: No.

1 MR. CLOUGH: Okay. So if he did work with the
2 property owner, you'd have no information or knowledge
3 about that at all?

4 SERGEANT FLORES: Not at this time.

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

7 MR. CERNYAR: Good afternoon. Good evening,
8 Sergeant.

9 SERGEANT FLORES: Good evening.

10 MR. CERNYAR: Now, how familiar are you with this
11 report labeled --

12 SERGEANT FLORES: Which report is that labeled,
13 42?

14 MR. SANCHEZ: Tab 42.

15 MR. CERNYAR: Tab 42, it says "Call Summary."

16 THE WITNESS: Yeah, it's not a police report.
17 It's a call summary.

18 MR. CERNYAR: And this is from December 1st, 2013
19 to October 18, 2016?

20 SERGEANT FLORES: Correct.

21 MR. CERNYAR: All right. How many calls do you
22 think are here?

23 SERGEANT FLORES: If I had to estimate, probably
24 over 200.

25 MR. CERNYAR: Okay. And would it be safe to say

1 that over 90 percent of those calls were after 11:30?

2 SERGEANT FLORES: It's safe to say it's around
3 11:00, between 11:00 and -- probably around 11:00 and
4 2:00 o'clock in the morning.

5 MR. CERNYAR: Would you say about 5 percent of
6 those calls were between 10:30 at night and 11:30 at
7 night?

8 SERGEANT FLORES: Yes.

9 MR. CERNYAR: Now, Mr. Oropeza mentioned that he
10 moved about three months ago; is that correct?

11 SERGEANT FLORES: He did mention that.

12 MR. CERNYAR: When I look at page 13 of this
13 report -- and I'm looking at August 20th, 2016. I say
14 the time that Mr. Oropeza moved away, there's only four
15 phone calls; is that correct? We have one on
16 August 20th, we have one that looks like -- I don't know
17 if it's September, but got cut off at the bottom, we
18 have one on October 1st and one on October 8th.

19 SERGEANT FLORES: Correct.

20 MR. CERNYAR: Correct?

21 Now, also when you look at this report,
22 they're not all about calls for service to the bar in
23 terms of patron behavior; is that correct?

24 SERGEANT FLORES: Music and group calls?

25 MR. CERNYAR: Some burglaries on there.

1 SERGEANT FLORES: 415. It's a disturbance, fight,
2 group.

3 MR. CERNYAR: Look at page nine and 11. You'll
4 see several calls for burglaries.

5 SERGEANT FLORES: Those are burglary alarms. Just
6 two of them. Not several. Two of them.

7 MR. CERNYAR: And there's some on page 11; is that
8 correct?

9 SERGEANT FLORES: You mean the one for vehicle
10 alarm?

11 MR. CERNYAR: I don't know what it is, sir.

12 SERGEANT FLORES: That's what I'm telling you.
13 It's only one for vehicle alarm.

14 MR. CERNYAR: Okay. That's what the "V" stands
15 for?

16 SERGEANT FLORES: Yeah.

17 MR. CERNYAR: All right. And for the most part,
18 these are all -- not for the most part. I'll strike
19 that.

20 The majority of these are priority threes;
21 is that correct?

22 SERGEANT FLORES: Correct.

23 MR. CERNYAR: And that's your lowest priority?

24 SERGEANT FLORES: Yes.

25 MR. CERNYAR: Just for the record, what's a

1 647 (f)?

2 SERGEANT FLORES: Drunk person.

3 MR. CERNYAR: And what's a 23152?

4 SERGEANT FLORES: A DUI. Possible DUI.

5 MR. CERNYAR: Is there any reason why a DUI would
6 be on the call list for --

7 SERGEANT FLORES: I'd have to read what the actual
8 call said. It could be somebody possibly reporting
9 somebody that may be about to drive drunk or may be
10 exhibiting erratic behavior getting into a car. Could
11 be the way they're driving leaving the location.

12 MR. CERNYAR: So somebody that's leaving the bar
13 driving drunk and the bar calls you, would that -- that
14 would count against them?

15 SERGEANT FLORES: I would have to see who called.
16 It doesn't tell me here in call summary who actually
17 called.

18 MR. CERNYAR: I have nothing further. Thank you.

19 MR. SANCHEZ: Just really quickly, Officer Flores,
20 following the meeting with Mr. Mackey back in April of
21 this year, you mentioned or you were asked by Counsel
22 about whether or not you did any follow-up with the
23 owner.

24 If there were to be any follow-up with a
25 location or a property, what would you primarily look

1 at?

2 SERGEANT FLORES: What would we primarily look at?
3 Still continuing to look at the type of calls that were
4 coming in and the calls for service.

5 MR. SANCHEZ: And that would be the one indicator
6 that you would look at to see if anything -- if that
7 particular property was improving?

8 SERGEANT FLORES: Yes.

9 MR. SANCHEZ: Okay. And did you do that or have
10 you done that following the meeting with Mr. Mackey back
11 in April of this year?

12 SERGEANT FLORES: Yes.

13 MR. SANCHEZ: And I think you testified before
14 that the calls remained the same?

15 SERGEANT FLORES: Correct.

16 MR. SANCHEZ: Thank you.

17 I don't have any further questions. You
18 can go ahead if you want.

19 MR. CLOUGH: Once you had -- once you had done --
20 in terms of follow-up, after you had spoken with
21 Mr. Mackey the first time and only time that I'm aware
22 of, did you follow it up? And you said there were other
23 complaints or problems that continued to exist; correct?

24 SERGEANT FLORES: Correct. That's supposed to get
25 documented in the police report.

1 MR. CLOUGH: Did you then follow up with
2 Mr. Mackey about that?

3 SERGEANT FLORES: At this time, Mr. Mackey's
4 correspondence was with the City Attorney's office, and
5 we were corresponding with the City Attorney's office
6 with any activity that was occurring still at the bar.

7 MR. CLOUGH: Just so I'm clear, there was no
8 follow-up with Mr. Mackey by your office?

9 SERGEANT FLORES: No.

10 MR. CLOUGH: Nothing further. Thank you.

11 MR. SANCHEZ: Thank you, Officer Flores. I have
12 no further questions. You can leave that up there.

13 I would like to call Officer Jose Vazquez.

14 Officer, could you just state your name for
15 the record, please?

16 OFFICER VAZQUEZ: Jose Vazquez, first name
17 J-o-s-e, last name Vazquez, V, as in Victor,
18 a-z-q-u-e-z.

19 MR. SANCHEZ: And Officer Vazquez, who are you
20 currently employed by?

21 OFFICER VAZQUEZ: I'm employed by the City of Long
22 Beach assigned to the West Division substation.

23 MR. SANCHEZ: And what are your primary duties at
24 the West Division?

25 OFFICER VAZQUEZ: I work alongside the Patrol

1 Resource officers working the same type of cases that
2 lead to long term problems, problem solving.

3 MR. SANCHEZ: In your duties in that position,
4 have you come across the bar or any bar located at
5 710 West Willow Street?

6 OFFICER VAZQUEZ: Yes.

7 MR. SANCHEZ: When did you first come across
8 issues with that particular location?

9 OFFICER VAZQUEZ: I initially came across issues
10 in 2012 when it was the Sandbar.

11 MR. SANCHEZ: And what were those issues that were
12 involved with that location when it was the Sandbar?

13 OFFICER VAZQUEZ: Same type of issues. Graffiti,
14 loitering, drunk in public, smoking marijuana and
15 parking issues.

16 MR. SANCHEZ: And as Officer Flores explained,
17 were you basing that off of the calls for service?

18 OFFICER VAZQUEZ: Yes.

19 MR. SANCHEZ: Was there a high number of calls for
20 service for that location when it was the Sandbar
21 Lounge?

22 OFFICER VAZQUEZ: There was, but not as many as
23 there is at Miko's bar.

24 MR. SANCHEZ: So when it was the Sandbar Lounge,
25 did you have any meetings either with the business owner

1 or with the property owner?

2 OFFICER VAZQUEZ: We did, with the business
3 owners.

4 MR. SANCHEZ: Okay. And that was the business
5 owners for the Sandbar Lounge?

6 OFFICER VAZQUEZ: That is correct.

7 MR. SANCHEZ: And when was that?

8 OFFICER VAZQUEZ: January or maybe February of
9 2013.

10 MR. SANCHEZ: And when you had that meeting, what
11 were you -- did you make suggestions to that group about
12 correcting the problems?

13 OFFICER VAZQUEZ: We did. We were working with
14 the Planning Department, and we met with the business
15 owners on site and explained to them the high calls for
16 service and different ways that they can do or different
17 things that they can do to curtail calls for service.

18 MR. SANCHEZ: At that time back in, I think you
19 said 2011, was there an issue regarding the conditional
20 use permit at that time?

21 OFFICER VAZQUEZ: When we met with them on site,
22 it was 2013.

23 MR. SANCHEZ: I'm sorry. Excuse me.

24 And at that time, was there a problem or
25 was there an issue that arose in relation to the

1 conditional use permit?

2 OFFICER VAZQUEZ: Yes, there was.

3 MR. SANCHEZ: What was that problem?

4 OFFICER VAZQUEZ: We were trying to bring them
5 into compliance. Our main concern was the parking
6 issue. There was also broken windows, there was no
7 loitering signs that were supposed to be in place, and
8 also we were having issues with them not having security
9 guard.

10 MR. SANCHEZ: Okay. So security and parking were
11 two of those issues?

12 OFFICER VAZQUEZ: That is correct.

13 MR. SANCHEZ: And are you aware if the City ever
14 contacted the property owner, Mr. Mackey, regarding
15 those issues?

16 OFFICER VAZQUEZ: They did.

17 MR. SANCHEZ: And how do you know that?

18 OFFICER VAZQUEZ: Jayme Mekis, who was assigned to
19 the Planning Department at the time. Her and I were
20 working on this location together, and she was in
21 constant contact with Mr. Mackey regarding the issues of
22 the parking.

23 MR. SANCHEZ: Now, did Mr. Mackey himself take
24 care of those particular issues as it related to the
25 conditional use permit?

1 OFFICER VAZQUEZ: No, he did not, and that's part
2 of the reason why we met with the owners of the Sandbar
3 at the time at the location to explain to them what they
4 needed to do in order to come into compliance with the
5 CUP, and we explained to them -- or actually, they told
6 -- Ted and Tom, who were the owners of the bar,
7 explained to us that -- or explained to Jayme Mekis and
8 myself that they were working with Mr. Mackey to try to
9 bring into compliance the parking issues.

10 Everything else regarding the window, the
11 no loitering signs and the security guard, they were
12 going to handle that.

13 MR. SANCHEZ: But -- I'm sorry. Go ahead.

14 OFFICER VAZQUEZ: But according to them,
15 Mr. Mackey wanted nothing to do with the parking issues.
16 According to them, Mr. Mackey asked them to take care of
17 the parking issues and file the appropriate paper work
18 with the County, and that way they can take a reduction
19 in rent.

20 MR. SANCHEZ: And did that ever happen?

21 OFFICER VAZQUEZ: Not to my knowledge.

22 MR. SANCHEZ: And what ever happened to the
23 Sandbar after that?

24 OFFICER VAZQUEZ: Jayme and I followed up on that
25 and kept sending emails to the Sandbar owners, and they

1 just gave up because Mr. Mackey did not want to file the
2 appropriate paper work with the County. He was leaving
3 it up to them, and it was just too much of a hassle for
4 them, so they just gave up on the business.

5 MR. SANCHEZ: Now, this is all based on
6 conversations you were having with the business owner;
7 is that correct?

8 OFFICER VAZQUEZ: That is correct.

9 MR. SANCHEZ: So you don't know what
10 communications went on between the business owners of
11 the Sandbar and Mr. Mackey?

12 OFFICER VAZQUEZ: I do not.

13 MR. SANCHEZ: And if you could look at that
14 Exhibit E and turn to tab number 5, and can you tell me
15 what is depicted in tab number 5?

16 OFFICER VAZQUEZ: Calls for service.

17 MR. SANCHEZ: Is that a calls for service log?

18 OFFICER VAZQUEZ: Yes, it is.

19 MR. SANCHEZ: And did you prepare that?

20 OFFICER VAZQUEZ: I did.

21 MR. SANCHEZ: Okay. And that represents calls
22 when the Sandbar lounge was in operation at that
23 location, 710 West Willow?

24 OFFICER VAZQUEZ: That is correct. These calls
25 for service were for a three-year period from 1/12/2011

1 through 2013.

2 MR. SANCHEZ: So it looks like looking at the last
3 page of number 5, January 31st, 2013?

4 OFFICER VAZQUEZ: That is correct.

5 MR. SANCHEZ: Okay. And when you mentioned the
6 name Jayme Mekis, is that someone that worked for the
7 City of Long Beach?

8 OFFICER VAZQUEZ: Yes.

9 MR. SANCHEZ: Do you know what department she
10 worked at?

11 OFFICER VAZQUEZ: The Planning Department.

12 MR. SANCHEZ: Okay. Thank you. I have nothing
13 further.

14 Sorry. I do have a couple questions.
15 Sorry. I apologize. Was going too fast.

16 After the Sandbar lounge ended its business
17 there, were you working with Officer Flores when the
18 Miko's Sports Lounge began to operate?

19 OFFICER VAZQUEZ: Yes, I was.

20 MR. SANCHEZ: Okay. And what happened when they
21 first started doing business at that location?

22 OFFICER VAZQUEZ: I received an email from Council
23 District 7 regarding issues at the bar, which I was not
24 even aware that it had been opened again.

25 MR. SANCHEZ: And when you found out that another

1 bar was opening up at that same location, what were your
2 concerns?

3 OFFICER VAZQUEZ: High calls for service. As soon
4 as I found out that the bar had opened, a bar had
5 opened, I immediately ran calls for service for two
6 months' period, which was January and February 2014, and
7 found out that the calls for service were extremely
8 high.

9 MR. SANCHEZ: And what did that tell you?

10 OFFICER VAZQUEZ: That the problems were beginning
11 just like the Sandbar had left off but bigger scale.

12 MR. SANCHEZ: Now, in between the time that the
13 Sandbar Lounge closed and Miko's opened, did you have
14 any communications with the property owner, Mr. Mackey?

15 OFFICER VAZQUEZ: I did not.

16 MR. SANCHEZ: Do you know if anyone from the City
17 had any communications with Mr. Mackey?

18 OFFICER VAZQUEZ: I do not know.

19 MR. SANCHEZ: And were you involved in the meeting
20 that Officer Flores had with the business owner,
21 Miss Yancey?

22 OFFICER VAZQUEZ: Yes, I was.

23 MR. SANCHEZ: And do you recall the suggestions
24 that were made to Miss Yancey by Officer Flores?

25 OFFICER VAZQUEZ: Yes, I do.

1 MR. SANCHEZ: Do you remember what her response
2 was to those suggestions by Officer Flores?

3 OFFICER VAZQUEZ: She was not receptive, very
4 receptive to the -- any of the recommendations they were
5 making, but the no loitering signs was accepted and
6 promised to keep the back door open.

7 As far as the camera system, she was not
8 having it. She did not agree to it.

9 MR. SANCHEZ: Did she make any comments about the
10 camera system suggestion?

11 OFFICER VAZQUEZ: She said she would look into it
12 and get back to us, but she -- it didn't look like she
13 was gonna accept that because it was tied into her
14 something. Her concern was that it was tied in somehow
15 to her ATM system.

16 MR. SANCHEZ: And what about the suggestion
17 regarding security?

18 OFFICER VAZQUEZ: She mentioned something to the
19 effect of being a new business owner, it would be hard
20 for her to have somebody in place, but she will also
21 look into that.

22 MR. SANCHEZ: Did she ever implement that security
23 suggestion?

24 OFFICER VAZQUEZ: According to the information
25 that we received, she did implement security guard, but

1 it's my understanding it was a family member.

2 We did bring up one point to her at that
3 meeting regarding the issues that were occurring at the
4 bar and the surrounding neighborhood, and one of her
5 comments was something to the effect of I'll take care
6 of the inside of my bar, but the outside's not my
7 problem, that's Police Department's business.

8 MR. SANCHEZ: So everything outside of the bar
9 from the exterior of the bar was, in her estimation, the
10 Police Department's job to handle?

11 OFFICER VAZQUEZ: That is correct.

12 MR. SANCHEZ: Thank you. I have nothing further.

13 MR. CERNYAR: Good evening, Officer.

14 OFFICER VAZQUEZ: Good evening.

15 MR. CERNYAR: You mentioned calls for service, and
16 you said that you took -- qualify "a high volume." What
17 is a high volume to you?

18 OFFICER VAZQUEZ: Well, if you look at the Sandbar
19 calls for service, basing it on close to three years,
20 you have 94 calls for service. As opposed to Miko's
21 bar, when they opened up for two months, January and
22 February, had 15 calls for service.

23 You take the average for that, if basing it
24 on the average, you're looking at over 90 something
25 calls for one year. When it was Sandbar, it was a

1 three-year period for 94 calls.

2 MR. CERNYAR: Okay. So on a monthly basis, what
3 would you say would be a high volume of calls?

4 OFFICER VAZQUEZ: Depends on the location. But if
5 you're having nine calls for service in two months'
6 period for one particular crime, which is music, that's
7 a high volume. For the type of business that this
8 location is it's expected, but not 15 calls in two
9 months.

10 MR. CERNYAR: What would you say about two calls a
11 month?

12 OFFICER VAZQUEZ: Depends what type of call it is
13 and the severity of the call.

14 MR. CERNYAR: What's a "dispute" mean?

15 OFFICER VAZQUEZ: It could be two patrons arguing
16 outside.

17 MR. CERNYAR: Okay. And what's a "group"?

18 OFFICER VAZQUEZ: Two or more people.

19 MR. CERNYAR: I don't understand this, so help me.
20 DCC?

21 OFFICER VAZQUEZ: That's a district car check.
22 That means that the officers are initiating those calls
23 by going out there. The reason they're going out there
24 is because they're following up on either a problem,
25 something that's a problem, or they're just being

1 proactive to keep the calls for service down.

2 MR. CERNYAR: And if it's a priority three in the
3 DCC, would that make a difference what it would be, like
4 it would be a clearer indication?

5 OFFICER VAZQUEZ: I'm not sure if the DCC has a
6 priority level.

7 MR. CERNYAR: Okay. So say I had four calls in a
8 two-month period, one's a dispute, two are groups of
9 DCC. How would you rank that?

10 OFFICER VAZQUEZ: For one month you said?

11 MR. CERNYAR: For two months.

12 OFFICER VAZQUEZ: That's about average.

13 MR. CERNYAR: You mentioned something earlier
14 about the back door, you wanted the back door open?

15 OFFICER VAZQUEZ: No. We wanted it closed.

16 MR. CERNYAR: You wanted it closed?

17 And then Miko's sports bar was fine with
18 that; is that correct?

19 OFFICER VAZQUEZ: They agreed to, but it wasn't
20 happening. It was still open.

21 MR. CERNYAR: Okay. When did that conversation
22 take place, do you recall?

23 OFFICER VAZQUEZ: At the meeting we had sometime
24 in March of 2014.

25 MR. CERNYAR: Nothing further. Thank you.

1 MR. CLOUGH: Just briefly, if I can understand
2 this, the parking in the back, you're aware, of course,
3 that Mr. Mackey and the Trust had repaved that and
4 re-signed it to comply with the handicapped law;
5 correct?

6 OFFICER VAZQUEZ: I'm assuming that that's the
7 reason why they did it, yes.

8 MR. CLOUGH: Well, you're aware he did it?

9 OFFICER VAZQUEZ: Yes, I am.

10 MR. CLOUGH: In terms of the other parking, was it
11 your understanding that the owner was to secure parking
12 across the street for patrons?

13 OFFICER VAZQUEZ: That is correct, five additional
14 parking spaces.

15 MR. CLOUGH: That's not something you would ask
16 Mr. Mackey to arrange, is it?

17 OFFICER VAZQUEZ: We did not, no.

18 MR. CLOUGH: Okay. I have nothing further.

19 MR. SANCHEZ: Just real quick, Officer Vazquez, on
20 any call for service for any location, a reference to
21 DCC on a call log wouldn't necessarily be counted
22 against the property because it -- would that be a
23 correct statement?

24 OFFICER VAZQUEZ: We do not count the DCCs against
25 the location, no.

1 MR. SANCHEZ: Is that because that's a proactive
2 visit by the Police Department to check on the location?

3 OFFICER VAZQUEZ: That is correct.

4 MR. SANCHEZ: Okay. I have nothing further.

5 CHAIRWOMAN VAN HORIK: We have a question from a
6 Commissioner, Mr. Vazquez.

7 Commissioner Templin.

8 COMMISSIONER TEMPLIN: Thank you.

9 For the lawyer for Mr. Mackey, you made a
10 point of the new parking area with handicap to be in
11 compliance. When was this done?

12 MR. CLOUGH: You know, I can't say exactly when.
13 What I do know is that it was approximately a year and
14 three quarters ago that there was a strike, if you will,
15 by a guy that had filed, like, 200 lawsuits against
16 people up and down the state, and at that point in time
17 he was told that he needed to have better signage in the
18 back for handicapped parking.

19 So it was all repaved, re-signed, and that
20 was completed I think approximately six months after
21 that lawsuit was filed. And I wish I could give you a
22 date, but I just -- I can't. I'm sorry.

23 COMMISSIONER TEMPLIN: So I was wondering because
24 in all the videos and everything I saw, I really didn't
25 see any handicapped parking.

1 MR. CLOUGH: Oh, there's -- well, there's
2 definitely handicapped parking now. I handled the
3 federal case, so I know that's the case. And there's no
4 question the signs are up there, the repaving and the
5 relining is done.

6 I just I wish I had the date for you. I
7 just don't. Off the top of my head, I'm getting old,
8 and I forget. Sorry.

9 COMMISSIONER TEMPLIN: Thank you.

10 CHAIRWOMAN VAN HORIK: Commissioner Verduzco-Vega.

11 COMMISSIONER VERDUZCO-VEGA: Officer Vazquez, I
12 know this point has already been made, but just to
13 reiterate, when you asked that the rear door remain
14 closed, you didn't mean that it remained locked;
15 correct?

16 OFFICER VAZQUEZ: That is correct. That was one
17 of the concerns that was brought up by the business
18 owner, and no, we're not requesting for it to be locked.

19 COMMISSIONER VERDUZCO-VEGA: So the intent was to
20 still allow people to go in and out, to go to and from
21 their cars, and I know that the issue of handicapped
22 parking has been brought up more than once. So
23 certainly the issue was not to keep people that needed
24 to use the handicapped parking stalls from entering the
25 bar at the closest proximity. It was simply a way to

1 mitigate noise from coming outside of the bar; correct?

2 OFFICER VAZQUEZ: That is correct. And that was
3 brought up by the business owner initially when we had
4 the meeting with her, and we told her, no, don't lock
5 it, you can keep it open as an emergency exit. We just
6 don't want people coming out and going back inside.

7 Because what they were doing is coming
8 outside, taking shots or whatever they were doing and
9 going back inside.

10 COMMISSIONER VERDUZCO-VEGA: Okay. Thank you.

11 CHAIRWOMAN VAN HORIK: I think that's all from the
12 Commission.

13 MR. SANCHEZ: Thank you, Officer.

14 Like to call Officer Laurie Barajas.

15 Could you please state your name for the
16 record.

17 OFFICER BARAJAS: Laurie Barajas, L-a-u-r-i-e B,
18 as in boy, a-r-a-j-a-s.

19 MR. SANCHEZ: And could you state who you're
20 employed by?

21 OFFICER BARAJAS: I'm currently employed with the
22 City of Long Beach and assigned to -- I'm currently
23 assigned to work child abuse investigations, but at the
24 time I was assigned to vice investigations.

25 MR. SANCHEZ: And in your duties as a vice

1 investigations officer, did you come across the location
2 at 710 West Willow Street?

3 OFFICER BARAJAS: Yes, I did.

4 MR. SANCHEZ: And how did you come across that
5 location?

6 OFFICER BARAJAS: I initially came across this
7 location in November of 2013 when I received a
8 person-to-person transfer of their Alcoholic Beverage
9 Control license.

10 MR. SANCHEZ: So that was when -- before they
11 started operating; is that correct?

12 OFFICER BARAJAS: Correct.

13 MR. SANCHEZ: And what has been -- have you had to
14 investigate that location in your position as a vice
15 officer?

16 OFFICER BARAJAS: Yes, I have.

17 MR. SANCHEZ: And what was the focus of your
18 investigation?

19 OFFICER BARAJAS: In about end of February,
20 beginning of March of 2014, I started receiving email
21 complaints from both Nuisance Abatement and Business
22 License regarding activity at the establishment.

23 MR. SANCHEZ: Okay. And what did you do in
24 response to those complaints?

25 OFFICER BARAJAS: The complaints were of -- they

1 were related to nuisance activity. Not related
2 specifically to alcohol -- they weren't alcohol-related
3 activity at the bar. At that time the complaints were
4 forwarded to Patrol, where the Patrol Resource Officer,
5 Jose Flores, handled them.

6 MR. SANCHEZ: And at some point did you have to
7 contact the business owner, Miss Yancey?

8 OFFICER BARAJAS: Yes.

9 MR. SANCHEZ: Why was that?

10 OFFICER BARAJAS: We had received complaints
11 regarding loud music, which would pertain to
12 entertainment, which is an area I handle, and that's how
13 I became involved.

14 MR. SANCHEZ: Okay. And where were those
15 complaints coming from?

16 OFFICER BARAJAS: The surrounding neighborhoods.

17 MR. SANCHEZ: Okay. And what was the nature of
18 the complaint?

19 OFFICER BARAJAS: Loud -- in regards to
20 entertainment, was loud music coming from the bar.

21 MR. SANCHEZ: And was it -- were you aware of what
22 the source of the music was? In other words, was it a
23 jukebox? Was it some kind of deejay system? Was it a
24 live band, something to that effect?

25 OFFICER BARAJAS: Based on the calls that were

1 coming in, no. But on March 4th of 2014, I called the
2 owner and had a phone conversation with her,
3 Miss Yancey, and spoke with her regarding the music
4 complaints.

5 She told me that she doesn't have any live
6 music inside the establishment, but she does have a
7 jukebox in there, and that jukebox is hooked up to
8 speakers which play loud music and then emanates from
9 the establishment.

10 MR. SANCHEZ: So you determined it was the
11 jukebox. And did you have any other conversations with
12 Miss Yancey to try and curb the complaints?

13 OFFICER BARAJAS: Yes. During that phone
14 conversation, I spoke with Miss Yancey. I explained to
15 her what the requirements were to apply for an
16 entertainment permit and when she would or wouldn't need
17 one, some suggestions to help mitigate the calls for
18 service that were music-related.

19 We suggested that she turns down the volume
20 of the jukebox at a certain time, so that way it
21 wouldn't disrupt the neighborhood, and then also
22 suggested to keep the rear door locked. Or not locked,
23 but closed.

24 MR. SANCHEZ: And that was to mitigate the sound
25 going outside of the bar?

1 OFFICER BARAJAS: That's correct.

2 MR. SANCHEZ: Okay. And do you know if she
3 implemented those suggestions?

4 OFFICER BARAJAS: She told me that she currently
5 turns the jukebox down already at 10:00 o'clock at night
6 to help mitigate those problems, and she said that she
7 -- our conversation, she was receptive to what our
8 concerns were, and she said that she would keep the back
9 door closed.

10 MR. SANCHEZ: Okay. And did you continue to
11 receive complaints after that meeting?

12 OFFICER BARAJAS: Yes, we did.

13 MR. SANCHEZ: And did you have to take some action
14 again?

15 OFFICER BARAJAS: Yes. On April 9th, 2014, my
16 supervisor and I went out to the establishment and met
17 with Miss Yancey regarding the continued music calls.

18 MR. SANCHEZ: Okay. And during that meeting with
19 Miss Yancey, were additional suggestions made to her in
20 order to alleviate the complaints?

21 OFFICER BARAJAS: It was more or less the same
22 suggestions, to continue to keep the music of the
23 jukebox lowered. We went over the requirements for an
24 entertainment permit and when one is needed and then
25 suggested again to keep that rear door closed.

1 MR. SANCHEZ: Okay. And do you know if she
2 followed through with -- again with the suggestions that
3 you were -- that were given to her?

4 OFFICER BARAJAS: At that point she had told me
5 that she had been issued a conditional business license,
6 and one of the conditions on her business license was to
7 leave that rear door closed.

8 Whether or not she was complying with that
9 I don't know, but she was aware that that was a
10 condition placed on her conditional business license.

11 MR. SANCHEZ: Do you know if your supervisor sent
12 a letter to her following that meeting?

13 OFFICER BARAJAS: Yes.

14 MR. SANCHEZ: Do you remember what the date of
15 that letter was?

16 OFFICER BARAJAS: Yeah. A letter was drafted by
17 my Commander at the time, Richard Farfan, on May 16,
18 2014.

19 MR. SANCHEZ: So if you can look at Exhibit E,
20 which is that binder that's in front of you, and go to
21 tab 17.

22 OFFICER BARAJAS: Yes.

23 MR. SANCHEZ: Is that the letter that you were
24 just referring to dated May 16, 2014?

25 OFFICER BARAJAS: That's correct.

1 MR. SANCHEZ: Okay. During that meeting, was it
2 explained to Miss Yancey that -- well, I'll rephrase it.

3 Following that meeting following the
4 letter, did you continue to receive complaints about the
5 location?

6 OFFICER BARAJAS: Yes.

7 MR. SANCHEZ: And was it the same type of
8 complaints regarding the noise activity?

9 OFFICER BARAJAS: Yes. Noise, and at that point
10 we had started receiving more complaints regarding the
11 patrons that were loitering, as well. Those were coming
12 to our office.

13 MR. SANCHEZ: So now in addition to the noise, you
14 had the loitering, and did you have to contact her again
15 related to those complaints?

16 OFFICER BARAJAS: We included ways to mitigate
17 those complaints in the letter by implementing a
18 security guard outside and along the side of the
19 establishment to help control the noise level of the
20 patrons that were loitering.

21 MR. SANCHEZ: Do you remember the date of that
22 letter that had those suggestions?

23 OFFICER BARAJAS: It's included in the May 16th,
24 2014, letter.

25 MR. SANCHEZ: Okay. So that letter made reference

1 to ways to mitigate the loitering activity, as well?

2 OFFICER BARAJAS: That's correct.

3 MR. SANCHEZ: Okay. And was a suggestion to
4 increase the security guards at the location?

5 OFFICER BARAJAS: At that point, we weren't made
6 aware of the actual number of security guards that she
7 had. We knew that she had security guards actually
8 employed, but not specific to the number that she had.

9 So it was just suggested that a security
10 guard was placed outside in the rear to help mitigate
11 those loitering patrons in the parking lot.

12 MR. SANCHEZ: Okay. And do you know if she
13 implemented that suggestion in terms of having security
14 in the rear of the location?

15 OFFICER BARAJAS: I know on nights that she
16 applied for occasional event permits she -- to my
17 knowledge, she was going to. As far as follow-up was
18 done to see if an actual security guard was out there at
19 the time, no, I don't.

20 MR. SANCHEZ: Okay. And the complaints continued
21 after that?

22 OFFICER BARAJAS: Yes.

23 MR. SANCHEZ: And what eventually did you have to
24 do, or did you have another communication with her
25 regarding suggestions on how to handle the complaints?

1 OFFICER BARAJAS: Well, next -- the next
2 communication that I received was from Business License
3 when Miss Yancey applied for an entertainment permit in
4 September of 2014.

5 MR. SANCHEZ: Okay. And when that happened, did
6 that generate another meeting with Miss Yancey?

7 OFFICER BARAJAS: Eventually, it did.

8 MR. SANCHEZ: When was that meeting?

9 OFFICER BARAJAS: On November 11th of 2014 I met
10 with her.

11 MR. SANCHEZ: Okay. And where was that meeting?

12 OFFICER BARAJAS: At her establishment.

13 MR. SANCHEZ: Okay. And that meeting was focused
14 on the entertainment permit application?

15 OFFICER BARAJAS: That's correct.

16 MR. SANCHEZ: And what did you discuss at that
17 meeting?

18 OFFICER BARAJAS: At that meeting we had discussed
19 that there was an increase in calls for service, that we
20 did have some concerns with issuing an entertainment
21 permit to her, and because there were concerns and there
22 were a high volume of calls for service, we were going
23 to limit the hours of entertainment or we were going to
24 recommend a limitation of the hours that entertainment
25 could be provided.

1 MR. SANCHEZ: So eventually that application was
2 brought to Council; is that correct?

3 OFFICER BARAJAS: That's correct.

4 MR. SANCHEZ: And what happened with the
5 application?

6 OFFICER BARAJAS: That application at Council, at
7 the City Council hearing was denied.

8 MR. SANCHEZ: Do you know if she continued to have
9 entertainment at that location?

10 OFFICER BARAJAS: Yes, she did.

11 MR. SANCHEZ: And how was that?

12 OFFICER BARAJAS: She applied for occasional event
13 permits.

14 MR. SANCHEZ: And do you know how many she applied
15 for, how many she received in the last -- well, since
16 2014?

17 OFFICER BARAJAS: She had applied for
18 approximately 18 occasional event permits and had
19 received I know three less than what she applied for.
20 So it would have been 15.

21 MR. SANCHEZ: Okay. And are you aware of the
22 complaints continuing during that time period that she
23 was having the special or the occasional event permits?

24 OFFICER BARAJAS: Yes, they were.

25 MR. SANCHEZ: And was there any action the Police

1 Department took as a result of that activity?

2 OFFICER BARAJAS: Yes. Miss Yancey applied for an
3 occasional event permit -- jumping forward to
4 January 28th of this year, she applied for an occasional
5 event permit to hold an event on February 5th through
6 the 7th of 2016, and the Police Department recommended
7 denial of that application, and we requested that no
8 occasional event permits be applied for for a 45-day
9 period.

10 MR. SANCHEZ: Do you know why the Police
11 Department took that action?

12 OFFICER BARAJAS: There had been continued calls
13 for service of the same nature, and then we had had a
14 shooting that we responded to just a month before this
15 incident, before that recommendation was drafted.

16 MR. SANCHEZ: Is that the one that occurred on
17 December 27th of 2015?

18 OFFICER BARAJAS: That's correct.

19 MR. SANCHEZ: Okay. And so as a result of that
20 incident, the Police Department took action on
21 requesting a denial of the occasional entertainment
22 permit?

23 OFFICER BARAJAS: That's correct.

24 MR. SANCHEZ: How did the Police Department go
25 about requesting that action?

1 OFFICER BARAJAS: We drafted a memo that came from
2 our Chief to, I believe it was, the Director of Business
3 Services.

4 MR. SANCHEZ: So I'm looking at --

5 OFFICER BARAJAS: I'd need to see it.

6 MR. SANCHEZ: -- tab 30.

7 OFFICER BARAJAS: Okay. So the memo was drafted
8 -- during the time that Miss Yancey has owned Miko's,
9 occasional event permits went through a transfer.
10 Business License used to process and issue them, and it
11 was switched over to Special Events and Filming, who
12 processed and issued them.

13 So at this time, Special Events and Filming
14 had taken over the process, so the memo was drafted from
15 the Chief to the City Manager, who oversees that
16 division.

17 MR. SANCHEZ: So looking at tab number 30, that is
18 the memorandum that was sent by the Chief of Police to
19 the City Manager --

20 OFFICER BARAJAS: That's correct.

21 MR. SANCHEZ: -- requesting that no -- suspension
22 on the occasional entertainment permits to Miko's?

23 OFFICER BARAJAS: That's correct.

24 MR. SANCHEZ: Okay. And after that occurred, were
25 there any incidents that arose at Miko's relating to

1 entertainment activity?

2 OFFICER BARAJAS: Yes. We had on February 20th,
3 patrol officers working in the area went into two
4 different locations on Willow to do checks of complaints
5 that we had been receiving of establishments that were
6 providing entertainment without a permit.

7 They went into Miko's and had discovered
8 that they had had a deejay that was playing inside, and
9 they did not have a permit for it.

10 MR. SANCHEZ: Okay. Now, was there an incident
11 prior to that involving the same offense?

12 OFFICER BARAJAS: Yes. On January 7th of 2016,
13 our undercover detectives went inside the establishment
14 to do an entertainment check of the location since we
15 had received complaints from the neighborhood that they
16 had been providing entertainment without the proper
17 permits.

18 While those undercover detectives were
19 inside the establishment, there was a deejay that was in
20 there that was providing entertainment, and there was no
21 permit that was issued for an event that evening.

22 MR. SANCHEZ: If you could look at Exhibit E again
23 and go to tab 29. And if you -- can you tell me what
24 tab 29 is?

25 OFFICER BARAJAS: Tab 29 is going to be an

1 incident report filed by one of our officers documenting
2 what they saw while they were inside the establishment,
3 along with a supplemental report that was filed by
4 myself indicating that they didn't have an entertainment
5 or an occasional event permit for that evening.

6 MR. SANCHEZ: And then looking at tab 31, is that
7 also an incident report for the February 20th violation
8 that you just -- you described earlier?

9 OFFICER BARAJAS: That's correct.

10 MR. SANCHEZ: Now, were each of these presented to
11 the City Prosecutor's office?

12 OFFICER BARAJAS: Yes, they were.

13 MR. SANCHEZ: Was a complaint filed in relation to
14 each of these incidents?

15 OFFICER BARAJAS: Yes, there was.

16 MR. SANCHEZ: And if I can just have you pull tab
17 number 34.

18 OFFICER BARAJAS: This first complaint in tab
19 number 34 is going to be Case 6LB00815. That's going to
20 be the complaint that was filed in regards to the
21 incident that happened on January 7th.

22 MR. SANCHEZ: Okay. And that was filed by the
23 City Prosecutor's office?

24 OFFICER BARAJAS: Yes, that's correct.

25 MR. SANCHEZ: And that's a misdemeanor complaint;

1 correct?

2 OFFICER BARAJAS: That's correct.

3 MR. SANCHEZ: Looking at tab number 36 --

4 OFFICER BARAJAS: Tab 36 is going be the complaint
5 that was filed for the February 20th, 2016, incident
6 6LB06123.

7 MR. SANCHEZ: And that's the second complaint that
8 was filed against Miss Yancey for that violation?

9 OFFICER BARAJAS: That's correct.

10 MR. SANCHEZ: Do you know what the result was of
11 the first complaint that was filed against Miss Yancey?

12 OFFICER BARAJAS: Yes. The first complaint,
13 Miss Yancey appeared in court on March 14th, 2016. She
14 plead nolo contendere, if I'm saying that correctly, for
15 providing entertainment without a valid permit. The
16 Court found her guilty, accepted her plea to informal
17 diversion.

18 Basically what that means is she has to --
19 for a one-year period from the date, from the court
20 date, she can't be found in violation of any
21 entertainment permit violations, and if she is found in
22 violation during that time period, then she would lose
23 this, the informal diversion, and she would have to --

24 MR. SANCHEZ: She would be sentenced?

25 OFFICER BARAJAS: She would have to answer to

1 those, to those charges.

2 MR. SANCHEZ: Okay. And do you know when that
3 plea was entered?

4 OFFICER BARAJAS: If you give me a second, I can
5 tell you.

6 On March 14th, 2016.

7 MR. SANCHEZ: Okay.

8 OFFICER BARAJAS: That's when she appeared in
9 court.

10 MR. SANCHEZ: Do you know what happened to the
11 complaint on the second incident?

12 OFFICER BARAJAS: So the complaint on the second
13 incident had been filed with the City Prosecutor's
14 office after she had already been to court for the first
15 incident. So that second incident wasn't held against
16 her for this -- for her informal diversion, and it was
17 just added to the same, to the same complaint.

18 MR. SANCHEZ: Okay. Thank you.

19 Now, was any further action taken by the
20 Long Beach Police Department in relation to any further
21 occasional entertainment permits submitted by Miko's?

22 OFFICER BARAJAS: Yes.

23 MR. SANCHEZ: What was that?

24 OFFICER BARAJAS: On April 20th, we had received a
25 request for -- excuse me -- not on April 20th. In April

1 we received two requests for occasional event permits to
2 take place April 28th through the 30th, 2016, and
3 May 19th through the 21st, 2016.

4 Based on the continued calls for service,
5 the shooting that had happened, there had been an
6 attempted suicide that had stemmed from inside the bar,
7 as well as a stabbing that occurred out front, we
8 determined that the public safety and welfare of the
9 general area was affected and recommended denial of both
10 of those occasional event permits.

11 MR. SANCHEZ: Looking at tab 37, is that the
12 memorandum that you were just describing?

13 OFFICER BARAJAS: Yes.

14 MR. SANCHEZ: Thank you, Officer. I have nothing
15 further.

16 MR. CERNYAR: Good evening, Officer.

17 OFFICER BARAJAS: Good evening.

18 MR. CERNYAR: When was the last day that this unit
19 that you were working investigating Miko's sports bar?

20 OFFICER BARAJAS: I'm still technically handling
21 the vice investigation desk.

22 MR. CERNYAR: Okay. You mentioned, I think, in
23 tab 30 there's a letter. And in the back there, I think
24 the last paragraph of that letter it discusses -- or
25 there's a recommendation. The top paragraph, the last

1 sentence it says, "ABC advised based on the evidence the
2 neighbors have provided their offices and process in
3 compiling a disorderly house investigation.

4 Who wrote that, do you know?

5 OFFICER BARAJAS: Who wrote this memo or who
6 wrote --

7 MR. CERNYAR: Who wrote that in the memo? Is that
8 you?

9 OFFICER BARAJAS: I authored it.

10 MR. CERNYAR: So you were in contact with ABC at
11 that point?

12 OFFICER BARAJAS: Yes.

13 MR. SANCHEZ: Do you know what happened with the
14 investigation by ABC?

15 OFFICER BARAJAS: I don't know what happened with
16 their investigation.

17 MR. CERNYAR: You mentioned there's some pleas for
18 some Municipal Code violations; is that correct?

19 OFFICER BARAJAS: That's correct.

20 MR. CERNYAR: And they're misdemeanors?

21 OFFICER BARAJAS: That's correct.

22 MR. CERNYAR: But they're not Penal Code
23 violations?

24 OFFICER BARAJAS: No. They're Municipal Code
25 violations.

1 MR. CERNYAR: And you mentioned there's been no
2 conviction on those?

3 OFFICER BARAJAS: That's correct.

4 MR. CERNYAR: I have nothing further.

5 MR. CLOUGH: Just briefly, if I may.

6 You had discussed, I think briefly, hiring
7 a security guard to keep the noise level down, that sort
8 of thing at the bar?

9 OFFICER BARAJAS: Yes.

10 MR. CLOUGH: Is that something that was asked of
11 the owner of the bar?

12 OFFICER BARAJAS: It was suggested to help
13 mitigate the complaints for patrons loitering in the
14 parking lot.

15 MR. CLOUGH: Was there any contact with the Mackey
16 Trust or Mr. Mackey to accomplish that, if possible?

17 OFFICER BARAJAS: The only contact I had with
18 Mr. Mackey was during a meeting that was initiated by
19 the City Attorney's office.

20 MR. CERNYAR: And when was that?

21 OFFICER BARAJAS: Just give me one second, please.

22 MR. CLOUGH: Sure.

23 OFFICER BARAJAS: April 19th, 2016.

24 MR. CLOUGH: That's the only contact that your
25 office had initiated that you're aware of?

1 OFFICER BARAJAS: I did not initiate that. The
2 City Attorney's office initiated, and I attended the
3 meeting, yes.

4 MR. CLOUGH: And that was after everything had
5 been, I guess, a fait accompli, if you will; would that
6 be accurate?

7 OFFICER BARAJAS: Well, I don't think that it's
8 completed yet.

9 MR. CLOUGH: No. I understand.

10 OFFICER BARAJAS: It's still ongoing.

11 MR. CLOUGH: Whatever was happening at that point,
12 it was already in progress, a prosecution taking place
13 at the point in time when Mr. Mackey was contacted for
14 the Trust?

15 OFFICER BARAJAS: I don't understand what you mean
16 by "prosecution."

17 MR. CLOUGH: It's pretty poor. It's okay. I just
18 wanted to know basically if Mr. Mackey had any contact
19 with anyone from your office about the things that
20 Ms. Yancey had been charged with in the case, in the
21 criminal case?

22 OFFICER BARAJAS: No, I did not contact Mr. Mackey
23 to let him know about Miss Yancey's charges.

24 MR. CLOUGH: Okay. Thank you very much.

25 MR. SANCHEZ: Just I had a couple things. Again,

1 went a little too fast.

2 Looking at exhibit or tab number 32, do you
3 recognize what that report is?

4 OFFICER BARAJAS: Yes. This is going to be the
5 report for the attempted suicide that happened inside
6 the establishment.

7 MR. SANCHEZ: So was that related to a patron that
8 was inside the bar?

9 OFFICER BARAJAS: That's correct.

10 MR. SANCHEZ: Okay. And then looking at tab 33,
11 do you recognize that report?

12 OFFICER BARAJAS: Yes, I do.

13 MR. SANCHEZ: And what was that incident related
14 to?

15 OFFICER BARAJAS: That's related to the stabbing
16 that had occurred in front of the establishment that had
17 -- that had gone inside. The victim and the suspect had
18 gone inside the establishment.

19 MR. SANCHEZ: So the stabbing occurred outside of
20 the bar?

21 OFFICER BARAJAS: Just out -- outside the front
22 door.

23 MR. SANCHEZ: Okay. And you mentioned that victim
24 and the assailant then went into the bar afterwards?

25 OFFICER BARAJAS: Yes. The victim had gone

1 inside. The suspect attempted to follow, and patrons
2 had pushed the suspect outside the bar, at which point
3 the suspect fled.

4 MR. SANCHEZ: Do you know if there was any
5 security at the location when this particular incident
6 occurred?

7 OFFICER BARAJAS: Based on the reports, no.

8 MR. SANCHEZ: No? Okay.

9 And then lastly, did the Long Beach Police
10 Department make a recommendation in relation to the
11 business license for Miko's Sports Lounge?

12 OFFICER BARAJAS: Yes. On June 20th, 2016.

13 MR. SANCHEZ: And looking at tab 39 -- and it's a
14 memorandum -- is that the memorandum from the Chief to
15 the Business License Department or Jason MacDonald at
16 Business License regarding the business license for
17 Miko's and its request for revocation?

18 OFFICER BARAJAS: Yes, it is.

19 MR. SANCHEZ: Thank you. I have nothing further.

20 MR. CERNYAR: Just a couple questions.

21 The suicide attempt, that was off 25th and
22 Magnolia; correct?

23 OFFICER BARAJAS: No, it did not occur at 25th and
24 Magnolia. The victim was found at 25th and Magnolia
25 after he left the establishment.

1 MR. CERNYAR: After he left the establishment. So
2 where did the suicide attempt take place?

3 OFFICER BARAJAS: Just outside of the rear door in
4 the rear parking lot.

5 MR. CERNYAR: So he walked from Maine to Magnolia?

6 OFFICER BARAJAS: Apparently.

7 MR. CERNYAR: And the suicide attempt was
8 basically because his girlfriend broke up with him at
9 the bar; is that correct?

10 OFFICER BARAJAS: That's what the report reads.

11 MR. CERNYAR: So it was nothing that Miko's could
12 have controlled; is that correct?

13 OFFICER BARAJAS: Miko's could have called 911 for
14 the victim and attempted to get medical attention and
15 medical aid to him.

16 MR. CERNYAR: He's outside the back door. How do
17 you know he's stabbed?

18 OFFICER BARAJAS: Stabbed?

19 MR. CERNYAR: Stabbed or tries to kill himself,
20 cuts himself, his wrist. How do you know that?

21 OFFICER BARAJAS: If they had a security guard
22 that was outside the establishment, they would have
23 seen, and then they would have been able to assist the
24 victim.

25 MR. CERNYAR: So who made that phone call?

1 OFFICER BARAJAS: One of the neighbors did. They
2 saw him walking down Maine, Maine Avenue.

3 MR. CERNYAR: This date of the stabbing incident,
4 you say the guy was stabbed outside the bar?

5 OFFICER BARAJAS: Just outside the front door.

6 MR. CERNYAR: And he came inside the bar?

7 OFFICER BARAJAS: After he was stabbed, yes.

8 MR. CERNYAR: After he was stabbed.

9 And then the patrons kept the perpetrator
10 from coming inside the bar?

11 OFFICER BARAJAS: Yes. That's how the report
12 reads.

13 MR. CERNYAR: Okay. Thank you. Nothing further.

14 MR. SANCHEZ: Thank you, Officer.

15 Unless Commission has any questions?

16 CHAIRWOMAN VAN HORIK: I don't see that there's
17 any questions right now.

18 MR. SANCHEZ: Okay. Do I call my next witness?

19 CHAIRWOMAN VAN HORIK: Yes.

20 MR. SANCHEZ: I call Lori Voss.

21 MR. SANCHEZ: Can you state your name for the
22 record, please?

23 MS. VOSS: Lori, L-o-r-i, Voss, V-o-s-s.

24 MR. SANCHEZ: And can you state who you're
25 employed by?

1 MS. VOSS: I'm just going to give an enforcement
2 summary.

3 MR. SANCHEZ: Oh, sure.

4 MS. VOSS: Good evening, Commissioners. My name
5 is Lori Voss. I'm a licensed inspector for the Business
6 License Department. Tonight I will give you a brief
7 summary of my enforcement activities for the address
8 710 West Willow.

9 In April of 2011, my manager at the time
10 had received complaints regarding Shot Callers, Inc.,
11 doing business as Sandbar Long Beach for operating
12 without an entertainment permit.

13 On April 27th, 2011, another licensed
14 inspector from my department issued a new list of
15 violations for operating without an entertainment
16 permit. My manager continued to receive complaints
17 subsequent to the notice of violation that was issued.

18 On July 21st, 2011, at approximately 4:00
19 p.m., I spoke with the manager. He admitted to
20 conducting entertainment. I issued a notice of
21 violation to the manager for conducting entertainment
22 without a license.

23 On July 27th, 2011, I went back to the
24 Sandbar and spoke with the business owner. I advised
25 him we had received complaints of entertainment being

1 conducted without an entertainment permit, and the Long
2 Beach Municipal Code requires an entertainment permit.
3 I left him with an application and advised him to cease
4 any entertainment activity until he obtains an
5 entertainment permit.

6 My manager continued to receive complaints
7 about unlicensed entertainment activity subsequent to
8 the notice of violation and my visit.

9 On October 21st, 2011, at approximately
10 1:30 a.m., I entered the Sandbar. I witnessed a deejay
11 and a dance area with approximately 20 patrons on the
12 dance floor. I issued a misdemeanor citation to one of
13 the owners, Mr. Lasalle, for Long Beach Municipal Code
14 5.72.110, entertainment permit required.

15 On August 24th, 2011, the owners of Sandbar
16 applied for an entertainment permit. However, they were
17 never issued an entertainment license. They went out of
18 business in June 2013.

19 On February 24th, 2014, I issued a notice
20 of violation to Miss Yancey, the owner of Miko's Sports
21 Lounge. I advised Miss Yancey to obtain her bar license
22 within three days.

23 Miss Yancey had applied for her bar license
24 on December 27th, 2013, and had received approvals from
25 Building and Fire Departments. However, the Health

1 Department was still pending approval, which was
2 required before the business license could be issued.

3 On March 25th, 2014, Miss Yancey was issued
4 a conditional license to operate the bar. Miss Yancey
5 agreed to three conditions before we issued the
6 conditional license. Those conditions were, one, must
7 have at least two no loitering signs posted at all
8 times; two, she must keep the rear doors closed except
9 in case of emergency or to allow for delivery; and
10 three, she must abide by the Long Beach Noise Ordinance,
11 LBMC 8.80.

12 On October 24th, I had received complaints
13 a rear door was being left open. I arrived at the bar
14 that day at approximately 11:40 a.m. I observed the
15 rear door being propped open.

16 I spoke with the bartender and advised her
17 that she must keep the rear door closed at all times.
18 She said it was warm inside the bar and was unaware of
19 the condition to keep the rear door closed.

20 I issued a notice of violation to the
21 bartender advising they were in violation of Long Beach
22 Municipal Code 5.08030, which is noncompliance with
23 provisions.

24 This concludes my enforcement summary.

25 MR. SANCHEZ: So, Miss Voss, just real quickly, if

1 you could look at tab number 6 in the exhibit book in
2 front of you, and there's a notice of violation and then
3 a citation on the second page of number 6. You see
4 those?

5 MS. VOSS: Yes.

6 MR. SANCHEZ: Are those the notice and citation
7 that you were discussing that you issued to Shot Callers
8 on July 21st and August 21st of 2011?

9 MS. VOSS: Yes, I issued both of those.

10 MR. SANCHEZ: And then looking at tab number 11,
11 is that the notice of violation that you issued to
12 Miss Yancey at Miko's Sports Lounge for operating
13 without a business license?

14 MS. VOSS: That's correct.

15 MR. SANCHEZ: And then looking at tab number 14,
16 is that the conditional business license you were
17 referring to earlier in your summary?

18 MS. VOSS: Yes, that's it.

19 MR. SANCHEZ: And then looking at Exhibit 15, is
20 that the notice of violation for having the rear door
21 open that you issued to the bar on or about, looks like,
22 April 24th, 2014?

23 MS. VOSS: Yes, it is.

24 MR. SANCHEZ: Okay. Thank you. I have nothing
25 further.

1 MR. CLOUGH: Were there any citations issued to
2 the Mackey Trust?

3 MS. VOSS: No, I did not issue a citation to the
4 Mackey Trust.

5 MR. CLOUGH: Nothing further.

6 MR. CERNYAR: What were the citations -- I'm
7 looking at a notice of violation. I can't read it too
8 well. Looks like it says -- I'm looking at tab 15. It
9 says April 24th, 2014; is that correct?

10 MS. VOSS: Yes. I'm looking at that one.

11 MR. CERNYAR: Okay. Is that the only violation
12 that you have for Miko's at this point?

13 MS. VOSS: Yes.

14 MR. CERNYAR: All right. Thank you.

15 MS. VOSS: You're welcome.

16 MR. SANCHEZ: And just one last question.

17 Looking at the conditional license, which
18 is tab 14, and those conditions, those conditions were
19 placed on the conditional business license for 180 days;
20 is that correct?

21 MS. VOSS: Yes, that's correct.

22 MR. SANCHEZ: And at the end of that 180 days,
23 which was approximately June 24th of 2014, unless there
24 was an objection from a department in the City, a full
25 business license would be issued to Miko's Sports

1 Lounge; is that correct?

2 MS. VOSS: Yes, that's correct.

3 MR. SANCHEZ: Okay. And at the time that the full
4 business license is issued to Miko's, the conditions
5 that are listed in the conditional business license no
6 longer apply?

7 MS. VOSS: I believe they no longer applied. I
8 would have to look at the business license, the original
9 business license. If it was printed on there, then the
10 conditions would stand. But I don't believe -- I
11 believe only the conditions up until the expiration date
12 of the conditional license --

13 MR. SANCHEZ: The one that was issued on
14 June 24th?

15 MS. VOSS: Correct.

16 MR. SANCHEZ: As long as there wasn't anything on
17 that business license that had a condition, any
18 condition listed on the business license --

19 MS. VOSS: That's right.

20 MR. SANCHEZ: -- it wouldn't be required?

21 MS. VOSS: Right.

22 MR. SANCHEZ: Okay. Was there any expectation
23 that Miko's continue to abide by those conditions?

24 MS. VOSS: We expected her to comply with those
25 conditions even though they weren't on her current

1 business license because then that would -- we wouldn't
2 receive as many complaints and the noise wouldn't cause
3 as much of an issue for the neighbors.

4 MR. SANCHEZ: Okay. And do you know if she
5 continued to comply with those conditions after the
6 business license was issued on June 24th of 2014?

7 MS. VOSS: No, she didn't.

8 MR. SANCHEZ: And how do you know that?

9 MS. VOSS: I hadn't been out there, but we had
10 received complaints in the office regarding the door
11 being left propped open.

12 MR. SANCHEZ: Do you know when that complaint was
13 received?

14 MS. VOSS: I don't know when, but we had been
15 receiving calls, and we were -- being we only work
16 during the day normally up until 6:30, we were going to
17 leave it up to the Police Department to monitor.

18 MR. SANCHEZ: Okay. Thank you.

19 CHAIRWOMAN VAN HORIK: Excuse me. We have a
20 question from Commissioner Templin.

21 MS. VOSS: Okay.

22 COMMISSIONER TEMPLIN: Thank you.

23 Just a clarification. It's kind of the
24 same time.

25 Your citations run through what

1 departments? Because I was looking after your
2 citations, there was a letter to Ronald and Peggy Mackey
3 from Peter Rosa, from the City. Are those connected?

4 MS. VOSS: I don't believe so. My citations go
5 through the City Prosecutor's office. Is that what you
6 were asking?

7 COMMISSIONER TEMPLIN: Yes, ma'am.

8 MS. VOSS: Right.

9 COMMISSIONER TEMPLIN: So that would be --

10 MS. VOSS: Yes.

11 COMMISSIONER TEMPLIN: -- a different issue
12 entirely?

13 MS. VOSS: I only issued one citation to the
14 business owner on that property. The other two were
15 notices of violations. So pretty much just written
16 warnings.

17 COMMISSIONER TEMPLIN: Thank you.

18 MS. VOSS: You're welcome.

19 CHAIRWOMAN VAN HORIK: Any other questions,
20 Commissioners?

21 COMMISSIONER TEMPLIN: Thank you.

22 CHAIRWOMAN VAN HORIK: You are welcome.

23 Commissioner?

24 COMMISSIONER CRUZ: Thank you. Just one question.

25 Does the property owner have to sign off on

1 a business license application?

2 MS. VOSS: No, they don't.

3 COMMISSIONER CRUZ: They don't?

4 MS. VOSS: No.

5 CHAIRWOMAN VAN HORIK: Thank you.

6 MS. VOSS: You're welcome.

7 CHAIRWOMAN VAN HORIK: I have a procedural
8 question.

9 Mr. Mais, several people have asked for
10 another recess. Should we wait until we've heard from
11 all of the City witnesses?

12 MR. MAIS: I believe Mr. Sanchez can confirm
13 there's two more witnesses. Approximately how much time
14 would that take?

15 MR. SANCHEZ: There's two left, and I believe
16 they're quick. I will promise I'll make them quick.

17 MR. MAIS: The court reporter indicates that would
18 work for her. So if we could do the last two witnesses
19 and then after that take a break and decide the rest of
20 the evening.

21 CHAIRWOMAN VAN HORIK: Thank you.

22 Go ahead, Mr. Sanchez.

23 MR. SANCHEZ: Thank you.

24 Like to call Nelson Kerr, please.

25 MR. KERR: Nelson Kerr, N-e-l-s-o-n K-e-r-r. I'm

1 the manager for the Bureau of Environmental Health with
2 the City Health Department.

3 MR. SANCHEZ: Thank you, Mr. Kerr.

4 Are you familiar with the location 710 West
5 Willow Street?

6 MR. KERR: Yes.

7 MR. SANCHEZ: In particular, a bar called Miko's
8 Sports Lounge?

9 MR. KERR: Yes.

10 MR. SANCHEZ: Okay. Did you receive a complaint
11 regarding that location?

12 MR. KERR: Yes. We -- my office did receive a
13 complaint regarding noise.

14 MR. SANCHEZ: Okay. And who made the complaint,
15 if you know?

16 MR. KERR: Make sure. I have a complaint from
17 Mr. Rick Oropeza.

18 MR. SANCHEZ: Okay. And looking at tab -- there's
19 that notebook in front of you -- tab number 20. It
20 looks like there's a letter addressed to Mr. Oropeza.
21 Has your name at the bottom.

22 Was that sent to him after he made the
23 complaint to your office?

24 MR. KERR: Yes. Yes, our process, if we receive a
25 complaint, we will copy the complainant to let them know

1 that we did send a letter out to the alleged offending
2 party.

3 MR. SANCHEZ: So I guess if you can explain to us
4 very briefly what your department does once it receives
5 a complaint regarding noise.

6 MR. KERR: Our department is designated to enforce
7 the City Noise Ordinance, which is LBMC 8.80. The
8 process of responding to noise issues is complainant
9 driven. So when we receive a complaint, we generally
10 will send out a letter to the alleged offending party
11 and let them know we've received a complaint and to
12 please abate it immediately if it's valid.

13 If we receive another complaint after two
14 weeks of the initial letter, we will then go out and do
15 a noise study or take a noise measurement.

16 MR. SANCHEZ: And in this situation, you indicated
17 that you sent -- well, Exhibit 20 is a letter that was
18 sent to Mr. Oropeza, but it refers to notifying the
19 business owner that the -- Mr. Oropeza was complaining
20 about.

21 So was a letter sent to Miko's Sports
22 Lounge?

23 MR. KERR: Yes.

24 MR. SANCHEZ: Was the letter sent to the property
25 owner, Mr. and Mrs. Mackey?

1 MR. KERR: Yes.

2 MR. SANCHEZ: And those letters, are they in
3 similar form as the one that's in Exhibit 20?

4 MR. KERR: Yes.

5 MR. SANCHEZ: Okay. After sending this letter,
6 did you receive another complaint for Miko's Sports
7 Lounge?

8 MR. KERR: Yes, we did.

9 MR. SANCHEZ: And when was that, if you can tell
10 us?

11 MR. KERR: I see, according to the record, that a
12 noise measurement was taken on January 17th, so I don't
13 have anything in the record that indicates that a
14 complaint was received. I don't have a date for the
15 complaint, but I see, according to the record, that we
16 did go out and do an actual sound measurement on
17 January 17th of 2015.

18 MR. SANCHEZ: Okay. And so looking at tab 21, if
19 you would, in the exhibit book, is that the letter that
20 was sent -- it looks like in this situation it was sent
21 to the Miko's location?

22 MR. KERR: Yes. That's the result of the noise
23 study.

24 MR. SANCHEZ: Okay. And then in that same letter,
25 it refers to Daniel Phillips.

1 MR. KERR: Yes.

2 MR. SANCHEZ: Is he the one that took the reading?

3 MR. KERR: Yes.

4 MR. SANCHEZ: And I think -- I'm not sure if you
5 were here earlier to hear Mr. Oropeza's testimony, but
6 he indicated that Mr. Phillips came to his home on a
7 number of occasions to take readings.

8 Did you hear that testimony?

9 MR. KERR: I did hear that testimony.

10 MR. SANCHEZ: So that is consistent with this
11 reading being taken in January 17th of 2015?

12 MR. KERR: Yes.

13 MR. SANCHEZ: And based on this, it looks like a
14 violation was found?

15 MR. KERR: Yes.

16 MR. SANCHEZ: Okay. Aside from the reading on
17 January 17th, 2015, were any other readings taken that
18 you're aware of?

19 MR. KERR: I believe there was a second -- another
20 visit in October of 2015, October 2nd, and that was the
21 night where Mr. Phillips was, I believe, in
22 Mr. Oropeza's residence for quite a while.

23 MR. SANCHEZ: So I'm looking at number 21, second
24 page. Is that -- looks like a report from a reading
25 taken on October 2nd. Is that what you're looking at?

1 MR. KERR: Yes. That's the October 2nd reading.

2 MR. SANCHEZ: So it --

3 MR. KERR: With the noise ordinance, we don't
4 measure for crowd noise or vehicle noise or, you know,
5 airport noise and so on. We were looking for amplified
6 sound coming from the bar, and at that point it -- on
7 the bottom of the page, it indicates that they were
8 unable to get a sound level measurement for the
9 amplified sound on that particular evening.

10 MR. SANCHEZ: Okay.

11 MR. KERR: However, he did observe the vocal noise
12 and the amplified music coming from moving vehicles, but
13 that was out of the purview of the Noise Ordinance.

14 MR. SANCHEZ: Okay. So a noise level reading
15 taken from, let's say, a car that's outside in front of
16 the house or in the alleyway wouldn't comply with the
17 Noise Ordinance?

18 MR. KERR: Correct. Not from a vehicle.

19 MR. SANCHEZ: Okay. And once the letter's sent
20 regarding the notice of first violation, what happens
21 after that?

22 MR. KERR: Typically we have to -- we would give
23 them that first notice, and we would need to arrange
24 again for a second study, and if it was in violation of
25 the Municipal Code Noise Ordinance, we would then refer

1 the matter to the City Prosecutor.

2 MR. SANCHEZ: But that did not happen in this
3 situation?

4 MR. KERR: No. It appears that we never were able
5 to get the second violation.

6 MR. SANCHEZ: Okay. Now, in addition, there was a
7 separate complaint not noise related involving Miko's
8 Sports Lounge; is that correct?

9 MR. KERR: Yes. Are you referring to the food
10 facility?

11 MR. SANCHEZ: Yeah. If you can look at
12 Exhibit 19, there's a document few pages long in
13 Exhibit 19. Or tab 19. Sorry.

14 MR. KERR: Okay.

15 MR. SANCHEZ: Do you recognize what that document
16 is?

17 MR. KERR: Yes. This is an official inspection
18 report from the Food Facility Inspection Program. The
19 Bureau of Environmental Health is charged through the
20 Health and Safety Code to inspect -- license and inspect
21 restaurants in the City of Long Beach.

22 MR. SANCHEZ: Okay. Now, is this something that's
23 done randomly, or is this also complaint driven?

24 MR. KERR: It's done on a routine basis, and also
25 we do respond to complaints.

1 MR. SANCHEZ: Okay. So both.

2 Do you know why this investigation took
3 place in relation to the report that's identified in tab
4 19?

5 MR. KERR: Yes. The report indicates that a
6 complaint was filed.

7 MR. SANCHEZ: Okay. And was a violation found as
8 a result of this investigation?

9 MR. KERR: Yes. There was a violation noted
10 regarding preparation and cooking of food in a facility
11 that's not properly equipped for that type of
12 preparation.

13 MR. SANCHEZ: Okay. And in that situation, what
14 does the Health Department do once it has investigation,
15 it conducts it and finds a violation? What does it do
16 next?

17 MR. KERR: Sure. If the violation is
18 substantiated, we will work with the property owner to
19 get the situation corrected and provide them an
20 opportunity to correct the violation and then come back
21 and verify that it's been corrected.

22 MR. SANCHEZ: So it looks like initial
23 investigation occurred on June 25th of 2014? Or
24 inspection. I'm sorry.

25 MR. KERR: Yes. I believe there was a prior

1 inspection in February where it was a licensing
2 inspection where similar violations were found.

3 MR. SANCHEZ: Okay. And then it looks like at
4 some point, there was an office hearing as a result of
5 the violations?

6 MR. KERR: Yes.

7 MR. SANCHEZ: And that occurred, if I'm reading
8 this correctly, in October, October 22nd, 2014?

9 MR. KERR: It appears that the October 22nd is a
10 request for office hearing, and the actual office
11 hearing occurred in November, on November 12th of '14.

12 MR. SANCHEZ: Okay. And following that office
13 hearing, what determination was made?

14 MR. KERR: Well, the office hearing basically
15 required that the person to -- the owner of the business
16 to obtain food only from approved sources and to operate
17 within the scope of their health permit.

18 Reading the report, it basically just says
19 that the Health Department is requiring Miko's Sports
20 Lounge, if they hire a caterer, that the caterer should
21 have a valid public health permit, the licensed caterer
22 kitchen must have a health permit in the jurisdiction
23 where the working kitchen is located, any food brought
24 into the food facility, if it's already prepared -- all
25 food needs to be brought in already prepared, as the

1 facility does not have proper equipment.

2 So essentially, we're just reiterating what
3 we have already told them prior.

4 MR. SANCHEZ: So did they -- did Miko's finally
5 come into compliance as a result of this investigation?

6 MR. KERR: I did not see any additional violations
7 regarding the two items that were listed.

8 MR. SANCHEZ: Okay. So as it stands now, there
9 aren't any outstanding violations at Miko's currently?

10 MR. KERR: There was an inspection conducted
11 recently there in October, and there still are -- there
12 are some violations in the facility. Not major
13 violations, but there still are some violations, and
14 there are violations concerning equipment which has been
15 previously noted.

16 So yes, there are equipment violations in
17 the facility, meaning that they need to use approved
18 equipment. We can't have -- there's -- if we have
19 domestic equipment that's not made for a food facility,
20 that's not allowed.

21 Or if we have equipment that requires sinks
22 and other things -- they're working beyond the scope of
23 their permit. In the last inspection, it did appear
24 that they did have some equipment violations continuing.

25 MR. SANCHEZ: Thank you. I have nothing further.

1 MR. CERNYAR: Thank you.

2 Good evening.

3 MR. KERR: Good evening.

4 MR. CERNYAR: On this letter, it looks like tab
5 21, you look at this letter dated January 29th, 2015,
6 and it's a First Notice of Violation. And I think the
7 measurement says there was a 55.7 dba; correct?

8 MR. KERR: Yes.

9 MR. CERNYAR: What's your knowledge on dba's?

10 MR. KERR: It's a decibel reading. That's an A
11 scale decibel reading, which is the scale that's listed
12 in our Municipal Code that we use to measure noise.

13 MR. CERNYAR: Okay. I'm looking here, and it says
14 to me a vacuum cleaner would be rated as 70. Is that
15 how you see it?

16 MR. KERR: Yeah. I'm not looking at the same --
17 I'd have to see what you're looking at. Sounds
18 reasonable.

19 MR. CERNYAR: Okay.

20 MR. KERR: But it's going to depend on the
21 distance that you are from the vacuum cleaner.

22 MR. CERNYAR: It says a quiet suburb is 50. Does
23 that sound reasonable?

24 MR. KERR: Sure.

25 MR. CERNYAR: Says a conversation in a restaurant

1 is 60. Does that sound reasonable?

2 MR. KERR: That's a fairly loud conversation.

3 MR. CERNYAR: Says a 60 is half as loud as a -- 60
4 is half as loud as a 70, and 70 is a vacuum cleaner.

5 MR. KERR: Okay.

6 MR. CERNYAR: Would you agree with that?

7 MR. KERR: The way we measure sound is on a
8 logarithmic scale, so it's not going to be -- we're not
9 just going to be able to half things. So it sounds
10 reasonable.

11 MR. CERNYAR: Okay. And a 50 is a quarter of a
12 70. Does that sound reasonable?

13 MR. KERR: Yes.

14 MR. CERNYAR: Okay. So we -- not we, but this
15 letter states that it was somewhere between a 54.5 and a
16 55.7; correct?

17 MR. KERR: Well, 55 was the standard that was
18 created for the noise study. The law is if it's after
19 10:00 o'clock, I believe the law in that area indicates
20 that the sound level can be 45 decibels, and then before
21 10:00 o'clock at night it's 50 decibels.

22 However, the ambient noise was louder than
23 the noise standard, so a new standard is created
24 according to the noise ordinance, and that new standard
25 was 55.

1 MR. CERNYAR: So we're saying somewhere between a
2 quiet suburb and a conversation in a restaurant, it's a
3 violation of law in Long Beach; correct?

4 MR. KERR: This is sound across a property line.
5 So it's the receiver is bearing the brunt of this sound
6 across their property line from whatever the source is.
7 So the source could be some distance away. But the
8 noise ordinance, it -- the measurement is from across a
9 property line.

10 MR. CERNYAR: Right now it's a little bit -- is it
11 after 10:00? So -- little bit before 10:00. This
12 conversation you and I are having on these microphones
13 would be in violation of Long Beach law; is that
14 correct?

15 MR. KERR: I don't know that to be true unless we
16 take a measurement.

17 MR. CERNYAR: Where would you rate this
18 conversation? Are we a quiet suburban conversation
19 right now, or are we a restaurant conversation? What
20 are we?

21 MR. KERR: I don't know how to quantify it.

22 MR. CERNYAR: Okay. You mentioned something about
23 violations for approved equipment. They were working on
24 what, a kitchen, or what are they working on?

25 MR. KERR: No. They have a bar.

1 MR. CERNYAR: A what?

2 MR. KERR: They have a bar --

3 MR. CERNYAR: A bar?

4 MR. KERR: -- without a kitchen.

5 MR. CERNYAR: So in the bar they have some
6 equipment that's not -- hasn't been approved; is that
7 correct?

8 MR. KERR: That's my understanding.

9 MR. CERNYAR: Do you know what that equipment is?

10 MR. KERR: I believe there was a fryer, and I
11 believe there was other equipment, too, that was not
12 approved. A fryer -- any equipment in a food facility
13 needs to be certified by an ANSI-certified agency,
14 whether that be UL or NSF.

15 Only commercial grade equipment is allowed
16 in a food facility, and a fryer without a hood is an
17 issue with us, as well as Fire Department and Building
18 Department.

19 MR. CERNYAR: It's difficult to find equipment
20 that's not UL, isn't it?

21 MR. KERR: Equipment for a restaurant has to be
22 specifically approved for that use.

23 MR. CERNYAR: Okay. Nothing further. Thank you.

24 MR. CLOUGH: Excuse me. Just so I can be clear on
25 a few things here. There was a sound measurement taken,

1 and you had indicated that there was some complaints
2 about noise from the bar that was -- Mr. Mackey was
3 notified of?

4 MR. KERR: Yes.

5 MR. CLOUGH: Okay. And that occurred on one
6 occasion through your office; correct?

7 MR. KERR: Yes. I believe a letter went out on
8 July 2nd of 2014.

9 MR. CLOUGH: And then Mr. Mackey, I guess, as a
10 matter of routine as the trust holder basically was
11 notified of that violation?

12 MR. KERR: That's correct.

13 MR. CLOUGH: Was anything -- did anything come of
14 that particular violation in terms of charging
15 Mr. Mackey with any improper activity, anything of that
16 nature?

17 MR. KERR: No.

18 MR. CLOUGH: Okay. Now in terms of the food
19 inspection complaint that was filed, was Mr. Mackey
20 notified of that?

21 MR. KERR: No.

22 MR. CLOUGH: I have nothing further.

23 MR. SANCHEZ: No other questions? If there's no
24 other questions, thank you, Mr. Kerr.

25 CHAIRWOMAN VAN HORIK: Hold on. I have a

1 question.

2 MR. SANCHEZ: Sorry.

3 CHAIRWOMAN VAN HORIK: Go to tab 21, the noise
4 report that was taken from across the alley. I just
5 want to understand these numbers. The calibration check
6 pre shows 113 and a half dba.

7 What is that, "calibration check pre"?

8 MR. KERR: That's just to ensure that the unit
9 that we're using, the machine that we're using to
10 measure the sound is properly calibrated.

11 CHAIRWOMAN VAN HORIK: Okay. And again, this has
12 already been discussed some, but I just want to
13 understand. What would you compare 54 dba to, you know,
14 in just a piece of equipment or whatever?

15 MR. KERR: Well --

16 CHAIRWOMAN VAN HORIK: Would it be a plane flying
17 overhead or what?

18 MR. KERR: In a machine shop, it would be around
19 75 or 80 decibels. So in a neighborhood, typically
20 we're going to have in the daytime 45 decibels -- I mean
21 50 decibels and at nighttime 45. So those are typical
22 values.

23 CHAIRWOMAN VAN HORIK: What does that mean in
24 practical terms? How can I compare 54 dba to noise?
25 You know, is there a machine? I'm just saying is it

1 equal to a vacuum cleaner running?

2 MR. KERR: A residential neighborhood at night at
3 45 decibels, that's about where you're at. So that's
4 fairly quiet. That same residential area in the daytime
5 is allowed to be 50 decibels. So I'm -- that's what the
6 standards are.

7 And if you can imagine what it is to be in
8 a neighborhood in the daytime in a residential area, in
9 a more commercial area, the standard is 60. So if
10 you're in downtown, the noise is going to be about a 60.
11 It's just a general ambient sound level.

12 CHAIRWOMAN VAN HORIK: Next to the source or just
13 out there?

14 MR. KERR: Just out there ambient.

15 CHAIRWOMAN VAN HORIK: Thank you.

16 You have a question from Commissioner
17 Templin.

18 COMMISSIONER TEMPLIN: Referring to the lawyer's
19 questions, why weren't charges filed and moneys obtained
20 for all the violations from the property owner?

21 MR. KERR: Because it's -- it appears that the
22 inspector is no longer working for the City, was not
23 able to get a second study and a second good
24 measurement. So that was -- it wasn't -- it didn't get
25 to the second study, so we didn't refer to the City

1 Prosecutor.

2 COMMISSIONER TEMPLIN: Thank you.

3 CHAIRWOMAN VAN HORIK: Mr. Sanchez.

4 MR. SANCHEZ: Yes. Like to call Mark Duerr to the
5 stand.

6 MR. DUERR: My name is Michael Duerr, first name
7 M-i-c-h-a-e-l, last name D, as in delta, u-e-r-r. I am
8 a Principal Building Inspector for the City of Long
9 Beach.

10 MR. SANCHEZ: Thank you, Mr. Duerr.

11 Are you familiar with 710 West Willow
12 Street?

13 MR. DUERR: I'm aware of it. I've never been in
14 it.

15 MR. SANCHEZ: Okay. Has there -- are you aware of
16 an inspection being done at that location in or about
17 2015?

18 MR. DUERR: Yes.

19 MR. SANCHEZ: Approximately September?

20 MR. DUERR: Yes.

21 MR. SANCHEZ: Can you tell us what that
22 investigation entailed? Or inspection. Excuse me.

23 MR. DUERR: Did you want to refer to a tab on
24 that?

25 MR. SANCHEZ: I'm looking at number 25 in

1 Exhibit E.

2 MR. DUERR: Okay. Under 25 it is administrative
3 citation warning. Prior to that, there was a notice of
4 inspection posted on site by Mr. Oscar Marquez, a
5 building inspector for the area. I don't know where
6 that is in your tab.

7 MR. SANCHEZ: And what did --

8 MR. DUERR: Two weeks. It was two weeks prior to
9 this letter being sent out, posting this site to address
10 the fact that there was work going on on site without a
11 permit.

12 MR. SANCHEZ: Okay. And was that inspection done
13 -- what was the date you said again? I'm sorry.

14 MR. DUERR: I believe that was September 9th is, I
15 believe, when that was.

16 MR. SANCHEZ: And as a result of that inspection
17 on September 9th, 2015, there were some violations that
18 were noted?

19 MR. DUERR: Yes. It was noted at that time that
20 there was some work, walls being constructed in the back
21 of the bar. Some rework somehow or another was going
22 on.

23 MR. SANCHEZ: Okay. And why was that a violation?

24 MR. DUERR: It's a violation of Long Beach
25 Municipal Code to commence any work without having a

1 building permit unless it's exclusively exempted.

2 MR. SANCHEZ: Okay. And as a result of that
3 inspection and finding that in violation or those
4 violations, was the letter that's identified in tab
5 number 25 sent out to the Ronald and Peggy Mackey Trust?

6 MR. DUERR: Yes, it was. The notice that was
7 posted on site gave direction to obtain the permit
8 within ten days. At the conclusion when no permits were
9 obtained, no contact or anything came about, we sent out
10 the administrative citation warning giving direction to
11 the trust of Mr. and Mrs. Mackey to respond within 30
12 days.

13 MR. SANCHEZ: Okay. And just looking at the --
14 after the letter, looks like there's a form on there.
15 Is that just a courtesy form application for the permit?

16 MR. DUERR: Correct. What we try to do is give
17 them direction to obtain permit, but also give them the
18 forms necessary to ease the process to obtain the
19 permit.

20 MR. SANCHEZ: And do you know if the property
21 owner, the Mackey Trust, ever contacted the business
22 license department? Not business licenses. The
23 Building Department. Excuse me.

24 MR. DUERR: We were not contacted verbally or by
25 mail.

1 MR. SANCHEZ: And if you're not contacted within,
2 I think you said, the 30 days as the letter indicates,
3 what happens next?

4 MR. DUERR: Typically we start fining at a
5 thousand dollars a month.

6 MR. SANCHEZ: Did that happen in this situation?

7 MR. DUERR: It did not.

8 MR. SANCHEZ: Okay. Did another inspection occur
9 at the location following this letter of September 23rd,
10 2015?

11 MR. DUERR: There was another follow-up
12 inspection by the same inspector, Mr. Marquez, May 20th
13 of 2016, giving them a second chance to come in and get
14 a permit, putting him on second notice.

15 MR. SANCHEZ: So if you can go to tab 38 on your
16 -- on that exhibit book in front of you, is that the
17 notice of violation that you're talking about?

18 MR. DUERR: Yes, it is.

19 MR. SANCHEZ: And you said that notice was posted
20 at the property?

21 MR. DUERR: Yes.

22 MR. SANCHEZ: Okay. And it looks like -- well,
23 was this for the same violations?

24 MR. DUERR: Same scope of work, same violation,
25 correct.

1 MR. SANCHEZ: Has the Building Department received
2 any response as a result of the posting of this
3 citation?

4 MR. DUERR: No, they have not.

5 MR. SANCHEZ: Is there any reason why the Building
6 Department has not taken any action in relation to this
7 property?

8 MR. DUERR: Because of current processes, all the
9 departments coming together is the only reason why the
10 fines were not sent out. All these processes were all
11 being accumulated.

12 MR. SANCHEZ: And as of today's date, has there
13 been any submission by either the property owner or the
14 business owner for any building permit?

15 MR. DUERR: No. There are no permits on file for
16 this.

17 MR. SANCHEZ: Thank you. I have nothing further.

18 MR. CLOUGH: If I may, you had indicated that
19 there is walls -- there were walls being constructed in
20 back of the bar?

21 MR. DUERR: Yes.

22 MR. CLOUGH: Is that what you're referring to?

23 MR. DUERR: From what we understand, to create a
24 storage room.

25 MR. CLOUGH: Okay. And what did that consist of?

1 Was there walls going from floor to ceiling in a spaced
2 area of some sort?

3 MR. DUERR: From the pictures that were provided
4 to the department, it was, yes, walls being constructed
5 in the back. An area was -- appeared to be, like, a
6 wall was removed to where this was created. I don't
7 know the exacts to say which -- how it all came about,
8 but the way -- what the inspector witnessed was talking
9 about plumbing and electrical, as well, along with this
10 wall being constructed.

11 MR. CLOUGH: Was this in relation to a bathroom?

12 MR. DUERR: We don't know.

13 MR. CLOUGH: Okay. And let me ask you this. Are
14 you aware of the current condition of the property?

15 MR. DUERR: No, I'm not.

16 MR. CLOUGH: Are you aware of whether or not any
17 of this has not been -- or has not gone forward?

18 MR. DUERR: I'm aware that no permits have been
19 obtained.

20 MR. CLOUGH: I understand that, but let's assume
21 -- you did give a notice; correct?

22 MR. DUERR: Correct.

23 MR. CLOUGH: Assume it was abated? Do you know --

24 MR. DUERR: No.

25 MR. CLOUGH: -- one way or the other?

1 MR. DUERR: No. No assumption there.

2 MR. CLOUGH: Okay. So there's no indication
3 either way whether or not they're still in violation?

4 MR. DUERR: They're still in violation.

5 MR. CLOUGH: Is the violation for not going
6 forward when you told them not to?

7 MR. DUERR: They're in violation for doing work
8 without a permit.

9 MR. CLOUGH: What work was done without a permit?

10 MR. DUERR: A wall or walls were removed and this
11 wall was constructed. Some other plumbing or electrical
12 work was performed, as well.

13 MR. CLOUGH: Did you talk with Mr. Mackey, the
14 owner of the building, about this?

15 MR. DUERR: No. With the tenants inside. I saw a
16 note on one of the notices that had a name of Damon, and
17 I don't know who that is. The first notice that was
18 posted had a name of Damon with a phone number.

19 Typically, the inspector would write
20 someone who can contact and call back.

21 MR. CLOUGH: Would it be fair to say that
22 basically the contacts that you did have with the people
23 at the bar were with the people that were running the
24 bar?

25 MR. DUERR: The notices on site, correct. Not the

1 administrative citation warning.

2 MR. CLOUGH: Okay. But after the administrative
3 warning was issued, isn't it correct to say that further
4 contact was, in fact, in this case with the operator of
5 the bar?

6 MR. DUERR: Correct.

7 MR. CLOUGH: Okay. And is there any indication
8 that the owner of the bar had contacted the owner of the
9 building and said, oh, I'm not going to comply?

10 MR. DUERR: No.

11 MR. CLOUGH: Okay. Nothing further. Thank you.

12 MR. CERNYAR: I have a couple questions for you.

13 In regards to this work that's being
14 completed or not completed, you don't know specifically
15 what it is?

16 MR. DUERR: I know specifically by looking at the
17 pictures that were provided.

18 MR. CERNYAR: And where are those photographs now?
19 Were they submitted for this hearing?

20 MR. DUERR: They're in the computer upstairs.
21 Mr. Sanchez --

22 MR. SANCHEZ: They're not included in any exhibit
23 in that exhibit book.

24 MR. CERNYAR: Okay. And you said the first
25 violation you saw was in September 2015?

1 MR. DUERR: Correct.

2 MR. CERNYAR: Okay. And there was some type of
3 work being done, but no one ever came in and applied for
4 a permit?

5 MR. DUERR: That is true.

6 MR. CERNYAR: Okay. Do you know if anybody has
7 come in and applied for a permit within the past 30
8 days?

9 MR. DUERR: Nobody has come in and applied for a
10 permit at this address.

11 MR. CERNYAR: How do you know that?

12 MR. DUERR: Review of the computer system.

13 MR. CERNYAR: Now, is there a process where you
14 can come in and apply for a permit and they say, well,
15 you don't have this, you don't have that, you don't even
16 get into the computer?

17 MR. DUERR: There is a possibility, yes, where
18 they would walk in the door with nothing in hand,
19 they're not providing any information at all. Then we
20 would send them out the door to get some information for
21 us, a drawing or something to help us help them, yes.

22 MR. CERNYAR: Is there a possibility someone came
23 in with a drawing but wasn't adequate enough and you
24 sent them back?

25 MR. DUERR: There is a possibility, but typically

1 the staff will work with them to try and get them to
2 some end means to get it to where we can work with them.

3 MR. CERNYAR: So you're not certain whether
4 anybody actually came into the office or not? There's
5 just nothing in your computer; is that correct?

6 MR. DUERR: There's nothing in the computer,
7 correct.

8 MR. CERNYAR: Thank you.

9 MR. SANCHEZ: I don't have any further questions,
10 unless any Commissioners have a question.

11 CHAIRWOMAN VAN HORIK: I don't see any queued up.
12 Commissioners?

13 No, there's no more questions from the
14 Commissioners.

15 MR. SANCHEZ: Thank you, Mr. Duerr.

16 The City has no more witnesses. We are
17 completed in terms of presentation.

18 CHAIRWOMAN VAN HORIK: Thank you.

19 At this time we've exhausted the court
20 reporter, I believe. We're going to take a ten-minute
21 break. It's 10:25, and so come back at 10:35, please.

22 (Brief recess.)

23 CHAIRWOMAN VAN HORIK: Okay. Our session is
24 officially resumed. And at this time, I believe we will
25 start hearing from witnesses for the defense.

1 MR. CERNYAR: Thank you.

2 My first witness will be Dede -- there she
3 is -- Dede Yancey.

4 CHAIRWOMAN VAN HORIK: Could you provide your name
5 and --

6 MS. YANCEY: My name is Dede Yancey or Damitresse
7 Yancey, D-e-d-e, last name Yancey, Y-a-n-c-e-y.

8 CHAIRWOMAN VAN HORIK: Thank you.

9 MS. YANCEY: Uh-huh.

10 I am the owner of Miko's. I just wanted to
11 talk a little bit about when I first opened.

12 I had to meet with the whole City. I had
13 to meet with the police, the man here that was in the
14 wheelchair, the business director. Had to meet with
15 everybody before I opened, and I thought that was just
16 unusual because when you open a business, why do you
17 have all this attention on you before you even get
18 started?

19 So I met with all of them. They gave me
20 conditions to leave back door closed, post loitering
21 signs, no loitering signs, and to -- they asked me if I
22 wanted to get security, if they could hook their
23 security cameras up to my cameras.

24 I did tell them no with the cameras, but I
25 did everything else because I did not want my POS system

1 to be compromised with the hooking up with IP addresses.

2 I only had one IP line, so I didn't want my
3 credit card and my ATM stuff to be compromised, so I
4 told them no. If it was mandatory, then yes, I would do
5 it. If it was just a little program you guys were doing
6 at the time -- they told me it was a program and it
7 wasn't required by all bars to do it.

8 So I just told them, no, I would not do
9 that. I wasn't gonna do that part.

10 So I opened up, like Miss Voss said. My
11 first citation was the Health Department. I did not
12 obtain my certificate from the Health Department because
13 they never came out.

14 So they said they called -- I called them,
15 and they came out and inspected, and I got my
16 certificate.

17 Then next was my bartender had the door
18 cracked open because at the particular time, we had air
19 conditioning problems. So I was there, and she said,
20 "Can I crack the door a little bit? I'm going to be
21 cleaning, and I just need air."

22 She had put a little stick in the door. It
23 was cracked this much. It was cracked this much, and
24 she put the stick in the door. And right after she did
25 that, Miss Voss came.

1 We opened the bar at 11:00 o'clock.

2 Miss Voss got there at 11:45. So technically, the bar
3 really wasn't open. She was still cleaning and doing
4 all that. So that was my first citation. But anytime I
5 come into a violation, I always come into compliance.

6 I actually work for the State of
7 California. I license daycares, but it was to keep the
8 daycare people in compliance. So I know about being in
9 compliance.

10 What else did I need to say?

11 I have a lot of pictures here from when I
12 first opened, how the facility looked when I first
13 opened, how it looks now, how I was -- not gonna say I
14 was harassed. How I was cited based off of foolery.

15 I was cited based off of -- I got a
16 citation here, citation warning notice here for having a
17 sign in the front too long. It went past the 60 days,
18 so they gave me a citation. They sent it to Mr. Mackey
19 and they sent it to myself.

20 Mr. Mackey then called me and said, "Dede,
21 you gotta fix the citation."

22 I said, "We took the sign down."

23 But it was a little more than that. Not
24 only was the sign still up, but I had to remove some
25 adhesive tape on the back of the wall from when the

1 Sandbar sign fell. He gave me a citation, said I'm in
2 violation because it's adhesive tape on the wall and I
3 needed to put it back in its natural state.

4 So I went through that. We just painted
5 over it, and then it said I cleared the violation.

6 I have pictures here where all the
7 businesses next-door to me have the same adhesive on
8 their wall, but they did not get a citation. They
9 didn't get anything. I was the only one, just like
10 Mr. Mackey's lawyer said.

11 After we cleaned up the back, all the
12 businesses paved the back. We were the only one out of
13 all the businesses to get sued for the handicapped.

14 It has never been -- have a picture right
15 here. Have never been no handicapped in this business
16 lot since it's been here, the 40 years. I'm born and
17 raised in Long Beach. This has been here. I've been
18 here 52 years, so this been here about the same time.
19 Never been any handicapped parking in the back. None.

20 But when I get there, they sue Mr. Mackey
21 and say he need to put handicapped. Well, put
22 handicapped with the dentist office. Put handicapped at
23 the barber shop. Don't just have me do handicapped.

24 I have pictures here where we don't have
25 handicapped. I have pictures here that show when I

1 first started I did have to put signs up, you know, for
2 whatever, but the neighbors here went on a crusade to
3 tell all the other businesses don't allow her to park
4 here.

5 So now all these businesses right here show
6 no signs that say no parking, none of them, no parking.
7 It wasn't until I got there where Mr. Ricky went to the
8 dentist office and told the dentist put no parking signs
9 up, please, put no parking signs up and we'll handle.
10 Don't let them park there.

11 They went a whole crusade so I couldn't get
12 my additional parking spaces, even though I could get
13 the parking spaces across the street verbally. That's
14 what I was told.

15 I got the parking spaces. The man across
16 the street got in trouble by the City. They said
17 because of me, he got cited because he had a lot of junk
18 in the parking lot, and that's not true.

19 I have my cleanup person go across the
20 street, clean up, clean up the throw up, clean up
21 whatever. We never really had that much throw up, we
22 never really had that many bottles, but if you put too
23 many conditions on my paper work, I cannot clean it up.

24 If I can't empty trash after 7:30, how am I
25 going to clean up when we close the bar? If I can't go

1 outside, if we can't throw out trash, if we can't throw
2 out anything, how am I going to clean up? I can't clean
3 up until the morning. Right?

4 So I'm trying to obtain the parking spaces.
5 I can't. I had one -- I'm going to step off from my
6 little thing to tell you about this parking space thing.

7 I had one incident one night where Ricky
8 called the tow truck driver. The tow truck driver said
9 he called 11 times -- 11 times -- to say they're
10 illegally parked at his business.

11 Now, he live in a house on the other side.
12 That dentist office is not his business. So I came out
13 and asked the dentist -- I mean the truck driver, I
14 said, "Well, who called?"

15 And he said, "Somebody named Ricky."

16 I said, "No, he lives over there. That's
17 not his."

18 So the tow truck driver got upset. He
19 actually came in the bar and got a drink. He said, "I
20 don't even understand what just happened."

21 So while they're outside my customers come
22 out now because they're in a panic, they don't want
23 their cars towed away, and this other lady here with the
24 white hair comes to the corner, stands on the corner and
25 calls the police and say they outside loitering.

1 So I just want to say everything that you
2 hear them saying is not like that. A lot of things they
3 did was a setup. They set me up for failure.

4 They talk about -- no one knows what
5 happened with ABC. They sent ABC, called ABC. I went
6 to ABC. I had a meeting with them in regards to the
7 nuisance. ABC came with undercovers 16 times. Whoever
8 filed a complaint know this. They came 16 times and
9 found nothing. Nothing.

10 But you don't see none of this in their
11 reports. All the nuisances is their nuisances. They're
12 the nuisance, not us. They're causing more of a
13 nuisance than anybody else.

14 I could go forward and say if you guys want
15 to see pictures --

16 MR. MAIS: Miss Yancey, if you want to give the
17 pictures to the clerk, she'll pass them around.

18 MS. YANCEY: Okay. When I started my business,
19 like I said, this was a business I wanted to do for my
20 dad. I told my dad I was going to open up a turkey
21 burger stand and a bar 'cause he loves my turkey
22 burgers.

23 So at this point in time, I am working for
24 the State of California, I purchased a bar, and I'm
25 taking care of my sick dad.

1 I didn't have a lot of time to be at the
2 bar. I didn't. But I had people that was actually
3 there that was helping me because they knew I did have
4 to take care of my dad.

5 When they were saying they called me and I
6 didn't show up, I was probably out looking for my dad
7 because he wandered out of the house. If it was ever a
8 time that they called me and I was late, I probably was
9 at work because I did work late at my job because I did
10 license daycares.

11 So I was never neglecting them. I talked
12 to Ricky one time. We was texting back and forth. He
13 texted me, said these people are outside doing this,
14 they doing that, what are you going to do about it?

15 At that time, he didn't even know I was
16 sitting in the parking lot at the bar and I watching
17 what he was saying, and it was nothing that he was
18 saying. It was a white truck, like he said, but there
19 was not a couple fighting.

20 It was actually two guys that got out of
21 their truck and walked across the street to the bar.
22 They wasn't even talking. But he didn't know I was
23 outside in the back.

24 So my thing is, is a lot of this stuff
25 fabricated? Yeah, it is, and it's gonna be because they

1 just don't want the bar there. If they don't want the
2 bar -- okay, when I first met with them, 'cause I did,
3 they told me to -- Ricky -- forgot the lady's name --
4 Ricky, Skeeter and young lady right here with the white
5 hair told me to -- they met me in the bar at 7:00.

6 They told me to only stop the people from
7 parking on Maine street. That's all we spoke about. We
8 didn't speak about nothing being loud. In their little
9 notes they said the music was on loud and I didn't do
10 anything to curtail it. The music was not even on when
11 I came in there.

12 We walked to the backside and we talked. I
13 told them there's really nothing I can do about stopping
14 the people from parking on Maine street because that's a
15 public street, but anything else you ask me, I will try.
16 I will try my best to get it into compliance.

17 Because I also live in the neighborhood.
18 And that's bad thing about it. This is -- I grew up in
19 the neighborhood, too. My neighbors have parties every
20 night. Do I call the police on them? No. Should I?
21 Yeah, but I'm not because it's just a way of life.

22 Sure, can a bar be a nuisance? It can, but
23 it's not like what they're saying it is. It's not like
24 every day I close at 2:00 o'clock, I close at 2:00
25 o'clock just to irritate them and I'm outside talking

1 loud.

2 Ricky said I came outside and I told him to
3 F you. I don't even cuss. But when he said it, I know
4 you heard everybody go -- because I don't cuss. I
5 cussed when I was in tenth grade, got kicked out of
6 school, so I never cussed again.

7 I don't have to speak to any of them like
8 that. I'm not that type of person. I'm just trying to
9 run a business.

10 And my bar, everybody -- I have it like
11 it's a family atmosphere. This is a neighborhood bar.
12 We're the neighbors they never seen before. We're the
13 neighbors that go somewhere else in LA. We're in LA
14 because we don't have a bar to go to. We like to stay
15 at our home base, too. We don't have that.

16 We have people that's back here right now
17 that live on their block, but they don't know it because
18 they're not part of the Maine street crew. I live on
19 37th. Sure, it's far from there, but it's close enough.

20 Let me see what else.

21 As far as my citations for the storage
22 room, as the young man said, I knocked down a false wall
23 in the kitchen. It was a false wall. I wanted to see
24 what was behind the wall that led to the kitchen, so I
25 had a guy come and knock it down.

1 Once he knocked it down, it made the other
2 wall unstable. So now the wall is unstable. I had to
3 put something back up there so it wouldn't fall on the
4 customer. So I was trying to keep the customers safe,
5 so I just told the guy to put the wall up and we'll get
6 the permits after because I just wanted it to be safe.

7 So we tried to go get the permits. Well, I
8 actually wasn't here when I got cited. I was in Puerto
9 Rico. I was in Puerto Rico when we got cited. So they
10 called me and told me, "Dede, we got a citation, you
11 gotta do this, this and that."

12 I sad, "Do whatever we have to do."

13 They said, "Well, they told us to get
14 permits or quit."

15 So we quit. We haven't done anything since
16 September when the first citation came. We haven't done
17 anything. We haven't even cleaned up the dust that's in
18 there because we don't want no problems.

19 So the dust is still there, the wall is up,
20 and I tried to get permits. I have documentation where
21 I got sign off for the Planning Department. The
22 Planning Department signed off when I took my permits
23 into the fourth floor, to the fifth floor because
24 Planning's on the fifth floor.

25 Planning Department signed off. My next

1 step was go to Building and Electric, so I went there
2 and they turned me back. They said, well, you have to
3 do this, this.

4 I went back, and they turned me back. So I
5 got a different person to go. Every time I went, they
6 made me come back. So I just said forget about it, we
7 just won't do nothing until we could find somebody that
8 could actually do it.

9 So Mr. Mackey's son Shawn said, "Dede, this
10 is what I do, so I'll help you."

11 I said, "Okay."

12 He got me some guys out from Sherman Oaks.
13 They looked at the floor plans that I had, they looked
14 at everything, they said there was nothing they could
15 do, we just have to go submit the documents, and that's
16 where we are right now. That's the point where we are
17 right now where we're gonna go submit the documents.

18 So am I trying to be in compliance? Yeah.
19 I don't know nothing but to be in compliance.

20 The conditional use permits. I have a
21 stack of conditional use permits here. Lori said I had,
22 like, 18. I actually have more than 18. I have, like,
23 about a kabillion. But every time I would apply for a
24 conditional -- every time I applied for -- what is it
25 called? OEP.

1 It's past my bedtime.

2 When I apply for that, I applied for it
3 many a times, and I wasn't even open. I just applied
4 for it because I would talk to Mr. Mallory, Bill
5 Mallory, and he said, "I don't know what you're doing at
6 your bar, but these people need to stop calling me.
7 They call me every day, 'Did she get a permit, did she
8 get a permit, did she get a permit?'"

9 I would go spend 50 bucks just to get a
10 permit to see what's gonna happen. I would sit in the
11 office and I would watch the police at both ends of the
12 alley, and I wouldn't even have anything going on.
13 Nothing. No deejay, anything. I wouldn't have any. I
14 just got a permit.

15 Was sitting in the bar one day. The police
16 come running in the bar. We got a call there was a
17 fight in there. And we all just looked. It was about
18 six people in the bar. Said, "No, they're just playing
19 pool."

20 Because I have a pool league on Monday
21 night. I have a pool league that comes on Monday night
22 and play pool, so they were in there. I have a team I
23 represent, and they compete against other local bars,
24 and they play every Monday.

25 So when the police came in, they were,

1 like, is this a safe place for us to be? Why are the
2 police coming here?

3 They got a call that it was a fight.

4 I had an incident where Ricky had a party
5 for three days. All my customers told me to call the
6 police because he was blaring his music. That was one
7 weekend that there was no calls for service 'cause he
8 having a party.

9 The Mariachi bands came from up in the
10 middle of the alley. The kids was out in the alley on
11 their skateboards, playing football. He blocked all the
12 parking spaces from the dentist office to the barber
13 shop. He blocked all the parking spaces so his family
14 could park right there.

15 I didn't have a problem with it. I didn't
16 say nothing to him, do you enjoy yourself, I'm not gonna
17 rain on your mother's parade, none of that.

18 But no police was called that day for
19 service. Friday morning -- Saturday morning he turned
20 the music on sky high in the morning. Sunday morning,
21 he did the same thing. Valentine's Day, he ran across
22 the street and cuss the lady out because she open the
23 flower shop, "You can't open the flower shop," because
24 cars was parked on the street.

25 The thing about it is you buy a house by

1 commercial property, you gotta expect a lot of people
2 come that way.

3 The City Attorney, I talked to him after he
4 talked to Mr. Mackey one day. He said to me, "The
5 neighborhood wants a neighborhood bar." And every way
6 that he said that, I felt offended because I am from the
7 neighborhood.

8 I am really offended because I have
9 security there, and they think it's my brother and my
10 cousins or whatever. I don't know those security. I
11 hired them. I don't know them. They're not related to
12 me. We are not related.

13 In every way I feel offended by this whole
14 thing because I feel like -- I don't want to say it, but
15 I feel like it's a black thing, even though we're
16 diverse. See how diverse we are? We're missing one
17 player over here on this side, and that's Skeeter.

18 So I got -- let me see. Oh, I have my
19 letter from ABC, when ABC did their thing if you guys
20 want to see that.

21 Did you need me to say anything else,
22 Mr. Michael?

23 MR. CERNYAR: I had a couple questions for you.

24 MS. YANCEY: Okay.

25 MR. CERNYAR: What are you doing now in terms of

1 security?

2 MS. YANCEY: Right now I have -- I have
3 implemented two security at 7:00 o'clock and one that
4 comes at 10:00 based on the recommendations from the
5 Police Department.

6 The first recommendations they had was I
7 needed one security for 50 people. Now I have two
8 security people coming in at 7:00 o'clock, and they're
9 securing themselves because there's nobody in there.

10 So I'm there because I'm coming into
11 compliance. This is what they're asking for. The City
12 asked me to give them -- the City asked me to give them
13 a security plan.

14 I called Detective Barajas and asked her,
15 "What is it that you're looking for?"

16 She said, "Just give me what you got."

17 And I said, "Well, it's the same as the one
18 I submitted with my entertainment permit."

19 Contrary to what she said here earlier, I
20 never submitted that other security plan. It's one
21 attached to my entertainment permit.

22 So when I took the paper work to
23 Mr. Koontz, I gave him security plan -- I gave him
24 parking lease agreement that I did for one day and the
25 floor plans for the business. Then those were the

1 things they asked me to give, and I gave those by the
2 date.

3 After I gave those items to Mr. Koontz, a
4 City inspector came into the building and re-cited me
5 for the kitchen that no work has been done to. He
6 re-cited me based off of a telephone call he did.

7 He called whomever and he said, well,
8 you're doing -- I was talking to him on the phone. I
9 said, "We haven't done anything since last year."

10 He said, "Yeah, well, you're still out of
11 compliance."

12 I said, "You guys told us to cease or get
13 permits." So we ceased all work on that kitchen, we
14 haven't done anything else, but I got my third citation
15 so -- because two complaints were generated off of them
16 from their camera, and they seen the guy taking debris
17 out. Two complaints was generated, two different
18 inspectors came out, got cited twice, but you don't guys
19 don't have the paper work. And then when they sent the
20 one to come back.

21 So --

22 MR. CERNYAR: My next question to you would be
23 since the August 9th meeting, there have only been three
24 or four service calls to your facility, which is almost
25 three months.

1 MS. YANCEY: Uh-huh.

2 MR. CERNYAR: Why the change?

3 MS. YANCEY: Because Ricky moved. I think he even
4 -- when he moved, he called and did one for the road
5 because nobody -- it was the people in the alley, the
6 officer, 'cause I was actually -- I was standing
7 outside.

8 The officer said, "There's nobody out here
9 but the clowns down there," which was the liquor store,
10 and they're making noise. That's all it was.

11 Then the other call was somebody up the
12 block. Somebody was on their door turning their
13 doorknob. What did that have to do with the bar? I
14 don't understand.

15 MR. CERNYAR: Then my next question to you, the
16 person that moved in Mr. Oropeza's home, have you met
17 him?

18 MS. YANCEY: I have met him.

19 MR. CERNYAR: Are you two getting along?

20 MS. YANCEY: We getting along wonderful. Me and
21 his roommate, I talk to his roommate all the time.
22 He's, like, a photographer, and he does little odds and
23 ends. I talked to -- I forgot his name.

24 But me and him talked in regards to my
25 brother's in a wheelchair. He's in a wheelchair. He

1 had a bike, so I asked him who made that.

2 We had a lot of discussions for this
3 hearing. He gave me some information in regards to
4 their cameras because I guess they're trying to get in
5 touch with him for the cameras. But he changed the
6 Internet provider so they can no longer look at the
7 cameras, but he said he just don't want to get involved.

8 And he does not hear anything from the bar
9 'cause I asked him, "Are we bothering you? Are we doing
10 okay?"

11 MR. CERNYAR: And is he here today?

12 MS. YANCEY: He is not here today because he said
13 he didn't want to be involved.

14 MR. CERNYAR: But he did receive a notice?

15 MS. YANCEY: He did receive a notice. He talked
16 to me about receiving a notice. I did not go to him.

17 MR. CERNYAR: All right. You mentioned the POS.
18 That's point of sale; is that correct?

19 MS. YANCEY: Yes.

20 MR. CERNYAR: And that's on your system, and you
21 claim your system is secured right now?

22 MS. YANCEY: Yes.

23 MR. CERNYAR: And you did not want to open it up?

24 MS. YANCEY: No. I did not want to be like Target
25 and Home Depot.

1 MR. CERNYAR: Tell us why that's important to you.

2 MS. YANCEY: Because I want everybody to be
3 comfortable and be able to use their credit cards at my
4 business. I don't want nobody to think they're gonna
5 get robbed or anything like that while they're there.
6 I'm about safety.

7 MR. CERNYAR: Tell us a little bit -- we saw a
8 video earlier that had about 13 -- had about 13 dates on
9 that video, 13 different dates.

10 Were those dates pretty much in line with
11 the occasional entertainment permits?

12 MS. YANCEY: They could be because every time I
13 got an occasional use permit, they called the police.
14 They called the police every time at the same time as if
15 to say we're gonna call, so if you do get an
16 entertainment permit or if whatever, you're gonna have
17 to cease operating at 10:00 o'clock, 11:00 o'clock,
18 because we're gonna keep calling at this time. We're
19 gonna keep calling.

20 I'm sorry, but I had the nuisance guy, he
21 came to the bar on a number of occasions.

22 MR. CERNYAR: What inspector guy?

23 MS. YANCEY: The nuisance guy, Ronca. He came to
24 the bar and told me, "This is a nuisance, we need you --
25 I need to look at your cameras because Ricky said

1 somebody peed in his yard and then cussed him out at
2 10:00 o'clock."

3 I said, "Okay, come on in."

4 Me and him sat there, me, him and my
5 brother sat there. We looked at the cameras. We looked
6 at it from 9:00 o'clock 'til 11:00 o'clock. We were
7 closed at the bar, so we wasn't really even there. We
8 had just opened probably about 9:30, maybe 10:00 because
9 we was at a, I guess, 4th of July party or something.
10 We were somewhere else, so I closed the bar.

11 When we looked at the cameras, the only
12 thing we saw was Ricky dropping his family off at the
13 front and then going to go park. The back door to the
14 bar never opened. There never was anybody outside at
15 the bar.

16 That was the last time I heard from
17 nuisance guy.

18 MR. CERNYAR: Let me ask you about your hours.
19 What are your hours right now?

20 MS. YANCEY: Right now Monday -- Monday through
21 Tuesday I open about 2:00, and I close -- if the pool
22 league is playing, we probably close about 12:00. On
23 Tuesday we usually close, give or take, about 10:30.
24 After the have and have nots go off, we usually close
25 about that because we watch, like, TV. We watch, like,

1 reality TV, and when it goes off, we go home.

2 MR. CERNYAR: And what about the other days?

3 MS. YANCEY: Wednesday, probably, like, about
4 11:00, 12:00, same thing. Close early on the weekdays.
5 Thursday I may stay open 'til probably, like, 12:00.

6 Friday, of late I've been closing early on
7 Friday. I've been closing probably, like, 1:00, 12:30,
8 because now my bartender wants to go to after hours
9 somewhere else, so she wants to close early.

10 MR. CERNYAR: And what about Saturday and Sunday?

11 MS. YANCEY: Saturday it's the same thing. The
12 only time it will be something, if I have an event. And
13 an event consists of -- I had a wedding reception there
14 last Saturday, and it started at 4:00. They just came,
15 did a toast and left.

16 MR. CERNYAR: And what about these fliers that are
17 going around. Are you issuing fliers?

18 MS. YANCEY: I do not issue fliers. I do fliers
19 for my own business. Like, if I'm gonna have Super Bowl
20 event, I'm going to do Super Bowl event and I'm going to
21 post it myself.

22 If somebody has a party at my place and
23 they're having a birthday party, I cannot stop them from
24 making a flier and say come to Miko's, I'm having my
25 birthday celebration.

1 It's not posted on my page. I didn't post
2 it. I am responsible for posting on my page, and
3 nothing goes on my page without me knowing it. They
4 might put it in the comment section, but that's not me
5 putting it in there.

6 MR. CERNYAR: And you mentioned that you have some
7 construction that stopped on the inside. Have you met
8 with anybody for any future plans to that?

9 MS. YANCEY: I did. I actually had -- I met with
10 Bar Rescue.

11 MR. CERNYAR: What is that?

12 MS. YANCEY: I met with Bar Rescue last Thursday.

13 MR. CERNYAR: What is Bar Rescue?

14 MS. YANCEY: They come in and fix your bar, fix it
15 up to -- if you have any problems or anything like that.

16 MR. CERNYAR: And what did they offer to help you
17 with?

18 MS. YANCEY: They offered to help me with the
19 sound, 'cause it's already -- building's already
20 soundproofed. You really can't hear it unless the door
21 open.

22 So they offered to help me with the
23 soundproof, the stereo, the kitchen, anything. Anything
24 I asked for, they asked to help.

25 I showed them the letter for the hearing.

1 I showed them that. I showed them -- 'cause that same
2 day the Health Department did come in, and we got cited
3 because my bartender had the water in the sink wrong.
4 Wash, rinse, rinse, she had that wrong.

5 And I didn't have a fryer. I have a
6 microwave that's a house microwave is what he said. And
7 then I have napkins. My napkins dispenser is over
8 there, and the sink is over there, so they want me to
9 put it closer.

10 So I told them -- they said we could use
11 sanitizer and paper towels. So that's what we had
12 available, but he said, no, you can't use that even
13 though they approved it prior to. Little things like
14 that, they said they'll help me.

15 MR. CERNYAR: Is there any reason whatsoever that
16 you want to keep this community away from the bar?

17 MS. YANCEY: No. I'm from the community. They
18 can come. Anybody is more than welcome.

19 MR. CERNYAR: Let me ask you this. Councilman
20 Uranga, have you tried to contact him?

21 MS. YANCEY: Yes, I have. After we left the
22 hearing, not so much myself, but one of my little road
23 workers tried to call him each day, and I kept asking,
24 did you get in contact? He's in Sacramento, he's here,
25 he's there.

1 Him and Dee Andrews, they tried to get in
2 contact with both of them because both of them say they
3 would work for me on what I needed to do to come into
4 compliance.

5 MR. CERNYAR: Now, do you have any ideas how to --
6 for the community? I notice -- if you were to sit down
7 with them, what would you propose?

8 MS. YANCEY: Propose as far as what?

9 MR. CERNYAR: Parking, fix parking, noise.

10 MS. YANCEY: I could -- you know, like I said, I
11 could propose us having the parking and the parking
12 across the street, but what's gonna be hard for me to do
13 is get them to sign a lease agreement.

14 No one is going to sign a lease agreement
15 for fear that the City is going to retaliate on them.
16 That's it, and that's all. I got one guy to do it, but
17 he is no longer there 'cause his boss, I want to say,
18 retaliated on him, so he's no longer in that business.

19 So I could either -- I could hear you.

20 I could either -- I can't have my security
21 say, well, you can't park in front of their houses.
22 Like I said, the best thing I could say is save some
23 money by calling the police and permit the street at
24 night. As much as it cost to permit the street is about
25 how much money you spent on having the police come out.

1 Permit the street at night.

2 MR. CERNYAR: One second.

3 MS. YANCEY: Okay.

4 MR. CERNYAR: Have you fixed that back door?

5 MS. YANCEY: What back door?

6 MR. CERNYAR: The back door issue about coming
7 through the back door.

8 MS. YANCEY: I spoke to Lieutenant Barajas, and
9 what I said to her in our conversation is on days I
10 don't have security, will it be all right if my lady
11 customers go out of the back door? Because I don't have
12 cameras to watch them walk all the way around.

13 We don't have nothing to see that they're
14 walking around that block, but I could see everything in
15 the back. I sit in the office, I can see everything in
16 the back, except for that man trying to kill himself. I
17 didn't see that. But I could see all that in the
18 cameras.

19 MR. CERNYAR: What do you know about the man that
20 tried to commit suicide?

21 MS. YANCEY: Absolutely nothing. That wasn't even
22 brought to my attention. The man trying to commit
23 suicide was not brought to my attention. This is the
24 first I hear it.

25 The young man that got stabbed in the

1 front, he did not get stabbed in front of the building.
2 He got stabbed next-door, and he ran in back into the
3 bar. He ran into the bar for safety.

4 MR. CERNYAR: What time was that?

5 MS. YANCEY: I don't know. I had left. I think I
6 left, like, about 9:30, 10:00 or something like that,
7 and it happened after that because I had talked to him
8 in the back and told him to go home. He was a young
9 Filipino guy.

10 MR. CERNYAR: Were any other businesses open at
11 that time?

12 MS. YANCEY: No.

13 MR. CERNYAR: So you're the only business that
14 was --

15 MS. YANCEY: I'm sorry. I lied. Sorry.

16 MR. CERNYAR: What's that?

17 MS. YANCEY: I lied. Yeah, the laundromat was
18 open, I think, because that's where he went. That's --
19 the person who attacked him supposedly came from the
20 laundromat.

21 MR. CERNYAR: And then what about the murder that
22 you know about?

23 MS. YANCEY: Nothing. I was at home. I left that
24 night probably around midnight, and once I got home I
25 got a call probably about 3:00 -- between 3:00 o'clock,

1 maybe 4:00 in the morning from the police, and I was to
2 come and meet with them when I open in the morning to
3 discuss so they could look at the cameras.

4 MR. CERNYAR: Okay. And did you show them the
5 cameras?

6 MS. YANCEY: I showed them the cameras, and I also
7 instructed them to go to another bar because that's
8 where I believe the incident took place. It started at
9 another bar, and they came over to Miko's.

10 MR. CERNYAR: Explain that to me.

11 MS. YANCEY: There's another bar on the west side
12 that has 6,000 calls for service every day, and that's
13 where they were at. Then they came to Miko's, like,
14 about -- 'cause I said I left at about midnight.

15 So about 12:30, 1:00 from just me
16 remembering the cameras, they came about that time
17 because someone was having a birthday party. Someone
18 was having a birthday party. They came over to the
19 birthday party.

20 There never was a fight inside the bar at
21 all. Never. And the police saw that, they had -- they
22 got the cameras. There never was a fight. I don't have
23 sound, but they said it was a verbal altercation.

24 How did they know that? How could you
25 hear? I don't have sound. But when they went to the

1 other bar, they said they saw -- got more information of
2 what really happened.

3 MR. CERNYAR: Okay. And are you currently working
4 with the City to fix things?

5 MS. YANCEY: I'm trying to work with the City, but
6 if they -- whatever they ask me, I'm gonna do it. The
7 thing about it is -- I say this one other thing.

8 They listed here that I got a ticket. I
9 had to go to court. I had to go to court March the 14th
10 for violations that I committed January the 7th. I
11 committed a violation January the 7th. Undercovers came
12 in, and I got a violation.

13 I got a ticket February 20th for having a
14 deejay without a permit. I'll take that one. I'll take
15 that one because I told the officer, yes, I have a
16 deejay. He gave me a ticket.

17 I got a letter in the mail from the
18 Prosecutor's office that told me to show up to court on
19 March 14th for I don't know what. I assumed it was for
20 the ticket that I got February 20th.

21 It wasn't until I met with the prosecutors
22 that I realized I got a ticket -- undercovers was in the
23 building, and they cited me.

24 My whole thing is if you cite me, tell me.
25 Don't let it be a surprise. So you could -- you came in

1 here January the 7th. You wrote me a letter and told me
2 to show up to court March the 14th. If I never would
3 have got that other ticket, I never would have
4 understood what I was going to court for.

5 Then I go to criminal court. You send me
6 to criminal court for a deejay. Come on now. People
7 getting stabbed and killed every day. They don't even
8 go to criminal court for that.

9 MR. CERNYAR: And when's the last time you walked
10 up and down Willow Street?

11 MS. YANCEY: Today.

12 MR. CERNYAR: Was there a lot of trash on Willow?

13 MS. YANCEY: Yes, there was a lot of trash on
14 Willow.

15 MR. CERNYAR: Is that coming from your bar?

16 MS. YANCEY: No, it is not.

17 MR. CERNYAR: And do you sell alcohol by the
18 bottle?

19 MS. YANCEY: No, I do not.

20 MR. CERNYAR: There has been some talk that people
21 have been drinking outside your bar. Do you allow
22 drinks to go outside your bar?

23 MS. YANCEY: No. I actually have signs posted
24 that said no outside liquor. Can't bring your own
25 liquor in here, and don't take my liquor outside. If I

1 see you outside with it, I do remove you from the bar,
2 and you can't come back.

3 MR. CERNYAR: Okay. Do you have any idea where
4 people would be getting the liquor?

5 MS. YANCEY: From the liquor store on the corner,
6 I'm going to assume. Albertsons is up the street, too.
7 Don't know.

8 MR. CERNYAR: I have nothing further.

9 MR. CLOUGH: I have nothing.

10 CHAIRWOMAN VAN HORIK: No questions from staff?

11 MR. SANCHEZ: Miss Yancey, you saw the video
12 earlier?

13 MS. YANCEY: I saw that.

14 MR. SANCHEZ: Okay. In any of those scenes that
15 were in the video, scenes that were taken and put
16 together, did you see any of your security --

17 MS. YANCEY: I did.

18 MR. SANCHEZ: And how is your security dressed?

19 MS. YANCEY: He had a Miko's shirt on, and he had
20 on all black. He had an "M" logo on his shirt.

21 MR. SANCHEZ: And what is he doing out there?

22 MS. YANCEY: Moving them along. Standing there
23 moving them. He was a very tall guy, and he was moving
24 them along.

25 MR. SANCHEZ: All right. So in any of those

1 scenes, do you see him telling people to quiet down?

2 MS. YANCEY: I can't say that because I -- they
3 were louder than he could have been. He doesn't talk
4 that loud.

5 MR. SANCHEZ: And do you see him telling any of
6 the patrons that are depicted in the video to turn down
7 their car stereos?

8 MS. YANCEY: I just seen him telling them -- I
9 seen him doing this. That's all I saw.

10 MR. SANCHEZ: And in the video scenes that are
11 depicted along Maine Avenue, do you see any security out
12 on the street telling people to move along?

13 MS. YANCEY: No, I do not. My security was told
14 that they are to secure the front of Miko's and the back
15 of Miko's and not to worry about the residential side --
16 I mean not the residential, but the other side right
17 there.

18 But we usually always try to keep people up
19 because that smoking is, like, in the front. So we
20 usually try to keep people up close to Willow.

21 MR. SANCHEZ: Okay. And you saw the scenes where
22 people were drinking out of their trucks and out of
23 their cars. Did you see that in the scenes?

24 MS. YANCEY: I saw people, but I didn't know what
25 they were doing.

1 MR. SANCHEZ: Do you want me to play it back
2 again?

3 MS. YANCEY: If you want to.

4 MR. SANCHEZ: Is it possible if we could play the
5 video?

6 Pause it. Thank you.

7 So you said, Miss Yancey, that you were
8 told that you are not responsible or you're not to have
9 security out on Maine Avenue?

10 MS. YANCEY: Yeah. You heard the officers
11 yourself. They said to have security in the front and a
12 security in the back.

13 MR. SANCHEZ: Okay. And that's why you don't have
14 any security that's monitoring Maine Avenue?

15 MS. YANCEY: They monitor the front part of Miko's
16 and the back part. That was it, their instructions. So
17 I have one in front, one in the back and one in the
18 inside.

19 MR. SANCHEZ: And, you know, there's a number of
20 scenes similar to this one with -- from this angle where
21 there are a number of people just standing around on
22 that street in that area and, you know, basically
23 loitering, and you don't think you have any
24 responsibility to take care of having people, you know,
25 get in their cars and move along?

1 MS. YANCEY: I could, but I was told to put my
2 loitering signs in the back.

3 MR. SANCHEZ: All right. So you're only concerned
4 about the loitering directly behind your establishment?

5 MS. YANCEY: I'm standing to compliance what the
6 police asked me to do. They asked me to have security
7 in the front and security in the back. Post no
8 loitering signs on the back of your building. I even
9 posted one in the front on the door.

10 MR. SANCHEZ: So if I'm understanding you
11 correctly, do you even question that the people that are
12 parking along Maine Avenue in this area here are your
13 bar patrons?

14 MS. YANCEY: They could be. Sometimes people just
15 come just to see other people. Some of those people
16 don't even go in. Like that cat that was cussing him
17 out, I have a dress code. You can't come in the bar
18 like that.

19 You have to be 30 and older to come in the
20 bar. A lot of these people aren't 30, so they can't
21 come in the bar unless I say you can come in the bar.

22 MR. SANCHEZ: Okay. So if I'm understanding that
23 correctly, then if they're coming to see someone at your
24 bar and they're there to see someone that's going to
25 your bar and they don't qualify to get into your bar

1 based on your standards, you're not going to let them
2 in?

3 MS. YANCEY: Right.

4 MR. SANCHEZ: Let's just say those people or that
5 particular person is going to wait for whoever they went
6 to meet at the bar, and they're parked on one of these
7 streets and they're going to wait. And, you know,
8 they're gonna either put their music on, maybe drink a
9 beer, do whatever they have in their car until that
10 person comes out.

11 I mean, so in other words, you don't think
12 that's your responsibility for someone that --

13 MS. YANCEY: It could be my responsibility. It's
14 at a time in their recordings, and I know they have me
15 coming out telling people to get out, chasing people off
16 up and down the street because that's what I do.

17 I tell people get out from behind the back.
18 You can't hang out over here. These are people that go
19 to another bar on the west side, and they're allowed to
20 hang out and drink in front of that bar.

21 I don't allow them to come into my bar or
22 in the parking area and do the same. That's why they're
23 not there. It's not like I'm not trying to stop them
24 from doing whatever.

25 I have people that refuse to come to the

1 bar based off of I would not let them in or I would not
2 let them be outside smoking or drinking or any of that.
3 So what you're asking me about right here, this happened
4 last year. It's not happening now.

5 MR. SANCHEZ: Okay.

6 MS. YANCEY: Because I fixed it. And that's what
7 this is about. This is about coming into compliance.

8 MR. SANCHEZ: Right.

9 MS. YANCEY: Right.

10 MR. SANCHEZ: And I'm trying to understand this.
11 Based on what you just told me, you being in compliance
12 doesn't relate to handling people that are along Maine
13 Avenue?

14 MS. YANCEY: I do now. I go out there. Couple of
15 my customers go out there. When we go out there, we
16 tell them get out from the side of the bar or come in.
17 I don't allow hanging out.

18 MR. SANCHEZ: And I know you're at the bar a
19 majority of time, but you're not there all the time?

20 MS. YANCEY: Yeah, I am.

21 MR. SANCHEZ: And for instance, you indicated the
22 night that there was a shooting, you left early?

23 MS. YANCEY: I left and I went home.

24 MR. SANCHEZ: So it falls on whoever works for you
25 or really your security to handle that?

1 MS. YANCEY: Uh-huh.

2 MR. SANCHEZ: So I have every belief that when
3 you're out there and you go out and you patrol the area,
4 things get cleared. I don't doubt that at all. The
5 problem is when it's not you.

6 MS. YANCEY: Okay.

7 MR. SANCHEZ: And like you said, you can't be
8 everywhere at the same time, and that means it falls on
9 your security?

10 MS. YANCEY: Okay.

11 MR. SANCHEZ: Is that correct?

12 MS. YANCEY: Right.

13 MR. SANCHEZ: So now we're talking about mostly
14 late night hours because I assume that you go home
15 earlier than closing time?

16 MS. YANCEY: No, I do not. I close the bar. I
17 close the bar.

18 MR. SANCHEZ: So I'm assuming since you do close
19 the bar that you have a lot of duties other than going
20 out and checking the perimeter?

21 MS. YANCEY: I open and I close the bar. I open
22 the bar in the daytime. I just now gave my staff keys
23 so they could come in and open it. I was responsible
24 for opening it and closing it, so I would be there every
25 day 'til it closed.

1 That's why I said sometimes we close at
2 10:00. Sometimes we close at 11:00. Sometimes I'm
3 there 'til 3:00. I open and I close it, but now they're
4 just now getting the responsibility of closing it
5 themselves.

6 So when I leave I give them my key,
7 security. I'm leaving, here's my key, lock the bar up.
8 That's what happened the night -- no. The night of the
9 shooting, I had a manager there on site.

10 MR. SANCHEZ: Okay. Well, I'm more -- I'm more
11 focused on what your security is doing on evenings that
12 are, like, depicted in these videos.

13 MS. YANCEY: Okay.

14 MR. SANCHEZ: That's what I'm really focused on.

15 MS. YANCEY: Okay. I'm pretty sure he was in the
16 front.

17 MR. SANCHEZ: You can go ahead and restart the
18 video, please. Sir, can we pause, please?

19 MS. YANCEY: He's not back there.

20 MR. SANCHEZ: So no security is back there now?

21 MS. YANCEY: He's not back there, no.

22 MR. SANCHEZ: You can go ahead and resume, please.

23 MS. YANCEY: Can I say something?

24 MR. SANCHEZ: Hold on.

25 MS. YANCEY: This was in October of 2015. Now

1 they make sure people get in their car and pull off.

2 That's what I'm saying.

3 I'm working on resolving things. I'm not
4 just letting it go like this. I have security back
5 there when people get in their cars now and make sure
6 they get in their cars and pulling off.

7 MR. SANCHEZ: Okay. You can go ahead and restart.

8 MS. YANCEY: Say something?

9 MR. SANCHEZ: Pause it a second. Can we pause?

10 MR. KOONTZ: Pause the video.

11 MR. SANCHEZ: Pause, please.

12 Yes?

13 MS. YANCEY: When that guy was saying, "Say
14 something now, Homey"?

15 MR. SANCHEZ: Right.

16 MS. YANCEY: I probably had, like, about six
17 customers that said to me that Ricky have accosted them
18 out in the front walking up the street. I had one
19 customer that said it was a couple on the ground, and he
20 said, "Pick that up, you guys gonna be closing in a
21 minute anyway because you gonna get out of here."

22 The picked it up and he literally brought
23 the cup in the bar. He was, like, "The neighbor told me
24 to pick this up. I didn't even do it. I never dropped
25 this."

1 He stands outside, and he starts a lot of
2 stuff literally. He acting all innocent, crying and
3 everything. He starts a lot of stuff with the
4 customers. I think they mess with him on purpose
5 because I tell them leave him alone, and he just -- he's
6 out there peeping over the fence, setting up cameras and
7 little tape recorders over the fence and every which
8 one. That's gotta be eavesdropping.

9 MR. SANCHEZ: So Miss Yancey --

10 MS. YANCEY: Yes, sir.

11 MR. SANCHEZ: -- you know he lives right behind
12 your building?

13 MS. YANCEY: I know he lives right behind.

14 MR. SANCHEZ: And you know even just on these
15 videos that with this sound, giving every benefit of the
16 doubt to everything, it's really loud. And I'm looking
17 at the time there, and it's, like, 1:40 in the morning.
18 Okay?

19 If that were happening at your home or in
20 any home, couldn't you empathize with Mr. Oropeza's
21 situation?

22 MS. YANCEY: I could.

23 MR. SANCHEZ: Wouldn't it be reasonable -- you'd
24 have to admit it would be reasonable for him to be very
25 frustrated and upset; wouldn't you agree?

1 MS. YANCEY: Ask me that again. I didn't hear
2 you.

3 MR. SANCHEZ: Can you put yourself in his shoes?

4 MS. YANCEY: Okay.

5 MR. SANCHEZ: And wouldn't it be reasonable for
6 him to be upset seeing -- I mean, there's a video right
7 after this where some ladies are actually peeing on his
8 lawn.

9 MS. YANCEY: Uh-huh.

10 MR. SANCHEZ: I mean, wouldn't he be entitled to
11 be upset in that type of a situation?

12 MS. YANCEY: He could be entitled to be upset,
13 yes.

14 MR. SANCHEZ: Okay. And so you're -- we're
15 explaining things that are depicted in the video, and it
16 sounds like you're putting blame on Mr. Oropeza for
17 starting a lot of these complaints, that he's bringing
18 them on himself. That's what I'm hearing.

19 MS. YANCEY: No, that's not what I'm saying. He
20 has been out there and started some of the things with
21 some of the customers because they're walking down the
22 street. Just like I said, he ran across the street to
23 the corner over there and told the flower shop lady you
24 can't open a flower shop.

25 MR. SANCHEZ: Okay.

1 MS. YANCEY: That's what I'm saying.

2 MR. SANCHEZ: So is there anything else you wanted
3 to say on this video or anything like that?

4 MS. YANCEY: No, I'm good. I'm good.

5 MR. SANCHEZ: I'm just trying to get to the part
6 where there's drinking. Can you just play it one more
7 time real quickly, please?

8 MS. YANCEY: Those are the people that usually
9 come drink at the bar on the west side. None of them
10 come into my bar anymore because of what they're doing
11 right here. That one right there, he don't even walk no
12 more. Right?

13 MR. SANCHEZ: But we're still in 2015, and I don't
14 see any security there.

15 MS. YANCEY: That's in the daytime. That's -- I
16 wasn't even there, that I was still at work. Was I
17 there?

18 COMMISSIONER TEMPLIN: It's during the day.

19 MR. SANCHEZ: So looks like it's 6:40 on a
20 Saturday.

21 MS. YANCEY: Oh. Maybe I was at home asleep.

22 MR. SANCHEZ: Okay. I mean, there's other
23 instances -- I'm not going to play --

24 MS. YANCEY: I understand that, but you don't
25 understand what I just said. People that did that are

1 no longer coming in the bar. I ban them from the bar.

2 I banned people from the bar literally.

3 MR. SANCHEZ: Okay.

4 MS. YANCEY: Because if you can't go by what I'm
5 saying going on in this bar, then you can't be in here.
6 That's it, and that's all.

7 MR. SANCHEZ: Okay. There were some conditions
8 that were placed on your business license initially --

9 MS. YANCEY: Uh-huh.

10 MR. SANCHEZ: -- which were maintain the back door
11 being closed, you had the loitering signs up, and then
12 comply with the noise ordinance?

13 MS. YANCEY: Uh-huh.

14 MR. SANCHEZ: And then after your regular business
15 license was issued in June, did you continue to comply
16 with those conditions?

17 MS. YANCEY: I continue to comply with them now,
18 yes.

19 MR. SANCHEZ: Because since the bar -- since you
20 got your license in June, and you've heard here all the
21 calls for service have continued. You had a noise
22 complaint probably a couple weeks later based on sound
23 coming out and complaints regarding the rear of the bar
24 and people coming in and out of the rear door of the
25 bar?

1 MS. YANCEY: Uh-huh. I go into the bar from the
2 back door. I leave out the back door. When I leave
3 out, the alarm is on the back door, so I leave out of
4 the back door. I go in, I go through the back door
5 because the alarm is on the back door.

6 I come and go through the back. I park in
7 the back. That's where my parking is.

8 MR. SANCHEZ: Okay. I understand that.

9 MS. YANCEY: Okay. So if I walk out of the door
10 and the jukebox is on, yeah, the sound is gonna come
11 out. But it's not boom, boom, boom sound for hours.
12 It's just when the door is open and when it's closed.

13 MR. SANCHEZ: Okay. But again, I mean, we see in
14 the video, too, people coming in and out through the
15 back door. It wasn't you.

16 MS. YANCEY: Right.

17 MR. SANCHEZ: And it continued to be a problem.

18 MS. YANCEY: Right.

19 MR. SANCHEZ: Okay?

20 MS. YANCEY: Is it a problem now though?

21 MR. SANCHEZ: What do you mean?

22 MS. YANCEY: Is it a problem now? Do we have any
23 problems with it now?

24 MR. SANCHEZ: Well, are you talking about calls
25 for service?

1 MS. YANCEY: In and out the back door?

2 MR. SANCHEZ: I think the complaints have
3 continued to come in regarding the noise from the bar
4 and the loitering activity up until, you know, summer,
5 summertime of this year. So I'm not sure when you're
6 talking about.

7 MS. YANCEY: I'm talking about now. Is it going
8 on now? What is summertime of this year? Summer is
9 year-round.

10 MR. SANCHEZ: Okay. You -- or Miss Tonette
11 Kadrmas testified about a meeting she had with you
12 regarding the bar and the complaints regarding the
13 complaints from the bar, and since -- I think it was
14 either February or March of 2014 when you first opened?

15 MS. YANCEY: Uh-huh.

16 MR. SANCHEZ: They haven't spoken with you about
17 any of the complaints or there hasn't been any contact
18 with the neighborhood since then?

19 MS. YANCEY: No. The neighborhoods -- I went to a
20 -- Martin Luther King Day parade was in Long Beach on
21 Martin Luther King. I went to a function that the
22 Wrigley association had on Christmas Tree Lane, and they
23 said businesses come out. Some cat was barbecuing.

24 So me and my friend, my staff, Priscilla,
25 we went out there. We took a table. I took some

1 glasses. You know, I took some stuff to give away to
2 meet the neighborhood.

3 The couple of the people came up and were
4 very receptive. "Hi, I'm Dede, I own Miko's," blah,
5 blah, blah. It was one lady that looked at me, rolled
6 her eyes, told the other lady, "Well, I'm going to meet
7 you at Bono's tonight because we gotta talk about this."

8 So yes, I went to that. I went to another
9 meeting at the Fox's, Fox Coffee House. When I stood up
10 and introduced myself again, they all rolled their eyes
11 at me again.

12 So my thing is they don't want me -- they
13 don't want me to be a part of their community. I was --
14 when I was sitting in that community planning thing
15 where they're trying to beautify Willow, Blair was there
16 from Bixby Knolls.

17 Blair came to me and asked me how was
18 everything going at Miko's, because I introduced myself
19 to Blair because I was going to be in Bixby Knolls
20 first.

21 I said, "Everything is going fine."

22 And he said, "I know you're having a lot of
23 problems with the neighbors because they can't come
24 together as one, and they're going to continue to bother
25 you."

1 He literally told me that. And I said, "If
2 I could find something in your area I'll be over there
3 because I'm not really doing anything wrong in the
4 community, and the community just doesn't want me
5 there."

6 And I'm from Wrigley. I'm not gonna keep
7 saying that. I live there, too. It's not just your
8 community. They've been there 40 years. I'm gonna say
9 it again. I'm 52. I've been here 52 years. I've been
10 here all my life.

11 MR. SANCHEZ: So -- and I'm only talking about the
12 immediate neighborhood that's, you know, behind your bar
13 because really that's the neighborhood that's being
14 affected by this.

15 MS. YANCEY: Okay. I met with her twice. I met
16 with her, Skeeter, and I want to say somebody named
17 Miss Greenwood or Greenfield. She was running for
18 Council. And I met with Mr. Uranga.

19 So I went with Mr. Uranga to meet them at
20 Starbucks in Albertsons, and we talked about what my
21 plans was for the bar, and I basically told them I just
22 want to be like a little Spaghettoni's. I said that.

23 Because all I promised my dad was I was
24 going to open up a place and cook turkey burgers, and
25 that's all -- I don't have a nightclub.

1 This entertainment thing they're talking
2 about, yes, I did apply for entertainment with dancing.
3 I only did that because I didn't want the City to come
4 in and say to me, like they said to other bars, your
5 patrons cannot be in here dancing because you don't have
6 a dancing permit.

7 I actually received an entertainment permit
8 from the City in error, and I posted it. And I still
9 have it.

10 MR. SANCHEZ: Okay.

11 MS. YANCEY: With dancing.

12 MR. SANCHEZ: So --

13 MS. YANCEY: I know.

14 MR. SANCHEZ: So it's been since 2014 that you've
15 even met with any of the residents?

16 MS. YANCEY: No. I went to that thing at Fox's.
17 I went to that --

18 MR. SANCHEZ: Okay. Were any of the residents
19 that are here at the Fox's thing?

20 MS. YANCEY: Yep. She was there because she was
21 the one rolling her eyes at me.

22 MR. SANCHEZ: So the people that are having the
23 problem with your business are the people that are
24 living adjacent to here. So -- and what I'm hearing is
25 you're going to a general meeting of the Wrigley

1 association that's not specific to the problems you're
2 having. The people that are complaining are the
3 neighborhood that I'm talking about.

4 Have you met with the people that are
5 complaining?

6 MS. YANCEY: Yes, went to a Wrigley association
7 meeting also.

8 MR. SANCHEZ: Other than that?

9 MS. YANCEY: No. The one time they came in.

10 MR. SANCHEZ: Okay.

11 MS. YANCEY: The one time they came in the bar.

12 MR. SANCHEZ: And that was over -- well, two,
13 almost three years ago?

14 MS. YANCEY: They haven't met with me, but they
15 been having meetings with the City on how to shut me
16 down. I never was invited to any of those meetings. As
17 many meetings as they had, I should have been invited to
18 at least one where I was the topic of their
19 conversation.

20 I never was invited to one of those
21 meetings with the police, the City Council, nobody, and
22 they were talking about me and my business.

23 MR. SANCHEZ: Okay. So you know the police made
24 some recommendations about the camera system, and you
25 couldn't do it because it was tied into your credit card

1 thing.

2 They also made a recommendation about the
3 security guards, and you didn't implement that right off
4 the bat when they --

5 MS. YANCEY: Yes, I did. I've always had security
6 guards.

7 MR. SANCHEZ: I know. And they recommended you
8 had three, one for the back, front, and then to handle
9 whatever's happening inside.

10 MS. YANCEY: I had that.

11 MR. SANCHEZ: Back in 2014 when they first
12 recommended it to you?

13 MS. YANCEY: No. What they asked me to do was
14 have one per 50 people. One per 50 people. I had one
15 in the front and one in the back. I did that myself.

16 One of my security guards got threatened
17 outside by the neighbors, and he quit. He just quit.
18 He said, "They're not gonna be cussing at me like that."
19 So he just quit, so I had to find another security
20 guard.

21 MR. SANCHEZ: Okay.

22 MS. YANCEY: I've always had three security guards
23 on Friday and Saturday always.

24 MR. SANCHEZ: Thank you, Miss Yancey.

25 MS. YANCEY: You're welcome.

1 CHAIRWOMAN VAN HORIK: Is there anyone else from
2 the staff that would like to question this witness? And
3 how about -- Commissioner Templin?

4 COMMISSIONER TEMPLIN: Yes, ma'am.

5 MS. YANCEY: Yes.

6 COMMISSIONER TEMPLIN: Which one of those people
7 are the security guard?

8 MS. YANCEY: He's not in that picture. That says
9 it's on a Saturday, but from looking at the cars that's
10 there and the bartender and these people, that's a
11 Wednesday. Because that bartender works one day, and
12 her car is right there, and she work Wednesday at 6:00
13 o'clock, and those people came from Tailgate on the west
14 side because that's where she used to work, so she
15 brought them over there with her. She ain't there no
16 more either.

17 That's not on Saturday. That's on a
18 Wednesday.

19 COMMISSIONER TEMPLIN: I'm more familiar with
20 building and all that.

21 MS. YANCEY: Okay.

22 COMMISSIONER TEMPLIN: I can understand maybe
23 starting something without a permit, but when you were
24 told you needed a permit and it was, like, September of
25 2015, how come it's taken so long?

1 MS. YANCEY: Like I said, I went in and I got --
2 okay.

3 I have Mr. OC draw my floor plans. OC drew
4 my floor plans incorrect, so he came back and drew them
5 again. So when I got into this little pickle, OC's
6 daughter then came to turn in the floor plans, which
7 that's what she did. But she tried to charge me double,
8 double for what I had already paid her dad for an
9 incomplete job.

10 So she submitted the first initial paper
11 work to Planning. Then I told her I wouldn't pay her
12 because she was charging me 250 every time she went to
13 the building, when I know they're all on the same floor.
14 You go to one place, then you wait and go to the next
15 place, then you wait and go to the next place.

16 She was leaving, coming back and then
17 charging me each time she went to the building. So I
18 said, no, I don't need that.

19 So I got somebody else, and he was from
20 Victorville, so he really didn't know the process. So I
21 paid him to go down there, and he said, "Well, you gotta
22 go to the Health Department."

23 But he didn't know what he had to do, so I
24 was walking him through what he needed to do, and that
25 didn't work. So everybody I sent down there just was

1 not able -- they went to submit the paper work, but they
2 came back.

3 I submitted it to Mr. Koontz with the notes
4 that the Building person had wrote what we needed to do.
5 We needed something mechanical. They said we had to do
6 some drawings that was mechanical.

7 But I did go down to submit it. My option
8 was to pull permits or cease the work. So when I
9 couldn't pull the permits, I just ceased the work. I
10 didn't do anything else.

11 COMMISSIONER TEMPLIN: I thought on the citation
12 it said you still had to -- because you had done work
13 involving removing a wall?

14 MS. YANCEY: Yeah. They told me to either pull
15 the permits or cease the work.

16 COMMISSIONER TEMPLIN: Okay. I've done them a
17 different way.

18 MS. YANCEY: No. This is what he told me, to pull
19 the permits or to cease the work, so I ceased the work.
20 And I haven't done anything to that room since.

21 COMMISSIONER TEMPLIN: Okay. So it's still in
22 that --

23 MS. YANCEY: It's still in that, yes. I put my
24 Santa Claus decoration in there though. That's the only
25 thing. Right?

1 COMMISSIONER TEMPLIN: Okay. I can't believe the
2 City let it go on for a year --

3 MS. YANCEY: Right.

4 COMMISSIONER TEMPLIN: -- without actually
5 bringing this up earlier, quite honestly.

6 And sometimes you just have to hire
7 somebody that knows what they're doing.

8 MS. YANCEY: I called Bar Rescue.

9 COMMISSIONER TEMPLIN: Yeah. Okay. Finally.
10 Good.

11 The videos, they embarrass me.

12 MS. YANCEY: I'm embarrassed, too.

13 COMMISSIONER TEMPLIN: The people coming out of
14 the bar at that state of -- I thought there was
15 something, a bartender has a responsibility to make sure
16 when they feel somebody's getting to a level where they
17 can't even walk, that they have a moral and I believe
18 legal obligation to cut them off and not let them get in
19 a car --

20 MS. YANCEY: Right.

21 COMMISSIONER TEMPLIN: -- let alone put dozens of
22 them there and send them out into the streets.

23 MS. YANCEY: That's my practice. One of the
24 conditions that the City gave me also is go to the LEAD
25 class conducted by ABC. So me and my staff had to go to

1 the LEAD class.

2 COMMISSIONER TEMPLIN: When was that, ma'am?

3 MS. YANCEY: When was that? It was, like,
4 sometime in two thousand -- it was, like, 2014. I went
5 to the LEAD class, and I had to go to the food handling
6 class.

7 COMMISSIONER TEMPLIN: But all those are from '15?

8 MS. YANCEY: Yeah. But that's when I went. No,
9 but this was prior to. They had me as part of my
10 conditions, too, I had to go to that LEAD class. That's
11 what they told me to do.

12 So but this right here, obviously, is not
13 being drunk inside. It's being drunk on the outside.

14 COMMISSIONER TEMPLIN: No, but the other films
15 were --

16 MS. YANCEY: It was being drunk from -- first of
17 all, my bartenders know when they're drunk, we don't
18 serve them. I tell my security if they're drunk, don't
19 let them in.

20 That's it. That's the bottom line. We
21 can't -- a customer came in there the other day. I
22 refused to serve him. He was my only customer. I could
23 have made billions off of him. You're already drunk,
24 I'm not going to serve you, you're not going to get me
25 in trouble.

1 COMMISSIONER TEMPLIN: The videos tell me
2 different. I see the bar's shutting down and the people
3 that are leaving --

4 MS. YANCEY: I can't say they were in the bar.
5 I've never even seen that person right there in the
6 white. I don't even know who that is.

7 COMMISSIONER TEMPLIN: Even before that, with the
8 people that are leaving --

9 MS. YANCEY: I can't say that --

10 THE REPORTER: One at a time.

11 MS. YANCEY: I'm sorry.

12 COMMISSIONER TEMPLIN: That's disturbing.

13 MS. YANCEY: Right. But I can't say they was
14 drinking in the bar. I can't say that. And a lot of
15 times when they come to Miko's, they come from another
16 bar. They usually come to my bar at 12:00 o'clock,
17 12:30.

18 I got a new thing where I close the doors
19 early now. I lock the doors, and once you're in, you're
20 in, and new people can't come in. I close the doors so
21 I will not have any problems from the other bars because
22 I believe they selling false liquor because people --
23 you would never leave my bar throwing up like that
24 because I don't serve you like that ever. Ever.

25 COMMISSIONER TEMPLIN: Okay. I'm listening to you

1 and --

2 MS. YANCEY: I promise you.

3 COMMISSIONER TEMPLIN: -- I'm looking at the
4 pictures and the videos and --

5 MS. YANCEY: They're drinking outside.

6 COMMISSIONER TEMPLIN: The citations that are kind
7 of ignored for a while until there's something that has
8 to be taken care of, it just is a pattern to me.

9 MS. YANCEY: I understand that, but --

10 COMMISSIONER TEMPLIN: It's very disturbing.

11 MS. YANCEY: You can see all of these people right
12 here, and none of these people come in my bar ever.

13 COMMISSIONER TEMPLIN: But the people that, as
14 they said, relieving themselves, peeing in the man's
15 yard, peeing against your building --

16 MS. YANCEY: Right. I had a security guard that
17 peed outside, too. That was his last day working. Like
18 I said, I'm not saying it's okay. I'm trying to have a
19 solution to it, too. I'm not just saying, yeah, go on
20 outside and pee, pee outside.

21 I asked one guy, "You just walked out the
22 door. Why did you pee outside?" It's some man in the
23 neighborhood every Saturday, an old white cat. He pulls
24 up and just gets out of the car and pisses right there
25 just for no reason every Saturday. Every Saturday. He

1 drive a white, like, Mercedes little truck, nice truck.
2 What would make you pull up every Saturday and pee right
3 here?

4 COMMISSIONER TEMPLIN: I don't know, but I'm sure
5 they're going to follow up on that.

6 MS. YANCEY: I bet you they don't.

7 COMMISSIONER TEMPLIN: I bet you they do.

8 MS. YANCEY: Hmm. You know, and saying that they
9 follow up? They call for service one time -- I'm just
10 saying. I got a call for services. Sergeant was
11 sitting out in the front. We got a call for service,
12 twice for loud music, but the sergeant was sitting right
13 there.

14 He said, "Well, I don't hear anything
15 because I'm sitting right here."

16 He even got right here. I told him, "Well,
17 park your car on the side right there so they could see
18 that you're at least out here."

19 Because they're sitting at each end of the
20 alley. They sit across the street. There was some
21 undercover sitting across the street listening. If it's
22 loud, we'll tell you guys.

23 Okay. So it's not like I'm not trying to
24 work with anybody. I listened to them, I talked to
25 them, and we get a good understanding of what's going

1 on.

2 I'll talk to the neighborhood people also,
3 but they don't want to talk to me. They just want to
4 close me down. "I'm gonna shut you down, you're gonna
5 be shut down next month, Dede." That's what I hear
6 every day, every day, and I just keep walking.

7 The young lady with the blond hair, I
8 forgot her name, with the glasses. I went to ABC to go
9 pay my alcohol permit. When I walk in there, she was in
10 there. I didn't say anything to her. I just -- when
11 she said, "Well, well, well, look who's here."

12 I just paid for my permit. I walked out of
13 the door. Next thing I know, I had a complaint coming
14 from ABC. Ask her what the results was from the
15 complaint ABC. It was unfounded. They came in there 16
16 times with undercovers, and it was unfounded.

17 COMMISSIONER TEMPLIN: May I ask what the
18 complaint was for?

19 MS. YANCEY: Nuisance and loud. What everything
20 right here is. They did the same thing. They go to
21 every outlet that they can find to file complaint, every
22 outlet. Since I've been open, I haven't really been
23 able to conduct business because I gotta be concerned
24 about them.

25 You know, I'm operating a business on the

1 strength of 10 people coming there really on a Friday or
2 Saturday. I got 10 people coming in there. And I still
3 close early.

4 Just -- you know, they could be powerful
5 with their force and their group. That's fine. I
6 understand the neighborhood coming together. I get it.
7 But you're fighting a horrible fight. You're defaming
8 somebody's character.

9 You're doing all that to get what? What
10 are you getting out of it? Peace of mind. I heard
11 somebody saying that, peace of mind. Does City Attorney
12 here talk to him on the phone after he met with
13 Mr. Mackey?

14 Mr. Mackey told me to call him, call the
15 City Attorney, Dede, and explain to him what's really
16 going on. I talked to him, got the same thing from him,
17 my security is my family, this is to be a neighborhood
18 bar. That is so -- that's horrible for City
19 representatives to talk to you like that.

20 But City Prosecutor, same thing. They're
21 looking at me like I'm a criminal. In order for me to
22 work, I have to have clean fingerprints. I can't have
23 clean fingerprints if I go to jail for a deejay. A
24 deejay? Go to jail for a deejay?

25 And you cited me, and I never even got a

1 citation. You sent undercover in, and they never cited
2 me. If I did something wrong -- just like I told the
3 guy that did the decibel measures. If I did something
4 wrong, come inside and tell I am in violation. Don't
5 let me be surprised three months down the line.

6 Now, if I had a deejay there, that was a
7 Thursday, the 7th. It was for Karaoke. I have Karaoke
8 machine on my jukebox. It's all one. But we had a
9 deejay that day because the City told me they don't know
10 if I can have a Karaoke machine on my jukebox. They
11 don't have rules for that.

12 So I took the Karaoke off the jukebox. I
13 just want to have Karaoke. Now we just singing in there
14 just loud. We just sing without a microphone. That's
15 our Karaoke because in order to have Karaoke, you gotta
16 have a deejay.

17 Nobody's trying to have a club. One time
18 they came in there, said I was doing a strip club.
19 Nobody's trying to have that. I just want to have
20 Karaoke just like every other bar do. That's all. I'm
21 not trying to do nothing spectacular. I'm not trying to
22 be Studio 54.

23 CHAIRWOMAN VAN HORIK: Are you done with your
24 questions?

25 COMMISSIONER TEMPLIN: I'm done. Thank you.

1 CHAIRWOMAN VAN HORIK: Commissioner Verduzco-Vega.

2 COMMISSIONER VERDUZCO-VEGA: Thank you.

3 Miss Yancey, how many people do you have on
4 staff?

5 MS. YANCEY: Five.

6 COMMISSIONER VERDUZCO-VEGA: And that includes
7 your security guards?

8 MS. YANCEY: No. I have eight.

9 COMMISSIONER VERDUZCO-VEGA: Including your
10 security guards?

11 MS. YANCEY: Yeah. When I have, like, two of them
12 on call, stand by. Probably about four.

13 COMMISSIONER VERDUZCO-VEGA: When were they hired?

14 MS. YANCEY: Which group? I've had, like, two
15 different, three different groups of security.

16 COMMISSIONER VERDUZCO-VEGA: So you've had
17 turnover?

18 MS. YANCEY: Yeah.

19 COMMISSIONER VERDUZCO-VEGA: So of the people that
20 you have on staff, you mentioned that you've taken the
21 LEAD or LEAD training provided by the ABC or some --

22 MS. YANCEY: Uh-huh.

23 COMMISSIONER VERDUZCO-VEGA: -- third party
24 company.

25 Has everyone taken that training or just

1 you?

2 MS. YANCEY: I'm not sure if my security did it,
3 but they used to work at Sevilla's, Sevilla's. Am I
4 saying that right? They used to work at Sevilla's.

5 So I don't know if Sevilla had them do that
6 training, but that's --

7 COMMISSIONER VERDUZCO-VEGA: And on those nights
8 when it warrants you staying open 'til 2:00 a.m., when
9 do you call last call?

10 MS. YANCEY: I call last call, according to
11 everybody's clock, it's, like, 1:00 o'clock because my
12 clock in the bar is supposed to be 15 minutes fast, but
13 it's about 30, 35 minutes fast.

14 So I'll call last call at, like, 1:30,
15 2:00, but it's just, like, about 1:00 o'clock.

16 COMMISSIONER VERDUZCO-VEGA: And what time do you
17 start asking people to leave your building?

18 MS. YANCEY: At last call.

19 COMMISSIONER VERDUZCO-VEGA: So they immediately
20 put down their drinks and --

21 MS. YANCEY: No. If you're already drinking, you
22 can technically finish your drink because it's not
23 technically 2:00 o'clock.

24 COMMISSIONER VERDUZCO-VEGA: So what time do you
25 ask people to leave your bar?

1 MS. YANCEY: I guess I call 1:30. 1:30, a quarter
2 to, yeah.

3 COMMISSIONER VERDUZCO-VEGA: And is it you trying
4 to escort them out or --

5 MS. YANCEY: Me and security.

6 COMMISSIONER VERDUZCO-VEGA: And on those busy
7 nights, how many people do you have on staff?

8 MS. YANCEY: I have one bartender, maybe a
9 barback, and three security and myself. Sometimes I go
10 outside with security.

11 COMMISSIONER VERDUZCO-VEGA: All right. Thank
12 you.

13 MS. YANCEY: You're welcome.

14 CHAIRWOMAN VAN HORIK: Okay. Think we're back to
15 -- I think we're finished with this witness. We have no
16 more questions.

17 MR. CERNYAR: I have a couple questions.

18 When did you implement the three security
19 guards system?

20 MS. YANCEY: After I submitted my paper work to
21 Mr. Koontz, and they gave it all back three months
22 later. They said your security is inadequate, you need
23 to have security, two at 7:00 and one at 10:00. So I
24 got that. That's what I do right now because that's
25 what they said I need to have.

1 MR. CERNYAR: Then did that happen earlier this
2 year?

3 MS. YANCEY: It happened as soon as I got the
4 letter.

5 MR. CERNYAR: When was that? What year was that?

6 MS. YANCEY: This year.

7 MR. CERNYAR: Okay. Now, you mentioned you
8 haven't spoken to many people, but you've been in
9 contact with the new owner of that house that's behind
10 you; is that correct?

11 MS. YANCEY: I have.

12 MR. CERNYAR: How many times do you think you've
13 spoken to that person?

14 MS. YANCEY: I've spoke to him probably three
15 times, and I spoke to his roommate probably about eight.
16 I actually rode on his skateboard.

17 MR. CERNYAR: And the guy that lives south of
18 them, that's Mr. Kirkpatrick; is that correct?

19 MS. YANCEY: Uh-huh.

20 MR. CERNYAR: How many times have you been in
21 contact with Mr. Kirkpatrick?

22 MS. YANCEY: I just waved at him.

23 MR. CERNYAR: Have you ever spoken to him?

24 MS. YANCEY: Only when he came in the bar and at
25 Starbucks.

1 MR. CERNYAR: Okay.

2 MS. YANCEY: I've seen him outside. Like I said,
3 I just waved to him.

4 MR. CERNYAR: And since you've implement that
5 three security guards into your system, have you seen
6 any of this behavior that we see on the video?

7 MS. YANCEY: No. No. Like I said, those people
8 don't even come to the bar anymore.

9 MR. CERNYAR: Not even those people, but one of
10 the Commissioners --

11 MS. YANCEY: No.

12 MR. CERNYAR: -- earlier was talking about some
13 drunken -- looked like a young lady that was in the
14 middle of the street. Have you had any of those
15 incidents?

16 MS. YANCEY: No. Actually, one of my security
17 guards is actually here. But no, I haven't.

18 MR. CERNYAR: And there was a mention that some of
19 these people were doing all kinds of things at night,
20 but that doesn't particularly mean they ever stepped
21 into your bar.

22 MS. YANCEY: That's correct.

23 MR. CERNYAR: And the person that we saw earlier
24 that was laying in the street, did you ever see her in
25 the bar?

1 MS. YANCEY: No.

2 MR. CERNYAR: Okay. And the person that was
3 peeing on the sidewalk, you recall her ever being in
4 your bar?

5 MS. YANCEY: No.

6 MR. CERNYAR: And you have restrooms in your bar;
7 is that correct?

8 MS. YANCEY: I do. I have three.

9 MR. CERNYAR: Okay. And there's no reason
10 whatsoever somebody would have to go outside and pee?

11 MS. YANCEY: Nope.

12 MR. CERNYAR: Nothing further. Thank you.

13 CHAIRWOMAN VAN HORIK: Thank you very much,
14 Miss Yancey.

15 MS. YANCEY: Thanks.

16 CHAIRWOMAN VAN HORIK: Do you have another
17 witness?

18 MR. CERNYAR: Yes, I do. I have Miss Vivian
19 Session, I hope.

20 MS. SESSION: Hello. My name is Vivian Bonner
21 Session, S-e-s-s-i-o-n.

22 MR. CERNYAR: And, Miss Session, where do you
23 live?

24 MS. SESSION: I stay on the 2400 block of Daisy
25 Avenue.

1 MR. CERNYAR: 24th and what?

2 MS. SESSION: Daisy Avenue.

3 MR. CERNYAR: How far is that from the bar?

4 MS. SESSION: About a block and a half.

5 MR. CERNYAR: What does this bar mean to you?

6 MS. SESSION: I goes to the bar mostly every day.

7 Before Miko's opened, I never attended a bar before.

8 And I've been living in that area -- I grew up in that
9 area. I went to middle school in that area, which was
10 back in '76. My dad bought the house back in 1970, and
11 then I bought it from him in 2005.

12 MR. CERNYAR: So you've lived in that area most of
13 your life?

14 MS. SESSION: Pretty much, yes.

15 MR. CERNYAR: And how long have you been a patron
16 to Miko's sports bar?

17 MS. SESSION: For last two years.

18 MR. CERNYAR: Have you seen changes recently?

19 MS. SESSION: I seen a lot of changes within the
20 last couple of months.

21 MR. CERNYAR: For better or for worse?

22 MS. SESSION: For better.

23 MR. CERNYAR: Tell me about those changes.

24 MS. SESSION: Well, I noticed that Dede have been
25 doing a lot of -- well, the security has beefed up a lot

1 as far as being there -- well, I go on Saturdays -- I
2 mostly go every day, but I know they're there on Fridays
3 and Saturdays.

4 MR. CERNYAR: Do you feel safe in that bar?

5 MS. SESSION: I feel very safe in the bar. That's
6 the only bar I attend. I'm not a bar person, but that's
7 the only bar that I ever attended. And I'm 55, and I
8 really never been to a bar until I started attending
9 Miko's.

10 MR. CERNYAR: Now, do you feel safe outside that
11 bar?

12 MS. SESSION: I walks to the bar majority of the
13 time because I stay at close to the bar.

14 MR. CERNYAR: And when you walk to the bar, what's
15 typically your route?

16 MS. SESSION: I come up Burnett, turn on Maine and
17 walk up Maine, and I'm at the bar.

18 MR. CERNYAR: So --

19 MS. SESSION: I'm sorry. I should have said 25th.
20 I'm sorry. That's 25th.

21 MR. CERNYAR: What's that?

22 MS. SESSION: I said Burnett. I'm sorry. It's
23 25th that I walk 'til Maine, and then I turn on Maine
24 and go up to the bar.

25 MR. CERNYAR: What time do you typically go to the

1 bar?

2 MS. SESSION: Majority, right after work, like
3 about 6:30, 7:00.

4 MR. CERNYAR: And do you see any of the activities
5 that you were shown, we were shown earlier on the video
6 going up to the bar?

7 MS. SESSION: I mean, I have seen it, but I
8 haven't seen it recently.

9 MR. CERNYAR: Okay. And then you walk home from
10 the bar; is that correct?

11 MS. SESSION: Yes.

12 MR. CERNYAR: Anybody ever give you a ride?

13 MS. SESSION: Sometimes if I stay late enough and
14 watch them close, Dede will give me -- drop me off at
15 home.

16 MR. CERNYAR: Do you feel safe walking home from
17 the bar?

18 MS. SESSION: I feel safe. I mean, besides the
19 raccoons and possums that's out there.

20 MR. CERNYAR: You live in that neighborhood. Why
21 do you think -- and I don't know if you -- do you belong
22 to the Maine group?

23 MS. SESSION: No.

24 MR. CERNYAR: Do you belong to any groups in that
25 community?

1 MS. SESSION: No.

2 MR. CERNYAR: Okay. Do you speak to many of the
3 neighbors?

4 MS. SESSION: I speak to my neighbor when she's
5 around 'cause she drive buses to and from casinos. The
6 majority of my time I spent with my kids. I have two
7 sons that made it to the NFL.

8 So majority of the time I was never at home
9 until they got old enough to where they started
10 departing and going their own separate ways, and then I
11 started attending, going to the bar pretty much.

12 MR. CERNYAR: Okay. And do any of your community
13 neighbors talk about the bar?

14 MS. SESSION: I only know one person that stays on
15 Maine, and they have nothing negative to say about the
16 bar. They stay, like, right on the -- well, they stay
17 two houses off of 25th and Maine.

18 MR. CERNYAR: Okay. So they're a little bit
19 further down from the bar?

20 MS. SESSION: Well, they in that vicinity of
21 within that area, that block.

22 MR. CERNYAR: Okay. Do they say -- have they ever
23 mentioned anybody having grudges or anything about the
24 bar, against the bar?

25 MS. SESSION: I mean, they have talked about the

1 bar, saying that there's a lot of people that brought
2 petition to have the bar closed, but they didn't sign
3 it.

4 MR. CERNYAR: Okay. And how often does that
5 happen? How often did they get petitions to close the
6 bar?

7 MS. SESSION: They told me, like, maybe a couple
8 of times.

9 MR. CERNYAR: Okay. And is it ever explained to
10 them why they want the bar closed?

11 MS. SESSION: Said it's too much activity.

12 MR. CERNYAR: And do they explain "activity"?

13 MS. SESSION: Not really, no.

14 MR. CERNYAR: Okay. I have nothing further.

15 CHAIRWOMAN VAN HORIK: Staff?

16 MR. SANCHEZ: No.

17 CHAIRWOMAN VAN HORIK: Commissioners? Guess
18 there's no other questions for you. Thank you very
19 much.

20 MS. SESSION: Thank you.

21 MR. CERNYAR: My next witness is Priscilla
22 O'Quinn.

23 Good afternoon. If you could tell us your
24 name and your relationship.

25 MS. O'QUINN: Priscilla O'Quinn. I'm a bartender

1 at Miko's Sports Lounge.

2 MR. CERNYAR: How long have you been a bartender
3 at Miko's?

4 MS. O'QUINN: Since it opened.

5 COURT REPORTER: How do you spell your last name?

6 MS. O'QUINN: O apostrophe Q-u-i-n-n.

7 MR. CERNYAR: Have you seen any changes recently
8 in the bar?

9 MS. O'QUINN: Yes.

10 MR. CERNYAR: What have you seen?

11 MS. O'QUINN: Well, she's done a lot to make sure
12 that the security are on their Ps and Qs with the
13 customers as far as leaving when they're supposed to
14 once the bar is closed or whether it's closed or not, if
15 they exited the doors, we try to make sure they enter
16 their vehicles and leave.

17 The calls -- well, in the last few months
18 we haven't had as many calls.

19 MR. CERNYAR: What are your typical hours at the
20 bar?

21 MS. O'QUINN: Mine personally or the bar hours?

22 MR. CERNYAR: No. Yours personally.

23 MS. O'QUINN: Monday, Tuesday, Thursday, Friday.
24 Monday, Tuesday 2:00 to 7:30. Thursday, Friday 11:00 to
25 6:00.

1 MR. CERNYAR: Okay. Let me ask you what are your
2 duties as a bartender at that bar?

3 MS. O'QUINN: To socialize with our customers,
4 make drinks. I'm a daytime bartender, so I do cleaning
5 and stocking and I do orders.

6 MR. CERNYAR: What about patrons that have too
7 much to drink, what do you do about them?

8 MS. O'QUINN: They have too much to drink on my
9 shift or come in already intoxicated?

10 MR. CERNYAR: Either/or.

11 MS. O'QUINN: I don't give them enough to get
12 intoxicated on my shift. And if they enter, which
13 rarely happens because our security usually stop them
14 before they come in the door, but occasionally -- that's
15 at nighttime.

16 But in the daytime, there's not security on
17 both doors, so I kind of have to pay attention to the
18 customers. If they come in already inebriated, I won't
19 serve them.

20 MR. CERNYAR: What do you tell them?

21 MS. O'QUINN: "I'm sorry, but I can't serve you."

22 MR. CERNYAR: How does that work for you?

23 MS. O'QUINN: Not so well all the time.

24 MR. CERNYAR: Why is that?

25 MS. O'QUINN: Because they get upset that I won't

1 serve them because they got the money to pay and it's my
2 job to serve them.

3 MR. CERNYAR: Have you ever taken any of the
4 classes at the ABC?

5 MS. O'QUINN: No.

6 MR. CERNYAR: No?

7 What kind of training have you had as a
8 bartender?

9 MS. O'QUINN: I was trained by the co-owner and
10 one of the other bartenders at the bar.

11 MR. CERNYAR: Have you ever worked one of those
12 occasional entertainment permit days?

13 MS. O'QUINN: Yes.

14 MR. CERNYAR: What are those like?

15 MS. O'QUINN: It's pretty busy.

16 MR. CERNYAR: Are they pretty wild?

17 MS. O'QUINN: Wild?

18 MR. CERNYAR: Yes.

19 MS. O'QUINN: Define "wild." I mean, it's -- for
20 a bartender, it's chaotic because everybody wants a
21 drink, and usually when it's an event, there's more than
22 one of us back there. So we're both running and zipping
23 and running into each other and whatnot, so...

24 MR. CERNYAR: And to your recollection, have you
25 had any OEP days in 2016?

1 MS. O'QUINN: I have not.

2 MR. CERNYAR: Okay. And have the hours -- are you
3 aware of any changes in hours at the bar?

4 MS. O'QUINN: What do you mean, as far as what
5 days?

6 MR. CERNYAR: Is it closing earlier or --

7 MS. O'QUINN: Mondays and Tuesdays we close early.
8 Thursdays we used to close -- well, Monday, Tuesday and
9 Wednesday are our earliest days that we close. Thursday
10 we kind of wing it, and it's usually no later than 12:00
11 o'clock.

12 Friday and Saturday, if we stay open late,
13 those will be the days, and it hasn't been -- our crowd
14 hasn't been that good to where we needed to be open at
15 2:00 o'clock in the morning. So we're usually winding
16 down about 12:30.

17 MR. CERNYAR: When did that start happening?

18 MS. O'QUINN: Like, maybe August.

19 MR. CERNYAR: And what about during the weekdays?
20 You said you start closing earlier. When did that start
21 happening?

22 MS. O'QUINN: That happened in the summertime
23 because we're slow on those days.

24 MR. CERNYAR: And have you had any contact with
25 any of the neighbors?

1 MS. O'QUINN: No. Just when we first opened, the
2 incident with the gentleman that stayed directly behind
3 the bar.

4 MR. CERNYAR: And were you there when that
5 incident happened?

6 MS. O'QUINN: Yes.

7 MR. CERNYAR: What happened?

8 MS. O'QUINN: He came over, and he was kind of
9 upset that the music was loud. And at that time the
10 door was open. I don't think we had been in there a
11 month yet. We had only been there a couple of weeks.

12 So I told him I would shut the door and
13 turn down the music, but he was a little bit angry at
14 that time. So he was, like, I could make this
15 difficult. I'm trying to be nice about it. And I was,
16 like, that's fine, I'm gonna shut the door.

17 But he continued, and then him and the
18 co-owner had words, and from that point on we've had
19 problems.

20 MR. CERNYAR: You had problems until he moved?

21 MS. O'QUINN: Basically.

22 MR. CERNYAR: Nothing further. Thank you.

23 CHAIRWOMAN VAN HORIK: Mr. Sanchez?

24 MR. SANCHEZ: Yes, please.

25 Miss O'Quinn, you mentioned a co-owner of

1 the bar. Who are you referring to?

2 MS. O'QUINN: Miko.

3 MR. SANCHEZ: And who is Miko?

4 MS. O'QUINN: Co-owner. Was the co-owner of the
5 bar.

6 MR. SANCHEZ: And does Miko have a last name?

7 MS. O'QUINN: Lewis.

8 MR. SANCHEZ: And you said he was a co-owner?

9 MS. O'QUINN: She.

10 MR. SANCHEZ: Oh, she. I'm sorry.

11 And she is no longer a co-owner?

12 MS. O'QUINN: No.

13 MR. SANCHEZ: And do you know why she's not a
14 co-owner anymore?

15 MS. O'QUINN: No.

16 MR. SANCHEZ: Thank you. I have nothing further.

17 CHAIRWOMAN VAN HORIK: Commissioners? Any
18 questions for this witness?

19 I have a question about ingress and egress.
20 How do customers enter the bar?

21 MS. O'QUINN: Front door. I keep the back door
22 closed at all times.

23 CHAIRWOMAN VAN HORIK: And what if it gets opened?

24 MS. O'QUINN: Someone's leaving.

25 CHAIRWOMAN VAN HORIK: That's my next question.

1 How do they leave?

2 MS. O'QUINN: You can exit through the front or
3 the back, but most of the time -- my shift, I'm a
4 daytime bartender. My customers are in and out the
5 front.

6 CHAIRWOMAN VAN HORIK: So there's no policy about
7 -- there's no formal policy, as far as you know, about
8 making -- the customers need to leave through the front
9 always unless it's an emergency?

10 MS. O'QUINN: At 8:00 o'clock, no one exits the
11 back door.

12 CHAIRWOMAN VAN HORIK: And if they do, do you know
13 it?

14 MS. O'QUINN: Security's there to prevent that.

15 CHAIRWOMAN VAN HORIK: Is there an audible alarm
16 or anything like that?

17 MS. O'QUINN: No. No. It's the emergency exit.
18 I mean, it's the handicapped entrance and exit.

19 CHAIRWOMAN VAN HORIK: Okay. Thank you.

20 If there's no other questions, I think you
21 can go ahead and take a seat. Thank you.

22 Are there -- there's an attorney here for
23 the property owner. Do you want to present any
24 witnesses, sir?

25 MR. CLOUGH: No, I have no witnesses that I can

1 present. I just basically received notice --

2 CHAIRWOMAN VAN HORIK: We can't hear you.

3 MR. CLOUGH: I just basically received notice. I
4 apologize.

5 CHAIRWOMAN VAN HORIK: You need to use the
6 microphone so she can hear you.

7 MR. CLOUGH: No, I don't have any witnesses. I
8 just received notice yesterday, and I just don't have
9 it.

10 CHAIRWOMAN VAN HORIK: Okay. Thank you.

11 This is the time when we would normally
12 hear public comment, people who haven't already spoken
13 to us. It's 12:20 right now.

14 So out of respect to all of you who have
15 been seated through all of this, we are going to take
16 public comment, but I implore you for everybody's
17 benefit not to be repetitive and to stick to your
18 three-minute limit.

19 And if things start to get out of hand,
20 then I'm going to -- I'm actually going to limit the
21 number of speakers that are available. So please keep
22 that in mind, both pro and con.

23 When you come down, introduce yourself,
24 make sure that the court reporter has the correct
25 spelling of your name.

1 And I'd like you all who are going to speak
2 to stand up so we know what we're dealing with in terms
3 of numbers. And on the screen will be displayed the
4 timer that's timing you, the start and end of your
5 three-minute limit.

6 So come on down and introduce yourself,
7 please.

8 MS. GREENWOOD: Good evening. My name is Joan
9 Greenwood. I'm the president of the Wrigley Area
10 Neighborhood Alliance, which is one of the two
11 community-wide neighborhood organizations in Wrigley.
12 I've lived in Wrigley since 1986 and been active as a
13 community leader since 1994-95.

14 Throughout that time period, the
15 neighborhood has undergone many changes, mainly in terms
16 of improving the quality of life through these
17 neighborhood organizations.

18 I want to applaud the neighbors on Maine
19 Street because they have stepped up in a very difficult
20 situation, and I can tell you from my own personal
21 experience when you do have a neighborhood nuisance and
22 you step out and you become the spokesperson for the
23 group, you are also a target when that happens.

24 So they've been through a lot. They are
25 people that we have known for a long time. They have

1 come to our group.

2 And basically, on our fundamental policies
3 that we have in terms of looking at businesses along
4 Willow Street and along Pacific Avenue, both
5 organizations have always had a policy of opposing any
6 new liquor licenses, but we would welcome the
7 opportunity to have a neighborhood place that served
8 both food and liquor because we don't have anyplace like
9 that in our area. We have a lot of fast food.

10 There are several bars both on Pacific
11 Avenue and along Willow Street. There are three others
12 on Willow Street, and none of them seem to be attracting
13 the patrons that are hanging out as you saw in this
14 video.

15 They're smaller establishments, but the big
16 difference is they don't have entertainment and they're
17 not being promoted on social media for having a great
18 deejay and also, as I noticed during happy hour, cheap
19 drinks with bartenders that really, really give you a
20 lot of alcohol in the drink.

21 What that does is attract in an element
22 that I've seen downtown here with the clubbing that now
23 has become popular.

24 I park in the Arrow Park garage, and when
25 they have the club nights, you come in the next morning,

1 you can just smell the urination, you can smell the
2 vomit all over the parking area because there is an
3 element at clubs where they drink outside, then they go
4 to the club.

5 I got the data on the police calls from
6 2000, which was when they first started -- had the
7 records available, up through July this year. You
8 clearly see a trend going from when it was the KB until
9 it became Miko's.

10 And what you saw also in the calls, they
11 broke them down, and it had to do with the live
12 entertainment, the deejays, the new clubbing that is
13 going on.

14 CHAIRWOMAN VAN HORIK: Miss Greenwood, you need to
15 wrap it up.

16 MS. GREENWOOD: Oh, okay.

17 So in any event, what has changed that
18 everyone has asked about is the clubbing phenomena and
19 the social media that attracts in an element does ruin
20 it for the 99 percent of the people who are there for a
21 good time. But it attracts the 1 percent, it's the
22 wrong location for this type of business.

23 CHAIRWOMAN VAN HORIK: Thank you.

24 MS. REDFIELD: Thank you for your time and your
25 commitment to this. I am so impressed by every one of

1 you.

2 My name is Susan Redfield. I'm here on
3 behalf of my husband and I. We live at 2510 Maine
4 Avenue. We've been there since 2003, so about 13 years.

5 I'm in favor of this proposal to revoke the
6 CUP and the business license for Miko's and the
7 building. And I do not take this revocation request
8 lightly, but our lives have been put in turmoil on too
9 many occasions, and after nearly three years of
10 following the rules, this is our last resort.

11 During 2014, my husband and I were awakened
12 regularly on weekends by loud screaming after midnight,
13 cars racing down the block with music blaring and other
14 unfriendly and frightening elements of disregard in this
15 quiet family neighborhood.

16 So in 2015, I began noting the dates when I
17 was awakened. I kept a little log in the drawer next to
18 my bed, and I have a list of the dates, and there are 23
19 of them between February and November. And then, of
20 course, the Christmas holiday shooting in December of
21 2015.

22 My niece and her daughters were visiting
23 from San Diego. The gunshots woke us up. What kind of
24 neighborhood do you live in they asked.

25 There were two men who ran down the alley,

1 down my block immediately after the shooting and were
2 standing in front of my house yelling at each other, and
3 one got into a car right in front of my house. The
4 other ran across the street to another car, and then he
5 squealed off away from the bar. And I literally had the
6 children huddled on the floor in case there were more
7 gunshots. Then there was the knifing. I'm frightened
8 in my own home at night.

9 As part of this Maine Avenue group it grew.
10 In an attempt, we've met to resolve these issues. We've
11 met with -- and you've heard all about who we've met
12 with. That's why we've been here so long tonight.

13 I do want to comment that two weeks ago I
14 was coming home from the pops concert with Sergio, who
15 lives across the street from me, and there were about a
16 dozen motorcycles -- it was about 11:30 at night -- in
17 front of the bar and a lot of people hanging out both
18 inside and outside the bar.

19 So although it has been quieter since this
20 hearing was announced and although it's clear that
21 there's been efforts to make a difference, in truth, the
22 problems are still existing. In fact, it was kind of
23 hard to turn around the corner because people were in
24 the street at that point.

25 I just want to finish by saying this

1 neighborhood, which is my neighborhood, is reflective of
2 all that makes Long Beach great. It's a mix of young
3 and old, families and singles, diverse in all ways.
4 That's what I love about it.

5 My issue with Miko's is its disregard for
6 our well-being and its unreasonable interference with my
7 family's peace and safety.

8 Thank you.

9 CHAIRWOMAN VAN HORIK: Thank you.

10 MS. SANDERS: Hello. My name is Cari Sanders,
11 C-a-r-i S-a-n-d-e-r-s. I live on the 2500 block of
12 Maine Avenue.

13 I've been here for a little over a year.
14 17 months actually. My lifelong dream to own a little
15 home near the beach, and it finally came true. I live
16 here with my daughter and my roommate, both college
17 students.

18 I have worked two jobs for a long time to
19 afford this dream. I have many reasons why I'm very
20 proud of my accomplishment. My home was a probate sell
21 and therefore was not a requirement to disclose the
22 nuisance problem at this type of sale.

23 I had no idea what I was in for. Soon
24 after moving in, I found out the issues about the 710
25 bar -- about the bar at 710 Willow Avenue. I don't have

1 a problem with the idea of the bar in the neighborhood,
2 but it seems like this bar has more visitors than they
3 can control.

4 Most weekends, other than as of recently,
5 patrons of the bar hanging out in their cars, drinking
6 before they go in, smoking pot, having loud
7 conversations, often listening to loud music.

8 After the bar closes, many of the patrons
9 hang out in their cars for a while listening to the same
10 kind of music, sometimes arguing or laughing loudly,
11 urinating on my yard, leaving behind various liquor
12 bottles, trash, et cetera.

13 Sometimes there's a woman that comes around
14 cleaning after the mess in the morning, but not every
15 weekend.

16 Then there was Christmas weekend of 2015
17 when I was awakened by my daughter saying, "Mom, I heard
18 gunshots."

19 I ran out of bed and heard wild commotion
20 in the street. People were running from their cars.
21 Pure chaos in front of our homes.

22 I had taken two-week vacation to celebrate
23 my first Christmas in my new home, I had finally -- I
24 had family guests there, and I thought to myself this is
25 what I have to look forward to for the next 20 years,

1 question mark.

2 I'm left to wonder what kind of clientele
3 hangs out in the bar, if they're carrying weapons. I'm
4 also aware of a stabbing, attempted suicide. We've all
5 talked about that.

6 On weekends there's very little parking.
7 We've talked about that. I don't want to repeat. I'm
8 sorry. I prepared this a long time ago.

9 I'm here in support of revoking the
10 business license at Miko's bar. I think that the owner
11 has had plenty of time to correct the problems. It
12 seems that she has no interest in doing so, nor becoming
13 part of the neighborhood.

14 Her idea of what happens outside the bar is
15 not her problem is ludicrous, dismissive and insulting.
16 I am all for women in business. I and my home are a
17 product of girl power. I did this on my own. I just
18 wish Miss Yancey would choose to be more neighborly and
19 respect those who live nearby.

20 Thank you for allowing me to speak. Please
21 vote for revocation of the CUP and our community -- let
22 our community rest again respectfully.

23 Thank you.

24 MS. LEWIS: Hi. My name is Janell Lewis,
25 J-a-n-e-l-l, Lewis, L-e-w-i-s.

1 And I frequent the bar. He work for
2 Department of Public Services. I go to the bar when I
3 get off work and have a drink.

4 I was there the day that the gentleman did
5 walk in intoxicated, and she would not serve him at all.
6 She told him, "No, go back to where you came from, I'm
7 not going to serve you." I was in the bar that day.

8 I was in the bar the day the gentleman
9 right here, burgundy shirt, came. I told him that the
10 jukebox wasn't working. I never told this gentleman
11 that the -- he couldn't play that jukebox. I said it
12 wasn't working because it was a short, and the people
13 were coming to fix the jukebox. He probably doesn't
14 remember me, but it was me.

15 And I think if you let her do the
16 correction action -- you guys are not giving her a
17 chance to do the correction action because every door
18 she goes to knock on is slammed in her face.

19 You have to give her a chance. This is
20 where I go to relax. I've been going there -- this
21 year, I've never -- all this that I'm seeing here, this
22 is 2015.

23 2016 January, I've never seen none of this
24 since I have been going there. And I'm there probably,
25 I'm gonna say, five to six times a week.

1 So I'm just saying if you give her the
2 chance, because if all the doors are closed in her face
3 and everyone's against her, then how is she gonna ever
4 get a correct action going to get anything fixed because
5 every door she goes in is slammed in her face, slammed
6 in her face.

7 You have to give her a chance to fix it.
8 Don't -- every permit she tries to go get, everybody is
9 in cahoots to shut it down. How is she getting a fair
10 chance? That's all I have to say.

11 CHAIRWOMAN VAN HORIK: Thank you.

12 MR. LYLES: Mark Lyles, M-a-r-k L-y-l-e-s.

13 I've heard both sides, and what the Maine
14 Street group -- their concerns are legitimate, and I can
15 see their point of view. But I also see the point of
16 view of Miko's, and I've known Dede probably 20, 30
17 years.

18 You know, we all grew up watching Cheers.
19 Everybody wanna go to a place where everybody know your
20 name. And when Miko open up, you know, that was my
21 Cheers, and it continue to be.

22 And I realize that watching the videos and
23 what happened in the past, it's a rocky road. But like
24 any other business, it takes time to find your niche and
25 to find your way. But when you have so many obstacles

1 and people working against you, it makes it 10 times
2 more difficult.

3 As far as them wanting a restaurant with
4 food, perhaps she could have been at that point if it
5 wasn't so many people going against her. A lot of the
6 things they're saying, it's like some of the people
7 proved wasn't really true, bending in the truth.

8 But I honestly believe giving her the time
9 and the opportunity, Miko's could be a place that would
10 bring this whole community together right there. And I
11 think we're almost there, if we could just get this
12 group and that group -- everybody saying we're together,
13 but as you see, you have that group and that group.

14 We just need to take the time and just
15 bring this group together, and I think Miko would be the
16 perfect platform if everybody just take the time, work
17 together and give it the opportunity.

18 Thank you.

19 CHAIRWOMAN VAN HORIK: Thank you.

20 MS. AJAH YANCEY: Hello. Can I start?

21 CHAIRWOMAN VAN HORIK: Yes. You need to introduce
22 yourself.

23 MS. AJAH YANCEY: My name is Ajah Yancey, A-j-a-h.
24 And Yancey, I'm pretty sure you know how to spell that,
25 but it's Y-a-n-c-e-y.

1 I am Dede's niece, and I kind of just
2 wanted to offer perspective that maybe you guys wouldn't
3 get to hear otherwise because I live with Dede.

4 Ever since she opened the bar -- actually,
5 even before she opened the bar, when she was first
6 trying to get her license and all that stuff, she was so
7 excited. She was still taking care of my grandfather,
8 and she was just, like, I'm gonna open this bar, it's
9 what I always wanted to do.

10 And after she opened the bar we had an
11 event, and everything to me seemed to be going fine. I
12 was usually at home taking care of my grandfather at
13 home until he passed in October of 2014.

14 But kind of ever since then, every time she
15 comes home -- actually, it was maybe a couple years ago,
16 when she would come home and I'd say, "Hey, how's the
17 bar?"

18 And she goes, "Oh, well, they want me to do
19 this, they want me to do that, and I gotta go to this
20 hearing." And there were literally so many hearings.
21 I'm, like, "Well, didn't you just go to a hearing?"

22 She's like, no -- I don't get why you have
23 to do all these things. Like, you got your permits, you
24 got your this and that. Like, I don't understand the
25 problem.

1 Even now, like nowadays, I don't see her at
2 all. She is always gone. She goes straight from her
3 State job to the bar, and if she's not at her State job,
4 at the bar, she's at a hearing. And if she's not at a
5 hearing, she's meeting with the community or --

6 CHAIRWOMAN VAN HORIK: Slow down just a little
7 bit.

8 MS. AJAH YANCEY: I'm so sorry. It's partial
9 nervousness, so...

10 And I'm really upset that I -- she's trying
11 so hard, and I know that it seems, like, on the outside
12 because you don't get to see, you know, her trying to do
13 all this stuff.

14 She comes home so defeated, like, well, you
15 know, I'm trying, but, you know, there's this and this.
16 And I'm just, like, I wish that I could do something
17 more. I try to help out where I can, but it's, like, I
18 can't do anything if she's not being given the chance
19 and she's constantly be denied at every turn to try and
20 get this fixed.

21 So I just kind of feel like this has gotten
22 to a point where it's just ridiculous, and I -- like, I
23 feel really bad because I don't -- I don't want those
24 problems. Like, that sucks. Like, if I had that
25 problem at my house, I'd be P'd off.

1 So I just feel like we can fix it. Like,
2 it can be fixed. This is not a problem that can't be
3 dealt with. So that's all of my time, so thank you.

4 CHAIRWOMAN VAN HORIK: Thank you.

5 Before the next speaker, we're going to cut
6 off the public comment at the person in the black
7 sweatshirt back there because it is becoming repetitive.
8 So after you, we're going to be done.

9 Come on up, introduce yourself.

10 MS. PARSONS: Hi. I'm Cathy Parsons, and I live
11 on the 2500 block or Oregon, and today I am using my
12 time so that Steven Kirkpatrick, who lives two houses
13 south of the bar, can speak to the Commission via a
14 video.

15 If you could please show the video.

16 (The following speaker is via a video
17 recording.)

18 MR. KIRKPATRICK: My name is Steven Kirkpatrick.
19 My address is on file.

20 I can't be here tonight, but I wanted my
21 message heard. My family has owned the house close to
22 the bar since 1960. That's 56 years.

23 I hope everyone can understand me. I have
24 a neurological disease that affects my muscles and my
25 speech. I take multiple medications for my disease and

1 have been told by my doctor to exercise, get plenty of
2 rest and lessen the stress.

3 My doctor says the stress will accelerate
4 my disease. I tried to do what my doctor says, but
5 Miko's has made it impossible for me to avoid stress and
6 get plenty of rest.

7 It really disturbs me when people say you
8 shouldn't have moved so close to a bar, but it wasn't
9 like this years ago. And now the previous owners of the
10 property right next to the bar had to move because of
11 the nuisance.

12 It was said it shouldn't be a problem for
13 him (unintelligible) anymore, but the problem still
14 exists. Most weekends I can't sleep because of the loud
15 outburst of noise from the patrons parking, lounging
16 loudly in their cars, people walking up and down the
17 street all through the night and leaving trash and empty
18 booze bottles on my property and in the street. It's
19 hard for me to clean it up.

20 From my bed, I can hear the chatter on
21 Willow Street after 10:00 p.m. It's my close proximity
22 and probably from conflagration of people smoking and
23 the food truck.

24 The loud noises wakes me up even if I've
25 taken medication or wearing earplugs. How can I get

1 away from the stress when I feel the noisy patrons are
2 in my house? This has been very stressful to me.

3 The parking situation has made it
4 impossible for me to have visitors park in front of my
5 house, especially on the weekends. The foul language
6 being uttered. I want to have my grandkids over on the
7 weekends.

8 Miss Yancey at one point has security, but
9 their efforts failed to control the noise. To set the
10 record straight, no one has blamed Miss Yancey 100
11 percent. We all know she can't control every aspect of
12 what goes on outside her lounge.

13 I really want a business to flourish, but I
14 also want peace where I live, and right now I don't have
15 peace. Cars are arriving, and their alarm system beeps
16 all night. Those beeps can be heard from inside our
17 homes at all hours during the night.

18 Cars and motorcycles rolling in and out
19 with music blaring and throttling gears has wakened me
20 from sleep several nights.

21 CHAIRWOMAN VAN HORIK: Could you please pause the
22 video?

23 We have a deposition on file in our packet
24 from Mr. Kirkpatrick, and he is -- he's presented his
25 case in the video, and out of respect to the rest of the

1 group here, I feel that we can dispense with the rest of
2 his video.

3 We understand exactly what his position is,
4 and now he is pretty much repeating what we've heard.
5 So we'd like to go ahead and proceed with the next
6 speaker, please.

7 MR. RICHARDSON: By name is Bobby Richardson,
8 B-o-b-b-y R-i-c-h-a-r-d-s-o-n.

9 Everybody's been talking about all the
10 negative. I just wanted, you know, to speak on some of
11 the positive things that go on in the bar that I've come
12 to like to go to.

13 First, we got a group of old vets that come
14 into the bar, and they sit around in the back area, play
15 dominoes, drink they coffee. Some drink wine. Some
16 drink beer. They say it's the place where they can come
17 and relax, get away from their wives for a minute, you
18 know, listen to some blues.

19 It's a place where she has employed some
20 people without jobs. One of them particular, Monesha
21 Sherell, which is a bartender. She was laid off from
22 her job before as a bartender, and by word of mouth from
23 the ex-owner Miko, or co-owner, Dede gave Mo a chance.

24 Despite what that -- all that stuff was on
25 that camera, that's not an everyday thing, and that's

1 not an every weekend thing. And this is 2016, and seem
2 like the focus is 2015.

3 Like she said, she was given these things
4 to do. She's made the corrections. If the people in
5 the neighborhood try coming in and sitting and having a
6 drink and getting to know the people that's in the bar
7 and don't think that everybody is what you see on that
8 tape -- that's not everybody that comes in that bar, and
9 it's unfair, you know.

10 It's kind of like when people pass judgment
11 on different races. You shouldn't do that because you
12 don't understand their race or you don't understand
13 their religion. Get to know the people. Get to know
14 the person before you just go so hard.

15 I'm sure if you all came in, this whole
16 group walked in the bar as one and made it a point to
17 say, hey, let's get together and do something about
18 this. We don't want to see, you know, you shut Dede
19 down. We don't want to see people lose their jobs.

20 We don't want to see, you know, the
21 community bar -- like, I keep hearing about this KB. I
22 wasn't around at that time. I was born and raised in
23 Long Beach. I've been a longshoreman for 18 years now,
24 and I just hate to see it go this way before she can get
25 a fair shot of making the corrections.

1 That's it.

2 CHAIRWOMAN VAN HORIK: Thank you.

3 MS. BYNDON: Hello. My name is Karla Byndon,
4 K-a-r-l-a B-y-n-d-o-n.

5 As the previous presenter came, I'm not
6 gonna repeat it, but he just highlighted basically what
7 I wanted to say.

8 I am one of a person that was unemployed,
9 and I was told about Miko's, and I went in there and I
10 got to meet them, and they were just family right away
11 just because of the love from their heart, just the
12 smiles that they gave, and they gave me a chance.

13 I was out of work for a whole year, did not
14 know what I wanted to do, what I needed to do, but she
15 gave me that chance, just to be a cocktail waitress.

16 I've never seen what I seen on that video.
17 And to hear what these people are saying, I hear it, but
18 -- to say the peace of mind, but so do we. We want a
19 peace of mind, too, and that is our place of peace of
20 mind.

21 Unfortunately, things does happen. But
22 even if we was not there, things would still be
23 happening. So it's, like, why blame it solely on us or
24 the people outside when they barely even came inside?

25 So it's like they're basing our

1 establishment off of the people outside. It's
2 unfortunate. We get that.

3 But the point is that you're allowing one
4 person to take the whole blame, but it's, like, they've
5 taken part, as well. They need take responsibility, as
6 well. The peace of mind goes both ways.

7 And that's all I have to say.

8 CHAIRWOMAN VAN HORIK: Thank you.

9 All right. That concludes the public
10 comment portion of this meeting. Let me look at -- do
11 we have a special agenda tonight? Let me just
12 double-check that.

13 The next item on the agenda for this
14 hearing is a rebuttal by the City, but it's almost 1:00
15 o'clock in the morning. We are not going to be able to
16 continue -- we're not going to be able to continue this
17 meeting anymore this evening.

18 So I'm going to look to staff for a
19 recommendation as to how to proceed, please.

20 MR. MAIS: My suggestion would be all of the
21 testimony is currently in except for the rebuttal by the
22 City, if there is any, and I don't know that there is,
23 and the closing remarks that each of the three counsel
24 has an opportunity to make.

25 So my suggestion would be that we close the

1 public hearing this evening and adjourn this matter to a
2 date certain, if the Planning staff has one, to take up
3 the items that are remaining, which would be the
4 statements by the three counsel, any rebuttal that the
5 City might have and, of course, the deliberations by the
6 Planning Commission.

7 MS. TATUM: Staff does have a certain date to
8 continue it, and that would be December 8th, Thursday.

9 CHAIRWOMAN VAN HORIK: Okay. I've closed the
10 public comment period already, so I'm looking now to the
11 Commissioners, if there's any discussion.

12 I believe in the event that we would have
13 to continue this, that we've already polled you to see
14 what your availability for those dates.

15 COMMISSIONER TEMPLIN: I'm not available.

16 COMMISSIONER PEREZ: I'm not available.

17 MR. OROPEZA: It's been three years. Please.

18 CHAIRWOMAN VAN HORIK: So we have three
19 Commissioners that aren't available on December 8th.

20 MS. TATUM: The December 8th meeting, if you
21 choose that date, that would be a special meeting. So
22 staff would renotice the meeting for that date as a
23 special meeting. It would require renoticing even if
24 you continue it to a date certain because it's not a
25 regularly scheduled meeting.

1 MS. BODEK: So are saying that you do not have
2 three commissioners on that day already?

3 CHAIRWOMAN VAN HORIK: Three Commissioners have
4 said that they cannot come. That means that I would
5 assume that we would have four.

6 MS. BODEK: Our schedule is full already for
7 November 17th and December 1st. We could look to
8 another day that works for the majority of the
9 Commission, or we could do December 15th, which is a
10 standing Commission day, and adjust that schedule to
11 clear that calendar.

12 So we either survey you probably next week
13 or we decide tonight on December 15th.

14 CHAIRWOMAN VAN HORIK: We also talked about a
15 December 10th date, so I'd like to poll the
16 Commissioners and --

17 MS. BODEK: December 6th is a Tuesday, so that day
18 is not available because that's a Council day.
19 December 8 would be a Thursday. December 10 would be a
20 Saturday.

21 CHAIRWOMAN VAN HORIK: Yeah, no.

22 We talked about December 7th, but believe
23 there was a problem with that date. I'm not sure.

24 MS. BODEK: December 7th is a Wednesday.

25 COMMISSIONER LEWIS: Is the only thing we have to

1 do closing statements?

2 CHAIRWOMAN VAN HORIK: Closing statements and
3 deliberations, which are important.

4 MR. MAIS: Mr. Sanchez has indicated that on the
5 City's behalf, there is no rebuttal to what's already
6 been stated. So it really is just the closing
7 remarks -- I have no idea how long that would be -- and
8 then the deliberations.

9 CHAIRWOMAN VAN HORIK: December 7th.

10 How many of you want to proceed? There are
11 two Commissioners that would like --

12 COMMISSIONER VERDUZCO-VEGA: Might as well.

13 COMMISSIONER CHRISTOFFELS: That's fine.

14 CHAIRWOMAN VAN HORIK: Let's go for it.

15 Please let's not have any applause from the
16 audience. Thank you. Need to take a five-minute break.

17 (Brief recess.)

18 CHAIRWOMAN VAN HORIK: We would like the City to
19 do their rebuttal.

20 Is there no rebuttal from the City?

21 MR. SANCHEZ: There is no rebuttal from the City.
22 I apologize.

23 MR. MAIS: The City does have a closing remarks to
24 make, but since the City has the burden of proof, as we
25 indicated at the beginning, they'll be going last.

1 So Mr. Cernyar will be speaking first, and
2 then Mr. Clough is going to speak after that.

3 CHAIRWOMAN VAN HORIK: And the term of the closing
4 statement is undetermined?

5 MR. MAIS: Reasonable.

6 CHAIRWOMAN VAN HORIK: Thank you.

7 Go ahead, sir.

8 MR. CERNYAR: Thank you.

9 I was all set up. One moment.

10 There's nothing -- or good evening,
11 Commissioners.

12 There's nothing more my client would like
13 than to have this community support that bar. She'd
14 like to have Mr. Ted Kane come in there and have a
15 drink. She'd like to have Dana Dittman as a client.
16 She'd like to have Dolores Williams. She'd like to have
17 everybody that spoke up.

18 CHAIRWOMAN VAN HORIK: You can actually move the
19 podium up, too. You don't have to bend over.

20 MR. CERNYAR: I think that's as far as it goes.

21 Thank you.

22 But when she first started out this
23 business, this was her American dream. You heard her.
24 Her father, she was going to make turkey burgers and
25 have a bar, a sports bar. That's all she wanted.

1 The problem was she didn't have any
2 experience. There's a learning curve. She had some
3 growing pains. She had some nasty growing pains. We
4 saw that in the video.

5 But she did, and she continues to grow and
6 learn, and it's to the point now that if this meeting
7 was held a year ago, I could see revoking the
8 conditional use permit. I could see that because what a
9 disaster it was.

10 But it's not 2015. It's 2016. It's today.
11 She's done a great deal. I don't think it's appropriate
12 or just to revoke that conditional use permit. Modify
13 it, absolutely. Something should be there to help her.

14 When we start looking at these exhibits and
15 we look at Exhibit 42, which is the service calls over
16 that period of time, and we take a look at those service
17 calls, looking at page 13 of those service calls, and we
18 start looking at what happened after the City Council
19 meeting on August 9th and we take a look at those
20 service calls -- and I don't know if it's coincidence
21 that Mr. Oropeza moved at the same time simultaneously,
22 but we had four calls, four calls from a time period --
23 and this isn't updated, but I think we had four calls.

24 And the Officer, if I heard correctly, said
25 that one call, the DCC call, shouldn't even count.

1 That's what I thought I heard.

2 But it's been a long night, so maybe I
3 didn't hear it, but we have four, three or four calls in
4 that period of time from a process that went from 250 or
5 more, whatever the count was, to that time.

6 I would like to have done some analysis
7 here, and that's why I asked for additional time for
8 discovery because I would have had the time to do the
9 analysis. I could have told you what time those calls
10 were on those 250 calls.

11 And when I asked the Officer when were the
12 majority of those phone calls were, 90 percent of them,
13 I think he said, somewhere around 11:00 o'clock and
14 after.

15 If we got rid of 90 percent of those phone
16 calls by closing that bar earlier, I think the community
17 would be happy. If we limit the hours, move the
18 conditional use permit to limit the hours, I think
19 everybody can go home happy because I think the biggest
20 problem with the community is not what's happening at
21 5:00 o'clock or 6:00 o'clock where traffic is still
22 heavy and is muffling all that sound.

23 The problem is after that period, after
24 traffic goes away, there's nothing left to muffle that
25 sound, and it just gets loud. And at 10:00 o'clock,

1 11:00 o'clock, these people are watching the news, and
2 they want to go to bed. That's what they want to do.

3 Not tonight. They're here. They don't
4 mind being up here 'til 1:00 o'clock. But during the
5 day, during the typical day, that's what they want to
6 do, sleep peacefully.

7 And I don't think anybody here can blame
8 them. And I think when you start talking about what can
9 we do to modify that conditional use permit and we start
10 talking about modifying hours, there's other things we
11 can do with the City to help.

12 Parking permits after 11:00 o'clock or
13 after midnight, whatever the time is going to be. You
14 say, hey, you can't park here on Maine if you don't live
15 on Maine because it is a residential neighborhood. And
16 those people should have the opportunity to park on
17 Maine.

18 Everybody here should work together instead
19 of trying to tear each other apart because what I heard
20 today from the community is they would like to have
21 their community bar.

22 Now, I don't know -- there was no evidence
23 brought into this, but when you start looking at the
24 Yelp page, that little bar is three and a half stars.
25 Could be four if people in the community didn't write it

1 was a ghetto bar. That's some of the comments you see
2 from the community.

3 And that seems to have been their
4 experience on how they view it. I think it's a turn of
5 events, and I think what really helped, too, was no
6 longer having the occasional entertainment permit.

7 I think when we looked at that video, we
8 had 15 occasional entertainment permits issued, and on
9 that video we had 13 to 15 dates, all seemed to coincide
10 with those occasional entertainment permits.

11 Those are not that -- something that should
12 be issued, I think, in that community bar. And I think
13 when they stopped issuing them -- and the Officer, I
14 believe Ms. Barajas, mentioned that they stopped issuing
15 them early in 2016. That helped. That helped on all
16 these issues.

17 We didn't see anything in that video after,
18 I think it was, January 6th, 2016. I don't think we've
19 seen anything in March. I asked, if I recall correctly
20 -- it was hours ago, but I asked where's the videos from
21 2016. I still have them.

22 If there was something on there, ladies and
23 gentlemen, I don't think he would have kept them. I'm
24 certain he would have turned them over.

25 But I think getting rid of the occasional

1 entertainment permit eliminated a lot of those problems.
2 And I think what happened with their calls, too, the
3 calls got shortened. Maybe it was the warning from the
4 City Council, step up and fix it up. Maybe it was the
5 moving. Maybe it was a combination of both.

6 But now currently, the person that lives in
7 that particular unit gets along fine with the bar.
8 There's no issues between him and the bar. And the fact
9 is he's not here today, he doesn't want to get involved,
10 I think that speaks volumes.

11 Thank you.

12 CHAIRWOMAN VAN HORIK: Thank you.

13 Can we have Mr. Clough, please.

14 MR. CLOUGH: Good evening, and it definitely is a
15 good evening. Thank you very much for being patient. I
16 don't have a whole lot to say, if it may please you.

17 I would like to point out though that
18 Mr. Mackey is simply the owner of the building, and it's
19 not like he didn't do those things which he felt were
20 appropriate.

21 If we listen to the evidence, I think I
22 boiled it down to there were some notices that were
23 given to the owner of the bar, and then one was given to
24 Mr. Mackey, and that was a notice that was responded to
25 on June 5th, and it's contained within the evidence

1 that's supplied by the prosecuting agency here.

2 And in response to that, in June 5th
3 Mr. Mackey wrote and he suggested five things that
4 should be done by the user of the bar, and if they did
5 that, he felt that the appropriate response would have
6 taken place and the issues in the neighborhood perhaps
7 would have been resolved.

8 The problem after that is not even
9 addressed until we get to January of 2015, and then
10 there's a letter that's sent out basically talking about
11 sound on the premises, and then there's not even a
12 follow-up of that.

13 And then the next thing that I have is that
14 there's an after-the-fact City hearing that's taking
15 place on violations.

16 Now, Mr. Mackey is not the runner of the
17 bar. He owns the property. He did try to address the
18 issues very specifically, and if you look at the letter
19 that was written by Mr. Mackey and, in fact, by his son
20 on June 5th of 2014, he made several suggestions.

21 He made six suggestions that he had hoped
22 would resolve the problems. I don't know exactly what
23 else he was supposed to do as the owner of the property
24 other than address these issues to his tenants.

25 Now, I can't tell you because I haven't had

1 enough time to really look at everything exactly what
2 was done to take care of the problems, but what I have
3 heard from Counsel, at least, and from the witnesses
4 that made statements before you, what I can tell you is
5 that it appears to me that it's improving.

6 Now, if the issue is simply Mr. Mackey
7 shouldn't have allowed someone to rent his property to
8 do a bar and, therefore, because he didn't do enough
9 other than write a letter that he felt was fairly
10 strong, I guess then the only alternative is basically
11 he has to rent it out and do something else with it.

12 But I don't think that it's appropriate for
13 Mr. Mackey to simply be run out of business and not
14 being able to do anything. I think there should be two
15 separate considerations here, and my consideration is
16 Mr. Mackey.

17 He's got a trust. He's a semi-retired
18 person. He has property that he would like to use.
19 That's all we have. That's all our issue is before this
20 body. And I would ask you to please consider that.

21 There's only three things here, and one of
22 them is Mr. Mackey's letter addressed to the bar saying,
23 hey, this is what you should do, one, two, three, four,
24 five.

25 There's nothing else that he's done, and he

1 shouldn't have his property owner's business license
2 revoked. He should be allowed to run his property.

3 And if you, on the other hand, believe that
4 the current bar runner is someone that can correct any
5 problems that exist, I would hope that you allow that.
6 But if not so, let's not deprive Mr. Mackey of his only
7 source of income out of this property.

8 With that, I thank you for your time, and I
9 know it's late. Thank you.

10 CHAIRWOMAN VAN HORIK: Thank you, sir.

11 MR. SANCHEZ: And I don't know if anyone's still
12 back there, but if I can get the PowerPoint presentation
13 back up, please.

14 So due to the late hour, I had a PowerPoint
15 presentation prepared regarding this location. It's
16 rather extensive. I'm not sure I need to get into all
17 the specifics because I know the Board or the
18 Commissioners have heard all the legal arguments from
19 Planning Department staff report, but as it relates to
20 the Mackey Trust, they are the property owners, so
21 what's considered before the Commission is the
22 conditional use permit and the business license.

23 As for Enaid's Way or Miko's Sports Lounge,
24 it's their business license. This is the standard that
25 there is in the Municipal Code regarding the conditional

1 use permit.

2 You know, there are two conditions in the
3 conditional use permit that are in issue, which is
4 addressed in the staff report, which is condition number
5 14 and condition 20. 14 is relating to the security
6 issues in the bar, and number 20 is relating to the
7 parking.

8 In terms of what has been violated with the
9 condition -- and we'll start with the security. As I
10 kind of point out here in the little bullet points,
11 having the one security guard on non-event nights and as
12 well as having other duties within the bar is inadequate
13 to combat nuisance activity happening in the rear
14 parking area along Maine Avenue, which is the area that
15 we've been talking about this whole entire night.

16 Even when they use two security guards on
17 busier nights, it still does not effectively control the
18 rear park area, nor does it keep the noise, boisterous
19 activity and loitering from the patrons to a minimum.
20 You kind of see that in the video.

21 And then the recommendation is made by the
22 Long Beach Police Department. You heard Officer Barajas
23 from Vice, as well as Officer Flores, in the meetings
24 relating to the business license that recommended that
25 three security guards and then having one per 50

1 patrons.

2 And that was not initially adhered to,
3 although Miss Yancey now says she's compliant with that
4 now.

5 The -- in Officer Flores' testimony, as
6 well as Officer Barajas and Officer Vazquez, we were
7 talking about the calls for service, which is what we
8 indicated that the Police Department uses to monitor a
9 particular location.

10 And throughout, you know, since Miko's has
11 been in operation, I don't think there has been any kind
12 of a fluctuation in the number of calls other than the
13 most recent, I guess, slowdown since August of this
14 year.

15 Majority of violations we're talking about
16 happened, obviously, in 2014, 2015 and the early part of
17 2016, and if the Commission wants to look at it, you
18 know, there's kind of been an escalation in the level of
19 the incidents. You know, basically culminates in the
20 shooting incident that occurred in December of 2015.

21 But all that is reflective of the
22 ineffectiveness of the security plan used by Miko's over
23 the last few years. I know Miss Yancey has indicated
24 it's changed now, and that may be, but in essence, the
25 damage has been done.

1 Now, as to special condition number 20,
2 which relates to the parking, you heard a lot of
3 testimony about the rear area parking lot. You saw the
4 number of spaces that are back there. It's rather
5 limited, although looks like there's some double spaces
6 back there.

7 Based -- and this kind goes to the heart of
8 the argument relating to the conditional use permit.
9 The way that Miss Mackey and Miko's was using that
10 location and having the entertainment not only with the
11 occasional entertainment permits, but having a deejay
12 and having music there, it was turning more into a club
13 than it was a tavern.

14 And there was some testimony relating to
15 social media advertisements, and I think there was one
16 that was identified or printed out in the police report
17 that Officer Flores had testified to, and I think it was
18 item number 47 in the booklet.

19 But that kind of changed the amount of
20 patrons that were coming to the bar, and when it got to
21 that level, the parking really is magnified in that type
22 of a situation and is reflective of the exceeding the
23 allowed use for that location because the parking leaves
24 -- or directly affects the neighborhood directly because
25 with the limited amount of spaces in the back with no

1 real parking agreement, even if she has a verbal
2 agreement for some parking spaces across the street,
3 there was no indication that she directed her patrons to
4 park anywhere else other than in the neighborhood
5 street.

6 There was definitely no direction not to
7 park in the neighborhood street. In fact, there wasn't
8 any direction to do anything in relation to the
9 neighborhood itself.

10 And that creates the problem that you see
11 in terms of all the residents' complaints, the activity
12 that occurs when the patrons park along the residential
13 streets.

14 And, you know, even with just the music
15 alone coming from stereos or from, you know, whatever
16 they do, loitering in their vehicles before they go in
17 or after they come out, it's just not conducive for the
18 area. And that is a direct reflection on the exceeded
19 use based on the original plan as described in the
20 Planning staff report regarding the conditional use
21 permit and all those special conditions relating to what
22 was originally supposed to be a tavern and a
23 neighborhood bar.

24 And the only extension or increase in
25 activity that was allowed in that 1995 conditional use

1 permit that was granted is the addition of the pool
2 tables.

3 And so that was the intent. Not to have
4 them moved to have a dance floor and have dancing and so
5 you can get as many people in there as possible. And
6 this is just a direct reflection of that activity
7 occurring in that location. It's just not an
8 appropriate mix.

9 There are -- kind of go through some of the
10 things I've already talked about here in some of these
11 slides, but that's kind of the essence of it.

12 As it relates to the business license, in
13 going to a new area and starting a new business -- and I
14 know it's difficult to run any business, but if you're
15 going to have a bar business in an area that's so close
16 to a neighborhood, there are certain steps that a
17 reasonable business owner would take to at least
18 communicate with the neighborhood or reach out to the
19 neighborhood.

20 And although Miss Yancey did meet with the
21 residents when she first started -- and I'm not sure how
22 that came about, but it was a couple of the neighborhood
23 members, as well as a representative from the Seventh
24 District.

25 And there was some exchange there, and then

1 there was a subsequent meeting a month later after she
2 was in operation for a month and after there were some
3 complaints that the residents had, and for some reason
4 there was no communication after that.

5 And that pretty much, well, from the City's
6 point of view was a mistake that has caused the
7 situation that is before the Commissioners now because
8 everything that could have been taken care of at that
9 point in time essentially snowballed into something
10 bigger to the point where it is now, at least as it
11 relates to the residents and the effect that this
12 activity in terms of what you see on the video in that
13 scene with all the people in the street, with the noise
14 coming not only from the establishment from the back
15 door, but also from the cars themselves, just to the
16 sheer number of people out on the street at that hour.

17 I mean, if you check on the video -- and
18 you can look back at it -- I mean, majority of it is at
19 1:30, 1:45, midnight. Most of it is past midnight.

20 As Mr. Cernyar points out, most of the
21 activity was between 11:00 and closing, but those are
22 the times where it's very sensitive for the neighbors
23 because everyone's asleep at that hour.

24 And to have that level -- I mean, you could
25 really tell from the video what that volume is like, and

1 that's from a speaker that's in a camera that's, you
2 know, 10, 15 feet up in the air away from it, and still
3 so loud that you can even hear it blocks out in the
4 video.

5 So it wasn't, you know, a low level where
6 we have to talk about decibels or anything like that. I
7 mean, you can even see it. And it did have -- did the
8 neighborhood have to experience that -- I'm not going to
9 say on a nightly basis, but, you know, every weekend,
10 it's gonna have an effect, and it's gonna be detrimental
11 to not only the quiet enjoyment of each of the
12 individual residents, but the neighborhood as a whole,
13 which is essentially why you see them banding together
14 and grouping together to address that issue. They're
15 trying to be responsible.

16 Which kind of goes to my next point as it
17 relates to the business license for Miko's. And I tried
18 to talk to Miss Yancey and ask her questions about the
19 video, about meeting with the residents, and the problem
20 is accepting responsibility for what's happening at your
21 own establishment.

22 What I see -- and it's not just from the
23 video. We hear testimony from the residents, as well as
24 her own explanation of what was on the video. She's not
25 accepting what's happening in her own establishment.

1 She's not accepting the responsibility that is imparted
2 on her as a business owner with this type of business
3 adjacent to a bar.

4 And she's not -- she hasn't done anything
5 to address it even before you in explaining what was
6 depicted on the video. There's no acknowledgement. And
7 that's the problematic thing about it because I don't --
8 you know, I think she's trying to fix it.

9 I think she's sincere in saying she's
10 trying to fix it, but we are almost three years down the
11 road, and, you know, there's no telling if it's going to
12 be able to be fixed.

13 And I don't know if the residents can be
14 fixed. I think the damage has been done because it was
15 so significant. And as Mr. Cernyar indicates, it was a
16 train wreck at the beginning.

17 Well, that has an effect, and it's a
18 lasting effect, and it still has the effect. It's not
19 gone away, and there's no way to undo that. I wish
20 there were, but there's no way to undo that. And
21 because of that, it's just a problem.

22 And if there were some evidence to show not
23 so much now, not since August of this year to now where
24 we could point to things are changing. It's really
25 looking at the bigger picture and the entire time period

1 that the bar has been in existence, and you have to
2 evaluate it from that standpoint.

3 And really, looking at that and then
4 looking back at the CUP, it's just something that
5 doesn't work at that location, and it's almost -- it's a
6 bad combination for the two, and it's almost impossible
7 to create a situation where that would work.

8 And so moving to Mr. Mackey's situation as
9 being a property owner. As you heard, Officer Vazquez
10 testified there was problems that started to occur with
11 the Sandbar lounge.

12 There was a letter that was sent out
13 advising Mr. Mackey of that situation and the fact that
14 it was in violation of the conditional use permit.

15 As Officer Vazquez testified, he had some
16 communications with the business owners, and they had
17 informed him -- and I don't know if there wasn't any
18 rebuttal to it, but the ownership or Mr. Mackey and the
19 Mackey Trust put the onus on the business to take care
20 of the violations of the conditional use permit, and it
21 didn't happen, and the business ended up going out of
22 business and no longer operating at that location.

23 And there was a three-, four-, five-,
24 six-month period that occurred between what happened
25 there and then with Miko's coming in and doing the same

1 thing, and the problem with that is that you have one
2 establishment where the property owner was allowing the
3 tenant to take care of the problems with the conditional
4 use permit, and then you have a new tenant come in to
5 basically operate a similar business, and nothing was
6 done to address the same issues with the conditional use
7 permit, which are the same conditions we're talking
8 about now.

9 And in a way, I mean, as Miss Yancey talks
10 about, you know, walking into -- it's kind of walking
11 into a hornet's nest. Well, there's no one else to look
12 at in that situation other than the property owner
13 because the property owner knew what was going on before
14 Miss Yancey came in and took over that location to do
15 what she was doing, and that falls on the property
16 owner.

17 And there is some accountability for that.
18 And I ask that the Board consider that when it's making
19 its decision as to the business license for the
20 ownership of the bar.

21 I've kind of gone away from the whole
22 PowerPoint, but I would just close in saying that the
23 Board should revoke the conditional use permit in this
24 situation simply because of the circumstances, what it's
25 already hurt.

1 As it relates to the business license of
2 Miss Yancey, it should revoke that license, as well,
3 just because of all the facts that it's heard in
4 relation to what is happening, including the video,
5 which, you know, speaks volumes.

6 And then finally, as it relates to
7 Mr. Mackey, I would ask that they would consider
8 revocation of his business license just for the fact
9 that the situation has gone on since at least the
10 Sandbar. So we're talking about 2011 up 'til now, and
11 it's been a four-, five-year period where, you know
12 he's, had knowledge of what's going on at that location.
13 He should have stepped in and done more to combat it.

14 Thank you.

15 CHAIRWOMAN VAN HORIK: Thank you very much.

16 At this point, it comes back behind the
17 rail; is that correct?

18 Mr. Koontz, you're not presenting anything?

19 MR. KOONTZ: I'm available for questions, but I
20 believe that we've made our case sufficiently.

21 CHAIRWOMAN VAN HORIK: Okay. So we have some
22 Commissioners' questions queued up, and we'll start with
23 that.

24 Commissioner Templin.

25 COMMISSIONER TEMPLIN: Thank you.

1 A lot of the stuff that was presented I've
2 actually made notes on. I feel there should have been a
3 disclosure to Miss Yancey from the property owner about
4 the previous problems with her walking into a situation
5 when she said everybody was already aware of problems
6 and she wasn't, and I think that falls back on the
7 property owner. I have to agree with that.

8 His lack of follow-through and the fact
9 that he had to be sued to put in handicapped spaces from
10 years, and wouldn't have done it if he hadn't been sued.

11 I would love to say that there's been a big
12 change and to keep up that chance, but two and a half
13 years of the neighbors going through that video stuff is
14 outrageous.

15 I kind of agree with your lawyer,
16 Miss Yancey, that the CUP should have been pulled last
17 year, and why it's gone on this long I don't know.

18 A business owner has to be responsible.
19 They have to have a plan. They have to have the
20 finances to do what needs to be done in the proper way.
21 I spent -- ever since I received this, every night going
22 through this material, and you yourself gave some
23 excuses, like everybody else does it.

24 The undercover people that came in and you
25 didn't have a license, you owned up to it. I feel

1 you're an honest and good person, but the lack of
2 experience and the situation you were in, it's
3 overwhelming.

4 I'm sorry. I have to support the staff's
5 recommendation.

6 CHAIRWOMAN VAN HORIK: Thank you.

7 Commissioner Cruz?

8 COMMISSIONER CRUZ: Thank you.

9 For staff. Since 1995, has a parking
10 agreement ever been recorded with the County?

11 MR. KOONTZ: Not to my knowledge.

12 COMMISSIONER CRUZ: Never been recorded.

13 And the problem I'm having with this case
14 is the condition 14 and 20. It seems like they have
15 never since 1995 have ever been approved. They have
16 been outstanding ever since then. And in 2012 a notice
17 of violation was sent to property owners, Mackey Family
18 Trust, identifying these two conditions of approval.

19 So that's a four-year-old case. And
20 Miss Yancey was maybe not aware of that, and the City
21 still issued a business license. I don't think that
22 ever should have been issued back then, and for those
23 reasons I'm going to support staff also.

24 CHAIRWOMAN VAN HORIK: Vice Chair Verduzco-Vega.

25 COMMISSIONER VERDUZCO-VEGA: Thank you, Madam

1 Chair.

2 Quick question for staff. Did the City
3 ever make an effort recently to reach out to the
4 property owner, not just by mail to give the Trust
5 notice of this hearing, but to try to come up with a
6 solution short of tonight's hearing?

7 And I say that because, I mean, as we all
8 know, we've all sat here for at this point almost a full
9 day, day's work, almost eight hours to great expense to
10 the City of Long Beach and to our taxpayers.

11 Did Mr. Mackey know the severity of the
12 potential outcome of this hearing?

13 MR. KOONTZ: Commissioner, Members of the
14 Commission, we did meet with the property owner in the
15 room right behind this chambers on April 19th, 2016. In
16 addition to hearing from City staff at that time,
17 Mr. Mackey heard from residents and was confronted with
18 photographs of the situation that was happening at the
19 establishment.

20 He was briefed as to the potential
21 consequences, losing the conditional use permit that ran
22 with the land, and implored upon to correct the
23 situation.

24 After that time, there was no improvement
25 in the situation. While we were optimistic in that

1 meeting and both Mr. Mackey and his wife expressed
2 aghast and horror at the situation and the photographs
3 that they were confronted with and made a commitment not
4 only to staff, but more importantly, to the neighbors
5 that were at that meeting that the situation was going
6 to be addressed.

7 It was not addressed, and subsequently
8 communication from Mr. Mackey ceased, and we saw no
9 improvement.

10 So as all of the Commissioners have learned
11 this evening, this is a very long, difficult process,
12 and at that point with a history dating back multiple
13 years with Mr. Mackey, we did not have resources to
14 continue hoping or counting on his good will, but we had
15 to begin the process to do the formal revocation of the
16 conditional use permit.

17 COMMISSIONER VERDUZCO-VEGA: You know, it really
18 troubles me that when an applicant generally comes
19 before this body seeking a conditional use permit,
20 oftentimes we give members of the audience comfort in
21 knowing that if a segment or all of the conditional use
22 permit conditions aren't adhered to, that that
23 conditional use permit can be revoked by the City of
24 Long Beach.

25 And it really troubles me that in this

1 case, it's taken many years to take action on something
2 that, as we saw from the evidence, very clearly violated
3 several of those conditions of the CUP.

4 MR. SANCHEZ: If I can just add, Commissioner, the
5 -- Mr. Mackey was contacted by our office as soon as the
6 -- we found out the hearing date being set, so it was
7 right at the beginning of last month -- to give him a
8 heads-up on what we were doing and what was happening
9 here today.

10 So we did have communication with him. We
11 didn't really talk about resolution. We just tried to
12 advise him of what was going to happen today.

13 COMMISSIONER VERDUZCO-VEGA: Lastly, I'd just like
14 to make a comment.

15 I do agree with Commissioner Templin in
16 having no reason to doubt that Miss Yancey is an honest
17 person and truly means well, and I do believe that we
18 all have, as Miss Yancey's attorney said, some sort of a
19 learning curve and growing pains with whether it be our
20 business or our jobs, but to put those growing pains on
21 the back of the community is really unacceptable at
22 least for three years, and so many calls for service is
23 just a little difficult to -- it's a pill that's a
24 little tough to swallow.

25 Thank you, Madam Chair.

1 CHAIRWOMAN VAN HORIK: All right. Commissioner
2 Lewis.

3 COMMISSIONER LEWIS: Yes. I have a question for
4 Mr. Sanchez.

5 I understand that we're discussing revoking
6 CUP for the property owner, which would not allow him to
7 use that property in that capacity moving forward.

8 How does removing the business license,
9 which my understanding would be his business license is
10 simply to rent the property, and with that license would
11 allow him to rent the property under whatever it's
12 currently zoned for if the CUP is not there.

13 If we remove his business license, are we
14 taking away his ability to lease the property for any
15 other uses?

16 MR. SANCHEZ: Yes, I believe so. So if the
17 Commission were to revoke the business license for the
18 property owner, he would have to wait a year before he
19 could apply for a new business license to rent out the
20 property, yes.

21 COMMISSIONER LEWIS: Thank you.

22 CHAIRWOMAN VAN HORIK: Commissioner Christoffels.

23 COMMISSIONER CHRISTOFFELS: So we issue CUPs to
24 allow certain land use in an area that normally would
25 not be permitted. This is considered a discretionary

1 permit on our behalf, and we do so when we believe that
2 there may be, under certain circumstances, a compatible
3 use.

4 It's clear from the testimony that we've
5 been given that maybe in 1995 the Commission thought it
6 was a compatible use with the neighborhood, i.e., a bar.
7 But over the years, I think the evidence is clear that
8 that has not proved to be the case.

9 We seem to have maybe it worked initially,
10 but subsequently, every owner after that was clearly
11 causing grief to the neighborhood in terms of that CUP.

12 And so I see the issue is that we've
13 allowed for some time a land use that appears to be
14 incompatible with the neighborhood, and in this case
15 it's a bar.

16 I'm not so sure on the business license
17 that I'm agreeing with staff recommendations, and so
18 what I would ask my fellow Commissioners if we could
19 take these as three separate items.

20 We have a CUP revocation, and we have two
21 business license revocations. Would it be all right if
22 we took them individually and voted on them
23 individually?

24 CHAIRWOMAN VAN HORIK: I just had a brain fade for
25 a minute. I'm sorry. We already have a motion and a

1 second queued up.

2 COMMISSIONER CHRISTOFFELS: But we haven't heard
3 those motions yet. We don't know what they are.

4 CHAIRWOMAN VAN HORIK: Mr. Mais?

5 MR. MAIS: Chair Van Horik, actually, it makes
6 sense what Mr. Christoffels is suggesting. There are
7 separate findings for the revocation of the business
8 license for the property owner, business license for the
9 operator, and the CUP, which really affects both the
10 owner and the operator.

11 So my suggestion would be that we take a
12 motion on one of the two business licenses, then deal
13 with the second business license, and then finally deal
14 with the CUP.

15 CHAIRWOMAN VAN HORIK: So I'm going to ask the
16 mover and the seconder would you be willing to approach
17 it in that manner? That would be Commissioner Templin
18 and Perez.

19 COMMISSIONER TEMPLIN: I would.

20 CHAIRWOMAN VAN HORIK: Commissioner Perez?

21 COMMISSIONER PEREZ: I'm okay with that.

22 CHAIRWOMAN VAN HORIK: So can you back that out,
23 Heidi?

24 MR. MAIS: While Heidi's clearing the board, I'd
25 just like one more reminder that as is the custom of the

1 Planning Commission and as it's contained in the rules
2 of the Planning Commission, there are findings for each
3 of these items in the staff report.

4 And if you vote to support staff's
5 recommendation, those findings are contained in the
6 staff report and are considered adopted by the
7 Commission.

8 If the Commission votes not to support the
9 staff's recommendation on that particular item, we would
10 bring -- if it went that way, we would bring that one
11 item back at a later meeting that would be scheduled at
12 the convenience of the Commission.

13 CHAIRWOMAN VAN HORIK: Thank you.

14 And before the motions are made, I just
15 have a couple of comments. Most of the comments have
16 been made by my colleagues are -- echo my feelings.

17 I just have a couple of comments, and one
18 of them is the CUP was issued in 1995, and it ran with
19 the land. So it's really the responsibility of the
20 property owner to communicate exactly what the
21 conditions, special conditions are in the CUP, and that
22 apparently did not happen.

23 I don't know for sure, but I have a feeling
24 that the business owner got direction from the Business
25 License division, and maybe the specifics of the CUP

1 weren't provided to her. I don't know.

2 However, I felt that the video was
3 shocking, and the business owner feels that people that
4 were acting out in the alley were not her customers,
5 they came from someplace else, but I have to believe
6 something attracted them there because that kind of
7 behavior I don't think happens to any degree like it was
8 documented in the video.

9 There were problems with the prior
10 establishments, but I don't think they were nearly as
11 severe. So I don't know if it was the social media
12 advertisements or what, but something about this
13 particular operation attracted these people that were
14 already inappropriately -- they were expecting something
15 other than what could be delivered there, in my opinion.

16 And I don't have any other comment to make
17 other than I'm fully ready to support the City Attorney
18 and the Planning Department and the Business License
19 division in this particular matter.

20 And I have to say if you've had a chance,
21 if any of you have had a chance to look at all the
22 detailed timelines that were prepared for us in addition
23 to what the neighborhood prepared, you can see that it's
24 been a huge cost to the taxpayers dealing with this
25 establishment and the establishment before it.

1 So I think that at this point, even if
2 there's been somewhat of an improvement over the last
3 three months, it's too late. The train has kind of left
4 the station. And the neighborhood is just so sensitive
5 and the nerves are so raw that I don't believe that any
6 further operation there is really tenable at this point.

7 So I'm going to go back to the Commission
8 and, Co-Chair Verduzco-Vega, you're queued up.

9 COMMISSIONER VERDUZCO-VEGA: Yes.

10 Very quickly for the record, Mr. Mais,
11 because we are asking that these actions be taken
12 separately, would you just clarify on the record?

13 Do we need separate public comment, or do
14 we need to give the public more time because they are
15 essentially three different actions that we're taking?

16 MR. MAIS: No. You're behind the rail at this
17 point in deliberations. Even though you're making
18 motions, public comment is ended, and so it's just a
19 matter of making a motion and taking a vote or three
20 motions and vote.

21 COMMISSIONER VERDUZCO-VEGA: Thank you.

22 CHAIRWOMAN VAN HORIK: So do I have anybody
23 prepared to make a motion?

24 Commissioner Templin.

25 COMMISSIONER TEMPLIN: I'm going to start with --

1 and if I'm saying it wrong, please correct me, but to
2 receive supporting documentation into the record,
3 conclude the public hearing and accept Categorical
4 Exemption CE 16247, and I'm going to skip to revoke the
5 property owner's business license -- that's Ronald L.
6 Mackey and Peggy C. Mackey Trust -- including but not
7 limited to BU 90057720 for the property located at
8 710 West Willow Street in the Community Commercial
9 Automobile-Oriented, CCA, zoning district, District 7.

10 CHAIRWOMAN VAN HORIK: And we have a second?
11 Commissioner Perez.

12 COMMISSIONER PEREZ: I second that motion.

13 CHAIRWOMAN VAN HORIK: Let's cast a vote.

14 Motion carries six to one.

15 MR. MAIS: Excuse me. The board read five to two.

16 MS. EIDSON: You are correct. Five to two.

17 MR. MAIS: The motion carries five to two.

18 MS. EIDSON: Yes.

19 CHAIRWOMAN VAN HORIK: We have two more motions in
20 the bin proposed. Would anybody like to move?

21 Commissioner Templin.

22 COMMISSIONER TEMPLIN: To receive supporting
23 documentation into the record, conclude the public
24 hearing and accept Categorical Exemption CE 16 dash 247,
25 revoke the business license for the operator Enaid's

1 Way, Inc., doing business as Miko's Sports Lounge,
2 including property owner's business license -- excuse me
3 -- including but not limited to BU 21338610,
4 BU 21338620, and BU 21338630. 10, 20, 30.

5 CHAIRWOMAN VAN HORIK: Do we have a second?
6 Commissioner Perez.

7 COMMISSIONER PEREZ: I second.

8 CHAIRWOMAN VAN HORIK: We have a motion and a
9 second. Is there any more discussion? No discussion.
10 Please cast your vote.

11 MS. EIDSON: Motion carries six to one.

12 CHAIRWOMAN VAN HORIK: And now there's the item
13 regarding the CUP.

14 Commissioner Templin.

15 COMMISSIONER TEMPLIN: To receive supporting
16 documentation into the record, conclude the public
17 hearing and accept Categorical Exemption CE 16 dash 247
18 to revoke the conditional use permit and standards
19 variance, Case No. 9505 dash 01 for a tavern.

20 CHAIRWOMAN VAN HORIK: Commissioner Perez.

21 COMMISSIONER PEREZ: I second.

22 CHAIRWOMAN VAN HORIK: Any discussion? Please
23 cast your votes.

24 Motion carries unanimously.

25 That concludes our business here tonight.

1 (Whereupon the proceedings concluded
2 at 1:52 a.m.)

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1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF ORANGE)
4

5 I, MARY E. PIERCE, Certified Shorthand Reporter
6 No. 6143 in and for the State of California, do hereby
7 certify:

8 That I attended the foregoing hearing and that
9 all testimony, argument and comments made at the time of
10 the proceedings were recorded stenographically by me and
11 that the foregoing is a true record of the proceedings
12 and all comments made at the time thereof.

13 I hereby certify that I am not interested in the
14 event of the action.

15 IN WITNESS WHEREOF, I have subscribed my name
16 this 17th day of November, 2016.
17
18

19 _____
20 Certified Shorthand Reporter in and
21 for the State of California
22
23
24
25

ATTACHMENT C

**Hearing Officer Terzian's Public Appeal Hearing
Transcript, March 15, 2017**

TRANSCRIPT OF PROCEEDINGS

APPEAL HEARING RE: REVOCATION OF
CONDITIONAL USE PERMIT AND STANDARDS VARIANCE
(CASE NO. 9505-01) AND TO REVOKE THE BUSINESS LICENSE
FOR ENAID'S WAY, INC., DBA MIKO'S SPORTS LOUNGE
AND TO REVOKE BUSINESS LICENSE FOR PROPERTY OWNER
RONALD L. MACKEY AND PEGGY C. MACKEY TRUST

MARCH 15, 2017

10:37 A.M.

LONG BEACH, CALIFORNIA

MARY E. PIERCE, CSR 6143

Job No.: 17-047

1
2 APPEARANCES:

3
4 HEARING OFFICER: RICHARD R. TERZIAN

5
6
7 For Damitresse Yancey, JOSHUA KAPLAN, Esq.
8 Miko's Sports Lounge: 11835 W. Olympic Boulevard
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9 Los Angeles, CA 90064

10
11
12 For Ronald and Peggy LARRY HAAKON CLOUGH
13 Mackey, Mackey Trust: 21757 Devonshire Street
Suite 2
14 Chatsworth, CA 91311

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1 WEDNESDAY, MARCH 15, 2017; 10:37 A.M.

2 LONG BEACH, CALIFORNIA

3

4 HEARING OFFICER TERZIAN: Good morning. My name
5 is Richard Terzian. I'm the appointed hearing officer
6 on this matter, and it is -- the time is now 10:27 a.m.
7 on the morning of March 15th, 2017.

8 MR. KAPLAN: Having a little trouble hearing you.

9 HEARING OFFICER TERZIAN: Hello. Can you hear me?

10 MR. KAPLAN: Thank you, sir.

11 HEARING OFFICER TERZIAN: We're here on the matter
12 of the business license revocation hearing for
13 revocation of business license numbers BU 21338610, BU
14 21338620, BU 21338630 and BU 90057720.

15 Can I have the appearances of counsel?

16 MR. CLOUGH: Yes. Larry Clough for Ronald Mackey
17 Trust.

18 MR. KAPLAN: Good morning. Joshua Kaplan for
19 Miko's.

20 MR. SANCHEZ: And then Deputy City Attorney Art
21 Sanchez for the City.

22 HEARING OFFICER TERZIAN: Very well.

23 Mr. Sanchez, would you please -- if you
24 have an opening statement, would you please make it.

25 MR. SANCHEZ: Thank you.

1 Good morning, Hearing Officer. We're here
2 regarding an appeal of the revocation of the business
3 license -- actually, I think there's three different
4 business licenses -- for Miko's Sports Lounge. It's a
5 dba of Enaid's Way, Incorporated, and its principal is
6 Damitresse Yancey. Also, the business license for --
7 it's a commercial retail license for the Mackey Trust.
8 Those are the two appeals that the Hearing Officer will
9 be deciding today.

10 The original hearing on this matter
11 occurred on November 3rd -- or November 4th of 2016 in
12 front of the Planning Commission. The only other matter
13 that was included in that was a conditional use permit
14 revocation, as well.

15 It was sent to the Planning Commission
16 because all evidence and facts were similar for each of
17 those items, so the Planning Commission heard all three
18 together.

19 As a result of that hearing, as the
20 Hearing Officer is aware, the revocation -- the Planning
21 Commission in their ruling revoking the business license
22 for Miko's Sports Lounge, for the Mackey Trust, and then
23 it revoked the conditional use permit for the location,
24 which was 710 West Willow Street.

25 I'm assuming and having prior discussions

1 with the Hearing Officer that you're aware of all of the
2 transcript -- you were provided the transcript of
3 proceedings from the original hearing in front of the
4 Planning Commission, as well as the exhibit book which
5 contained the exhibits that were referred to during that
6 hearing.

7 HEARING OFFICER TERZIAN: Yes, I have. I've read
8 it all.

9 MR. SANCHEZ: Okay. So we will be arguing the
10 appeal today with the assumption that all that
11 information is in the record, that the Hearing Officer
12 has reviewed it, and we are then going to address each
13 of the points or we will address the points raised by
14 both counsel for Miko's Sports Lounge, Mr. Kaplan, as
15 well as counsel for the Mackey Trust, Mr. Clough, in
16 their arguments on appeal. And each of them has
17 submitted a letter to the clerk's office with the basis
18 for the appeal.

19 And essentially, the City will just address
20 primarily the notice requirements relating to the
21 service of the notice for the hearing on each party, the
22 Mackey Trust as well as Miko's Sports Lounge, and then
23 address whatever issues or evidence presented regarding
24 the fairness of the procedure, as well as whatever
25 arguments are made regarding the sufficiency of the

1 evidence.

2 The only other -- well, with that, we will
3 submit that to the Hearing Officer. Once the Hearing
4 Officer is able to review that information, the people
5 -- or the City will contend that there was no defective
6 notice that was provided to either party, that the
7 procedure that was conducted by the Planning Commission
8 and all the evidence was fair to each party, that the
9 information that was submitted to the Planning
10 Commission was made available, if not provided to you,
11 but made available to each party, the Mackey Trust and
12 Miko's Sports Lounge, in order to afford them an
13 opportunity to have a meaningful hearing.

14 So with that I'll submit to the Hearing
15 Officer. I do have three witnesses that will testify
16 that I plan to call regarding the notice.

17 HEARING OFFICER TERZIAN: Let me just establish
18 something for the record. At this hearing before the
19 Planning Commission, both representatives of Miko's and
20 the Mackey Trust were present, were they not?

21 MR. SANCHEZ: Yes.

22 HEARING OFFICER TERZIAN: And they were
23 represented by counsel?

24 MR. SANCHEZ: Yes.

25 HEARING OFFICER TERZIAN: And were the witnesses

1 that testified at that hearing all sworn?

2 MR. SANCHEZ: Yes.

3 HEARING OFFICER TERZIAN: Subject to
4 cross-examination?

5 MR. SANCHEZ: Yes.

6 HEARING OFFICER TERZIAN: And a written record was
7 kept of the proceedings?

8 MR. SANCHEZ: Yes. And a copy of that transcript
9 was provided to the Hearing Officer.

10 HEARING OFFICER TERZIAN: All right. Please
11 proceed.

12 MR. SANCHEZ: Okay. So with that -- and I don't
13 know if I need to -- if we're just going to -- if
14 counsel is going to do an opening before I present any
15 evidence, or do you want me to just present evidence?

16 HEARING OFFICER TERZIAN: Do you want to make your
17 opening statement now?

18 MR. KAPLAN: Yes, in part I do. There's a kind of
19 a procedural thing I'd like to address first.

20 HEARING OFFICER TERZIAN: All right.

21 MR. SANCHEZ: Okay. So then with that, well,
22 we'll submit.

23 HEARING OFFICER TERZIAN: One more thing. Are you
24 submitting the record in evidence, the transcript of the
25 hearing before the Planning Commission and the

1 administrative record?

2 MR. SANCHEZ: Yes.

3 HEARING OFFICER TERZIAN: Okay.

4 MR. SANCHEZ: And then there was a number of items
5 that were included in evidence, and I'm going to assume
6 they were attached to that, one of which was a video
7 that was shown during the hearing.

8 And I don't recall what it was identified
9 as, but it was a video that was provided by a witness,
10 and then the foundation was laid by me during the
11 hearing. So with that -- other than that, no,
12 everything should be --

13 HEARING OFFICER TERZIAN: You're referring to the
14 video?

15 MR. SANCHEZ: Yes.

16 HEARING OFFICER TERZIAN: Is that part of the
17 record?

18 MR. SANCHEZ: Yes.

19 HEARING OFFICER TERZIAN: Do you want to designate
20 the -- any part of the administrative -- do you want to
21 designate the administrative record or the transcript
22 with any particular designation or just refer to it as
23 the administrative record in the transcript?

24 MR. SANCHEZ: Well, we can designate the
25 transcript as transcript of the proceedings.

1 HEARING OFFICER TERZIAN: Okay.

2 MR. SANCHEZ: And then the administrative record,
3 including all the exhibits that were attached to it,
4 which should include the exhibits that were used during
5 the hearing, which would include the video.

6 HEARING OFFICER TERZIAN: What about the video?

7 MR. SANCHEZ: Well, we can -- I guess we can
8 identify the video as item one that was submitted to the
9 Planning Commission. I'm not sure how they designated
10 it.

11 HEARING OFFICER TERZIAN: Well, a video was shown
12 at the hearing, according to the transcript, and in the
13 record that I got there's an envelope with a disk. Now,
14 is that disk an audio recording of the Planning
15 Commission hearing?

16 MR. SANCHEZ: I don't think so. I think the disk
17 is probably --

18 HEARING OFFICER TERZIAN: You know what I'm
19 talking about?

20 MR. SANCHEZ: No. I've not seen it. If I can
21 approach.

22 HEARING OFFICER TERZIAN: Yes, please.

23 I haven't listened to it or looked at it.
24 I just read the written material. I just assumed it was
25 a recording of the Planning Commission hearing.

1 MR. SANCHEZ: I think this is -- I can have it
2 checked real quickly.

3 HEARING OFFICER TERZIAN: Let's proceed, but let's
4 have someone check it.

5 MR. SANCHEZ: Sure. I will do that right now.

6 HEARING OFFICER TERZIAN: Before you proceed,
7 Mr. Kaplan, let's just wait until Mr. Sanchez gets back.

8 MR. KAPLAN: Sure thing.

9 HEARING OFFICER TERZIAN: Proceed, Mr. Kaplan.

10 MR. KAPLAN: Good morning, Mr. Hearing Officer.
11 Joshua Kaplan appearing for appellant Miko's. I wanted
12 to confirm that some specific documents are indeed part
13 of the record, and I believe that they are contained in
14 the three-ring binder that you've received. At least
15 some of them are.

16 Just in order to establish a record in case
17 we're going anywhere after this, I want to confirm that
18 the October 18, 2016, notice of business license
19 revocation letter is part of the record, and I believe
20 that is.

21 HEARING OFFICER TERZIAN: October 28th?

22 MR. KAPLAN: October 18th.

23 HEARING OFFICER TERZIAN: October 18th.

24 Do you happen to know what exhibit number
25 it is? Because it's awful thick.

1 MR. KAPLAN: That would be Exhibit 1.

2 HEARING OFFICER TERZIAN: My copy of Exhibit 1 --

3 MR. KAPLAN: Wait a second. Notice of license
4 revocation hearing.

5 HEARING OFFICER TERZIAN: My copy of Exhibit 1 has
6 a series of letters, notice of revocation, including one
7 addressed to you dated January 20th, 2017.

8 MR. KAPLAN: I'm looking for the -- not sure that
9 it is part of the record.

10 Mr. Sanchez, do you know if it is?

11 MR. SANCHEZ: I'm looking now.

12 MR. KAPLAN: I'm not so sure that it is.

13 MR. SANCHEZ: I don't think it is.

14 MR. KAPLAN: That's obviously a considerable
15 problem.

16 HEARING OFFICER TERZIAN: Do you want to submit
17 it?

18 MR. KAPLAN: Yes. I would need to make a
19 photocopy of it. If I could do that --

20 HEARING OFFICER TERZIAN: Sure.

21 MR. KAPLAN: -- at the end.

22 HEARING OFFICER TERZIAN: Okay. What are you
23 designating it as, Exhibit A?

24 MR. KAPLAN: I think so.

25 HEARING OFFICER TERZIAN: Okay. And what's the

1 date again, October 18?

2 MR. KAPLAN: October 18, 2016.

3 HEARING OFFICER TERZIAN: Notice of revocation.

4 MR. SANCHEZ: So I was planning on having
5 witnesses testify to each of those documents, so we can
6 attach them now. That's fine.

7 MR. KAPLAN: I don't have an extra copy, so if you
8 do.

9 MR. SANCHEZ: I do.

10 MR. KAPLAN: Okay. Then also there is a
11 November 4, 2016, notice of revocation action letter.

12 HEARING OFFICER TERZIAN: I don't have that
13 either. So submit that as Exhibit B.

14 MR. KAPLAN: So I'm wondering if Mr. Sanchez was
15 going to submit that as B.

16 MR. SANCHEZ: I was not. I don't have a copy of
17 that one.

18 MR. KAPLAN: Okay. So at the end of these
19 proceedings, perhaps we can take a break and get access
20 to a photocopy machine.

21 MR. SANCHEZ: That's fine.

22 MR. KAPLAN: Okay. Also, there is a November 10,
23 2016, Enaid's Way request for appeal, which I believe is
24 in the binder at Exhibit 2.

25 HEARING OFFICER TERZIAN: Yes, it is.

1 MR. KAPLAN: Okay. There also is a January 31 --
2 let's see. I'm going to -- even though it's in the
3 binder, can I have that designated as our Exhibit C just
4 for clarification?

5 HEARING OFFICER TERZIAN: Which one is that?

6 MR. KAPLAN: That would be the November 10, 2016,
7 appeal letter.

8 Then next, which I don't think is part of
9 the record, is a January 31, 2017, letter from me to the
10 City with regard to the issue of HAAS, H-a-a-s, and the
11 procedure by which hearing officers are appointed. I'll
12 make a photocopy of that because I don't think it's in
13 the record anywhere. That would be D.

14 And E, E would be a letter dated December
15 -- I'm sorry -- February 17, 2017, from the City to me
16 which responds to that HAAS issue.

17 HEARING OFFICER TERZIAN: What's that date again?

18 MR. KAPLAN: The letter from the City responding
19 is 2/17/17. See if that's correct. Yes.

20 So we'll find a way. Mr. Sanchez has been
21 so cooperative, I'm sure we'll find a way to make copies
22 of these and give them to you either at the end or at a
23 break.

24 HEARING OFFICER TERZIAN: All right. The
25 administrative record plus Exhibits A, B, C, D and E are

1 received into evidence.

2 MR. KAPLAN: Thank you.

3 HEARING OFFICER TERZIAN: Please proceed.

4 MR. KAPLAN: Let me see if I can first speak to
5 HAAS. It's HAAS, H-a-a-s, versus County of San
6 Bernardino, a 2002 decision. Citation is 27 Cal 4th
7 1017.

8 That is a case which stands for the
9 proposition that there must be objectivity and
10 essentially a wall between the City as the prosecuting
11 authority and the City that nominated a hearing officer.
12 And in this particular case, we have voiced HAAS
13 objections, not to you personally, of course, as you
14 understand, but to the process by which the hearing
15 officer has been selected.

16 We believe in the letters that we have sent
17 and the letters that were responded, particularly
18 Exhibit D and E, that there is a violation of HAAS and
19 that the City's selection process and designation of
20 Mr. Terzian is improper under HAAS. And so we would
21 object to the proceedings going forward with him as
22 hearing officer.

23 We have a second objection, which is to the
24 request of the City that the transcript of proceedings
25 before the Planning Commission and the three-ringed

1 evidence binder be admitted into evidence in lieu of
2 testimony reestablishing all of the elements of the
3 City's case, both factually and legally.

4 It is our position that these proceedings
5 today are essentially a trial de novo and that the City
6 has the burden of proof by at least substantial evidence
7 to sustain a basis for revocation once they state with
8 particularity the legal bases of the code and the
9 factual bases that meet those code criteria.

10 So we would object to the receipt of the
11 record essentially, the administrative record, in lieu
12 of having that testimony as a de novo hearing.

13 The other matters that are procedural or
14 constitutional are set forth in our appeal letter, which
15 is the November 10, 2016 letter, and so --

16 HEARING OFFICER TERZIAN: That's Exhibit C.

17 MR. KAPLAN: Exhibit C.

18 So we'll submit it on that rather than
19 repeating them.

20 Thank you.

21 HEARING OFFICER TERZIAN: All your objections are
22 noted and overruled. Do you have any further opening
23 statement?

24 MR. KAPLAN: I'd like to reserve it.

25 HEARING OFFICER TERZIAN: Do you have any further

1 opening statement of what you intend to show?

2 MR. KAPLAN: I'd like to reserve that if that's
3 okay with you.

4 HEARING OFFICER TERZIAN: That's fine.

5 Mr. Sanchez. Oh, excuse me. Mr. Clough.

6 MR. CLOUGH: I hate to be the forgotten man.

7 HEARING OFFICER TERZIAN: No, that's okay.

8 MR. CLOUGH: Good afternoon. Or good morning
9 actually. Sorry.

10 My client -- I represent the Mackey Family
11 Trust. Mr. Mackey is present here. I would like to
12 commence with a comment basically about I was a little
13 confused because there had been a reference to
14 Exhibit 2. Exhibit 2 in my book is the revocation of my
15 client's business license. So I'm a little alarmed.

16 HEARING OFFICER TERZIAN: The Exhibit 2 I have is
17 a copy of a letter dated November 10, 2016, from
18 Mr. Kaplan to the City.

19 MR. CLOUGH: And the reason that I bring it up is
20 because the business license that --

21 HEARING OFFICER TERZIAN: Please don't start to
22 talk until you're --

23 MR. CLOUGH: I'm sorry. Forgive me. I'm used to
24 being in a courtroom.

25 HEARING OFFICER TERZIAN: Acoustics aren't that

1 good.

2 MR. CLOUGH: Okay. I understand.

3 The reason I bring it up is because the
4 business license that I have for the Mackey Family Trust
5 is noted as Exhibit 2, and obviously, it should be in
6 evidence in this hearing. I do have a copy of it.

7 HEARING OFFICER TERZIAN: All right. You want to
8 submit it?

9 MR. SANCHEZ: Just a clarification. Exhibit 2 --
10 so the copy of that business license is attached as --
11 so in the binder it's Exhibit E, and it's tab No. 2 to
12 Exhibit E in the binder.

13 MR. CLOUGH: Exhibit E?

14 MR. SANCHEZ: Yes.

15 MR. CLOUGH: Okay.

16 HEARING OFFICER TERZIAN: Yes, that's in my
17 binder. I see it. It's Exhibit E-2.

18 MR. CLOUGH: E-2. Okay. Because I do not have
19 anything with "2" other than the business license
20 revocation notice.

21 HEARING OFFICER TERZIAN: Do you have an
22 Exhibit E?

23 MR. CLOUGH: I'm gonna bring the book up.

24 HEARING OFFICER TERZIAN: Go check.

25 MR. CLOUGH: I apologize.

1 MR. CLOUGH: The layout is a little different, but
2 it's okay. I do have an Exhibit E.

3 HEARING OFFICER TERZIAN: All right.

4 MR. CLOUGH: That was the first thing I wanted to
5 point out.

6 The second thing I wanted to point out is
7 that I do intend at this hearing to call Mr. Mackey, who
8 was unavailable at the time of the hearing because he
9 had a serious illness, he had surgery.

10 HEARING OFFICER TERZIAN: Okay.

11 MR. CLOUGH: And he, in fact, is disabled.

12 I would like to point out something that I
13 find very interesting, and that is that at the last
14 hearing, this was not the book of evidence that was
15 received or given to anybody. So we had no opportunity
16 at all really to rebut anything, and it was given at the
17 last minute to us.

18 What we got was a smaller booklet that had
19 complaints of the neighbors, and if those are going to
20 be testified today, certainly I am going to have an
21 opportunity to cross-examine.

22 I would like to point out that this appeal
23 is separate and distinct from any appeal that is being
24 brought by Miss Yancey and Miko's Bar. The only thing
25 that we wish to do and be able to do is to lease our

1 property.

2 Now, we believe that we have basically good
3 grounds for the appeal. If you look in this evidence,
4 most of which was not presented at the hearing that I
5 attended, if you look at this evidence, there is
6 basically two notices given to my client over a period
7 of over three years.

8 In each of those instances, he responded
9 appropriately to the person that leased his premises.
10 He told Ms. Yancey she had to comply, had to do the
11 things that they were requiring her to do.

12 The only other notice he received was a
13 notice when he went down to the police station when
14 there were complaints, and immediately after that
15 meeting he wrote a letter and put in writing that
16 Miss Yancey needed to comply with all the requirements
17 that the Chief of Police wanted and the City wanted.

18 There is a plethora of evidence in this
19 case which Mr. Mackey had no idea was going on. He
20 received minimal notices and in every single instance
21 did something.

22 Now, my question is basically on this
23 appeal, how it is that a person can purchase a building
24 so that he can lease it and have his business license to
25 lease a building, not to run a bar but to lease a

1 building, revoked. There's no basis for that.

2 And I would ask the court to understand,
3 obviously, it wasn't even unanimous. It wasn't even a
4 unanimous decision against my client.

5 There are separate and distinct issues that
6 are involved here. So what I would do is I would like
7 you to please bear that in mind as you look to the
8 evidence.

9 Did Mr. Mackey have any notice of what was
10 going on, and if he did have notice of what was going
11 on, did he take the appropriate steps to try and stop
12 it. And the reality is that he did in every single
13 instance.

14 And with that, I look forward to the
15 evidence.

16 Now, I do have -- if the court would like,
17 I have records of Mr. Mackey's illness. So if you'd
18 like --

19 HEARING OFFICER TERZIAN: I'm not a court.

20 MR. CLOUGH: I'm sorry. Hearing officer.

21 If the Hearing Officer would like that as
22 part of the record, I can submit that.

23 HEARING OFFICER TERZIAN: You can submit anything
24 else that you want as long as you have copies.

25 MR. CLOUGH: Yes, I have copies for the City

1 Attorney.

2 Is there someone that I give this to?

3 HEARING OFFICER TERZIAN: Why don't you just give
4 it to me. So this will become part of the record.

5 MR. CLOUGH: Yes.

6 HEARING OFFICER TERZIAN: Would you describe what
7 this is?

8 MR. CLOUGH: It's the record of his illness. And
9 he had surgery in July, on July 27, 2016. It's one --
10 why he couldn't do anything from the period of the last
11 written notice and through the hearing that took place.

12 HEARING OFFICER TERZIAN: What designation do you
13 want to put on this? Is that next in order?

14 MR. CLOUGH: Yeah, next in order. What would that
15 be?

16 HEARING OFFICER TERZIAN: F.

17 MR. CLOUGH: F.

18 HEARING OFFICER TERZIAN: Okay.

19 MR. CLOUGH: All right. Thank you very much.

20 HEARING OFFICER TERZIAN: Mr. Sanchez?

21 MR. SANCHEZ: Yes, Your Honor.

22 HEARING OFFICER TERZIAN: Put on your case.

23 MR. SANCHEZ: If we can call Brett Yakus, please.

24 If I may approach?

25 HEARING OFFICER TERZIAN: Sure.

1 MR. SANCHEZ: I'm told that this CD is an
2 electronic copy of --

3 HEARING OFFICER TERZIAN: Oh, okay. All right.

4 MR. SANCHEZ: So that CD has all the documents in
5 electronic form. What I don't know, because I haven't
6 been able to check, if it has a copy of the video.

7 HEARING OFFICER TERZIAN: If you can find that
8 out, I'd appreciate it.

9 MR. SANCHEZ: I will. Thank you.

10 HEARING OFFICER TERZIAN: Would you state your
11 name, please.

12 MR. YAKUS: Brett Yakus.

13 HEARING OFFICER TERZIAN: Would you raise your
14 right hand?

15 (Brett Yakus was duly sworn by the
16 Hearing Officer.)

17 HEARING OFFICER TERZIAN: Please state your name.

18 THE WITNESS: Brett Yakus, Y-a-k-u-s.

19

20 BRETT YAKUS,
21 having been duly sworn, testified as follows:

22

23 DIRECT EXAMINATION

24 BY MR. SANCHEZ:

25 Q. So, Mr. Yakus, can you just tell us what

1 your position is with the City?

2 A. I'm the business services officer for the
3 Business License division.

4 Q. Okay. And were you involved in serving a
5 notice regarding this -- well, regarding a hearing that
6 occurred on November 4th of 2016?

7 A. Yes.

8 Q. And what was your involvement?

9 A. I was helping draft the notice that was
10 ultimately sent to the interested parties.

11 Q. And do you have a copy of that notice?

12 A. Yes.

13 Q. So you're looking at a notice?

14 A. Correct, notice that was dated
15 October 18th, 2016, to Enaid's Way, Inc.

16 Q. And looking at that letter, can you just
17 tell us what information was contained in that letter?

18 A. It was letting the applicant know that a
19 hearing had been scheduled for November 3rd in relation
20 to a hearing for their revocation of their business
21 licenses that were outlined in the letter.

22 It states the location and states that the
23 revocation is due to them operating outside the scope of
24 the license that was issued.

25 Q. And regarding the letter, I think you said

1 it was dated October 18th?

2 A. Correct.

3 Q. And how was that served on Enaid's Way,
4 Incorporated?

5 A. I believe it was served certified mail and
6 then also posted or delivered to the site address at
7 710 West Willow.

8 Q. Was that by personal delivery, or was that
9 just mailed to the business location?

10 A. It was certified mail, then also
11 hand-delivered by City staff.

12 Q. Okay. And on October 18th, 2016?

13 A. Shortly thereafter. It was drafted on
14 October 18th, so probably within a couple days
15 thereafter it was provided.

16 Q. Okay. And in regard to the language that's
17 contained in the notice itself, the October 18th letter
18 -- and I'm looking at what refers to a phrase -- I think
19 you identified it earlier -- says "operating outside the
20 scope of the authorized business activities as
21 identified on your business license."

22 Can you just briefly explain to us what
23 that means?

24 MR. KAPLAN: Objection. The document speaks for
25 itself and isn't even an official notice. His

1 explanation is not relevant or admissible.

2 HEARING OFFICER TERZIAN: Overruled.

3 MR. CLOUGH: I'll also object as lacks foundation
4 for his ability to --

5 HEARING OFFICER TERZIAN: Overruled.

6 Please proceed.

7 THE WITNESS: So, a license is issued to a
8 business to conduct a certain type of activity that they
9 have applied for. In this case it was a bar/tavern/
10 lounge. Any license issued to any business is with the
11 understanding that they will comply with all applicable
12 laws under our ordinance.

13 And so this particular applicant was
14 operating outside the scope on the basis that there was
15 unpermitted entertainment activities, as well as
16 nuisance activities that were occurring at the location.

17 Q. BY MR. SANCHEZ: Okay. Now, is the
18 information that's in this letter, is this what you
19 would call a standard letter that's sent in situations
20 where someone is having their business license revoked?

21 A. That's correct.

22 Q. Okay. And in addition to the information
23 that's contained -- and I'd like to mark this letter
24 dated October 18th, 2016, to the Enaid's Way,
25 Incorporated --

1 HEARING OFFICER TERZIAN: Be Exhibit 1, I think.

2 MR. KAPLAN: Well, we --

3 MR. SANCHEZ: Did you already identify it?

4 MR. KAPLAN: As Exhibit A.

5 MR. SANCHEZ: That one's already been identified
6 as Exhibit A, so we'll just leave it as that.

7 Q. BY MR. SANCHEZ: So my question is, if I
8 can just rephrase it, was there any other information
9 that you're aware of that was submitted to Enaid's Way,
10 Incorporated, regarding the hearing on November 4th of
11 2016?

12 A. For the November 4th letter, yes, there was
13 a separate notice sent out on November 4th that was
14 subsequent to the Planning Commission's hearing of the
15 revocation.

16 Q. So this was a letter that was sent after
17 the hearing?

18 A. Correct. You said the letter dated
19 November 4th, 2016?

20 Q. No. So let me step back.

21 Well, Exhibit A, which is the October 18th
22 letter to Enaid's Way, Incorporated, which is the notice
23 that was sent by the Business License department
24 regarding the revocation hearing; correct?

25 A. Correct.

1 Q. Aside from that letter, Exhibit A, was
2 there any other information that you're aware of that
3 was sent to Enaid's Way, Incorporated, before the
4 hearing?

5 A. Not that I'm aware of.

6 Q. Was there any information that was
7 submitted to the Planning Department by Business License
8 for the hearing?

9 A. Yes. We provided information to the
10 Planning Department.

11 Q. What information was provided to the
12 Planning Department?

13 A. We provided a letter that was drafted from
14 the Police Department requesting revocation of the
15 business license for Miko's due to nuisance-related
16 activities and unpermitted entertainment.

17 Q. So are you aware of a staff report that was
18 submitted to the Planning Commission for the
19 November 4th, 2016, hearing?

20 A. Yes.

21 Q. And did the Business License Department
22 provide any information that was included in that staff
23 report to the Planning Commission?

24 A. Yes. There was a section that was specific
25 to Business License, and we provided that portion of

1 that staff report.

2 Q. Okay. And that portion -- and the portion
3 that was added or provided for the staff report, did
4 that include information relating to the basis for the
5 business license revocation?

6 A. That's correct.

7 Q. And what specifically -- and I don't mean
8 specifics as in exact language, but what type of
9 information was provided in that staff report by the
10 Business License Department?

11 A. That it was going forward to a revocation
12 hearing for issues of unpermitted entertainment and
13 other nuisance-related issues.

14 Q. And those were identified in the business
15 license correspondence that was sent?

16 A. That's correct.

17 Q. And just for the record, I believe the
18 staff report that I'm referring to is Exhibit -- let's
19 see. It's identified as Exhibit A to Exhibit 4 in the
20 original binder of information submitted to the Planning
21 Commission that I believe the Hearing Officer has.

22 May I approach?

23 So please look at that Exhibit A to
24 Exhibit 4 of the binder before you and tell me if you
25 recognize that document.

1 A. Yes, I do.

2 Q. And what is that document?

3 A. It's the staff report.

4 Q. Okay. And if you can turn to the portion
5 of that staff report that contains the information that
6 the Business License Department provided to the Planning
7 Department.

8 A. Yes. It's on page six of that report.

9 Q. So page six of Exhibit A to Exhibit 4.

10 HEARING OFFICER TERZIAN: Well, Mr. Sanchez, I
11 have a report that's Exhibit 4, and it's dated
12 November 3, 2016.

13 MR. SANCHEZ: Yeah, so it's Exhibit --

14 HEARING OFFICER TERZIAN: It's Exhibit 4.

15 MR. SANCHEZ: Exhibit 4 and --

16 HEARING OFFICER TERZIAN: Is the staff report.

17 MR. SANCHEZ: Okay. That's fine.

18 Q. BY MR. SANCHEZ: So you're looking at
19 Exhibit 4. So it's page six of Exhibit 4?

20 A. Correct.

21 MR. SANCHEZ: Thank you. I have nothing further.

22 HEARING OFFICER TERZIAN: Cross-examination,
23 Mr. Kaplan?

24 MR. KAPLAN: I've got a couple questions.

25 //

CROSS-EXAMINATION

BY MR. KAPLAN:

Q. Turning to the letter dated October 18, 2017 (sic), which is Exhibit A, that is the notice of revocation hearing; is that right?

A. That's correct.

Q. And in that notice, it states in the first paragraph that, quote, At the hearing, the City will provide evidence that your bar, slash, tavern, slash, lounge business located at 710 West Willow Street, Long Beach, California 90806 is operating outside the scope of the authorized business activities identified on your business license, close quote.

Have I quoted that correctly?

A. That's correct.

Q. Are you the author of this letter?

A. I helped develop it.

Q. Okay. Am I correct that on the face of this letter, there is no other specification of factual grounds to revoke the business license?

A. Other than operating outside the scope, no.

Q. And am I correct that on the face of this letter, there is no specification at all of the portions of the Long Beach Municipal Code, if any, that are deemed violated as a basis for revocation of the

1 business licenses?

2 A. It does quote the revocation section
3 3.80.429.1, and that was also attached -- that code
4 section was attached to the letter sent to the business
5 operator.

6 Q. And am I correct that on the face of this
7 letter, there is no specification of precise legal
8 grounds or factual grounds for the revocation other than
9 stating that the business is allegedly operating outside
10 the scope of authorized activities; isn't that right?

11 A. In addition to providing a code section
12 that any business violating any law is grounds for
13 revocation, that's correct.

14 Q. Is there any mention on the face of this
15 letter that the City believes the business being
16 conducted is a nuisance?

17 A. No.

18 Q. Is there anything on the face of this
19 letter that notifies or advises the licensee that the
20 City believes that the business is being conducted in
21 violation of specified conditions on any permit or
22 license?

23 A. No. That was done in Enforcement prior to
24 this letter.

25 Q. The answer is no as far as this letter is

1 concerned; is that right, sir?

2 A. In regards to this letter, no.

3 Q. Thank you very much.

4 Is there anything on the face of this
5 letter that would notify the business licensee that the
6 City believes the business is being conducted unlawfully
7 in a particular way?

8 A. Yes, operating outside the scope.

9 Q. Okay. Is there anything that specifies in
10 what manner it's operating outside the scope or what the
11 scope is for that matter?

12 A. No.

13 Q. This letter notifies the business licensee
14 that there's going to be a revocation hearing; right?

15 A. Correct.

16 Q. Does the letter anywhere specify who has
17 the burden of proof at that hearing?

18 A. It just states that there will be a hearing
19 where the City is going to request revocation of the
20 license and that the applicant has the ability to call
21 witnesses, provide evidence to show cause why their
22 license should not be revoked.

23 Q. Is there anywhere on the face of this
24 letter that it specifies the burden of proof at that
25 hearing?

1 A. No.

2 Q. Is there anywhere in this letter that it
3 specifies the quantum of proof, that is substantial
4 evidence, clear and convincing evidence, beyond a
5 reasonable doubt evidence?

6 A. No. It just says evidence relative to the
7 matter.

8 Q. Are you aware of any provision of the Long
9 Beach code that specifies who has the burden of proof at
10 these kinds of revocation hearings?

11 A. I'm not aware.

12 Q. Are you aware of any portion of the Long
13 Beach code that specifies the quantum of proof that
14 needs to be presented at these hearings?

15 A. I'm not aware.

16 Q. With regard to Exhibit 4, which is the
17 November 3, 2016 staff report you've been asked some
18 questions about that earlier by Mr. Sanchez. Do you
19 recall that?

20 A. Yes.

21 Q. Was that staff report provided to any
22 business licensee involved in this case before the
23 revocation hearing was held?

24 A. I believe it was made public online.

25 Q. Was it provided either by posting, by mail

1 or personal delivery to any business licensee in this
2 case?

3 A. Not to my knowledge, I'm not aware.

4 Q. Where, if you are aware, is there a written
5 notice to any business licensee that they need to take a
6 look at the staff report before the hearing?

7 A. I'm not aware.

8 MR. KAPLAN: Nothing further. Thank you.

9 HEARING OFFICER TERZIAN: Mr. Clough. I didn't
10 forget you this time.

11 MR. CLOUGH: Thank you.

12 CROSS-EXAMINATION

13 BY MR. CLOUGH:

14 Q. It's correct that the incident that -- the
15 location of the businesses is 710 West Willow Street;
16 correct?

17 A. Correct.

18 Q. You are aware that this business was a
19 leased business by Miss Yancey; correct?

20 A. Correct.

21 Q. And you're aware that Mr. Mackey and the
22 Mackey Trust was not operating that business per se;
23 correct?

24 A. They were not operating the bar, correct.

25 Q. And was there anything in Exhibit A that

1 was addressed to Mr. Mackey?

2 A. I'm sorry. Exhibit A was the staff report
3 to the Planning Commission?

4 Q. Correct.

5 A. So the November 3rd staff report --

6 MR. SANCHEZ: Just I'm going to object. I think
7 the question was about Exhibit A.

8 MR. CLOUGH: Right.

9 Q. BY MR. CLOUGH: Was Exhibit A ever
10 addressed or sent to Mr. Mackey?

11 A. What was Exhibit A?

12 Q. Pardon?

13 A. What was Exhibit A?

14 Q. That was the one we were just talking
15 about.

16 HEARING OFFICER TERZIAN: That was the notice
17 letter.

18 THE WITNESS: Oh, that one was particular to
19 Miko's, but there was a separate notice letter sent out
20 to Mr. Mackey. I'm not sure if that's a different
21 letter, attachment.

22 Q. BY MR. CLOUGH: In terms of Mr. Mackey's
23 involvement, was there a scope of duties that it was
24 your understanding Mr. Mackey had an obligation to
25 perform at that location?

1 A. It is my understanding that he was made
2 aware of an ongoing nuisance issue with his property and
3 did nothing to abate it.

4 Q. What is it that you base your understanding
5 that he did nothing to abate anything?

6 A. My understanding from the CUP Planning
7 Commission revocation, there was evidence provided
8 there.

9 Q. So that's information you received from
10 somebody else that he didn't do anything?

11 A. It was -- correct. It was us working in
12 conjunction with the Planning Department when moving
13 forward with this revocation process.

14 Q. You had no personal information related to
15 that, just what you were told; correct?

16 A. Just what I saw as evidence that was
17 provided by Planning and submitted to the Planning
18 Commission.

19 Q. Well, what evidence was that?

20 A. The staff report.

21 Q. Just the staff report?

22 A. Right.

23 Q. Okay. Do you have an understanding of what
24 Mr. Mackey was supposed to do, what was the scope of his
25 duty?

1 A. I don't have any knowledge because I wasn't
2 involved in those meetings that occurred with
3 Mr. Mackey.

4 Q. Okay. In terms of the letter to the Police
5 Department, was that letter again addressed to
6 Mr. Mackey?

7 A. No. The memo from P.D. to Financial
8 Management was in regards to Miko's Sports Lounge.

9 Q. Okay. Did you receive any information that
10 Mr. Mackey had, in fact, addressed issues that had been
11 raised to him about the operation of the bar?

12 A. No, I'm not aware.

13 Q. So that's something that the staff report
14 did not advise you of if it did occur; correct?

15 A. It may be in the staff report. I just
16 didn't read that part of it.

17 MR. CLOUGH: Thank you. I have nothing further.

18 HEARING OFFICER TERZIAN: Mr. Clough, do you want
19 to have the notice letter to the Mackey Trust in
20 evidence?

21 MR. SANCHEZ: If I can interject, I do have a copy
22 of the letter. And I apologize. I didn't ask Mr. Yakus
23 to identify it. So why don't we identify it as Exhibit
24 -- I'm not sure where we're at now.

25 So we'll identify this October 18th, 2016,

1 letter to Ronald L. and Peggy C. Mackey Trust as
2 Exhibit E.

3 MR. CLOUGH: I don't have a copy.

4 MR. KAPLAN: We ended with E.

5 MR. SANCHEZ: So F.

6 MR. KAPLAN: It's F.

7 MR. CLOUGH: Just to follow up, what's this
8 exhibit? Is this --

9 HEARING OFFICER TERZIAN: Exhibit F.

10 MR. SANCHEZ: Actually, I think we need to
11 identify it as Exhibit G because F was the surgical
12 record.

13 MR. CLOUGH: Mind if I put a little "G"?

14 HEARING OFFICER TERZIAN: What happened to
15 Exhibit F?

16 MR. SANCHEZ: F is right here.

17 MR. CLOUGH: F is my -- that's my medical.

18 MR. KAPLAN: Sorry.

19 HEARING OFFICER TERZIAN: Oh, that's right.

20 MR. CLOUGH: I offered it. He didn't need it.

21 MR. KAPLAN: That's okay. I got it.

22 MR. CLOUGH: Just if I can do one follow-up on
23 this.

24 Q. BY MR. CLOUGH: This is a letter that's
25 addressed to Ronald and Peggy Mackey Trust; correct?

1 A. Correct.

2 Q. In connection with that, I'm looking at it.
3 It just says, simply, in October of 2016 that there was
4 a revocation -- license revocation hearing that was
5 going to take place; correct?

6 A. Correct.

7 Q. Okay. And this does not really outline
8 anything that had, in fact, been alleged to have been
9 things that Mr. Mackey was doing, does it?

10 A. It says that the license that was issued to
11 him and he was operating outside of the scope.

12 Q. But his scope is to lease a building;
13 correct?

14 A. The scope of his license was to lease a
15 building to a lawfully operating business, and currently
16 the business that was operating there was not operating
17 lawfully.

18 Q. Was his leasing of a building illegally --

19 A. Leasing to a tenant who is violating law at
20 his property was a violation of his license, correct.

21 Q. So is it your understanding that the
22 position is basically that if a person leases a building
23 and that person that he leased the building to does
24 something illegal and that the owner does not know
25 what's going on or has taken action to abate, that he's

1 done anything illegal or outside the scope?

2 A. It is my understanding and the evidence
3 that we presented in the revocation hearing was that he
4 didn't mitigate the issues, so that's why we went
5 forward with the revocation.

6 Q. But again, you have no personal knowledge
7 of that. That's just simply things that you were told;
8 correct?

9 A. That was things from other investigating
10 departments, correct.

11 MR. CLOUGH: Thank you. I have nothing further.

12 HEARING OFFICER TERZIAN: Do you have any further
13 direct examination, Mr. Sanchez?

14 REDIRECT EXAMINATION

15 BY MR. SANCHEZ:

16 Q. No, just other than looking at that
17 Exhibit G, was that letter that was sent to or addressed
18 to the Ronald L. and Peggy C. Mackey Trust, was that
19 also mailed?

20 A. Right. That one was sent certified mail.
21 They weren't in Long Beach, so that one was not
22 hand-delivered by staff.

23 Q. So it was sent certified mail, and that's
24 the way it was served?

25 A. Correct.

1 Q. And same in relation to the information
2 that was provided in the staff report which is
3 Exhibit 4, was there -- did the Business License
4 Department provide information to the Planning
5 Department to insert into that staff report regarding
6 the Ronald L. and Peggy C. Mackey Trust?

7 A. Correct. Our portion was on page seven of
8 that staff report.

9 Q. So that's page seven of Exhibit 4?

10 A. Correct.

11 MR. SANCHEZ: All right. With that, I don't have
12 any further questions.

13 MR. CLOUGH: If I might, one follow-up here.

14 HEARING OFFICER TERZIAN: Okay.

15 RECROSS-EXAMINATION

16 BY MR. CLOUGH:

17 Q. Basically, so I understand it, the
18 information that is being relied upon here is
19 information supplied by the Business Department to the
20 Planning Department?

21 A. It was just our portion of the staff report
22 where we're the ones who issued the business license,
23 and so we have to state that we are requesting
24 revocation of that based on the investigations of other
25 City departments.

1 Q. Right. Of two other departments?

2 A. I'm not sure the number, but correct, other
3 departments.

4 Q. Well, at least that you've just referenced;
5 correct?

6 A. That I referenced, yes.

7 MR. CLOUGH: Okay. Nothing further.

8 HEARING OFFICER TERZIAN: You may step down.

9 Next witness, Mr. Sanchez.

10 MR. SANCHEZ: Yes. We would like to call
11 Christopher Koontz.

12 HEARING OFFICER TERZIAN: Would you state your
13 name, please?

14 MR. KOONTZ: Sure. Christopher Koontz,
15 K-o-o-n-t-z.

16 HEARING OFFICER TERZIAN: Raise your right hand.

17 (Mr. Koontz was duly sworn by the
18 Hearing Officer.)

19

20 CHRISTOPHER KOONTZ,
21 having been duly sworn, testified as follows:

22

23 DIRECT EXAMINATION

24 BY MR. SANCHEZ:

25 Q. Mr. Koontz, what is your position with the

1 City?

2 A. I'm the advance planning officer within the
3 Planning bureau of the Development Services Department.

4 Q. And did you have some involvement with the
5 revocation hearing on November 4th of 2016?

6 A. Correct. I was the principal in charge of
7 that matter for the Planning bureau and drafted the
8 various reports and supervised support staff involved in
9 the case.

10 Q. So were you involved in the preparation of
11 the staff report that has been identified as Exhibit 4?

12 A. Yes. I was the author of this report.

13 Q. Okay. And where did you obtain the
14 information that appears in that report?

15 A. The information was obtained primarily from
16 the Long Beach Police Department, but other sources of
17 information included building permit records, interviews
18 with building officials, visits to the site, materials
19 provided by area residents, complaints, meetings that we
20 had held with Mr. Mackey and the office of the City
21 Attorney, records kept within the department, responsive
22 materials submitted by Miss Yancey and her
23 representatives.

24 So we looked at the whole of the record and
25 drafted a report based on that information.

1 Q. And did you also receive information, as
2 Mr. Yakus indicated, from the Business License
3 Department?

4 A. That is correct.

5 Q. And the staff report contains the basis for
6 the revocation of the conditional use permit for
7 710 West Willow?

8 A. That is correct. It's the staff summary of
9 the information that led staff to recommend the
10 revocation. There was additional information presented
11 for the Planning Commission's benefit at the hearing
12 which was held on November 3rd.

13 Q. I've been saying the 4th. So it's
14 November 3rd.

15 In relation to that information, the
16 information provided by the Business License Department
17 related specifically to the business license revocations
18 for both Enaid's Way and the Mackey Trust?

19 A. That is correct.

20 Q. Okay. And was that particular document,
21 Exhibit 4, was it served on any of the parties?

22 A. The staff report is distributed to the
23 Planning Commission and released to the public upon
24 request, as well as being posted to our web site. The
25 staff report is not served on any party. We follow the

1 procedures in the Municipal Code, which doesn't require
2 the staff report to be served.

3 Q. Do you know when the report was uploaded
4 into -- well, actually, let's go back.

5 When you mentioned "uploading," what do you
6 mean by that?

7 A. The document is posted to the City of Long
8 Beach web site.

9 Q. And where in that -- where in the web site
10 is it posted or uploaded? Sorry.

11 A. So the web site includes agendas of
12 upcoming meetings, including Planning Commission
13 meetings, and members of the public are able to go onto
14 that agenda, and if they're interested in a particular
15 agenda item they click on that item, and the supporting
16 documents are brought up on their computer or phone or
17 whatever device they're using.

18 Q. So it's done by date?

19 A. Correct. And people are typically aware of
20 the date because there's been a hearing notice mailed
21 out, as well as posted on the site, which did occur in
22 this case.

23 Q. So aside -- well, separate from the staff
24 report, I guess, is there a separate agenda portion of
25 that staff report?

1 A. Well, there's a written agenda that is
2 posted both online and physically here at City Hall.

3 Q. Okay.

4 A. For any Board and Commission meeting. Not
5 unique to the Planning Commission.

6 Q. So for this hearing that was done on
7 November 3rd, that was posted here in the City. Was it
8 posted anywhere else?

9 A. It's -- other than being posted online,
10 it's not physically -- the agenda is not posted anywhere
11 else. But again, for this particular matter, there was
12 also a notice and a posting at the site.

13 Q. Okay. And do you know when that notice and
14 posting occurred?

15 A. That occurred on October 19th, 2016.

16 Q. And was that -- the notice that was posted,
17 was that included in the materials that was submitted to
18 the Planning Commission during the November 3rd hearing?

19 A. That notice is not an attachment, but it
20 was available on request.

21 Q. Do you have one with you now?

22 A. Yes, sir.

23 MR. SANCHEZ: If I could approach.

24 HEARING OFFICER TERZIAN: Yes.

25 Q. BY MR. SANCHEZ: So it's just this one

1 page?

2 A. Yeah, and then we photograph that the site
3 was posted.

4 Q. So just these three pages?

5 A. Yes.

6 MR. SANCHEZ: So I'd like to mark as Exhibit H a
7 three-page document. It's entitled "Notice of Public
8 Hearing." Has "Planning Commission" underneath. Also
9 has a second page, is a photograph of the establishment
10 at 710 West Willow, as well as a copy of the notice as
11 it's posted on that address.

12 HEARING OFFICER TERZIAN: You going to make copies
13 of that?

14 MR. SANCHEZ: Yes.

15 HEARING OFFICER TERZIAN: For me and opposing
16 counsel?

17 MR. SANCHEZ: Yes.

18 Q. BY MR. SANCHEZ: So Mr. Koontz, looking at
19 what is now Exhibit H, is that the notice you're
20 referring to that was posted at the establishment at
21 710 West Willow Street?

22 A. Correct. It was mailed to the business
23 owner, the property owner, surrounding properties and
24 posted to the site.

25 Q. And what date was that notice posted?

1 A. October 19th.

2 HEARING OFFICER TERZIAN: Of 2016; right?

3 THE WITNESS: Of 2016, correct, sir.

4 Q. BY MR. SANCHEZ: After the notice was
5 posted at the establishment, did you -- were you
6 contacted by any individual from the business or the
7 property owner regarding the contents of the notice?

8 A. No.

9 Q. All right. And regarding uploading of the
10 staff report, when was that done, if you recall?

11 A. So the administrative professional would
12 have done that, who I believe is in the audience. So I
13 would not have personal memory of the date that that was
14 done.

15 MR. SANCHEZ: That's fine.

16 Then I do not have anything further.

17 HEARING OFFICER TERZIAN: Mr. Kaplan?

18 CROSS-EXAMINATION

19 BY MR. KAPLAN:

20 Q. Do you have any knowledge of the number of
21 ABC type 48 -- that's a bar -- licenses locations in the
22 City of Long Beach in the year 2014?

23 A. I would not have that committed to memory.
24 That's the type of statistic that we would pull out of a
25 database.

1 Q. Would you have the same answer for 2015?

2 A. Correct, sir, I do not have the number of
3 ABC licenses committed to memory.

4 Q. And the same answer for 2016?

5 A. Correct.

6 Q. Would you have any knowledge of the average
7 number of police calls per year for the ABC type 48
8 license locations in Long Beach for the year 2014?

9 A. Not from personal knowledge, from memory.
10 Again, that's a statistical question that in my course
11 of work I would look up if I needed the answer to.

12 Q. And you would have the same answer for
13 2015?

14 A. Correct.

15 Q. Same answer for 2016?

16 A. Correct.

17 Q. Nowhere in this staff report, which is
18 Exhibit 4, I believe --

19 MR. SANCHEZ: Correct.

20 HEARING OFFICER TERZIAN: Yes, it's Exhibit 4.

21 Q. BY MR. KAPLAN: -- is there any listing of
22 the ABC license locations in Long Beach for the year
23 2014, '15 or '16; is that correct?

24 A. That's correct.

25 Q. And nowhere in Exhibit 4, the staff report,

1 is there any mention of the average number of police
2 calls citywide for such locations in any of those years?

3 A. Correct.

4 MR. KAPLAN: Okay.

5 HEARING OFFICER TERZIAN: Do you have anything
6 further, Mr. Kaplan?

7 MR. KAPLAN: Not at this time, no.

8 HEARING OFFICER TERZIAN: Mr. Mackey.

9 MR. CLOUGH: Thank you.

10 HEARING OFFICER TERZIAN: Excuse me. Mr. Clough.

11 MR. CLOUGH: It's okay. Forgive you.

12 CROSS-EXAMINATION

13 BY MR. CLOUGH:

14 Q. Let me ask you, I had a -- I heard a
15 statement from you indicating something that had been
16 sent somewhere that had a summary of information
17 justifying the revocation of business licenses.

18 Do you recall that testimony and what we're
19 talking about?

20 A. You'd have to be more specific.

21 Q. You had testified something was sent out
22 with a summary of information that was justifying a
23 potential revocation of the business licenses. You have
24 no information relating to that?

25 A. I gave testimony regarding the staff

1 report, as well as the public hearing notice. You may
2 be referring to the prior violation notices which were
3 served upon your client in June of 2016.

4 Q. Of 2016?

5 A. Correct, as well as a prior notice in March
6 of 2016.

7 Q. Okay. Now, other than those two notices in
8 March of 2016 and June of 2016, was Mr. Mackey or the
9 Mackey Trust ever advised of anything in writing about
10 events that were occurring at 710 Willow Street, to your
11 knowledge?

12 A. I can only speak to notice by myself and
13 the department in which I operate, but the only other
14 notice would have been the in-person meeting with
15 Mr. Mackey.

16 Q. Okay. And there was one in-person meeting
17 with Mr. Mackey; is that correct? There was one
18 in-person meeting at which I was present.

19 Q. In connection with that meeting, he
20 voluntarily came down to the City of Long Beach to
21 address whatever issues you wanted to raise; is that
22 accurate?

23 A. He attended the meeting, that's correct.

24 Q. Okay. And after that meeting, are you
25 aware that he attempted to do anything to resolve any

1 problems that had arisen at the bar?

2 A. I would not have personal knowledge of his
3 actions, only of the outcomes, which was that the
4 nuisance did not abate.

5 Q. Okay. And are you aware of any writings
6 that were sent by the Mackey Trust or any representative
7 of the Mackey Trust to the bar to try and remedy any
8 situations that existed or may have existed at the bar?

9 A. I was not party to any communication, so I
10 would not have had any personal knowledge of those.

11 Q. Okay. So that's not indirect information
12 that you would have received in the form of the staff
13 report or anything else; is that accurate?

14 A. I did not receive any such information,
15 correct.

16 Q. Is there any information that you're aware
17 of that justified the revocation of the license of
18 Mr. Mackey to lease the building as opposed to run the
19 bar?

20 A. The staff report, as well as the hearing
21 that was held, established that there was nuisance
22 activity occurring on his property and his actions were
23 insufficient to abate that nuisance.

24 Q. What was insufficient about his actions if
25 you don't know what they were?

1 A. The standard is whether the nuisance is
2 occurring.

3 Q. So if I am a person who buys a building and
4 leases it to someone and that someone does something
5 that's, in your mind, improper, they're, therefore,
6 liable automatically?

7 A. Well, that's an oversimplification of what
8 we're discussing. If a property owner leased a property
9 and was given notice to abate a nuisance caused by their
10 tenant and over the course of several warnings did not
11 abate that nuisance, then yes, they are liable. They
12 are the underlying fee owner and responsible for the
13 property.

14 Q. And, of course, in this particular case,
15 you've indicated there were two notices, and you're
16 totally unaware of any activity that took place by
17 Mr. Mackey to try and abate any problems; isn't that
18 accurate?

19 A. There were the two notices, the in-person
20 meeting, and those were the ones I were involved in, and
21 I am not the recipient of any information about any
22 action to abate it.

23 Q. You don't have any of that information;
24 correct? You don't know --

25 A. I wouldn't know if that information exists,

1 so --

2 Q. I agree. Nobody notified you one way or
3 the other, did they?

4 A. Well, we were notified by the Police
5 Department and others that the nuisance activity
6 continued.

7 Q. And that's it, just that the nuisance
8 continued, not that there was nothing done in between;
9 correct?

10 A. Correct. I was given no indication either
11 way.

12 MR. CLOUGH: I have no further questions.

13 MR. SANCHEZ: So if I may, following --

14 HEARING OFFICER TERZIAN: Just a minute. Are you
15 finished, Mr. Clough?

16 MR. CLOUGH: Yes, I am. Sorry.

17 HEARING OFFICER TERZIAN: Okay. Redirect.

18 MR. SANCHEZ: Thank you.

19 REDIRECT EXAMINATION

20 BY MR. SANCHEZ:

21 Q. Following that meeting with Mr. Clough --
22 and I believe he said it was in March of 2016. Is that
23 correct? I don't have my dates in front of me, but
24 there was a meeting with Mr. Clough? Well --

25 A. No. There was a meeting with Mr. Mackey.

1 Q. Not Mr. Clough. Mr. Mackey. I'm sorry. I
2 did the opposite.

3 Anyway, so after the meeting with
4 Mr. Mackey, did you receive any -- well, first of all,
5 after the meeting with Mr. Mackey, did you have any
6 other communications with Mr. Mackey?

7 A. No.

8 Q. Okay. And then after the meeting with
9 Mr. Mackey -- and when I say "the meeting," that's the
10 meeting wherein he was informed of the activity that was
11 occurring at 710 West Willow; is that correct?

12 A. That's correct.

13 Q. And that activity included nuisance
14 activity; is that correct?

15 A. That's correct.

16 Q. So from the date that that meeting occurred
17 up until really the date of the hearing in November,
18 were you made aware of anything regarding the nuisance
19 activity at 710 West Willow?

20 A. Correct. We received ongoing reports from
21 the Police Department regarding nuisance activity.

22 Q. So the activity continued and -- well, so
23 you know that the activity continued after the meeting
24 with Mr. Mackey?

25 A. That's correct.

1 MR. SANCHEZ: Okay. I have nothing further.

2 THE WITNESS: There's actually an exhibit to that
3 same staff report. It's Exhibit D of Exhibit 4. Has a
4 timeline of those events.

5 MR. SANCHEZ: Okay. Thank you.

6 I have nothing further.

7 MR. CLOUGH: May I?

8 HEARING OFFICER TERZIAN: Yes, Mr. Clough.

9 RECROSS-EXAMINATION

10 BY MR. CLOUGH:

11 Q. Just to be clear here, did you have any
12 direct communications with Mr. Mackey other than at this
13 meeting that you have discussed?

14 A. No.

15 Q. Are you aware of any telephone calls made
16 by Mr. Mackey to Ms. Yancey at any time after any of
17 these notices took place or the in-house meeting?

18 A. No, I'm not aware of those third parties.

19 Q. Are you aware of any writings by Mr. Mackey
20 or any of his persons that were representing him to
21 Ms. Yancey to fix any problems that existed?

22 A. No, I'm not aware of communication I wasn't
23 a party to.

24 HEARING OFFICER TERZIAN: Okay. You may -- any
25 more questions, Mr. Clough?

1 MR. KAPLAN: No.

2 HEARING OFFICER TERZIAN: You may step down.

3 Next witness, Mr. Sanchez.

4 MR. SANCHEZ: Yes, Your Honor. City calls Heidi
5 Eidson.

6 HEARING OFFICER TERZIAN: Would you state your
7 name, please.

8 MS. EIDSON: My name is Heidi Eidson. Last name
9 is E-i-d-s-o-n.

10 HEARING OFFICER TERZIAN: E-i-d-s-o-n.

11 Would you raise your right hand?

12 (Heidi Eidson was duly sworn by the
13 Hearing Officer.)

14 HEARING OFFICER TERZIAN: Mr. Sanchez.

15 MR. SANCHEZ: Thank you.

16 HEARING OFFICER TERZIAN: Please proceed.

17

18 HEIDI EIDSON,

19 having been duly sworn, testified as follows:

20

21 DIRECT EXAMINATION

22 BY MR. SANCHEZ:

23 Q. Miss Eidson, what do you do for the City?

24 A. I'm the bureau secretary for the Planning
25 bureau and Development Services.

1 Q. And in your duties as the bureau secretary,
2 is one of those duties uploading information onto the
3 City's web site?

4 A. Yes. I do post the Planning Commission
5 agendas to the City's web site.

6 Q. And in posting the Planning Commission's
7 agendas, does that include uploading information such as
8 staff reports from the Planning Department?

9 A. Yes. It would be the staff report and
10 related exhibits.

11 Q. Okay. And regarding -- and you've been
12 hearing about the hearing in front of the Planning
13 Commission on November 3rd, 2016. Did you upload
14 information relating to that hearing?

15 A. Yes, I did.

16 Q. And what information did you upload?

17 A. The Planning Commission staff report, and I
18 believe there was a binder from the City Attorney's
19 office with --

20 Q. Okay. So looking at the binder in front of
21 you and looking at Exhibit 4 of that binder --

22 A. I'm sorry. Would that be the final action
23 notice? Oh, I'm sorry. I see it here.

24 Q. Okay.

25 A. Okay.

1 Q. Now, looking at that Exhibit 4, is that
2 some of the information that you uploaded into the
3 City's web site?

4 A. Yes, that's correct.

5 Q. Okay. And when did you upload that
6 information?

7 A. I don't have the exact date, but it would
8 have been no later than the Wednesday the week prior to
9 the hearing.

10 Q. So --

11 A. I believe that was October 26th.

12 Q. Okay. And you say you don't know exactly,
13 but you know it was at least that date. Is there a
14 reason why you know it was at least that date it was
15 uploaded?

16 A. Generally, I would post the agendas a week
17 before the meeting. The reason I would know it was the
18 Wednesday before is because I was leaving out of town
19 the next day.

20 Q. Okay. And were you also responsible for
21 mailing information to the parties to that hearing on
22 November 3rd?

23 A. Yes. It's standard practice that I would
24 mail a copy of the staff report to the interested
25 parties, which -- so it would be the two parties listed

1 on the front page of that staff report.

2 Q. Okay. So front page of Exhibit 4?

3 A. Yes.

4 Q. So looking at the front page of Exhibit 4,
5 did you mail a copy of the staff report to Enaid's Way,
6 Incorporated, which is a dba of Miko's Sports Lounge?

7 A. Yes, that's correct.

8 Q. And what was the address that you mailed it
9 to?

10 A. 710 West Willow Street.

11 Q. And then did you do the same for, I guess,
12 the Ronald L. and Peggy C. Mackey Trust?

13 A. Yes, that's correct.

14 Q. And what address did you mail that out to?

15 A. 10935 Darby Avenue in Northridge.

16 Q. Okay. So both those were mailed out
17 approximately -- well, do you remember what date you
18 mailed those documents to those particular parties?

19 A. No, I don't remember the exact date, but
20 again, it would have been no later than Wednesday,
21 October 26th.

22 Q. Okay. And was that just sent out regular
23 mail? Certified mail?

24 A. Regular U.S. mail.

25 Q. Okay. And so what appears in Exhibit 4

1 before you was the information that you mailed out?

2 A. Yes, that's correct.

3 Q. Were there any exhibits attached to the --

4 A. So the staff report, I believe Exhibit A,
5 probably Exhibit B, C, D. I think that would be it.

6 Q. Okay. And then in relation to -- you said
7 you uploaded a document from the City Attorney's office?

8 A. Yes. That would be Exhibit E and all the
9 related attachments.

10 Q. Okay. So what you uploaded -- and so was
11 that uploaded on the same date approximately,
12 October 26, 2016?

13 A. Yes. No later than that date.

14 Q. Okay. And so Exhibit E contains, looks
15 like, 45 -- or 47 different tabbed items; is that
16 correct?

17 A. That's correct, yes.

18 Q. And all 47 of those items were uploaded
19 onto the web site?

20 A. Yes, I believe so.

21 MR. SANCHEZ: Okay. I have nothing further.
22 Thank you.

23 HEARING OFFICER TERZIAN: And that was also on the
24 Wednesday preceding --

25 THE WITNESS: Yes.

1 HEARING OFFICER TERZIAN: -- Planning Commission
2 meeting?

3 THE WITNESS: Yes, that's correct.

4 HEARING OFFICER TERZIAN: Mr. Kaplan.

5 CROSS-EXAMINATION

6 BY MR. KAPLAN:

7 Q. Is it your personal recollection now that
8 on October 26, 2016, you caused the Exhibit 4 staff
9 report to be mailed to Ms. Yancey, Miko's Sports Lounge?

10 A. Yes, I would have mailed it.

11 Q. You say "would have."

12 A. I did.

13 Q. You did mail it?

14 A. I did mail it.

15 Q. You recall your testimony a bit ago when
16 you said that it would have been your usual custom and
17 practice to mail such things?

18 A. Yes.

19 Q. Are you relying on your usual custom and
20 practice, or are you -- or do you now have a present
21 recollection of that past action specifically?

22 A. I always mail to the applicant or
23 interested parties.

24 Q. Did you put this Exhibit 4 staff report in
25 an envelope addressed to Yancey or Enaid's Way?

1 A. Yes, I did.

2 Q. And then you caused it to be deposited in
3 the mail, U.S. mail?

4 A. Yes, that's correct.

5 Q. And you did that on October 26, 2016?

6 A. No later than that date.

7 Q. Do you have Exhibit 4 in front of you?

8 A. Yes, I do.

9 Q. How is it that you mailed this document on
10 October 26, 2016, when it's dated November 3, 2016?

11 A. The staff reports are always dated the date
12 of the hearing.

13 Q. Well --

14 A. So they're mailed out posted prior to the
15 hearing.

16 Q. Am I accurately stating that the date --
17 the only date on Exhibit 4 is November 3, 2016?

18 A. Yes, that's correct.

19 Q. So your testimony is that that date is
20 incorrect, that wasn't the date the report was authored?

21 A. I didn't author the report.

22 Q. Do you know when it was authored?

23 A. No. As I said, I didn't author the report.

24 Q. So the only information that we have is
25 that this report, Exhibit 4, has a date on it of

1 November 3, 2016; isn't that right? You could explain
2 that date, but that's what the date says, doesn't it?

3 A. That's what the date says, yes.

4 Q. And your testimony is that that date is
5 inaccurate and that you did mail a staff report to
6 Yancey on October 26, 2016?

7 MR. SANCHEZ: I'm just going to interject to the
8 reference as being inaccurate. She indicated she mailed
9 the document. The document had the date on it. She
10 wasn't responsible for creating the document, so I don't
11 think she -- it lacks foundation, and it's not within
12 her -- calls for her to speculate as to how or what the
13 date is and whether or not it's right or wrong.

14 HEARING OFFICER TERZIAN: Overruled. It's
15 cross-examination.

16 Proceed, Mr. Kaplan.

17 Q. BY MR. KAPLAN: Based on the face of
18 Exhibit 4 and your testimony, do I summarize your
19 previous testimony correctly as, in essence, on
20 October 26, 2016, you mailed to Enaid's Way a document
21 from the City that is dated November 3, 2016? Is that
22 right?

23 A. That's correct.

24 Q. You've indicated that you did not send that
25 document certified mail?

1 A. That's correct.

2 Q. Would it be correct that you do not have
3 and the City does not have any proof -- let me strike
4 that.

5 Isn't it correct the City does not have any
6 documentary evidence that this Exhibit 4 staff report
7 dated November 3, 2016, was ever received by Enaid's
8 Way, Inc.?

9 A. That's correct.

10 Q. Nor that it was received by Yancey
11 personally?

12 A. That's correct.

13 Q. Did you have any role in compiling the data
14 or information that's in Exhibit 4?

15 A. No, I did not.

16 MR. KAPLAN: I have no further questions.

17 HEARING OFFICER TERZIAN: Mr. Clough.

18 MR. CLOUGH: Thank you.

19 CROSS-EXAMINATION

20 BY MR. CLOUGH:

21 Q. Let me back up just a little bit. You were
22 not asked by the Planning Commission or anyone else to
23 mail anything containing similar information to the
24 Mackey Trust at any point in time before the date this
25 was sent; correct?

1 A. That's correct.

2 Q. Okay. So did you have a cover letter that
3 was sent along with the mailing of this staff report?

4 A. No. It would be the staff report in the
5 agenda.

6 Q. Without a cover letter?

7 A. No.

8 Q. Okay. Now, we're not talking about in
9 terms of what was mailed to Mr. Mackey anything
10 contained in Exhibit E, 1 through 47, are we?

11 A. No, I don't believe so.

12 Q. So all we're talking about is the actual
13 exhibit numbered 4; correct?

14 A. Yes, that's correct.

15 MR. CLOUGH: Thank you. I have nothing further.

16 HEARING OFFICER TERZIAN: Any redirect,
17 Mr. Sanchez?

18 MR. SANCHEZ: No.

19 HEARING OFFICER TERZIAN: You may step down.
20 Thank you.

21 Next witness.

22 MR. SANCHEZ: People don't have any other
23 witnesses, Your Honor.

24 HEARING OFFICER TERZIAN: You mean the City
25 doesn't?

1 MR. SANCHEZ: Sorry.

2 HEARING OFFICER TERZIAN: Mr. Kaplan?

3 MR. KAPLAN: You want me to go, or do you want to
4 hear from the community?

5 HEARING OFFICER TERZIAN: You go ahead. Present
6 your case.

7 MR. KAPLAN: Vivian Session, please.

8 MS. SESSION: Good morning.

9 HEARING OFFICER TERZIAN: Would you state your
10 name, please.

11 MS. SESSION: Vivian Session, S-e-s-s-i-o-n.

12 (Vivian Session was duly sworn by the
13 Hearing Officer.)

14 HEARING OFFICER TERZIAN: Please proceed,
15 Mr. Kaplan.

16
17 VIVIAN SESSION,
18 having been duly sworn, testified as follows:

19
20 DIRECT EXAMINATION

21 BY MR. KAPLAN:

22 Q. Miss Session, where do you reside?

23 A. At 2466 Daisy Avenue in Long Beach,
24 California.

25 Q. And are you familiar with Miko's Sports

1 Lounge?

2 A. Yes.

3 Q. How far away from you is that business?

4 A. A block.

5 Q. How long have you resided at 2466 Daisy?

6 A. About 30 plus years.

7 Q. Have you resided there continuously since
8 Miko's began operating about three or four years ago?

9 A. Yes.

10 Q. During the time that you have resided on
11 Daisy, has Miko's operation in any way interfered with
12 your use or your enjoyment of your property?

13 A. No.

14 Q. Has Miko's operation endangered your health
15 or safety?

16 A. No.

17 Q. Has Miko's operation at any time been
18 offensive to your senses?

19 A. No.

20 Q. While you have lived a block away over the
21 last three or four years, have you noticed any excessive
22 noise coming from Miko's?

23 A. No.

24 Q. Have you noted any excessive buildup of
25 trash in the community you attribute to Miko's?

1 A. No.

2 Q. Have you noted any misconduct in the
3 community of any persons you reasonably believe were
4 patrons of Miko's?

5 A. No.

6 Q. Have you noted any misconduct of any
7 employee of Miko's?

8 A. No.

9 Q. How about of Miss Yancey?

10 A. No.

11 MR. KAPLAN: Nothing further.

12 HEARING OFFICER TERZIAN: Cross-examination,
13 Mr. Sanchez?

14 MR. SANCHEZ: Thank you.

15 CROSS-EXAMINATION

16 BY MR. SANCHEZ:

17 Q. You said you live on 2466 Daisy Avenue?

18 A. Yes.

19 Q. Okay. Is that -- is that behind Miko's, or
20 is that on the other side of Willow from Miko's?

21 A. It's on the same side as Miko's and just a
22 block over.

23 Q. Okay. And how many houses down are you
24 from Willow Street?

25 A. About four.

1 Q. So you're about middle of the block on
2 Daisy Avenue?

3 A. I'm in the middle of the block on Daisy
4 Avenue.

5 Q. And in the area that you are on Daisy
6 Avenue, do you ever have any issues with parking during
7 the evening hours?

8 A. No.

9 Q. Okay. And you've never had any issues
10 relating to noise coming from Miko's itself?

11 A. No.

12 Q. And 2466 Daisy Avenue, is that within the
13 first block from Willow Street, or is there another
14 cross street in between Willow --

15 A. It's another cross street. But when you
16 mention houses, if you count the houses, it's the fourth
17 house from Willow pretty much. It's two houses in the
18 25th block, and then my house is the one, second, third
19 house over from 25th Street. So yes.

20 Q. So it sounds like there's another street
21 that crosses parallel to Willow?

22 A. 25th.

23 Q. 26th Street?

24 A. 25th.

25 Q. 25th Street.

1 Okay. And then your home is -- what would
2 that be, west of 25th Street?

3 A. South.

4 Q. Or south. Sorry.

5 A. Yes.

6 Q. My direction's off.

7 So at least a block -- more than one block
8 from Willow Street?

9 A. It's Willow, then it's 25th, and then my
10 house is one, two, three houses over.

11 Q. Right. So Willow Street to 25th Street,
12 that's one block; right?

13 A. Pretty much.

14 Q. And then your house is in from 25th Street?

15 A. Uh-huh.

16 Q. Okay. And were you aware that on
17 December 27th -- let me just make sure.

18 Were you aware that a shooting occurred on
19 December 27th, 2015, regarding patrons that were
20 visiting the bar?

21 A. Yes.

22 Q. Okay. And how were you aware of that?

23 A. I just heard cars going down the street.

24 Q. That same night?

25 A. That same night.

1 Q. Okay. Do you go to Miko's?

2 A. Yes.

3 Q. And how long have you been going to the
4 bar?

5 A. For about three years now.

6 Q. Three years?

7 A. Uh-huh.

8 Q. So ever since it opened?

9 A. The first couple months, no, but after
10 that, yes.

11 Q. Okay. So you are aware that patrons that
12 go to Miko's park along Maine Avenue?

13 A. Yes.

14 Q. And you're aware that there's a parking lot
15 directly behind Miko's along the alley?

16 A. Yes.

17 Q. And are you aware that patrons frequently
18 go out that rear door into the parking lot from Miko's
19 during the night?

20 A. Not after a certain hour, no.

21 Q. I'm sorry? So does -- so during which
22 hours have you seen people go in and out of that rear
23 door?

24 A. I've seen it be locked between 7:30 and
25 8:00 o'clock every night.

1 Q. When you say it's locked, what do you mean
2 by that?

3 A. It's locked, locked so now you have to go
4 out the front.

5 Q. How do you know that?

6 A. Because I've been there quite a few times
7 on several occasions, and I've actually locked the door
8 myself for my safety.

9 Q. Okay. Are you allowed -- do you work for
10 Miko's?

11 A. No. I just -- I just asked them to lock
12 the door, and they hand me the key to lock -- little key
13 thing to lock the little padlock. It's nothing but an
14 Allen wrench to lock the latch.

15 Q. Okay. So they give you an Allen wrench to
16 lock the back door?

17 A. Yeah.

18 Q. And so you're there every night?

19 A. Not every night, but a lot of nights, yes.

20 Q. On average during the week, how many nights
21 a week?

22 A. Three to four days a week.

23 Q. I'm sorry?

24 A. Maybe three to four days a week.

25 Q. So three to four days a week. Those other

1 four days, you have no idea what's going on with the
2 back door?

3 A. No.

4 Q. And you don't work there?

5 A. No.

6 Q. Okay. So how many times have you been
7 asked to lock the door with the Allen wrench?

8 A. Maybe twice.

9 Q. Okay. So other than the two times that
10 you've locked it yourself, you don't have any knowledge
11 of when it's locked?

12 A. If I'm there, I see them go -- the
13 bartender or somebody will pretty much go lock the door,
14 or the security gets there, he locks the door.

15 Q. When did you first start going to Miko's?

16 A. About -- like I said, about three years
17 ago.

18 Q. So what, 2014?

19 A. Yeah.

20 Q. Okay. And you're aware that there are
21 individuals or people from the bar that have been
22 hanging out in that rear parking area, have you not?

23 A. Well, when you say "hanging out," I mean,
24 people come to the bar, they might not made it inside
25 the bar as of yet, so I don't know if you consider them

1 being patrons of Miko's or not.

2 Q. Okay. So are you aware that in that rear
3 parking area, people drink out of their cars?

4 A. No.

5 Q. You're not aware of that?

6 A. No, because I don't hang out in the back,
7 so no, I wouldn't know that.

8 Q. Okay. When you enter the bar, how do you
9 enter the bar?

10 A. Through the front.

11 Q. And so, I guess, do you frequently walk
12 from your house?

13 A. Pretty much, if it's not too late, I will
14 drive because of the animals that's around there, so I
15 prefer not to walk.

16 Q. Animals?

17 A. Yeah. Raccoons, possums.

18 Q. Oh, okay.

19 So you would just walk up Daisy to Willow,
20 then cruise over from Willow?

21 A. I just walk up Daisy probably to 25th, then
22 end up 25th to Maine, up Maine street.

23 Q. Are you there too late in the evening when
24 you do go?

25 A. The most part, yes.

1 Q. Okay. Are you aware that Miss Yancey has
2 been cited at least twice for having entertainment
3 without a permit?

4 A. Not really, no. That's not -- I don't know
5 if she's been cited. I seen posters on the door, if
6 that's what you're calling being cited, it being posted
7 outside from the City.

8 Q. Well, are you aware that she was charged
9 with violation of the Municipal Code for having
10 entertainment without a permit?

11 A. No.

12 Q. And so are you telling me that no one sits
13 in that rear parking area directly behind Miko's and
14 drinks?

15 A. Not to my knowledge. Like I said, I don't
16 hang out in the parking lot, so I can't say what other
17 people do, but as far as I know, no. I don't hang out
18 in the parking lot. When I come to the bar, I go inside
19 the bar.

20 Q. But you are aware that people that
21 patronize the bar park along Maine Avenue?

22 A. Yeah, for parking -- parking lot is not
23 that big. So if they want to park, they park on Maine
24 Avenue.

25 HEARING OFFICER TERZIAN: Could you speak a little

1 more slowly, Miss Session?

2 THE WITNESS: Okay. I'm sorry.

3 Q. BY MR. SANCHEZ: While you've been at the
4 bar, did anyone that worked for the bar or anyone
5 related to management for the bar ever explain to the
6 patrons to not be loud and not play their music when
7 they go out to their cars?

8 A. Security does. That's their job pretty
9 much. I mean, they walk along the --

10 Q. I'm asking you.

11 A. Repeat it again. I'm sorry.

12 Q. Has anyone at the bar or anyone that's
13 affiliated with the bar ever stated to the patrons while
14 at the bar that they should be careful to be quiet as
15 they walk out to their cars and to not be loud?

16 A. Yes, I've heard that.

17 Q. You have?

18 A. Yes.

19 Q. How often?

20 A. When you're leaving, it's pretty much
21 stated that when you leave can you please not play music
22 in your car or lounge in the parking area.

23 Q. It's stated where?

24 A. To the patrons. I mean, it was stated to
25 me as I leave the bar, so I'm sure it's stated to more

1 than just me at the time that I leave.

2 Q. Okay. Do you know if the patrons follow
3 those instructions?

4 A. I don't, no.

5 Q. Okay. But you are aware that there are a
6 number of disturbances that are caused along Maine
7 Avenue at late night hours as the bar is closing?

8 A. I'm sure as the crowd's leaving,
9 everybody's talking and walking and leaving at the same
10 time. So if that's a disturbance, then yes.

11 Q. Let me just do this for -- I'm going to
12 identify as -- what exhibit are we on?

13 HEARING OFFICER TERZIAN: We already have an H.

14 MR. SANCHEZ: We do? So identify it as Exhibit J.

15 HEARING OFFICER TERZIAN: How about I?

16 MR. SANCHEZ: I? H, I. Sorry. My alphabet's
17 off. As Exhibit I, a video that was played during the
18 original hearing on November 3rd before the Planning
19 Commission, and if I could get that video up on the
20 screen, please.

21 (Video is played.)

22 MR. SANCHEZ: If you could stop it, please, for a
23 second.

24 Q. BY MR. SANCHEZ: So is this -- have you
25 ever seen this type of activity going on since you've

1 been attending the bar?

2 A. Like I said, when people are leaving, I
3 seen people leaving in their cars and they're
4 associating with each other while they're leaving. But
5 as far as this happening all the while Miko's open, no.

6 Q. But you have seen this occur?

7 A. Yes.

8 Q. And as you're listening to the audio of
9 this video, is that typical -- or not typical -- excuse
10 me.

11 You've heard that type of noise occurring
12 outside of the bar?

13 A. I mean, when people leaving, yes. I mean,
14 that's just music. Some people like loud music in their
15 cars. I don't really know what to say at this point.

16 Q. But according to your testimony, they're
17 advised by security not to make any noise as they're
18 leaving the bar; is that correct?

19 A. Yes, that's correct. They be told, but
20 everybody don't follow directions.

21 MR. SANCHEZ: Okay. You can go ahead and start it
22 back up, please.

23 (Video is played.)

24 MR. SANCHEZ: Stop the video, please.

25 Q. BY MR. SANCHEZ: Do you know who this

1 individual is?

2 A. No, I don't.

3 Q. Do you know why he's directing his anger,
4 yelling, screaming, towards what looks like a home or
5 residence here across the alley from the bar?

6 A. I mean, I don't know who he's talking to
7 and who he's angry at. I don't see anyone, so I can't
8 really state who he's screaming or talking to.

9 MR. SANCHEZ: Okay. Fair enough.

10 You can go ahead and start it back up.

11 (Video is played.)

12 MR. SANCHEZ: Please stop the video.

13 Q. BY MR. SANCHEZ: So just looking at this
14 frame or this kind of scene here, do you recognize any
15 individuals that are depicted in this shot of the video?

16 A. No.

17 Q. Okay. Do you see any security that is out
18 or recognize anyone that is security for the bar that's
19 trying to direct traffic, you know, keep people from
20 going straight to their car, any kind of security
21 activity from the bar?

22 A. Not in this frame, but a previous frame I
23 did see security putting people in their cars and having
24 them leave.

25 Q. And in that previous scene when you saw

1 security putting people in their cars, did you hear them
2 directing the individuals to turn their radios down or
3 to be quiet?

4 A. The music went down and the people got in
5 their cars and they started leaving. That's what I saw
6 in the previous frame.

7 Q. But I'm asking that did security direct
8 them to turn their music down?

9 A. Get in their cars and turn the music down,
10 and they started leaving, pretty much clearing the area
11 at the time.

12 MR. SANCHEZ: Okay. You can go ahead and start
13 back up, please.

14 (Video is played.)

15 Q. BY MR. SANCHEZ: So you just saw that last
16 frame, people relieving themselves on the lawn there.
17 Were you aware that that was happening?

18 A. No. There's a restroom inside of Miko's.
19 I don't know why they didn't use it once before they
20 exited the bar if they made it inside the bar.

21 Q. And did you know the individual who lived
22 at that house?

23 A. No, I don't know the individual that lives
24 at that house.

25 Q. Do you know -- not do you know him, but do

1 you know what the individual's name was?

2 A. That stays in the house directly behind
3 Miko's?

4 Q. Yes.

5 A. No, I don't know his name.

6 Q. Okay. But you yourself haven't seen that
7 type of activity that's being shown here on the video?

8 A. No.

9 MR. SANCHEZ: Okay. Please start it back up.
10 Thank you.

11 (Video is played.)

12 MR. SANCHEZ: Stop the video.

13 Q. BY MR. SANCHEZ: So have you ever seen this
14 type of activity occurring behind the bar?

15 A. No.

16 Q. Do you see that people are drinking out of
17 the trunk of that car?

18 A. I see it, but --

19 Q. Do you see the cups?

20 A. -- wouldn't believe it.

21 Yeah, I see the cups.

22 Q. And you see the hour that's depicted up
23 there? Looks like it's 12:38 in the morning?

24 A. I don't really know what time it is. I
25 just see 38:08, whatever time that is.

1 Q. Okay. So it's at night; right?

2 A. It's at night.

3 Q. Got that much.

4 So do you see any security that is going
5 and patrolling that rear area of the bar?

6 A. No.

7 MR. SANCHEZ: Okay. You can go ahead and start it
8 back up.

9 (Video is played.)

10 MR. SANCHEZ: Thank you.

11 Q. BY MR. SANCHEZ: So Miss Session, I think
12 you testified previously that you don't hear any
13 disturbances relating to Miko's from your home? I think
14 that's what you testified to; is that correct?

15 A. Yes.

16 Q. And your home's on the other side of 25th
17 Street. Do any or have you ever seen anyone that was
18 going to Miko's park along your portion of the street?

19 A. No.

20 Q. And since you frequent the bar, where do
21 people normally park that are going to the bar?

22 A. I seen people park on Willow. I seen them
23 park on Daisy, but not in my block of Daisy. I've seen
24 them park on Maine and in the parking lot.

25 Q. But of all the streets that are nearby,

1 wouldn't you agree that Maine Avenue is one of the main
2 ones that patrons park on?

3 A. Yes.

4 HEARING OFFICER TERZIAN: Before you ask another
5 question, Mr. Sanchez, would you identify the video you
6 just played?

7 MR. SANCHEZ: I did. I did identify it as -- I
8 think we said Exhibit I.

9 HEARING OFFICER TERZIAN: Exhibit I. And is this
10 the same video that was played at the Planning
11 Commission hearing?

12 MR. SANCHEZ: Yes.

13 HEARING OFFICER TERZIAN: All right. Please go
14 on.

15 MR. SANCHEZ: Thank you.

16 Q. BY MR. SANCHEZ: You mentioned that the
17 rear door is locked after a certain hour?

18 A. Yes.

19 Q. What hour is that?

20 A. Between 7:30 and 8:00.

21 Q. It gets locked for the rest of the night?

22 A. Yes.

23 Q. And when did that start happening?

24 A. It's been happening for over two or three
25 years now, and it's a sign up that says this is not the

1 exit inside the bar.

2 MR. SANCHEZ: Thank you. I have nothing further.

3 HEARING OFFICER TERZIAN: Mr. Clough?

4 MR. CLOUGH: Yes. Thank you.

5 CROSS-EXAMINATION

6 BY MR. CLOUGH:

7 Q. Had you ever been at the bar when there
8 were no security guards present?

9 A. Yes, during the week.

10 Q. Okay. And at a later point in time, did
11 more security guards show themselves at the site?

12 A. Yes. During weekends there's more
13 security.

14 Q. Okay. Is that something that's always
15 happened at the bar, or is that something that changed
16 over time?

17 A. Every time I go it's always security.

18 Q. Okay. And in terms of the back lot, have
19 you ever -- in terms of the back lot, you indicated you
20 usually park in the front as opposed to the parking lot
21 in the back?

22 A. If it's parking in the parking lot, I will
23 park in the parking lot.

24 Q. So you do check on occasion?

25 A. Yes.

1 Q. Have you ever seen "no loitering" signs
2 back there?

3 A. Yes.

4 Q. And had you ever seen any security guards
5 actually take care of people in the back?

6 A. Yes.

7 Q. How many times have you seen that happen?

8 A. Several occasions. I seen one time in the
9 video they just showed.

10 Q. Okay. Perhaps this is not that great of a
11 question, but did you ever see Mr. Mackey present at the
12 time of the closing?

13 A. No.

14 Q. Okay. You know who Mr. Mackey is here?

15 A. I mean --

16 Q. He's never been present to witness this
17 activity you're aware of; right?

18 A. No.

19 Q. Did you ever park across the street at any
20 of the businesses?

21 A. No. If I don't park -- if I don't find
22 parking, I just go back home and walk.

23 MR. CLOUGH: Okay. I have nothing further.

24 HEARING OFFICER TERZIAN: Any redirect,
25 Mr. Sanchez?

1 MR. KAPLAN: It's mine. She's mine, my witness,
2 so I would be redirecting.

3 HEARING OFFICER TERZIAN: Okay. Right.

4 MR. KAPLAN: I don't have a question, but I did
5 want --

6 HEARING OFFICER TERZIAN: I'm sorry, Mr. Kaplan.

7 MR. KAPLAN: It's no problem.

8 I did want to just interpose again a
9 repeat, I understand, of the objection to this video
10 being viewed and questions being asked and answered and
11 move to strike everything, questions and answers, with
12 regard to the video based on the objection we had
13 originally to the requirement we believe that the City
14 has to proceed de novo and has to start again as far as
15 proving this case and that merely showing this video is
16 not proper on an evidentiary basis because there is no
17 foundation today in these proceedings to authenticate
18 the photographer, to authenticate the site being Miko's.
19 There is no clear evidence to support the exact duration
20 of the alleged misconduct portrayed in the video.

21 In summary, it lacks foundation and should
22 not be shown. Questions shouldn't be asked on it based
23 on the same objection we interposed when we started.

24 So I'm just renewing that objection to be
25 clear that I'm objecting to everything from below,

1 including but not limited to this video.

2 HEARING OFFICER TERZIAN: Objection is overruled.

3 Miss Session, I have one question. Did you
4 testify at the Planning Commission hearing?

5 THE WITNESS: Yes.

6 HEARING OFFICER TERZIAN: Pardon me?

7 THE WITNESS: Yes.

8 HEARING OFFICER TERZIAN: Nothing further.

9 You may step down.

10 MR. KAPLAN: Call Joshua Barker.

11 MR. BARKER: Good afternoon. Joshua Barker,
12 B-a-r-k-e-r last name.

13 HEARING OFFICER TERZIAN: Raise your right hand,
14 please.

15 (Joshua Barker was duly sworn by the
16 Hearing Officer.)

17 HEARING OFFICER TERZIAN: Mr. Kaplan.

18
19 JOSHUA BARKER,
20 having been duly sworn, testified as follows:
21

22 DIRECT EXAMINATION

23 BY MR. KAPLAN:

24 Q. Where do you live, sir?

25 A. 2359 San Francisco Avenue.

1 Q. How long have you lived there?

2 A. Year and a half.

3 Q. How far is that from Miko's?

4 A. Three to four blocks, depending on how you
5 gauge the blocks.

6 Q. Have you lived at any other address in that
7 vicinity of Miko's prior to this one?

8 A. Yes.

9 Q. Where?

10 A. 3075 Eucalyptus Avenue.

11 Q. And how long did you live there?

12 A. Six years. Five, six years.

13 Q. And how far was that from Miko's?

14 A. That one is approximately four blocks away,
15 four or five blocks away.

16 Q. Have you ever been a patron at Miko's?

17 A. Yes.

18 Q. How often would you say you go there on the
19 average per week?

20 A. Two to three times a week.

21 Q. At any time, has the operation of Miko's
22 interfered with your use or enjoyment of your property?

23 A. No.

24 Q. At any time, has the operation of Miko's
25 endangered your personal health or safety?

1 A. No.

2 Q. At any time, has the operation of Miko's
3 been offensive to your senses?

4 A. No.

5 Q. At any time, have you noted excessive noise
6 from Miko's or its patrons?

7 A. No.

8 Q. How about parking congestion in the area
9 that you would attribute to Miko's or its patrons?

10 A. No.

11 Q. How about an excessive trash buildup in the
12 area you would attribute to Miko's?

13 A. No.

14 Q. Have you ever seen any individuals you
15 believe were patrons of Miko's engaged in misconduct in
16 the community?

17 A. No, I have not seen that.

18 Q. How about any employees of Miko's?

19 A. No.

20 Q. How about Miss Yancey herself?

21 A. No.

22 MR. KAPLAN: No further questions.

23 HEARING OFFICER TERZIAN: Mr. Sanchez?

24 MR. SANCHEZ: Thank you.

25 //

CROSS-EXAMINATION

BY MR. SANCHEZ:

Q. And how often have you been going to Miko's?

A. How often?

Q. Yeah. I mean how long. When did you start going there?

A. Approximately a year, year and a half ago.

Q. So it would be -- so we'll say March of 2016?

A. That sounds about right.

Q. And when you were asked about excessive noise, what did you understand that to mean? In other words, noise -- let me ask it.

So you've never had a problem with Miko's regarding excessive noise?

A. Not when I've been there, no.

Q. Now, when you say you've been there, you mean when you're at the bar itself?

A. When I'm at the bar -- and I don't hear anything from my home, but when I'm there, I do not.

Q. And when do you normally go there?

A. I usually go there between the hours of 4:00 or 5:00 to approximately 9:00. Sometimes I do stay later, but those are my normal hours.

1 Q. Okay. So you're never there when it
2 closes?

3 A. I have been, but not routinely.

4 Q. Okay. So your routine is get there between
5 4:00 and 5:00, usually leave by 9:00; is that correct?

6 A. That's correct. I do stay later on
7 occasion.

8 Q. Okay. And you saw the video that was
9 played which is identified as Exhibit I?

10 A. Yes, sir.

11 Q. Have you seen activity like that that was
12 depicted in the video?

13 A. I've never seen that when I'm there.

14 Q. Okay. In the times that you've been there
15 -- let me ask this. Have you ever been to Miko's where
16 you've stayed 'til it closes?

17 A. Yes.

18 Q. And what time was that?

19 A. It was weekdays. I don't go on the
20 weekends. It's on the weekdays, and often they maybe
21 closed earlier, and I have not seen that.

22 Q. When you say "earlier," give me a time.

23 A. If there's no patrons there, they may close
24 -- if there's no one there, they may close -- it's not
25 routine, they don't put it in stone, but I've seen them

1 close 12:00, 1:00. Even one night, I think it may have
2 been 11:00.

3 Q. Okay. And you say you don't go on the
4 weekends?

5 A. That's correct. I've only -- well, once or
6 twice, but that's it.

7 Q. And why is that?

8 A. It's just not my routine.

9 Q. I mean, is there any other reason besides
10 not in your routine?

11 A. No reason at all. No. I just --

12 Q. If you were to go on a weekend, would you
13 see the same people you see during the week?

14 A. I cannot honestly answer that because I
15 don't go on the weekends enough to testify to that.

16 Q. The one or two times you have gone?

17 A. May be one or two familiar people on the
18 weekends on the couple of times I went there.

19 Q. So would it be fair to say it's a different
20 crowd on the weekends?

21 A. I cannot testify to that.

22 Q. Well --

23 A. I don't go enough on the weekends to say
24 whether yes or no.

25 Q. But the one or two times you have gone, you

1 only recognize one or two people; is that correct?

2 A. I don't base a decision on one or two
3 times, sir. I'm sorry. I can't testify on that.

4 Q. My question is the one or two times that
5 you've gone on the weekend --

6 A. Yes, sir.

7 Q. I'm just repeating what you said.

8 A. Yes.

9 Q. -- you've only recognized one or two
10 people; is that correct?

11 A. One or two people, yes. And it was earlier
12 in the day, too, when I did go on a weekend.

13 Q. Okay. So you've never gone on the weekend
14 at night?

15 A. Late night, no.

16 Q. Okay. At either of your addresses on San
17 Francisco Avenue or Eucalyptus Avenue, did any people
18 that are patrons of the bar ever park on your street?

19 A. No.

20 Q. And why is that?

21 A. I'm not sure, but no.

22 Q. I mean, is it because you're three or four
23 blocks away or four or five blocks away? Is it the
24 distance that people wouldn't park on your street?

25 A. That probably is a contributing factor.

1 Plus, where I live now, that street's usually just
2 filled up by the neighborhood that lives there, so I
3 find it hard to park in there just at night every night.
4 So that's probably a contributing factor, that and just
5 parking is not available there.

6 Q. So if there was some loud noise and
7 disturbance that would be created at Miko's, let's just
8 say there was loud music coming from Miko's and it was
9 loud for the adjoining neighborhood directly behind the
10 bar, you wouldn't necessarily hear it from your home?

11 A. That's correct.

12 Q. And if there was loud music or any other
13 kind of disturbance along Maine Avenue just around the
14 corner from Miko's, you wouldn't hear it from your
15 residence?

16 A. With the exception if someone was racing
17 down Willow possibly, because you can hear people racing
18 their car sometimes Willow on the west side. But as far
19 as directly from that location, no.

20 Q. And you testified you've never had any
21 noise disturbance from the two locations where you've
22 lived at, 3075 Eucalyptus and 2359 San Francisco Avenue?

23 A. That's correct.

24 MR. SANCHEZ: Thank you. I have nothing further.

25 HEARING OFFICER TERZIAN: Mr. Clough.

1 MR. CLOUGH: Just one.

2 CROSS-EXAMINATION

3 BY MR. CLOUGH:

4 Q. Have you ever been advised by the staff
5 that you could park across the street or at other
6 businesses in the neighborhood?

7 A. I've only been directed to park in the
8 parking lot or on Willow, and I'm always directed to
9 exit out the front. If I'm there later than 7:00, 7:30
10 is when I'm directed to exit out the front. I usually
11 park in the back, and I've been directed when I have
12 decided to go have a cigarette to go to the front, not
13 to go to the back.

14 MR. CLOUGH: Thank you. Nothing further.

15 MR. KAPLAN: Nothing.

16 HEARING OFFICER TERZIAN: Thank you. No further
17 testimony.

18 THE WITNESS: Thank you, sir.

19 HEARING OFFICER TERZIAN: Next witness?

20 MR. KAPLAN: Katwuan Sauldsberry. Katwuan.
21 Sorry.

22 MR. SAULDSBERRY: K-a-t-w-u-a-n, last name
23 Sauldsberry, S-a-u-l-d-s-b-e-r-r-y.

24 HEARING OFFICER TERZIAN: Would you spell your
25 last name again?

1 MR. SAULDSBERRY: S-a-u-l-d-s-b-e-r-r-y.

2 HEARING OFFICER TERZIAN: Sauldsberry.

3 Okay. Would you raise your right hand,
4 please.

5 (Katwuan Sauldsberry was duly sworn by
6 the Hearing Officer.)

7

8 KATWUAN SAULDSBERRY,
9 having been duly sworn, testified as follows:

10

11 DIRECT EXAMINATION

12 BY MR. KAPLAN:

13 Q. Are you employed, sir?

14 A. Yes.

15 Q. By who?

16 A. Miko's Sports Lounge.

17 Q. How long have you worked for Miko's?

18 A. Two years.

19 Q. In what capacity?

20 A. Security.

21 Q. Sorry. Speak up a little.

22 A. Security.

23 Q. Okay. And would you please tell us what
24 your duties are as a security guard for Miko's?

25 A. The front, the side and the back parking

1 area.

2 Q. I'm sorry?

3 A. The front of the building, the side of the
4 building and the back parking area.

5 Q. So you patrol those areas?

6 A. Yes.

7 Q. And is that for the purpose of what?

8 A. Making sure there's nobody hanging out in
9 the back, along the side and making sure most people
10 stay inside the bar.

11 Q. Do you ever go and patrol inside the bar,
12 as well?

13 A. Yes.

14 Q. Do you do that on any kind of regular
15 basis?

16 A. Yes.

17 Q. Do you work -- I should say how many days a
18 week do you work as a security guard there?

19 A. Two. Friday, Saturday.

20 Q. And what time do you start on your shift?

21 A. At that time, 9:00 o'clock.

22 Q. And what time is it over?

23 A. Around 2:00. 1:45, 2:00 o'clock.

24 Q. Have you ever had any other security guards
25 working with you at Miko's?

1 A. Yes.

2 Q. And up to how many?

3 A. Three.

4 Q. And when has that happened? When is there
5 more than just you?

6 A. It's usually two. The third one would be
7 if it was some type of event, somebody wanted to have a
8 get-together there so we was expecting more people than
9 the norm, so we would have a third go out there.

10 Q. Okay. And have you been instructed by the
11 owner of Miko's to do anything with regard to the back
12 parking lot?

13 A. Yes.

14 Q. What is your instructions?

15 A. Usually to make sure people get to their
16 car and try to get from back there as quick as possible.

17 Q. Okay. Did you see the video that was
18 played before?

19 A. Yes. Some of that was in daytime. I
20 wasn't there.

21 Q. So have you ever seen any of that kind of
22 activity when you've been a security guard there?

23 A. Yeah. On the footage, I was back there
24 on --

25 Q. I'm sorry. I can't hear you.

1 A. On the footage, I was back there directing
2 people in their car and telling them to go out that way
3 or that way.

4 Q. Okay. Is it a frequent occurrence since
5 you've been a security guard that people in the parking
6 lot are noisy when they leave?

7 A. They start talking a little bit. You know,
8 they talk when they're going to their cars. So that's
9 about it. If they play their music, I try to get them
10 to turn it down and get on their way.

11 MR. KAPLAN: Okay. I have no other questions.
12 Thank you.

13 HEARING OFFICER TERZIAN: Mr. Sanchez?

14 MR. SANCHEZ: Thank you.

15 CROSS-EXAMINATION

16 BY MR. SANCHEZ:

17 Q. When did you start working for Miko's?

18 A. About two years.

19 Q. Sorry?

20 A. Two years.

21 Q. Do you have a date, specific date?

22 A. No, I do not.

23 Q. So two years from today would be March 15th
24 of -- let me do my math -- 2015; would that be accurate?

25 A. Somewhere in 2015, yes.

1 Q. And you were asked about the video, and you
2 said you were depicted in the video. What area were you
3 depicted in?

4 A. I was in the back between the cars
5 directing people to get in their car and leave.

6 Q. Okay. And so it looked like you were the
7 one that was directing cars that were double parked in
8 that rear parking lot?

9 A. I was the one waving a car out and
10 directing them out the parking lot, yes.

11 Q. Okay. And you said, as you can hear on the
12 audio from the video, that there's some loud music being
13 played by people in their cars. And do you tell people
14 to turn their music down when you're out there?

15 A. Yes. I tell them when they walk out the
16 bar make sure they don't turn their music up in the back
17 parking area.

18 Q. Do people listen to you?

19 A. Sometimes they do. Sometimes they act like
20 they forgot.

21 Q. And the occasions where they don't listen
22 to you and they keep their music up, do you do anything
23 else?

24 A. Yes. If I'm back there at the time that
25 they turn the music on, I will ask them to turn it down.

1 Q. But, so let's just say they don't listen to
2 you. Do you do anything else in order to try to get
3 them to turn their music down?

4 A. Yeah. I explain that it's a residence in
5 here and you're disturbing the residents now.

6 Q. Okay. Getting back to the video, there's a
7 few scenes in that video that had a lot of people
8 hanging out outside their cars along Maine Avenue. Do
9 you recall that portion of the video?

10 A. Yes.

11 Q. And you said part of your duties was to
12 patrol the side of the bar. Is that the side that you
13 were talking about?

14 A. Yes.

15 Q. So along Maine Avenue?

16 A. Some of it along Maine Avenue, yes.

17 Q. When you say "some of it," what do you
18 mean?

19 A. Well, past the street right there, 25th
20 Street, and I don't go no farther than that.

21 Q. I'm just talking about that first immediate
22 block, so maybe -- not as far as 25th Street, but --
23 well, what areas do you patrol relating to the side of
24 Miko's?

25 A. When I walk around the side. So from the

1 front of the bar when I walk around the side, just
2 making sure nobody's standing close to the back of the
3 residence and in the back of the bar.

4 Q. Okay. So in those scenes that were
5 depicted with all the people standing outside of cars
6 along Maine Avenue, would that be something that you
7 would provide some direction for?

8 A. Yes.

9 Q. What would you direct them to do?

10 A. Try to get in their car and go.

11 Q. And there's a few scenes in that video
12 where there are a number of people out in the street
13 along Maine Avenue, but you weren't in any of those
14 videos, were you?

15 A. No. Referring to the video, I couldn't
16 even get a lot of the times on the videos to see where
17 anything was. Some of the times were in the morning
18 when security wasn't there, the days was not on a Friday
19 or a Saturday. I mean, it was different stuff depicted
20 in the video, so --

21 Q. Okay.

22 A. It's stuff that I'm aware of and that I was
23 there on, I will try to make some type of effort to make
24 sure people was not back there and got on it as quick as
25 possible.

1 Q. So you mentioned you also work at the
2 front?

3 A. Yes.

4 Q. And is that the entrance?

5 A. Yes.

6 Q. Okay. And is any instruction ever given to
7 the patrons of the bar as they're leaving regarding --
8 well, regarding anything?

9 A. Yeah. If you're in the back, make sure you
10 just don't have your music on and, you know, don't hang
11 out.

12 Q. And that instruction is given as people are
13 leaving the bar?

14 A. Yes. Or if I see you pull up in the back,
15 if I see you pull up in the back and I catch you coming
16 in, I will tell you when you come into the bar, you
17 know, when you're leaving, just make sure that your
18 music stays down.

19 Q. Does anyone patrol the rear door area of
20 the bar?

21 A. Standing inside of the bar in the rear?

22 Q. Right.

23 A. Yeah, when we have security on duty, yes, a
24 guy inside the bar.

25 Q. So you testified that when you were working

1 -- and you said just Friday and Saturdays when you
2 worked; correct?

3 A. Uh-huh.

4 Q. There's another security guard that works
5 with you on a non-event night?

6 A. Yes.

7 Q. And he patrols where inside?

8 A. We rotate. He just be mostly from the back
9 door and the front of the bar and just where people are
10 by the bar.

11 Q. Okay. If you are patrolling the inside, do
12 you have any other duties aside from providing security?

13 A. Duties? No.

14 Q. I'm sorry?

15 A. As far as duties, no.

16 Q. Like -- you know, like washing some glasses
17 or doing some work behind the bar, pulling ice for the
18 bar, duties like that.

19 A. No. If the bartender asks or if I see that
20 she needs some ice or something, then yes, I would get
21 ice.

22 Q. Okay. So --

23 A. But it's not my duty.

24 Q. What would exactly be your duty if you're
25 inside the bar?

1 A. To make sure everybody's behaving right and
2 not getting too intoxicated, and that's it.

3 Q. So you also noticed in the video,
4 Exhibit I, that there was a few people that were
5 swaying, losing their balance. There's one individual
6 that fell in the street, which looked, based on the
7 video, that they had too much to drink.

8 Did you see that?

9 A. Yeah.

10 MR. KAPLAN: Objection. I'm going to object to
11 the question. That assumes facts not in evidence.

12 HEARING OFFICER TERZIAN: Overruled.

13 MR. SANCHEZ: Well, I'll rephrase.

14 Q. BY MR. SANCHEZ: Did you see anyone in the
15 video that looked like they had too much to drink?

16 A. Maybe. But what indication that you have
17 that they actually got into the bar and had something to
18 drink at the bar?

19 Q. I don't, but I'm asking you in you viewing
20 the video -- I didn't ask if they were in the bar or
21 not. I asked if you saw anybody that was intoxicated?

22 A. Yeah.

23 Q. Okay. What's the normal amount of people
24 that go to the bar on Friday and Saturday?

25 A. Back then, maybe average, maybe 50 people

1 average.

2 Q. Average of 50?

3 A. Yeah, maybe.

4 Q. So average of 50, so there would be some
5 nights where there was more than 50?

6 A. If they had some type of get-together,
7 maybe yes. That's when we would have three guards.

8 Q. So I guess that's my question. When would
9 three guards be employed or put on duty for the bar?

10 A. When we had to maintain the guard per
11 capacity level inside the bar.

12 Q. Any other times -- what was the capacity
13 level of the bar where you had to have a third person?

14 A. Think the capacity level was 65, but we
15 usually go heavy based on how much traffic we think
16 we're going to have outside.

17 Q. Okay. And who makes that determination?

18 A. Miss Yancey.

19 Q. And you said when you have an event, you
20 also have three security guards that work when there's
21 an event at the location?

22 A. Yes.

23 Q. Okay. So when you have three security
24 guards, what are the duties?

25 A. We usually try to keep one inside, one

1 outside and one in the back or in the back area
2 somewhere.

3 Q. Okay. So again looking at the video,
4 Exhibit I, there were people that were in the rear of
5 the bar parking area that were drinking out of -- looks
6 like drinking out of their cars.

7 Did you see that?

8 A. In the daytime, yeah.

9 Q. Well, there was one -- there was a few in
10 the day, and there was some at night. So did you see
11 some in the day and some at night?

12 A. Yes.

13 Q. Okay. I'm not sure why you made the
14 distinction between the daytime. Is there a distinction
15 between the daytime and the nighttime?

16 A. Yeah. You don't have guards on duty. And
17 then at night, if they don't come into the bar and we
18 haven't made our rounds yet, then they might pull up and
19 try to do something out of their car.

20 If they get caught drinking out of their
21 car, then nine times out of ten, they're not getting
22 into the bar.

23 Q. Okay. So during the day, I take it so
24 there's no security that's patrolling the outside of the
25 bar?

1 A. Yes, no security during the day.

2 Q. Okay.

3 A. At least as far as I'm aware of.

4 Q. Right. Understood.

5 Were you working the night of December 27th
6 when a shooting occurred?

7 A. Yes.

8 Q. And what was your duties on that night?

9 A. Security guard.

10 Q. Outside? Inside?

11 A. Both.

12 Q. Okay. And do you recall that evening when
13 that occurred?

14 A. Yes.

15 Q. Okay. And do you recall where the shooting
16 occurred?

17 A. Yes. Across Willow.

18 Q. And the victim of that shooting, was that
19 also a patron of Miko's?

20 A. Yes.

21 Q. Okay. And what else did you do in relation
22 to that incident when it occurred or after it occurred,
23 I guess?

24 A. Got everybody in the bar, locked the front
25 door and tried to find out what was going on.

1 Q. Okay. Do you have any knowledge of why the
2 shooting occurred?

3 A. No, I do not.

4 Q. Okay. Did any security -- was any security
5 guard aware of why the shooting had occurred?

6 A. No. It was speculation, but no.

7 Q. Okay. Do you know if any security guard
8 went outside to see what happened after the shooting?

9 A. I did.

10 Q. You did?

11 A. Yes.

12 Q. Okay. And where did the shooting occur,
13 the actual spot?

14 A. Across Willow on Maine on the east side.

15 Q. Okay. And so right in the middle of a
16 residential neighborhood; is that correct?

17 A. Right before you -- right as you're
18 entering the residential neighborhood.

19 Q. Okay. And I'm sure there were a lot of
20 residents that were out after the shooting occurred?

21 A. Actually, I didn't see any residents out.

22 Q. So were you there until the police arrived?

23 A. Oh, yeah.

24 MR. SANCHEZ: Okay. I have nothing further.

25 HEARING OFFICER TERZIAN: Mr. Clough.

1 MR. CLOUGH: Yes.

2 CROSS-EXAMINATION

3 BY MR. CLOUGH:

4 Q. If I may, was a guard working on the
5 premises when you were hired? Was there another guard
6 before you were hired?

7 A. Yes.

8 Q. Okay. And do you know, was there somebody
9 that had quit that you replaced or whether or not you
10 were supplementing what was the existing security?

11 A. I have no idea what the situation was. All
12 I know is we came in and we started. I don't know as
13 far as what she had beforehand.

14 Q. You're not sure if there was another guard
15 employed?

16 A. I think it was, but I have no idea who they
17 are.

18 Q. Okay. So there were more than one, there
19 were two or more security guards before you began
20 working, as far as you know?

21 A. Yes.

22 Q. Okay. Now, you had indicated that the
23 security guard goes back at closing time to the back
24 lot; is that correct?

25 A. Yes. If -- yeah, we have people parked

1 back there in an event, yes.

2 Q. Are you alone when you go back there at
3 closing time?

4 A. Yeah, pretty much one guard goes back there
5 unless it's -- I mean, something going on. But yeah,
6 usually just one guard.

7 Q. And this is on a Friday or a Saturday;
8 correct?

9 A. Yes.

10 Q. And then where does the other guard go?

11 A. Making sure people who's leaving out the
12 front are -- making sure they're leaving the business.

13 Q. Okay. And in the depiction on the video we
14 saw earlier, you're the only guard that was out back at
15 that time; correct?

16 A. That I can see on the video, yes.

17 MR. CLOUGH: Thank you. Nothing further.

18 HEARING OFFICER TERZIAN: Anything on redirect,
19 Mr. Kaplan?

20 MR. KAPLAN: No, sir.

21 HEARING OFFICER TERZIAN: I just have two more
22 questions. Could you spell your first name again?

23 THE WITNESS: K-a-t-w-u-a-n.

24 HEARING OFFICER TERZIAN: K-a-u --

25 THE WITNESS: No, no. K-a-t-w-u-a-n.

1 HEARING OFFICER TERZIAN: Katwuan Sauldsberry.

2 THE WITNESS: Correct.

3 HEARING OFFICER TERZIAN: One other question.

4 Did you testify at the Planning Commission
5 hearing --

6 THE WITNESS: Couldn't get there, no.

7 HEARING OFFICER TERZIAN: -- in November?

8 Pardon?

9 THE WITNESS: No, I did not.

10 MR. CLOUGH: At this time sir, I'm wondering could
11 we take a break? Mr. Mackey needs to use the
12 facilities.

13 HEARING OFFICER TERZIAN: Sure. I was going to
14 ask Mr. Kaplan -- can you hear me?

15 MR. KAPLAN: Yes.

16 HEARING OFFICER TERZIAN: How many more witnesses
17 do you have?

18 MR. KAPLAN: One.

19 HEARING OFFICER TERZIAN: And do you have any
20 witnesses, Mr. Mackey?

21 MR. CLOUGH: Mr. Clough.

22 Mr. Mackey will testify.

23 HEARING OFFICER TERZIAN: Okay. Let's take a
24 short break. Ten minutes?

25 MR. KAPLAN: Sure. Thank you.

1 (Brief recess.)

2 HEARING OFFICER TERZIAN: Let's get started again.

3 Mr. Kaplan, we're back in session.

4 MR. KAPLAN: Call Dede Yancey.

5 HEARING OFFICER TERZIAN: State your name, please.

6 MS. YANCEY: Damitresse Yancey, or Dede Yancey,
7 last name Y-a-n-c-e-y.

8 HEARING OFFICER TERZIAN: Would you raise your
9 right hand, please?

10 (Damitresse Yancey was duly sworn by
11 the Hearing Officer.)

12 HEARING OFFICER TERZIAN: Mr. Kaplan.

13

14 DAMITRESSE YANCEY,
15 having been duly sworn, testified as follows:

16

17 DIRECT EXAMINATION

18 BY MR. KAPLAN:

19 Q. Are you the president of Enaid's Way, Inc.?

20 A. Yes.

21 Q. Is that a corporation doing business as
22 Miko's Sports Lounge?

23 A. Yes.

24 Q. Does it operate at 710 West Willow Street,
25 Long Beach, 90806?

1 A. Yes.

2 Q. Has that been in operation since about
3 December 2013?

4 A. Yes.

5 Q. In about December of 2013, did you apply to
6 the City of Long Beach for business licenses to operate
7 the bar?

8 A. Yes, I did.

9 Q. And was that application granted?

10 A. Yes.

11 Q. Did you receive the licenses necessary to
12 operate with a stop date on them?

13 A. It was a six-month temporary permit.

14 Q. Okay. So the business operated under a
15 temporary license granted by the City until about June
16 of 2014; is that right?

17 A. Yes.

18 Q. And in June of 2014, did you apply again to
19 the City for permanent licenses?

20 A. Yes.

21 Q. And were they granted?

22 A. Yes.

23 Q. Okay. Can you describe Miko's -- it's been
24 referred to as a sports lounge and bar. Let me ask you
25 this first. Does it hold a license from the Department

1 of Alcoholic Beverage Control?

2 A. Yes.

3 Q. And is that a type 48 license?

4 A. Yes.

5 Q. Meaning that it's not a restaurant, it's a
6 bar?

7 A. Correct.

8 Q. How many square feet is it?

9 A. 3,000.

10 Q. What's the maximum patron occupancy limit?

11 A. 140.

12 Q. And what are its hours of operation?

13 A. 11:00 to 2:00.

14 Q. Is that every day?

15 A. That's every day.

16 Q. Does it ever close earlier than 2:00 a.m.?

17 A. Yes.

18 Q. When would that be?

19 A. Monday, Tuesday, Wednesday, maybe Thursday,
20 a couple times on Friday and Sunday.

21 Q. What would the earlier closing hour be, the
22 earlier?

23 A. The earliest that I've closed has probably
24 been 10:00.

25 Q. Are there any other ABC-licensed bars

1 nearby Miko's? By "nearby," I mean within a half a
2 mile.

3 A. Yes.

4 Q. How many?

5 A. Two.

6 Q. And what are their names?

7 A. Til-2 and P.B.S. bar.

8 Q. Is there any other retail so-called
9 off-sale alcohol establishment within a half a mile?

10 A. The liquor store.

11 Q. What's the name of that?

12 A. I think it's called Eddie's. I'm just
13 gonna say that.

14 Q. Okay. Are you familiar with a bar known as
15 Tailgate?

16 A. Yes.

17 Q. How far away from you is that?

18 A. Probably about seven blocks, six to seven
19 blocks.

20 Q. Okay. You've heard testimony here today,
21 have you not, about a shooting that occurred in December
22 of 2015?

23 A. Yes.

24 Q. What do you know about that? Well, let me
25 ask you more specifically.

1 To the best of your knowledge, was the
2 shooter, the person who fired the weapon, ever a patron
3 of Miko's?

4 A. No.

5 Q. To the best of your knowledge, did that
6 involve some kind of altercation between two
7 individuals, fight between two people?

8 A. A fight at Miko's or --

9 Q. No, no, no. My question is to the best of
10 your knowledge, did that incident involve a fight
11 between two individuals?

12 A. No.

13 Q. Okay. What do you know about it?

14 A. I know that the altercation between the two
15 started at Tailgate bar. They came to Miko's around
16 12:30. The one guy was assisting the young lady out to
17 her car to make sure she got there safe. The other guy
18 went out to get him and shot him, tried shot at him, but
19 it hit the young lady, and they were across the street.

20 Q. There's the shooter; right?

21 A. The shooter.

22 Q. He was never a patron of Miko's?

23 A. Never.

24 Q. There was an intended victim, someone he
25 shot at?

1 A. Yes.

2 Q. Was that person ever a patron of Miko's?

3 A. He would come to Miko's, but only after

4 1:00.

5 Q. Was he a patron of Miko's that night?

6 A. Yes.

7 Q. And there was a victim who actually got

8 shot --

9 A. Yes.

10 Q. -- a woman?

11 Was she a patron?

12 A. Yes.

13 Q. Was the man who did the shooting, was he
14 known to you in any way?

15 A. No.

16 Q. Had he ever been a patron of Miko's?

17 A. No.

18 Q. Did the shooting occur inside or outside
19 the premises?

20 A. Outside.

21 Q. Where outside?

22 A. Across Willow on Maine.

23 Q. Did you have any foreknowledge, any idea
24 that this was going to happen?

25 A. No, I did not.

1 Q. Is there anything that you can think of
2 that you could have done reasonably to prevent it?

3 A. No, I could not.

4 Q. Is there anything that you can think of now
5 that you did that contributed to it?

6 A. I did nothing.

7 Q. Has any -- let me go back.

8 Have you ever been arrested and charged
9 with any criminal misconduct associated with your
10 operation of Miko's?

11 A. No.

12 Q. To the best of your knowledge, have any of
13 your employees ever been arrested and charged with a
14 crime in connection with the operation of Miko's?

15 A. No.

16 Q. To the best of your knowledge, have any of
17 your patrons been arrested and charged with a crime in
18 connection with the operation of Miko's or their
19 activities at Miko's?

20 A. No.

21 Q. You at one time were cited for operating
22 without an entertainment permit; is that right?

23 A. Yes.

24 Q. Have you been cited -- how long have you
25 operated Miko's?

1 A. December 31st, 2013, 'til present.

2 Q. So how long is that, four years?

3 A. Three years.

4 Q. Three years.

5 Can you explain what happened with regard
6 to that one citation in three years?

7 A. I received a citation for having a deejay
8 without a permit on February 6th or 7th.

9 Q. Did you have a deejay without a permit?

10 A. Yes.

11 Q. Why?

12 A. Because my smart aleck bartender said let's
13 just have it tonight.

14 Q. Have you received any other citations in
15 connection with your operation of Miko's in the three
16 years you've been there?

17 A. No.

18 Q. There's a condition, apparently -- let me
19 go back.

20 Are you aware that there was a conditional
21 use permit in place with regard to the Miko's property?

22 A. No.

23 Q. You don't know anything about it, the
24 conditional use permit?

25 A. I know I have to have a conditional use

1 permit to operate a bar, but I was not in charge of it.

2 Q. All right. You're aware of the fact that
3 -- I should say "are you." Let me strike that, start
4 over.

5 Are you aware of any requirement from any
6 source, government or private, that you're supposed to
7 have security measures when you operate the bar?

8 A. No.

9 Q. You're not aware of any requirement that
10 you have security?

11 A. Just when I get an entertainment permit, I
12 requested to have security.

13 Q. You asked to have it?

14 A. No. When you apply for an entertainment
15 permit, they require that you have security.

16 Q. Okay. "They" being the City?

17 A. Yes.

18 Q. Were you ever notified by the City as to a
19 specific number of security guards you were supposed to
20 have?

21 A. Yes.

22 Q. And how many was that?

23 A. One per 50 -- every 50 patrons.

24 Q. Okay. To the best of your recollection,
25 have you complied with that?

1 A. Yes.

2 Q. Did the City ever also require that you
3 have any particular number of parking spaces?

4 A. They told me I had to seek five additional
5 parking spaces.

6 Q. In addition to the parking lot behind?

7 A. Correct.

8 Q. And have you done that?

9 A. I had an attempt of it, yes.

10 Q. Describe what happened.

11 A. I went to Joe's Pottery and asked him for
12 parking.

13 Q. Where is that?

14 A. It's directly across the street from the
15 bar.

16 Q. Okay. What happened?

17 A. We had a verbal agreement that I could use
18 his parking lot after 5:00.

19 Q. Is that still in effect, that agreement?

20 A. Yes, it is.

21 Q. Okay. Have you done anything as a backup
22 for that parking outside Joe's?

23 A. I went to Vibe and Two Teriyaki and asked
24 the owner of the business if I could use five of his
25 parking spots also.

1 Q. Do you have an agreement with him, as well?

2 A. I wrote an agreement. I did.

3 Q. Is that verbal or written?

4 A. It was written and verbal.

5 Q. Does that still exist?

6 A. Well, it was not accepted by the City
7 because I put the start date and the end date as the
8 same.

9 Q. But do you have an agreement with that
10 restaurant?

11 A. I have while he was open. He's now --
12 someone else is operating there.

13 Q. Okay. But you have an agreement, verbal,
14 for five additional parking spaces across the street; is
15 that right?

16 A. Yes.

17 Q. Just one second, please.

18 You saw the video that was played here
19 earlier, didn't you?

20 A. Yes, I did.

21 Q. Do you have any explanation for why it
22 appears that some patrons of Miko's appear to be acting
23 loud when they leave and maybe appear to have bad
24 balance? Can you explain any of that?

25 A. No, I cannot.

1 Q. Have you ever seen any of that activity?

2 A. No, I have not.

3 Q. Are you in the premises daily?

4 A. Yes.

5 Q. Are you there nightly?

6 A. Yes.

7 Q. Do you ever go outside to the rear parking
8 lot?

9 A. Yes, I do.

10 Q. Do you ever go there late at night?

11 A. Yes, I do.

12 Q. Have you instructed security to do anything
13 with regard to that rear parking lot?

14 A. I asked them to make sure nobody is
15 loitering in the back, that their music is turned down
16 and that they do not use parking spaces to the business
17 next-door.

18 Q. Okay. To the best of your knowledge, is
19 there anything about Miko's operations that interfere
20 with the use or enjoyment of nearby property?

21 A. No.

22 Q. Is there anything about Miko's operation
23 that endangers the personal health or safety of nearby
24 people?

25 A. No.

1 Q. Is there anything about Miko's operation
2 that's offensive to the senses of nearby people?

3 A. No.

4 Q. To the best of your knowledge, is there
5 anything about the operations of Miko's that adversely
6 affect a substantial number of people in the community?

7 A. No.

8 Q. Do you know anything about a stabbing
9 incident that occurred at some time in the past near
10 Miko's?

11 A. Yes.

12 Q. What do you know about it?

13 A. I know that the customer was in the bar.
14 He had one beer. We left together. Next someone called
15 me and said he later got stabbed.

16 Q. Where?

17 A. In the -- like, by the dentist office.

18 Q. How far away is that?

19 A. That's two businesses down.

20 Q. Do you know who stabbed him?

21 A. A patron from the laundry mat.

22 Q. Okay. Did you have any idea that was going
23 to happen?

24 A. No, I did not.

25 Q. Is there anything you could have reasonably

1 done to prevent it?

2 A. No.

3 Q. Is there anything that you feel that you
4 may have done that contributed to it?

5 A. No.

6 Q. Are you aware of any of your patrons, that
7 is people who have been inside Miko's at any point,
8 creating any kind of community disturbance when they
9 leave?

10 A. No.

11 Q. Are you aware of calls made by Miko's to
12 Long Beach law enforcement to come to Miko's?

13 A. I've made a couple of calls, yes.

14 Q. In the three years you've operated, how
15 many have you made?

16 A. Couple. Two.

17 Q. What were they for?

18 A. Person was injured in the front, and I
19 called for assistance. And another man was drunk in
20 front of the building, and I called for assistance.

21 Q. Were they both outside Miko's?

22 A. Yes.

23 Q. Were either or both of them patrons?

24 A. No.

25 Q. Have you ever been contacted by Long Beach

1 law enforcement at any time and advised that they have
2 come to Miko's to investigate some kind of disturbance
3 or disruption?

4 A. Repeat that.

5 Q. Have you ever been advised by law
6 enforcement that they had come to Miko's to investigate
7 a disturbance or a disruption?

8 A. Yes.

9 Q. How many times has that happened?

10 A. Monday through Sunday, they would come by
11 basically every day. We would get a call for service
12 just about every day.

13 Q. And would they tell you why they were
14 there?

15 A. We got a call for a fight inside the bar.
16 We got a call for loud music being too loud, customers
17 being outside loud.

18 Q. And what was the result of those calls?

19 A. That there were no customers there. The
20 times they had a fight inside, we supposedly had a fight
21 inside the bar, we only had the pool league that was
22 there. Another time the officer came there, was
23 approximately three people inside the bar, and they said
24 music was loud. The officer told us to turn it down,
25 but he did not hear it outside. He just said turn it

1 down.

2 Q. So as a result of any of those contacts
3 with law enforcement -- I mean, do you know how many
4 there have been over the last three years?

5 A. Myself personally, I will say I spoke to
6 law enforcement probably about 30 to 40 times.

7 Q. Has anyone ever been issued a citation as a
8 result of those?

9 A. No.

10 Q. Anybody been arrested as a result of those?

11 A. No.

12 Q. Has law enforcement ever told you that they
13 came to investigate a certain problem and that indeed
14 they see the problem does exist?

15 A. No.

16 Q. Do you know the source of the complaints as
17 far as those calls are concerned?

18 A. Do I know the source?

19 Q. Yeah.

20 A. I'm assuming, because I don't know, it was
21 the neighbors.

22 Q. Do you know why they would do that?

23 A. Nothing else to do.

24 Q. Are you aware that your patrons or
25 employees in the time you've operated Miko's have been

1 involved in more than one incident of a stabbing or just
2 the one you talked about?

3 A. Just the one stabbing.

4 Q. And is it just the one or more shootings?

5 A. Just the one.

6 Q. Are you aware that your patrons or
7 employees have been involved in loud arguments inside or
8 adjacent to Miko's?

9 A. No.

10 Q. How about public intoxication?

11 A. No.

12 Q. How about lewd public acts?

13 A. No.

14 Q. Are you aware that your patrons or
15 employees have caused parking congestion in the vicinity
16 of Miko's?

17 A. No.

18 Q. Are you aware of your employees or patrons
19 smoking marijuana inside or in the vicinity of Miko's?

20 A. No.

21 Q. Are you aware of loud music emanating from
22 your patrons' vehicles when they arrive and when they
23 leave?

24 A. No.

25 Q. Are you aware of your patrons or employees

1 trespassing on adjacent properties?

2 A. No.

3 Q. Are you aware of your employees or patrons
4 urinating or defecating on adjacent properties?

5 A. No.

6 Q. How about vomiting on adjacent properties?

7 A. No.

8 Q. Have you or -- are you aware of any of your
9 patrons or employees being drunk or disorderly in your
10 presence or outside the facility?

11 A. No.

12 Q. Are you aware of any of your employees or
13 patrons being threatening or aggressive to residents in
14 the neighborhood?

15 A. No.

16 Q. Are you aware of your employees or patrons
17 engaging in illicit sexual conduct inside your premises
18 or adjacent to it?

19 A. No.

20 Q. Are you aware of any of your patrons or
21 employees being intimidating to residents in the area?

22 A. No.

23 Q. Have you ever been advised by any source
24 since you've operated Miko's that any of your employees
25 have been arrested or cited or criminally charged with

1 any of those things I've just asked you about?

2 A. No.

3 Q. How about any of your patrons?

4 A. No.

5 Q. Have you?

6 A. No.

7 MR. KAPLAN: I have nothing further.

8 HEARING OFFICER TERZIAN: Mr. Sanchez.

9 CROSS-EXAMINATION

10 BY MR. SANCHEZ:

11 Q. So based on the questioning you just
12 answered, would it be fair to say that there is zero
13 basis for a revocation of your business license?

14 A. That would be fair.

15 Q. Okay. And when you were cited for having
16 entertainment without a permit, a criminal complaint was
17 filed against you as a result of that incident; is that
18 correct?

19 A. I received a citation, a ticket.

20 Q. Okay. So you had to go to court and answer
21 to a criminal complaint; is that correct?

22 A. That would be correct.

23 Q. And you entered a plea of no contest to
24 that charge; is that correct?

25 A. That would be correct.

1 Q. Okay. And you received a second citation
2 for having entertainment without a permit; is that
3 correct?

4 A. I received one citation.

5 Q. Okay. So there was a second criminal
6 complaint that was filed against you for having
7 entertainment without a permit; isn't that correct?

8 A. I received one citation in February.

9 Q. I'm asking you about a criminal complaint.
10 I'm not asking you about a citation. I'm asking you
11 about a criminal complaint, second criminal complaint
12 that was filed against you for having entertainment
13 without a permit?

14 A. I only know of one citation that I
15 received.

16 Q. So you had entertainment without a permit
17 on January 7, 2016; is that correct?

18 A. I did not receive a citation for that.

19 Q. But you were charged in a criminal
20 complaint for that violation?

21 A. I went to court with the thought that I
22 went with the ticket that I received.

23 Q. So --

24 A. I did not receive a citation from whoever
25 said I violated. If I violated something, they should

1 have cited me and told me to cease at that point.

2 Q. How many times did you go to court?

3 A. One.

4 Q. You didn't go to court twice?

5 A. No, sir, I did not.

6 Q. So when you entered a plea of no contest
7 for the violation, it was for the violation of
8 February 20th, 2016?

9 A. Yes, that's what I believe.

10 Q. You entered a plea to that charge?

11 A. Yes.

12 Q. For violating Long Beach Municipal Code
13 Section 5.72.110 (a); correct?

14 A. Don't know the code, but I went because I
15 had a deejay without a permit.

16 Q. And you were placed on informal probation
17 for that; is that correct?

18 A. I don't know. I don't have to see a
19 probation officer.

20 Q. Well, what's your understanding of what
21 your plea was to?

22 A. My understanding is that I was to not have
23 any violations for a year, which would be March 17th.
24 If I did anything within my personal self or my
25 business, I would have to go -- I would have to go to

1 jail.

2 Q. Okay. Now, regarding the beginning of your
3 business, when did you enter into a lease for the
4 premises at 710 West Willow Street?

5 A. I want to say December, either late
6 November or early December.

7 Q. And that would be 2013?

8 A. Yes.

9 Q. And you entered into that lease with
10 Mr. Mackey?

11 A. Actually met with Mr. Mackey's son, Sean.

12 Q. Okay. And when you entered into that
13 lease, that was to run your business, which was Miko's
14 Sports Lounge; correct?

15 A. Yes.

16 Q. Okay. And you -- during -- well, when you
17 entered into that lease with Sean Mackey, I guess is
18 what you said, did you have any discussion about the
19 conditional use permit for the location?

20 A. No, I did not.

21 Q. Were you aware that a conditional use
22 permit was required for that location for you to operate
23 a bar there?

24 A. I'm aware that one is required, but I
25 wasn't aware of the conditional use permit for that bar.

1 Q. Okay. When did you become aware that a
2 conditional use permit was required to operate a bar?

3 A. January -- whenever I got a letter for --
4 from Mr. Koontz requesting -- I'm sorry. I'm going to
5 bring that back.

6 Mr. Mackey actually called me and told me
7 he met with the City Attorney and I had to do -- get a
8 letter signed for parking and some other things.

9 Q. When was that?

10 A. I'm not really sure. Whenever after he met
11 with you guys.

12 Q. What year?

13 A. 2015?

14 Q. So well after you started operating your
15 business?

16 A. Yes. But prior to they told me to acquire
17 five parking spaces from Mr. Joe across the street when
18 I first opened, Mr. Mackey did.

19 Q. When was this?

20 A. When I opened, Mr. Mackey gave me a phone
21 number, and he told me to contact Joe across the street
22 and let him know that you would be using his parking.

23 Q. Okay. Did he mention anything to you about
24 having that agreement recorded against the property?

25 A. No, he did not.

1 Q. Okay. Were you aware that you needed to
2 record that agreement --

3 A. No.

4 Q. -- on title with the property?

5 A. No.

6 Q. But you were aware that was a condition of
7 -- one of the special conditions on the conditional use
8 permit?

9 A. Why would I be aware? It's not my
10 conditional use permit. I just do what Mr. Mackey told
11 me to do. I went to Joe and got five parking spaces.

12 Q. Okay. Fair enough.

13 Did you ever record any of the agreements
14 that you entered into for Miko's Sports Lounge for extra
15 parking?

16 A. I was not asked to record anything.

17 Q. When you first entered into the lease for
18 that location with Mr. Mackey or his son, was there any
19 discussion about problems in the area with the prior
20 business?

21 A. No.

22 Q. Did Mr. Mackey's son mention to you that
23 the property or the -- well, let me rephrase.

24 Did he mention to you that the business
25 that was there before yours, before you entered into it,

1 was in violation of the conditional use permit, two of
2 the conditions of the conditional use permit?

3 A. No.

4 Q. When you first applied for your business
5 licenses, you testified that you received a temporary
6 license; is that correct?

7 A. Yes.

8 Q. Okay. And you said that license was for
9 six months?

10 A. Yes.

11 Q. Were there conditions attached to that
12 license, that six-month temporary license?

13 A. Yes.

14 Q. And what were those conditions?

15 A. To keep the back door closed.

16 Q. Any other conditions?

17 A. The door could be open when receiving
18 deliveries, when lady patrons are leaving so they
19 wouldn't have to walk around on Maine and to go out the
20 back door.

21 Q. I'm sorry. So you were not supposed to
22 allow people to exit from the rear door; is that what
23 you're saying?

24 A. No. They could exit from the rear door if
25 they were ladies by themselves walking in the dark

1 because we didn't have security during the week. So I
2 requested that from the police, if that would be fine.

3 Q. Was one of the conditions that was placed
4 on your license that you needed to have security?

5 A. No.

6 Q. So the only two conditions on your license
7 were keep the rear door closed except for deliveries and
8 emergencies?

9 A. On the temporary license, yes.

10 Q. Yes.

11 A. That was, yes.

12 Q. Was there also a requirement you have a
13 sign for no loitering?

14 A. I needed three signs posted in the back for
15 no loitering.

16 Q. And that was a condition of your business
17 license?

18 A. Correct.

19 Q. Was one of the conditions that you remain
20 in compliance with the Noise Ordinance for the Long
21 Beach Municipal Code?

22 A. I don't recall that.

23 Q. Let's see. Where are we at? I'm going to
24 mark this as Exhibit J. It's a conditional business
25 license dated -- application date of 12/27/2015.

1 HEARING OFFICER TERZIAN: Did you say "K"?

2 MR. SANCHEZ: J.

3 HEARING OFFICER TERZIAN: I thought we had a J.

4 Q. BY MR. SANCHEZ: So, Miss Yancey, if you
5 could take a look at that Exhibit J I just handed you.

6 A. Uh-huh.

7 Q. Do you recognize that document?

8 A. Yes.

9 Q. Have you seen that document before?

10 A. Yes.

11 Q. So is that the conditional license that you
12 were issued by the City back in, looks like, December of
13 2013?

14 A. Yes.

15 Q. Okay. And listed on this Exhibit J, are
16 those the three conditions that you were to abide by as
17 part of your conditional temporary license?

18 A. Yes.

19 Q. Okay. And looking at number three, if you
20 could just read number three.

21 A. This establishment shall remain in
22 compliance with all applicable sections of the Long
23 Beach Noise Ordinance, LMBC Chapter 880.

24 Q. And if you can read the second one, I think
25 that's the one relating to the back door.

1 Q. Must keep rear doors closed except in case
2 of an emergency or to allow for delivery.

3 Q. Okay. Does it mention anything in there
4 about allowing patrons out at night?

5 A. I told you I requested that from the
6 officer, and she agreed, Officer Barajas.

7 Q. Okay. As it relates to this license, the
8 temporary license you received back in 2013, it was --
9 there was only to -- for emergencies and for deliveries,
10 is that correct, that you could open the rear door?

11 A. Yeah.

12 Q. Okay. Now, you testified that that
13 six-month period expired approximately June 24th of
14 2014; is that correct?

15 A. Yes.

16 Q. And then you obtained your full business
17 license without any conditions; is that correct?

18 A. Yes.

19 Q. Did you continue to abide by the conditions
20 that were -- that had already been placed in that
21 temporary conditional license?

22 A. Yes.

23 Q. Okay. And so -- strike that.

24 Did you receive any complaints after
25 June 24th of 2014 for being in violation or having

1 complaints about noise?

2 A. No.

3 Q. That you're aware of?

4 A. Right.

5 Q. Okay. Since -- well, let me go back.

6 Do you recall meeting with the Long Beach
7 Police Department back in, I think it was, May of 2014
8 regarding conditions that they wanted you to abide by
9 for the location because of the number of calls for
10 service?

11 A. What was the date?

12 Q. May 2014. Hold on. I'll give you the
13 date. I take that back. Looks like it was in April,
14 April 9th of 2014. Did you have a meeting with the Long
15 Beach Police Department?

16 A. Where?

17 Q. Anywhere. Did you ever meet with the Long
18 Beach Police Department?

19 A. I have. I've met with the Long Beach
20 Police Department.

21 Q. Back in April of 2014?

22 A. I can't say that that was the date.

23 Q. Okay. And they made some suggestions to
24 you in order to reduce the number of calls for service
25 to your establishment; is that correct?

1 A. I don't recall that call -- that meeting,
2 no.

3 Q. You don't recall them suggesting to you to
4 let the rear doors be kept closed -- well, all doors of
5 the bar be kept closed while the music is playing in the
6 bar, that the volume level of the jukebox be kept down
7 and that security be stationed in the rear parking lot
8 and along Maine Avenue as a way to mitigate the
9 complaints?

10 A. I met with the police, Business Services
11 for this conditional permit, and that's when they
12 suggested that I get the signs and whatever. I've never
13 met with them on any other occasion that I can recall.

14 Q. Okay. So looking at the video that was
15 already played earlier, Exhibit I, you saw a number of
16 occasions where people were hanging out in the back
17 parking lot area; is that correct? Do you recall seeing
18 that?

19 A. That's on the video.

20 Q. Okay. And in the video -- I mean, I'll
21 play it again if you want, that's fine, but there are
22 people that are hanging out in the back parking lot area
23 of the bar. Do you recall seeing that?

24 A. I saw the video, yes.

25 Q. So all right. So based on the questions

1 that you were asked by your counsel, so all the
2 information that was contained in the video that was
3 played has nothing to do with Miko's Sports Lounge; is
4 that your position?

5 A. That's not my position.

6 Q. What is your position?

7 A. I really don't have one. And can we really
8 prove that that's Miko's? Can we prove that that
9 happened that day? Was that video edited? There was a
10 time on the video I saw the bar was closed, and that's
11 when people were drinking out of their trunk. The bar
12 was closed. None of my workers' cars was even parked
13 there. Gone.

14 Q. Okay. Fair enough.

15 So --

16 A. Thanks.

17 Q. And based on what you testified to, even
18 when you were cited for having entertainment without a
19 permit, that wasn't your fault. It was your bartender's
20 fault because they told you go ahead and do it?

21 A. Had a meeting with them that morning and
22 told them we could not have a deejay.

23 Q. And they did it anyways?

24 A. Yes, sir.

25 Q. So whose fault is it?

1 A. Mine.

2 Q. Thank you.

3 A. You're welcome.

4 Q. Regarding the shooting incident, how do you
5 know where the shooter came from?

6 A. Don't understand that question.

7 Q. You mentioned that when you were questioned
8 by Mr. Kaplan that -- let's see -- that whoever came
9 there came from another bar at 12:30 a.m., the two
10 individuals, and I think it was -- I think you said the
11 Tailgate bar.

12 A. They were patrons of Tailgate.

13 Q. Who were?

14 A. Whoever you're talking about.

15 Q. I'm talking about the shooter.

16 A. The shooter was a patron of Tailgate.

17 Q. And how do you know that?

18 A. They've never been to my bar before.

19 Q. So let's start with the first thing.

20 So how do you know, number one, who the
21 shooter is?

22 A. Saw it on a video.

23 Q. Video from --

24 A. My bar.

25 Q. Your security video?

1 A. Yes.

2 Q. So okay. You saw the video. You saw the
3 individual who -- well, how do you know he was the
4 shooter? You saw him in the video. Was there a video
5 of the shooting?

6 A. No.

7 Q. So how do you know that the individual in
8 your video inside your bar was the shooter?

9 A. I watched it with the police. They
10 identified him, asked me did I know him. Told them
11 never seen him before. They identified him as the
12 shooter. I directed them to go to Tailgate.

13 Q. Okay. So let's stop there.

14 A. You asked.

15 Q. So why did you direct them to go to
16 Tailgate?

17 A. Because I've never seen that guy before in
18 my life.

19 Q. So you've never seen him before, so where
20 does the connection with Tailgate come from?

21 A. The majority of the patrons that come to my
22 bar after 1:00 o'clock are usually coming from Tailgate.

23 Q. And that's based on what?

24 A. Based on bar hopping. They're just hopping
25 from bar to bar.

1 Q. Again, someone comes in after 12:30, are
2 you just assuming they're coming from the Tailgate?

3 A. Yup.

4 Q. And so other than they must be coming from
5 Tailgate because they're coming over here at 12:30, is
6 there anything else that you can concretely say --

7 A. Yes. There are two bars, three bars at
8 that time, that have black patrons. They have black
9 patrons, so those are the diagonals. The triangle
10 effect, that they go to this one, that one and end up at
11 mine.

12 Q. Okay. And why is that?

13 A. It's the only places where black people
14 have to go.

15 Q. Okay. But why do they end up at your place
16 at the end of the night?

17 A. Last stop.

18 Q. Why is that the last stop?

19 A. Because it's a nicer bar. It's a nicer
20 bar.

21 Q. Okay. So do you have -- I guess that's my
22 question still. The individual in this incident that
23 was essentially the shooter, what information do you
24 have that he came from the Tailgate bar?

25 A. I talked to the police, me and the police.

1 I sent them to Tailgate. They told me --

2 Q. No. You just said you assumed he was from
3 the Tailgate based on the time he came in.

4 A. I talked to the police about it. I sent
5 them to Tailgate. They said that whatever happened
6 happened at Tailgate, and they -- that's it. And they
7 came to my bar.

8 Q. Okay. So once they were in your bar, any
9 patrons -- so let's say any patron after 12:30, what's
10 the significance if they come from the Tailgate?

11 A. The majority of the time I have my security
12 not allow them in because they're already intoxicated,
13 which would probably be what you see on the video,
14 customers that I did not allow in just being outside
15 because I won't let them in because they're intoxicated.

16 Q. Okay. So what's in the video in terms of
17 all the people hanging out along Maine Avenue outside of
18 their cars and making a lot of noise, based on your
19 position, is that none of those people are Miko's
20 patrons?

21 A. The majority of the ones that I saw outside
22 I've never seen inside of my bar. The majority.

23 Q. And you can tell that from the video?

24 A. I could tell that from the video. I could
25 tell you everybody that come into my bar because I'm

1 there.

2 Q. Okay. So getting back to the security,
3 your security is responsible for the front of the bar,
4 the rear back door area of the bar, as well as along
5 Maine Avenue?

6 A. My security is responsible for the front of
7 the bar, the back of the bar and inside the bar. Maine
8 street is a public street. The police is responsible
9 for Maine street.

10 Q. Okay. So all that activity that's depicted
11 in the video along Maine Avenue, which looks like it's
12 occurring roughly between 1:30 and 2:00, so roughly
13 around closing time, that's not your responsibility?

14 A. My doors are closed at 1:00 o'clock. It do
15 not allow anyone else in, so I'm assuming they're
16 walking to their cars. My security is trying to get
17 them going. Yeah, that's -- it's Maine street is not my
18 responsibility. That's a public street.

19 Q. Do you know why the conditional use permit
20 requires any bar that's operating at 710 West Willow to
21 have extra parking?

22 A. No.

23 Q. Do you know why the requirement is in place
24 to have you have no loitering signs placed at your
25 establishment?

1 A. I'm assuming to not disturb the neighbors.

2 Q. Do you know why the extra -- there's a
3 special condition on the conditional use permit relating
4 to security. Do you know why that's in place?

5 A. I've never seen the conditional use permit,
6 so I didn't know it was a security issue on there.

7 Q. So let's -- do you understand why the
8 conditional use permit is required in the first place?

9 A. To operate a bar.

10 Q. But do you know -- so do you know why it's
11 required for that particular location?

12 A. A conditional use permit is required for
13 every bar.

14 Q. So do you understand that the zoning for
15 that area of 710 West Willow Street in proximity to a
16 residential area requires a certain conditional use
17 permit?

18 A. I work for the State of California. I do
19 not work for zoning and planning.

20 Q. So is that a no?

21 A. I don't know. I don't know what the zoning
22 thing is. I don't work with them.

23 Q. Well, did you understand that -- well, did
24 you understand that your bar was in violation of two of
25 the special conditions of the conditional use permit?

1 A. No.

2 Q. One relating to parking and one relating to
3 security?

4 A. No.

5 Q. Okay. Were you ever notified of that fact
6 by the property owner, Mr. Mackey?

7 A. No.

8 Q. Okay. So your understanding of a
9 conditional use permit is that it is required for every
10 bar?

11 A. Yes.

12 Q. And that's it?

13 A. Yes.

14 Q. You don't -- well, since you first started
15 your operations, did you have any concern with what
16 potential effect your business could have on the
17 adjacent community?

18 A. Yes.

19 Q. And what concerns did you have or what
20 precautions did you take?

21 A. I kept the back door closed. I added
22 security. I added age range that's over 30. That's the
23 precautions that I took.

24 Q. So you were aware when you first started
25 doing business there were a number of calls for service

1 for your location?

2 A. No.

3 Q. You weren't aware there were a lot of
4 complaints from the area when you first started doing
5 business?

6 A. No.

7 Q. All right. Let's step back.

8 You first started doing business in January
9 of 2014; is that correct?

10 A. Yes.

11 Q. Okay. And at the time you first started,
12 you had a meeting with some of the residents from the
13 Maine Avenue Group; is that correct?

14 A. Yes.

15 Q. Okay. And during that meeting with the
16 Maine Avenue Group, they informed you of the problems
17 they were having with the prior bar owner; is that
18 correct?

19 A. Yes.

20 Q. Okay. And after that meeting, they
21 complained to you about issues within the neighborhood,
22 did they not?

23 A. They did not.

24 Q. They did not?

25 A. They did not. Only -- man there, he text

1 me one time and said there was an issue going on
2 outside. But unbeknownst to him, I was sitting in the
3 parking lot, and there was no issue going on outside.
4 The customers was just exiting their car in front of the
5 green house by the alley and walking through.

6 I still have the text. He text me that
7 there was a woman and a guy fighting, and it was not.
8 It was two guys exited a white vehicle, and I sat right
9 there and watched them.

10 Q. Did you have a meeting with the
11 representatives from the Maine Avenue Group
12 approximately a month later, so it would have been
13 February of 2014?

14 A. No. I met with the Maine Avenue Group one
15 time.

16 Q. Okay. Did you meet with any -- let's say
17 two or three individuals from that group at your bar in
18 and around February or March of 2014?

19 A. Okay. I met with the Maine Avenue Group in
20 my bar. I met with WANA and Mr. Uranga at Starbucks.
21 So they both can't be Maine Avenue Group because
22 everybody don't live on Maine Avenue that's in WANA. So
23 I met with WANA first. Then I met with the Maine Avenue
24 Group.

25 Q. Okay. So one meeting was with

1 representatives from Mr. Uranga's office; is that what
2 you're saying?

3 A. I went to the Wrigley Association meeting.
4 I met with the WANA group at Starbucks. Then I met with
5 probably about four or five of them in the bar.

6 Q. And do you remember meeting with some
7 individuals from the neighborhood at your bar after
8 those meetings?

9 A. No.

10 Q. Okay. So you never met with any
11 individuals from the bar again back in March of 2014?

12 A. I met with them. I went to the Wrigley
13 Association meeting with Mr. Uranga. I met with them,
14 WANA, with Mr. Uranga. Then I met four or five of them
15 inside the bar at a little bit after 7:00. That's the
16 only time I met with them. That's the truth.

17 Q. Okay. Mr. Kaplan asked you a question
18 about the effect that your bar has had on the
19 surrounding neighborhood. Do you remember that
20 question?

21 A. Yes.

22 Q. And you said it has had no effect on the
23 surrounding neighborhood?

24 A. It has not.

25 Q. Okay. And how do you know that?

1 A. Because I live in the neighborhood.

2 Q. So did you go out and talk to people in the
3 neighborhood to ask them, you know, is my bar affecting
4 you?

5 A. I actually have. I didn't talk to the ones
6 that complained because they're gonna have the same
7 complaint. I talked to a couple of other ones.
8 Actually talked to the guy that lives in the house where
9 he moved from, where he sold, and I talked to Mr. Harp
10 up the street.

11 And unfortunately, the man prior to that,
12 when I was a real nuisance, he passed. He would come in
13 the bar frequently and say, "You girls are doing a good
14 job, don't let them bother you."

15 There was certain neighbors that talked to
16 me and certain that didn't, some that didn't.

17 Q. So you were aware that neighbors were
18 complaining?

19 A. That's what they do.

20 Q. Okay. So you're aware that they had
21 complaints about your business?

22 A. Yeah.

23 Q. Okay. And, in fact, there was a number of
24 calls for service. You're aware there were a number of
25 calls for service made based on complaints in the

1 adjacent neighborhood regarding your bar?

2 A. That's a question?

3 Q. Yes.

4 A. Oh. Say it again.

5 Q. Are you aware there were over a hundred

6 calls for service relating to your bar from the

7 residents in the area or just from anyone?

8 A. There were calls for service, but I don't
9 -- they weren't related to my bar. I never was cited
10 for anything.

11 Q. Did you receive a letter from the City
12 nuisance abatement officer regarding the nuisance
13 activity at your location?

14 A. Yes.

15 Q. Why do you think you received that letter?

16 A. I received that because the man there
17 reported that the bar was a nuisance.

18 Q. Okay. So it's your understanding that the
19 nuisance letter that was sent to you by the City was
20 based on only one individual complaining?

21 A. The time when I met with the officer that
22 gave me it, he actually came into the bar, reviewed
23 video footage for the days that they put down on their
24 request or whatever, their complaint.

25 On one of the days, the bar was closed. On

1 another day, the young man here said that a customer of
2 mine came out of the bar at 9:00 or 10:00 o'clock,
3 urinated on his wall and walked back into the bar.

4 We reviewed that. No one was even in the
5 bar. The bar was open, but there was no one in the bar.

6 Had another one where two guys were
7 standing in the back making a drug transaction. We
8 reviewed that. It was two guys that was hugging each
9 other because their mothers -- one of their mothers had
10 just passed away. But I guess that's a drug
11 transaction.

12 So we reviewed that, and I then told the
13 nuisance guy to substantiate, make my complaint
14 inconclusive or unfounded because it went on for a year
15 and he still hadn't come up with any findings.

16 Q. Okay. So even after that year, you were
17 still receiving complaints and you still received
18 letters from the City; is that correct?

19 A. No.

20 Q. Didn't you receive any letters from
21 Mr. Mackey regarding your operation?

22 A. Yes. Mr. Mackey sent me a letter. He
23 doesn't work for the City.

24 Q. Okay. Let me rephrase that then.

25 Mr. Mackey sent you some letters regarding

1 your bar and its operation?

2 A. Yes, he did.

3 Q. And it was regarding complaints that were
4 received from the neighborhood; is that correct?

5 A. Yes.

6 Q. Okay. And so what did you do in response
7 to those complaints?

8 A. I really didn't have any complaints. I
9 reviewed the letter. I spoke with Mr. Mackey. The only
10 thing I did not do -- I did everything, I came in
11 compliance like he asked me to. The only thing I did
12 not do was allow the police to tap in on my cameras.

13 That was the main thing they were
14 requesting. That's not -- I didn't have to do that.
15 That's not -- forget the word. That's not required, so
16 I didn't do it.

17 Q. Okay. Is there any reason why you didn't
18 speak to the neighbors that you knew were complaining?

19 A. They don't want to talk to me.

20 Q. That wasn't the question. The question was
21 is there any reason why you didn't speak with them?

22 A. Not -- no.

23 Q. Did you try to speak with them?

24 A. I spoke with that guy one time. Yeah, I
25 spoke with him one time. We had brief words, like

1 "thank you."

2 Q. Is there any reason you didn't speak with
3 the other residents that were complaining?

4 A. I don't see them. I saw the blonde-haired
5 one at another thing. Think she was filing another
6 complaint. I seen her at another meeting. I introduced
7 myself to the community. She rolled her eyes at me.

8 I went to another event on -- when they had
9 the Martin Luther King parade. They had an event on
10 19th where Christmas Tree Lane is. I took my staff. I
11 took some gifts to go out there with them. The barbecue
12 people were barbecuing.

13 I introduced myself to the people. There
14 was one person that lived on Maine, so I tried to
15 introduce me to her. She rolled her eyes at me and then
16 called a meeting at Buenos for pizza and movies or
17 whatever.

18 Q. Did you ever walk the immediate area along
19 Maine Avenue and go to the residences to talk to the
20 people that are in the immediate vicinity?

21 A. Not the ones that are doing the calls for
22 service.

23 Q. Why not?

24 A. I don't have to. That's not -- that's not
25 part of my business, that I have to go talk to them

1 because they're upset. They're making themselves upset.

2 Q. So you're a business owner, Miss Yancey?

3 A. Yes, I am.

4 Q. And you're having complaints. You're
5 talking to the City. You're getting letters from the
6 City. You're getting letters from your landlord
7 regarding activity and complaints regarding your bar?

8 A. Uh-huh.

9 Q. And you don't think it's a good idea to
10 reach out to the individuals that are complaining?

11 A. If I was cited for any of the complaints,
12 then yes, I would have reached out.

13 Q. That's not the question.

14 A. But that's my answer. I was not cited for
15 any of the complaints, so why should I go out and talk
16 to them about it? When we have our own little house
17 party, this young man here, and Christmas Tree Lane,
18 that's when I talked to him. He helped me block parking
19 so Christmas Tree Lane people wouldn't park so he could
20 have parking for his party.

21 Q. Okay. So --

22 A. Funny 'cause that's true.

23 Q. So as far as you're concerned, there is no
24 effect -- well, you've already said it. There's no
25 effect from your bar on the neighboring community; is

1 that correct?

2 A. I haven't been cited for anything wrong. I
3 haven't been cited for a nuisance, nothing.

4 Q. And all the information that's depicted or
5 the scenes that are depicted in the video that is
6 Exhibit I, none of that involves Miko's?

7 A. Not that I know of. There's a couple
8 things on there I could tell you that's the wrong date
9 because there's a guy in the picture that's paralyzed.
10 That's wrong information.

11 Q. So it's doctored?

12 A. Yes, sir.

13 Q. Okay.

14 A. Because if it wasn't, why could you hear
15 the music but you can't hear the engines of the car?

16 Q. Okay.

17 A. Why could you hear that man cussing at him
18 'cause he started the argument, but you can't hear what
19 he said? You could only hear the man. It was an
20 accident in front that was in daytime. My bar wasn't
21 even open.

22 Three of those events happened and my bar
23 wasn't even open.

24 Q. So when you said you came into compliance,
25 what are you referring to?

1 A. Whatever you were talking about.

2 Q. Well, a letter that was sent to you from
3 Mr. Mackey, you mentioned that, and you said you brought
4 your property in compliance?

5 A. He asked me to cut down on the noise and to
6 get the camera system hooked up with the Police
7 Department.

8 Q. So how did you come into compliance?

9 A. I cut down on the noise.

10 Q. What about the parking issue, was that
11 ever --

12 A. That wasn't even brought -- that wasn't
13 even addressed.

14 Q. Never addressed?

15 A. No.

16 Q. But you are aware now that a special
17 condition relating to the conditional use permit, which
18 allows you to be in operation in the first place,
19 requires you to have a parking agreement recorded
20 against the title to the property? Do you understand
21 that?

22 A. Well, I understand it now because I'm just
23 hearing about the conditional use permit. Like I said,
24 it was not my permit. I was not the owner of the
25 conditional use permit.

1 Q. You realize, though, if you don't have a
2 conditional use permit, you're not in operation?

3 A. No.

4 Q. You don't realize that?

5 A. I'm not the owner of the conditional use
6 permit.

7 Q. Right. You're the owner of a bar; correct?

8 A. Right.

9 Q. And the one permit that allows you to
10 operate at 710 West Willow Street is the conditional use
11 permit?

12 A. Okay.

13 Q. Correct?

14 A. Okay.

15 Q. Is that a yes or a no?

16 A. Okay, yes.

17 Q. You understand that?

18 A. Yes.

19 Q. Okay. And if that goes away, your bar goes
20 away. Do you understand that?

21 A. Yes.

22 Q. Okay. So if he's asking you to correct
23 something relating to the conditional use permit and you
24 don't do it and you're in violation, that affects your
25 business, does it not?

1 A. I've corrected everything he asked me to.
2 The only thing I did not do is let the police tie in on
3 my camera system. That is the only thing I did not do.

4 Q. Okay. So --

5 A. When I got the letter from Mr. Mackey
6 earlier on, that was April or something, that's what was
7 directed to me. Now, the letter later for this
8 revocation hearing, that was the first time I ever heard
9 of documenting the parking, having the security that you
10 guys were requesting. My security had to be approved by
11 the Chief of Police. This is the first time I ever
12 heard of that.

13 Q. But the Planning Department was in direct
14 contact with you regarding the parking conditions,
15 weren't they?

16 A. I talked to Mr. Koontz. He sent me three
17 things I needed to fix, and that was the parking,
18 security and the floor plan.

19 Q. And I'm sure he sent with that the copy of
20 the conditional use permit?

21 A. No, sir, he didn't.

22 Q. You've never seen a copy of the --

23 A. No, I did not.

24 Q. Okay. So you've applied for occasional
25 entertainment permits at Miko's; is that correct?

1 A. Yes.

2 Q. And when you have those events where you
3 obtain the occasional entertainment permit, that
4 increases your -- the number of people that come to your
5 bar; correct?

6 A. No.

7 Q. It does not?

8 A. It does not.

9 Q. Okay. In relation to any event that you've
10 had at the bar, have you advertised on social media?

11 A. I have not myself personally, no.

12 Q. Has anyone on behalf of the bar advertised
13 events that are happening at the bar?

14 A. No.

15 Q. Are you aware of anyone advertising events
16 that occur at your bar?

17 A. If a customer does, they do. I'm not aware
18 of it.

19 Q. So there has been events where social media
20 was used to advertise events at your location?

21 A. I don't know. I didn't do it.

22 Q. Did you allow it to happen?

23 A. I can't tell someone else not to make
24 fliers for their birthday.

25 Q. Okay.

1 MR. SANCHEZ: I have nothing further.

2 HEARING OFFICER TERZIAN: Mr. Clough?

3 MR. CLOUGH: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. CLOUGH:

6 Q. Just so I'm clear, your goal was basically
7 to run a fairly clean and safe environment bar?

8 A. Yes.

9 Q. Correct?

10 A. Yes.

11 Q. And you, in fact, have never allowed your
12 staff to serve anyone that's obviously intoxicated?

13 A. Correct.

14 Q. And you've instructed them to that effect;
15 correct?

16 A. Yes, I did.

17 Q. And, in fact, you advised Mr. Mackey that
18 you were running the bar correctly?

19 A. Yes, I did.

20 Q. You had advised Mr. Mackey on several
21 occasions that when certain complaints came up and he
22 talked with you on the phone that you were running the
23 bar correctly?

24 A. Yes.

25 Q. And that you had corrected any and all

1 problems that had arisen?

2 A. Yes.

3 Q. Now, going to the conditional business
4 license, which is Exhibit No. 14, you signed that
5 business license, right, conditional?

6 A. Yes.

7 Q. Okay. And in connection with that, you had
8 agreed that you had to have certain things done, such as
9 keeping the rear door closed; correct?

10 A. Correct.

11 Q. And you had to have no loitering signs;
12 correct?

13 A. Correct.

14 Q. Okay. And you had to keep your bar in
15 compliance with the noise ordinance --

16 A. Correct.

17 Q. -- obligations; correct?

18 And you advised Mr. Mackey on several
19 occasions that you were complying with all of these
20 obligations, too; is that right?

21 A. Yes.

22 Q. And, in fact, you had told the issue of
23 five additional parking spots had come up, and
24 Mr. Mackey had discussed that issue with you also;
25 correct?

1 A. Correct.

2 Q. And you advised Mr. Mackey that you had
3 secured such parking; correct?

4 A. Correct.

5 Q. In fact, you say you did secure that?

6 A. I did secure five parking spaces.

7 Q. So as far as you're aware, Mr. Mackey was
8 aware that you had complied with the obligation of the
9 parking?

10 A. Correct.

11 Q. Correct?

12 And you had discussed with Mr. Mackey the
13 security guard issue also?

14 A. Correct.

15 Q. And, in fact, you had advised Mr. Mackey
16 that you had done that after he had requested it?

17 A. Right.

18 Q. Okay. Now, isn't it true that at one time
19 there was an investigation in your bar in connection
20 with the security guard and, in fact, you were, I guess,
21 warned that you had a security guard that was also
22 acting on business as a bartender?

23 A. No.

24 Q. Okay. So it's not accurate that the police
25 had found that you didn't have two guards properly

1 working as they had requested?

2 A. No.

3 Q. Okay. Now, you had indicated that
4 Mr. Mackey had written you, and I guess, in fact, it was
5 written on behalf of Mr. Mackey by his son. Do you
6 recall that, a letter that you complied with all of the
7 things that he had requested?

8 A. Correct.

9 Q. Okay. So first of all, he did request that
10 you do certain things?

11 A. Correct.

12 Q. Correct?

13 And let's just, if we can, go over them.

14 There's a camera with an IP address. Were
15 you aware of that request?

16 A. Yes.

17 Q. And is that the request that you refused
18 basically to meet the request of the police to have your
19 videos sent --

20 A. I installed cameras.

21 Q. But you did install cameras?

22 A. Yes, sir.

23 Q. And you told Mr. Mackey that you installed
24 cameras?

25 A. Yes, sir.

1 Q. Correct?

2 And then he had requested that you provide
3 security for the bar?

4 A. Correct.

5 Q. And you provided security to the bar. At
6 least that's what you told Mr. Mackey?

7 A. Correct.

8 Q. Correct?

9 Okay. And then there's something I don't
10 understand. It says, "Bass in the jukebox."

11 A. Bass.

12 Q. I'm not fishing; right? That was basically
13 what, to lower the jukebox sound? What was that for?

14 A. I don't know. Bass, to lower the bass in
15 the jukebox.

16 Q. What was your understanding of his request
17 in terms of the jukebox?

18 A. That it was too much bass in the jukebox.

19 Q. And did you change that?

20 A. No.

21 Q. So you left whatever bass was in there?

22 A. Yeah, because it wasn't -- we went outside
23 and checked the decibel levels, and we couldn't hear it.

24 Q. Okay. Then there was a request that there
25 -- the patrons with loud music in the cars in the back.

1 So were you -- did you have any understanding that he
2 was requesting you not to allow the cars in the back to
3 have loud music?

4 A. Yeah.

5 Q. And did you try and make sure that didn't
6 take place?

7 A. Yes, I did.

8 Q. And did you tell Mr. Mackey that that's
9 what you had done --

10 A. Yes.

11 Q. -- you had stopped any of that problem?

12 A. Yes.

13 Q. Okay. And then it said you had to post
14 signs in the back, no loitering, and please try and park
15 in commercial areas and not on the side street.

16 Did you try to do that?

17 A. I posted signs that said no loitering in
18 the back, and in the front there's a sign that said
19 parking available across the street.

20 Q. Okay. And did you tell people not to park
21 in the commercial areas?

22 A. It's a public street. I can't tell them
23 where to park.

24 Q. Okay. But did you tell Mr. Mackey that you
25 had really dealt with the parking issue as had been

1 requested?

2 A. Yes.

3 Q. Okay. And then the last one is no going
4 back and forth with the neighbors. What did you do to
5 make sure that there would be no going back and forth
6 with the neighbors, if you will?

7 A. I never went back and forth with them.

8 Q. Okay. So did you advise Mr. Mackey that
9 this was not a problem?

10 A. Correct.

11 Q. Okay. So as far as you understood,
12 everything was taken -- you advised Mr. Mackey
13 everything was taken care of?

14 A. Correct.

15 Q. Or they didn't even have a problem?

16 A. Correct. Except for the IP address.

17 Q. Okay. Now, Mr. Mackey had indicated, you
18 know, Dede, let's really try and put an end to all this
19 nonsense, and did you, in fact, try and put an end to
20 all this nonsense?

21 A. Yes.

22 Q. And did you, in fact, tell Mr. Mackey you
23 had accomplished that goal?

24 A. I did.

25 Q. Okay. In your mind, was there anything

1 that Mr. Mackey was to do in the bar to correct anything
2 that you're aware of?

3 A. When I look at it now --

4 Q. After you had gotten this notice and
5 corrected this notice.

6 A. When I look at it now today, I think I
7 should have been made aware of the parking with the
8 being recorded.

9 Q. Okay.

10 A. I should have been made aware of that, but
11 I wasn't.

12 Q. The reality is you arranged for the parking
13 anyway; right?

14 A. Exactly what he told me to do. I did
15 exactly what I was told.

16 Q. So you didn't take it down and record it.
17 Did you ever get it in writing, by the way?

18 A. I got it in writing. I submitted it. I
19 put the wrong dates on it. I submitted it. They
20 informed me that I had the wrong dates and it wasn't
21 recorded.

22 Q. Do you have that with you today?

23 A. They had it in part of the evidence. I
24 didn't bring it.

25 Q. I didn't see that.

1 A. Yeah, it was in part of the evidence. I
2 submitted the wrong date. But after I submitted the
3 wrong date, then they put it up for revocation. It was
4 like -- so after I submit the wrong date, you don't get
5 redo and try to correct it.

6 There's no time frame in between submitting
7 something and correct because I am trying to be in
8 compliance.

9 Q. Okay. Lastly, Mr. Mackey had suggested
10 that you started working with Peter Ronca, which is the
11 nuisance abatement officer in charge of the case, and he
12 gave you his telephone number?

13 A. Yes.

14 Q. Did you start contacting with --

15 A. Yes.

16 Q. -- Mr. Ronca?

17 A. Yes.

18 Q. Did you tell Mr. Mackey that you were in
19 contact with Mr. Ronca?

20 A. Yes.

21 Q. And you told him you were trying to get
22 everything worked out?

23 A. Correct.

24 Q. So as far as he knew, everything was
25 getting worked out?

1 A. Correct.

2 Q. Now, I'm a little curious about one thing.
3 You had seen the video, and you had indicated that you
4 had never seen what was on the video happening at your
5 bar?

6 A. I've never seen it, no.

7 Q. Okay. Now, this was your bar, and I'm
8 sorry to hear it, but after your father died, did you
9 stay there most of the time when your bar was open on
10 the weekends?

11 A. Please ask that again.

12 Q. Did you stay at your bar on the weekends?

13 A. Yes.

14 Q. Okay. So when -- if there's a whole bunch
15 of noise going on in the back and the door opens, were
16 you able to hear things that were going on out there?

17 A. No.

18 Q. Not at all?

19 A. No.

20 Q. Where were you located in the bar?

21 A. I'm everywhere. I'm in the bar. I'm
22 outside the bar. I stand with my security. I go in the
23 back, and I'll also do security with him moving people
24 along. It's, you know, I'm everywhere in the bar.

25 Q. What time did the music -- was it turned

1 off on the weekends?

2 A. What music?

3 Q. The music in the jukebox.

4 A. When we leave. We play the jukebox -- it
5 depends. We leave anywhere between 10:00 to 12:00. I
6 mean 2:00.

7 Q. 10:00 to 2:00?

8 A. Yes.

9 Q. Now, at some point in time, I believe you
10 were made aware that there was, I guess, Building Code
11 violations for not getting a permit for building things
12 inside?

13 A. Yes.

14 Q. And is that -- what was that involving?

15 A. I removed a false wall in the kitchen.

16 Q. That was there before?

17 A. The kitchen was there, and I removed a
18 false wall.

19 Q. And somebody was complaining? The City was
20 complaining about it?

21 A. No. The neighbors had their cameras
22 watching the guys empty the stuff out, so they filed
23 complaints.

24 Q. And after they filed complaints, what did
25 you do?

1 A. I ceased work on the kitchen.

2 Q. Okay. Did you and Mr. Mackey have a
3 discussion of that?

4 A. We did.

5 Q. And did you tell Mr. Mackey you had ceased
6 all of the construction?

7 A. I did.

8 Q. And that was his understanding, there was
9 no more doing any work without any permits; correct?

10 A. Correct.

11 Q. There's kind of a reverse logic thing here,
12 but basically, you were asked by your counsel whether
13 there was, you know, intoxication in the alley and
14 fighting and defecating and sexual conduct and
15 intimidating the neighbors and that sort of thing, and
16 you denied that any of those things had happened to your
17 knowledge; correct?

18 A. Correct.

19 Q. And so you, obviously inductively, if you
20 will, never told Mr. Mackey that such things were going
21 on; correct?

22 A. Correct.

23 Q. In fact, you were still telling Mr. Mackey
24 all along that everything was fine?

25 A. Right.

1 Q. Okay. You were cited for having
2 entertainment at some point. I guess a criminal
3 complaint was brought. You never told Mr. Mackey that
4 you had been cited, did you?

5 A. When was the criminal complaint brought?

6 Q. Well, it was -- it's Exhibit No. 34. It
7 was brought on 3/14/2016. There was an arraignment.

8 A. When did the incident happen?

9 Q. Well, it says, I guess, February 22nd,
10 2016. That's what the complaint says.

11 A. I did tell Mr. Mackey I got a citation for
12 having a deejay without a permit. That was in February.

13 Q. Did you tell him you would not do that
14 anymore?

15 A. Yes.

16 Q. And did you tell him that you took care of
17 this citation?

18 A. Yes.

19 Q. Although we're really not talking about the
20 CUP here, basically, you did receive a letter in March
21 of 2016 that was directed to the Miko's Sports Lounge
22 indicating that the CUP violations of condition 14 and
23 20 were violated; correct? You want to go to
24 Exhibit 35?

25 A. Under what tab?

1 Q. 35.

2 A. Yes, I did receive it.

3 Q. So you were aware that there were security
4 issues, apparently, in March of 2016 that had been
5 brought to your attention?

6 A. No, I was not aware of any security issues.

7 Q. Well, they wrote you and said there were,
8 whether there were or were not; correct?

9 A. I didn't have any security issues.

10 Q. Okay. But you were written a letter that
11 said you did. You got this letter; right?

12 A. Okay.

13 Q. No, not "okay." You either did or you
14 didn't.

15 A. I got this letter.

16 Q. Okay. And the first one was that you have
17 to use security measures to the satisfaction of the
18 Chief of Police. Did you indicate to Mr. Mackey that,
19 in fact, you had gotten the security measures to the
20 satisfaction of the Chief of Police?

21 A. I indicated to Mr. Mackey that I didn't
22 have contact with the Chief of Police, but I contact
23 Detective Barajas.

24 Q. And you told him that you did have
25 security?

1 A. Yes.

2 Q. And you told Mr. Mackey that had been
3 satisfied?

4 A. Yes.

5 Q. Correct?

6 Now, talking about the five parking spaces
7 -- we discussed that a little earlier -- you had also
8 told Mr. Mackey that you had received additional parking
9 spaces; correct?

10 A. Correct.

11 MR. CLOUGH: Okay. I have nothing further. Thank
12 you.

13 HEARING OFFICER TERZIAN: Mr. Kaplan, do you have
14 any redirect?

15 MR. KAPLAN: Just a few.

16 REDIRECT EXAMINATION

17 BY MR. KAPLAN:

18 Q. Who owns the property at 710 West Willow
19 Street occupied by Miko's?

20 A. Mr. Mackey Trust, Peggy.

21 Q. Have you ever had title to that property?

22 A. Never.

23 Q. When you first leased that property from
24 Mackey, do I understand that you testified that you were
25 not given a copy of the conditional use permit that

1 applied to the property?

2 A. I was not.

3 Q. Were you ever told that there was a
4 conditional use permit applied to the property?

5 A. No.

6 Q. Were you ever told by Mr. Mackey there were
7 conditions that had to be complied with?

8 A. Yes.

9 Q. When were you told about the conditions?

10 A. After the lease was signed, to go get five
11 parking spaces from Joe.

12 Q. What conditions did he tell you there were?

13 A. Go get five parking spaces.

14 Q. Anything else?

15 A. Nothing.

16 Q. Has Mr. Mackey ever given you a copy of the
17 conditional use permit to the present date?

18 A. No.

19 Q. Has the City ever given you a copy of it?

20 A. No, not me, no.

21 Q. Did you ever apply for that conditional use
22 permit?

23 A. I did not.

24 Q. Are you a holder or a permittee on that
25 conditional use permit?

1 A. No.

2 Q. After you received this letter March 18,
3 2016 -- that's Exhibit 35 that you just looked at.
4 After you received that, did you receive any
5 communications from Mr. Mackey indicating to you that he
6 had recorded any kind of parking agreement against his
7 title to the property?

8 A. No.

9 Q. Did you ever receive any communications
10 from Mr. Mackey that he had made any effort to comply
11 with condition 14 or condition 20 as set forth in that
12 letter?

13 A. No.

14 Q. In any of the discussions that you had with
15 Mr. Mackey at any time since you leased the property
16 concerning alleged problems, security or noise or any of
17 those things, did Mr. Mackey ever indicate to you that
18 he was going to do anything to address any of those
19 alleged problems?

20 A. No.

21 MR. KAPLAN: No further questions.

22 HEARING OFFICER TERZIAN: Mr. Sanchez, do you have
23 any rebuttal questions? I guess that would be recross.

24 //

25 //

RECROSS-EXAMINATION

BY MR. CLOUGH:

Q. In terms of the March 18, 2016, letter,
your license had not been revoked at that point in time;
correct?

A. Correct.

Q. And as of that date in March, that's
several months, obviously, before the November 3rd date
when the hearing was held. You read this letter that
said you had to record an agreement for parking;
correct?

A. Correct.

Q. And you said you've got an agreement;
correct?

A. I did.

Q. Did you ever offer that written agreement
to Mr. Mackey?

A. I emailed it to him.

Q. Pardon?

A. I emailed.

Q. Do you have a copy of that email?

A. No.

Q. I didn't think so.

MR. CLOUGH: Thank you. Nothing further.

HEARING OFFICER TERZIAN: Thank you.

1 THE WITNESS: I'm finished?

2 HEARING OFFICER TERZIAN: Your testimony is
3 concluded. No one else wants to ask you questions.

4 Mr. Kaplan, do you have any other
5 witnesses?

6 MR. KAPLAN: No, sir.

7 HEARING OFFICER TERZIAN: Mr. Clough.

8 MR. CLOUGH: Yes, Your Honor. I'd like to call
9 Mr. Mackey, if I may.

10 HEARING OFFICER TERZIAN: Is he going to -- is he
11 going to have a problem talking from --

12 MR. CLOUGH: Oh, that lowers?

13 HEARING OFFICER TERZIAN: Will he be able to talk
14 from that podium?

15 MR. CLOUGH: No. He can't stand for very long.

16 HEARING OFFICER TERZIAN: Can't you lower it? How
17 about from the side? The buttons are --

18 MR. MACKEY: There it is.

19 MR. CLOUGH: The new age.

20 HEARING OFFICER TERZIAN: Would you state your
21 name, please.

22 MR. MACKEY: Ronald Mackey.

23 HEARING OFFICER TERZIAN: And would you raise your
24 right hand, please?

25 (Ronald Mackey was duly sworn by the

1 Hearing Officer.)

2 HEARING OFFICER TERZIAN: Mr. Clough.

3 MR. CLOUGH: Thank you.

4

5 RONALD MACKEY,

6 having been duly sworn, testified as follows:

7

8 DIRECT EXAMINATION

9 BY MR. CLOUGH:

10 Q. Mr. Mackey, do you own 710 Willow Street?

11 A. Yes.

12 Q. And how long have you owned that property?

13 A. 38 years.

14 Q. And in connection with that, did the
15 premises that is Miko's Sports Bar now exist when you
16 purchased the property?

17 A. Not Miko's, no. It was a bar.

18 Q. Has it always been a bar?

19 A. Yes.

20 Q. And in connection with it being run as a
21 bar -- let's just go to the last two bars before because
22 there's some mention in the paper work that there were
23 some problems.

24 Did you -- are you aware of a name Puka
25 Bar? Do you know the name?

1 A. I know the name.

2 Q. Okay. Did you have any problems in the
3 Puka Bar that you're aware of?

4 A. I had a problem with -- I don't remember if
5 it's a Puka Bar. I can't remember the name, but I had a
6 problem with them creating parking problems and noise,
7 and that's when it was brought to my attention that
8 we've got a real problem. So within a matter of three
9 weeks or a month, I evicted them.

10 Q. And so that's a problem when it arose,
11 you --

12 A. Took care of it right away.

13 Q. -- took care of it right away.

14 Now, let's talk next about the Sandbar.
15 That's the last bar before Ms. Yancey took over. Do you
16 recall that?

17 A. Well, wait a minute, Larry.

18 Q. Okay.

19 A. The Sandbar was the one that I had the
20 problem with.

21 Q. Okay.

22 A. Not the Puka.

23 Q. Okay.

24 A. The Puka Bar I think was owned by -- no,
25 that was good.

1 Q. Was that now the Puka Bar, in terms of any
2 complaints as to that, there was never a complaint on
3 that in the bathroom?

4 A. No.

5 Q. Okay.

6 A. Well, I think yes. They did a scam on me
7 and said that there was no bathroom for handicapped.

8 Q. Is that correct?

9 A. Yeah. But, you know, I had a handicapped
10 bathroom in there. They just didn't look.

11 Q. Were there any other problems that you can
12 recall?

13 A. No.

14 Q. Now, the next bar, that was the bar you say
15 there were some problems that arose; is that accurate?
16 The Sandbar.

17 A. Yeah.

18 Q. Are you having difficulty hearing me?

19 A. No.

20 Q. Okay. I'm sorry.

21 And what happened with the Sandbar? Did,
22 ultimately, they leave?

23 A. Ultimately, I locked them out.

24 Q. You locked them out? Okay. Did you --

25 A. I had the sheriff do it.

1 Q. So you had an eviction?

2 A. Correct.

3 Q. Okay. Now, let's talk now about
4 Miss Yancey. When Miss Yancey took over the bar, was
5 she made aware that she had to have security guards that
6 you know of?

7 A. Well, we had talked about it, and she knew
8 she had to have security guards.

9 Q. Okay. Now, let's go to May '14. Well,
10 let's withdraw that a little bit.

11 We had a lease that was signed in --
12 sometime at the end of 2013; is that accurate?

13 A. December, I believe.

14 Q. Okay. Now, in connection with that lease,
15 what was the term of that lease? How long was that
16 lease?

17 A. Five years.

18 Q. Okay. And what was the purpose of that
19 lease?

20 A. Well, she was responsible for all the
21 upkeep of the business and the building on the inside,
22 and I took care of the major things on the outside.

23 Q. And, in fact, during the life of the lease,
24 did you do anything to maintain the building?

25 A. Yeah. I put a new roof on, and I redid the

1 electrical, and I redid the parking and marked the
2 parking.

3 Q. That's --

4 A. For handicapped.

5 Q. Okay. Now, going forward then, at some
6 point you had received a letter which is marked Exhibit
7 No. 16 in the book. I wondered if you could take a look
8 at that, Mr. Mackey.

9 A. Jesus. Make me get my glasses out.

10 Q. Sorry.

11 A. What number, 16?

12 Q. Yes.

13 A. Okay.

14 Q. Okay. Now, on that date you had received
15 the letter from Peter Ronca, the nuisance abatement
16 officer; is that accurate?

17 A. Yes.

18 Q. And shortly thereafter, on May 21st, 2014,
19 did you appear at a meeting at the Police Department?

20 A. Yes.

21 Q. And then shortly after the May 21 meeting
22 at the Police Department, did your son write a letter to
23 Ms. Yancey indicating anything?

24 A. He was at the meeting with me.

25 Q. Okay.

1 A. And yeah, he wrote the letter explaining to
2 her what we wanted to have done.

3 Q. And is that the letter that is in the
4 exhibit numbered 18?

5 A. Yes.

6 Q. Okay. And that involves the camera, the
7 security, the jukebox, the patrons loitering and that
8 sort of thing? It's at the bottom?

9 A. Correct.

10 Q. Okay. And did you have in addition to this
11 letter any telephone conversations with Miss Yancey
12 between the time of your meeting in the Police
13 Department and this letter relating to problems that you
14 wanted to make sure didn't occur?

15 A. Yes.

16 Q. How many would you estimate that you had
17 with her?

18 A. Probably 10 or 12.

19 Q. And what did you tell her during those
20 calls?

21 A. Well, I explained to her the requirements
22 by the Police Department and the City, and I explained
23 to her that they gave us, I think, a month or three
24 weeks to complete everything. So I called her every
25 other day asking for progress.

1 Q. And did you receive assurances that these
2 items were being taken care of?

3 A. Yeah, I guess I did, but some of them she
4 was a little hesitant on. And the one that she didn't
5 take care of was I specifically explained to her that
6 the City wants it registered that she has the parking.

7 Q. Okay.

8 A. And I think other than that, she did
9 everything that was required.

10 Q. At least she told you that?

11 A. Yeah. Well, yeah, to the best of my
12 knowledge.

13 Q. Okay. Now, in connection with the meeting
14 that you had at the Police Department, do you recall
15 anything being told to you by the police in terms of
16 what they wanted you or Ms. Yancey to accomplish at the
17 bar that you can recall?

18 A. Not that I can recall. The only thing they
19 told me was that they thought that she had a pretty bad
20 attitude --

21 Q. Okay.

22 A. -- when she was there, and nothing I could
23 do about that.

24 Q. Did you discuss that fact with her on the
25 telephone?

1 A. I think that I might have mentioned that
2 she should try and get along with people.

3 Q. Okay. And again, after the letter was sent
4 on, I guess it was, June 5th, 2014, did you have any
5 more telephone conversations with Miss Yancey?

6 A. Yeah. I mean, anytime that I wanted to
7 confirm anything and I -- I checked in to make sure that
8 we didn't have -- we weren't having any problems.

9 Q. Okay. Now, let's talk about between 2014
10 and March of 2016. Other than something involving the
11 entertainment and the building permit, did you receive
12 any notice of any other problems that were occurring at
13 the bar?

14 A. I think that -- yeah, I did. That was the
15 reason for the meeting with the police and what's his
16 name, Ronca.

17 Q. Ronca?

18 A. Ronca. Yeah. He explained to me then that
19 things didn't look good and we needed to get things
20 under control.

21 Q. Okay. Did you take any action after you
22 had talked with Ronca?

23 A. Well, I then talked to Yancey again and
24 told her what the problems were and what I expected to
25 be done.

1 Q. And were you satisfied that these things
2 were going to occur?

3 A. Yes, I was.

4 Q. Okay. And, in fact, were you told
5 ultimately that they did take place?

6 A. Yes, I was told that they did take place.

7 Q. Okay. Now, the next letter actually that
8 we have from the City is March 18, 2016. So between the
9 -- except for some minor things between 2014 and 2016,
10 did you have any major problems that you became aware
11 of?

12 A. There was a meeting down here at the
13 attorney's office. I don't remember what month that
14 was.

15 Q. Right.

16 A. But, yeah -- and that's what I meant. The
17 people, when I met the people in the neighborhood there,
18 and my wife met them, too, and we were actually pretty
19 surprised that this -- this had taken place.

20 Q. Okay. Now, let's talk about that. You
21 were surprised about this having taken place. What was
22 your understanding that -- of what problems existed at
23 that point?

24 A. Well, it was my understanding that we had
25 noise problems and things that we needed to deal with,

1 and I had thought with all my conversations with Yancey
2 that things were taken care of and I didn't need to
3 worry about it.

4 Q. Okay. So you believed after the meetings
5 that took place that things were taken care of?

6 A. Correct.

7 Q. Okay. So what did you -- when was it that
8 you heard next that something was a problem at the bar?
9 Would that have been the notice of a revocation hearing
10 perhaps?

11 A. Yeah, I guess that would be, yes.

12 Q. And when that happened, what, if anything,
13 was your thought process? Did you call Miss Yancey to
14 determine what she was doing about this situation?

15 A. Yes, I did. We spoke about it, and she
16 said that she had things under control.

17 Q. So she didn't -- according to her at least,
18 you didn't believe that there was a problem that
19 really --

20 A. I knew there was a problem, but she said
21 that she had the problem under control.

22 Q. Okay. So did you have any belief that the
23 business license that you had would be revoked?

24 A. No.

25 Q. Okay. And why didn't you?

1 A. Well, I didn't believe at that time that
2 I'd done anything wrong.

3 Q. Okay.

4 A. I was constantly dealing with the problems
5 as they arose, so -- and with her feedback, I felt we
6 were well under control.

7 MR. CLOUGH: Okay. I have nothing further. Thank
8 you.

9 HEARING OFFICER TERZIAN: Mr. Sanchez.

10 MR. SANCHEZ: Thank you.

11 CROSS-EXAMINATION

12 BY MR. SANCHEZ:

13 Q. Mr. Mackey, can you look at tab No. 7 in
14 the book before you?

15 A. Okay.

16 Q. Do you recognize that letter dated
17 July 19th, 2012?

18 A. I don't recognize it, but I can see that
19 it's got to do with parking, from what I can understand.

20 Q. So it relates -- well, two things. One, it
21 was addressed to the Mackey Family Trust, but it was
22 also addressed to the Sandbar Lounge?

23 A. Yeah, I see that.

24 Q. And it's dated July 19th, 2012, and it
25 refers to violations of the special conditions of the

1 conditional use permit, specifically condition 14 and
2 condition 20, 14 being the security to the satisfaction
3 of the Chief of Police, and 20 is the parking, the
4 additional parking spaces.

5 So do you recall receiving that letter?

6 A. Not right offhand, but I'm not gonna deny
7 that I got it.

8 Q. Well, you mentioned you had problems with
9 the Sandbar Lounge. Can you just tell us what those
10 problems were?

11 A. Wait a minute. I'm a little mixed up on
12 the -- Tina May, that was a KB Club. Sandbar was the
13 last one.

14 Q. Before Miko's, yes.

15 A. Before Miko's. Yeah.

16 The problem there was that these fellas
17 evidently had some -- what do you call it? -- rave
18 parties or something, and they were drinking all hours
19 of the night. Right? Yeah, that's what it was.

20 And that's what -- when I found that out,
21 that was the end of it. Man, I --

22 Q. Okay. But one of the issues that's
23 identified in this letter was the parking issue.

24 A. Well, the parking -- I owned the building
25 next-door, so the parking wasn't really a problem

1 because at that time I had two, four, five, six -- five
2 additional parking places. So I had told them that they
3 could use that parking at night.

4 Q. Okay.

5 A. 716, 10, 12 -- 716 Willow, I owned that
6 building, too.

7 Q. Do you recall ever having a conversation
8 with the Long Beach Police Department after receiving
9 this letter regarding either the parking or the security
10 issues?

11 A. No, I don't believe I did.

12 Q. Okay. So you don't recall having any
13 conversations with the Sandbar Lounge owners about
14 complying with this --

15 A. Oh, yeah, I talked to them. I mean, I told
16 them they -- you know, I guess what these parties, they
17 was parking everywhere, so there was --

18 Q. Okay. So just --

19 A. -- nothing I could do but what I did, get
20 rid of them.

21 Q. Understood. What I'm asking, though, is
22 that particular condition related to the conditional use
23 permit related to the parking and having that written
24 agreement recorded against the property.

25 A. You know, I don't recall that with the

1 Sandbar. In fact, I'd never seen a conditional use
2 permit. Larry says I have one, but I've never seen it.

3 Q. All right. So do you recall when you
4 evicted the owners of the Sandbar lounge?

5 A. Not right offhand. I didn't bring that
6 with me, but it wasn't too far after we had the
7 complaint that I had spoken to them. And then they quit
8 paying their rent, so that gave me the out to act right
9 away.

10 Q. Okay. Actually, so how long -- can you
11 tell me how long the property was vacant until
12 Miss Yancey rented it from you?

13 A. Jeez. Probably two or three months. Two
14 months.

15 Q. Okay.

16 A. Wasn't a long time.

17 Q. And when you entered the lease with
18 Miss Yancey, did you talk about the conditions relating
19 to the conditional use permit?

20 A. No.

21 Q. Okay. Did you talk to her about the
22 problems that arose from the Sandbar Lounge's
23 operations?

24 A. I didn't do the lease. My son did. So I'm
25 sure that he had mentioned it, but I can't say yes or no

1 to that.

2 Q. Okay. So you've never spoken to your son
3 about that particular subject?

4 A. No, I didn't.

5 Q. Okay. Looking to -- well, you mentioned a
6 meeting here with City Attorney's office and --

7 A. You were there, weren't you?

8 Q. Yes.

9 A. Yeah.

10 Q. And that was back in -- get the date right
11 here. Oh, so April 19th of 2016, and do you recall
12 having that meeting with myself and the other
13 departments of the City, including some residents?

14 A. Yeah. Some of these people, too.

15 Q. And you were shown some photographs by the
16 residents regarding some of the --

17 A. That's the first I'd seen that. And
18 believe me, my wife gave me hell.

19 Q. Right.

20 And was that -- when you saw the video, was
21 that the first time you'd seen the video, as well?

22 A. Correct.

23 Q. Okay. After that meeting, you said you had
24 a conversation with Miss Yancey; is that correct?

25 A. Within a reasonable amount -- I don't

1 recall the date, but yes.

2 Q. Okay. And I think your testimony was that
3 she assured you that everything was taken care of?

4 A. Correct.

5 Q. Did you do anything to verify what she was
6 saying was correct?

7 A. No. I didn't personally, but my son was
8 down there and checked on things for me, and he seemed
9 to be satisfied.

10 Q. Okay. And looking to -- looking at I think
11 it was Exhibit 18 in that book or tab 18 in that book in
12 front of you, the letter that you sent to Miss Yancey
13 back in June 2014 --

14 A. Yep.

15 Q. And I just wanted to go down the -- kind of
16 the last paragraph, last couple sentences of that
17 letter, and it says, "No going back and forth with the
18 neighbors, Dede, let's try and put an end to all this
19 nonsense, no one is blaming you, surely we all
20 understand what you're going up against," do you know
21 what that was referring to?

22 A. Well, that was referring to a group of
23 people against one, and at that time I felt that she was
24 handicapped in that respect. But by the same token, I
25 wanted her to meet with them, get along with them and do

1 whatever necessary to keep a happy surroundings.

2 Q. So -- well, first of all, do you know if
3 that ever happened?

4 A. She told me it did.

5 Q. Okay. Now, you mentioned at that time you
6 felt a certain way about her being up against a group of
7 individuals. What was that based on?

8 A. It was -- I can't really say it was based
9 on anything except that she had created the problems to
10 start with by --

11 Q. Why are you saying that she created the
12 problems?

13 A. Well, from what she told me, the first
14 instance of a problem was the fella that lived behind
15 there, she got into a verbal altercation with him. And
16 that's when I told her that, you know, you're cutting
17 your own throat, just try and get along with everybody
18 and things will go smooth.

19 Like I said, I've owned that bar for close
20 to 40 years. I've never had any problems with you
21 neighbors at all; right?

22 UNIDENTIFIED WOMAN: 'Til they moved in.

23 UNIDENTIFIED WOMAN: Just when black came in.

24 Q. BY MR. SANCHEZ: You mentioned, you made
25 that comment just now when I read that -- those last

1 couple lines of Exhibit 18.

2 A. 18?

3 Q. The letter, the last lines of that letter I
4 just read to you. You mentioned you felt then back in
5 June of 2014 that it was her against -- up against a
6 group of people.

7 Has that feeling changed since that letter
8 was written?

9 A. Yes. I mean, it changed drastically when I
10 met with you and the neighbors at your office because I
11 had been misinformed about just about everything that
12 was going on.

13 Q. Now, why do you use the term "misinformed"?

14 A. Well, I use the term because I don't
15 believe that I was told that any of that took place, and
16 when we seen the video or seen the pictures she had and
17 all the complaints, you know, it kind of upset me and my
18 wife both because, like I said, never had any problems
19 with anybody.

20 Q. So when you mentioned the photographs you
21 were shown, what did those photographs depict that made
22 you feel that way?

23 A. Well, the people going to the bathroom in
24 the street and on the -- in the back lot, and that was
25 enough for me. I mean, you know. I didn't --

1 Q. So were the other photographs of empty --

2 A. Empty bottles and things like that, yeah.

3 Q. And that was all along Maine Avenue, along
4 the sidewalk and front lawns of the residents there; is
5 that correct?

6 A. Correct.

7 Q. So after you saw those photographs, you
8 felt that -- well, let me put it this way. So all those
9 reports that you received from Miss Yancey in the past
10 you didn't think were accurate?

11 A. Correct.

12 Q. And in the past when you've been following
13 up since Miko's started its operation and you received
14 contacts with either the City or the Police Department
15 about various complaints, you would always follow up --
16 you would send a letter to Miss Yancey, and then you
17 would follow up in telephone conversations?

18 A. Correct.

19 Q. And in the follow-ups, you took
20 Miss Yancey's word for what she was telling you?

21 A. Correct.

22 Q. Just one second.

23 Can you turn to tab No. 42, if you could,
24 Mr. Mackey?

25 A. 43. Okay. 42.

1 Q. So --

2 A. Click on here. Okay.

3 Q. Have you ever seen any documents similar to
4 what's in Exhibit 42?

5 A. No, not that I recall.

6 Q. Okay. In all your meetings with the Police
7 Department or anyone else in the City, have you ever
8 been shown a document similar to this one or something
9 to that effect?

10 A. I don't believe I have.

11 Q. Have you had -- in the conversations you've
12 had with either the Long Beach Police Department or any
13 other City official regarding calls for service, you
14 have discussed that?

15 A. Yes.

16 Q. And what's your understanding of what a
17 call for service is?

18 A. Well, somebody's complaining about
19 something. You know, I had spoken to her about that,
20 too, because she's -- something's wrong. I mean, I've
21 never had that many complaints in that building in the
22 time I was there. I don't know. That was my feeling.

23 Q. So you've owned the building for, as you
24 said, 38 years?

25 A. Correct.

1 Q. And in those 38 years, you began having
2 contacts with the Long Beach Police Department and City
3 officials when the establishment that was being run by
4 first the Sandbar Lounge --

5 A. Yeah, I believe that -- that was something
6 that -- I didn't have much contact because I nipped it
7 in the bud quickly.

8 Q. Understood. But the point I was trying to
9 make, of all the bars that have operated at that
10 location, which of the bars that have operated there
11 have you had to discuss calls for service with either
12 the police or any City official?

13 A. The bar that we're here on right now.
14 That's the only one I've ever had --

15 Q. Okay.

16 A. -- police calls.

17 Q. So of the other bars that have operated
18 there, only Miko's is one that you've had --

19 A. Correct.

20 Q. -- these types of problems with?

21 A. Yeah, correct.

22 Q. I know I asked you this, but I want to get
23 more specific. After the meeting you had with our
24 office and the City back in April of 2016, did you ever
25 after that date go and observe the bar, the location?

1 Did you ever go back to the location?

2 A. No, because I got injured right after that,
3 and then I ended up in the hospital in April -- in what,
4 May? July.

5 Q. Okay. So before you entered the hospital,
6 were you following up with Miss Yancey regarding the
7 issues with the bar?

8 A. I think I turned that over to my son. I
9 was in pretty bad shape.

10 Q. Okay. So you don't recall having any
11 telephone conversations with Miss Yancey after that
12 date?

13 A. I'm sure I did, but if there was any other
14 thing that needed to be followed up on, I had Sean do
15 it.

16 Q. Okay. You mentioned or you made a comment
17 about the police saying that Miss Yancey had a bad
18 attitude. Were you surprised by that comment?

19 A. Yes, I was. And I don't remember was a
20 lieutenant or something that was watch commander at that
21 time that said that.

22 Q. Has Miss Yancey ever had a -- well, a bad
23 attitude with you?

24 A. No.

25 Q. Have you ever seen her with a bad attitude

1 in the dealings you've had with her since 2014?

2 A. No. Not with me.

3 Q. Do you know of any other issue that
4 Miss Yancey had with anyone in the neighborhood besides
5 the owner of the property that was directly across from
6 the alley?

7 A. I didn't at the time. That's where I
8 believe it started. And then I was reasonably surprised
9 with finding that things were really not what I thought
10 they were with these people here.

11 Q. So since then have you taken any action
12 against Miko's as it relates to 710 West Willow Street?

13 A. Yeah, I have.

14 Q. And what was that, or what is that?

15 A. I want to ask Counsel first. I don't know
16 if you --

17 MR. CLOUGH: You're okay to answer.

18 THE WITNESS: Huh?

19 MR. CLOUGH: You're okay to answer.

20 THE WITNESS: Okay. Yeah, I hired another
21 eviction attorney to evict her.

22 Q. BY MR. SANCHEZ: So you're in the process
23 of doing that now?

24 A. Correct.

25 MR. SANCHEZ: I have nothing further.

1 HEARING OFFICER TERZIAN: Mr. Kaplan?

2 MR. KAPLAN: I have no questions.

3 MR. CLOUGH: Nothing further.

4 HEARING OFFICER TERZIAN: Do you have anything
5 further, Mr. Clough?

6 MR. CLOUGH: No redirect. Thank you.

7 HEARING OFFICER TERZIAN: Thank you for your
8 testimony, Mr. Mackey.

9 Do you have any other witnesses,
10 Mr. Clough?

11 MR. CLOUGH: No. We rest, I guess.

12 HEARING OFFICER TERZIAN: Could someone assist
13 Mr. Mackey?

14 MR. KAPLAN: Could we take a brief break for --

15 HEARING OFFICER TERZIAN: Sure. Let's take a
16 five-minute break.

17 (Brief recess.)

18 HEARING OFFICER TERZIAN: All right. We're back
19 on the record at 3:40 p.m.

20 We've heard from the witnesses provided by
21 the City, by Miko's and by Mr. Mackey. Are there any
22 witnesses out in the audience who want to testify?

23 MR. SANCHEZ: Excuse me, Mr. Terzian, but I did
24 want to call some in response to what was presented
25 by --

1 HEARING OFFICER TERZIAN: Oh, all right.

2 MR. SANCHEZ: -- by both Miko's and the Mackeys --

3 HEARING OFFICER TERZIAN: Oh, I'm sorry.

4 MR. SANCHEZ: -- if I can.

5 HEARING OFFICER TERZIAN: Yes. You know, we're
6 starting to run out of time.

7 MR. SANCHEZ: I understand, and I'll try to do it
8 quickly.

9 If we can bring up Dana Dittman, please.

10 HEARING OFFICER TERZIAN: Would you state your
11 name, please.

12 MR. DITTMAN: Dana Dittman, D-i-t-t-m-a-n.

13 (Dana Dittman was duly sworn by the
14 Hearing Officer.)

15
16 DANA DITTMAN,
17 having been duly sworn, testified as follows:

18
19 DIRECT EXAMINATION

20 BY MR. SANCHEZ:

21 Q. Mr. Dittman, where do you live?

22 A. I live at 2516 Maine Avenue.

23 Q. Okay. And that's within a block from
24 Miko's Sports Lounge?

25 A. It is very close. It's across the street.

1 Q. Okay. And were you present when we played
2 Exhibit I, which was the video that was played on the
3 big screen?

4 A. Yes, I was.

5 Q. And do you know how that video was
6 prepared?

7 A. I do.

8 Q. And how do you know that?

9 A. I was partially involved in it.

10 Q. Okay. Can you just explain to us how that
11 video came about?

12 A. Okay. First of all, explain that the
13 neighbors pitched in and bought those cameras and had
14 them installed on Ricky's house because we were having
15 serious problems with the bar.

16 Q. Now, when you say "Ricky's house," what
17 house is that?

18 A. Ricky's house is the one directly behind
19 the parking lot of Miko's. That ivy-covered wall in the
20 video is his wall.

21 Q. And do you know the specific address?

22 A. I do not.

23 MR. OROPEZA: 2569.

24 THE WITNESS: 2569.

25 Q. BY MR. SANCHEZ: And that residence is

1 directly adjacent to the alleyway which separates it
2 from the rear parking area of Miko's Sports Lounge?

3 A. That's correct.

4 Q. So you mentioned that the residents had a
5 camera set up on his property?

6 A. Yes.

7 Q. Okay. And how many cameras were set up?

8 A. There are two.

9 HEARING OFFICER TERZIAN: Excuse me. Someone is
10 shining a light in my eyes up there. Pardon? Please
11 turn off that light.

12 Continue.

13 Q. BY MR. SANCHEZ: I'm sorry. So the camera
14 was set up in that residence across from the alley?

15 A. Correct.

16 Q. How many cameras?

17 A. Two.

18 Q. And which directions were the cameras
19 facing?

20 A. One is facing the parking lot of Miko's,
21 which is north, and one is facing out towards the street
22 on Maine Avenue, and that's located in the front of the
23 house.

24 Q. Okay. And you mentioned those cameras were
25 set up for what reason?

1 A. Well, we really needed evidence. The
2 police and Mr. Ronca suggested that we do it because
3 there were so many things going on, and she was saying
4 that they weren't, so we needed evidence to prove that
5 it was happening.

6 Q. Okay. And so how was the system paid for?

7 A. The system was paid for by the neighbors
8 paying proportionate amount.

9 Q. Okay. So it was from footage from those --
10 actually, when was that camera purchased?

11 A. I don't remember the date. I'm sure it
12 happened --

13 MR. OROPEZA: Somewhere in May, May '15.

14 THE WITNESS: May 2015.

15 Q. BY MR. SANCHEZ: So then Exhibit I, which
16 is the video, was created from footage taken from those
17 cameras?

18 A. Correct.

19 Q. And the scenes that are depicted in that
20 footage in the video, was that an accurate depiction of
21 the activities that were occurring at the time the
22 videos were taken?

23 MR. KAPLAN: Objection. Calls for speculation,
24 conclusion. There's no foundation he was there when
25 those things were happening to compare them to the

1 video.

2 MR. SANCHEZ: I'll rephrase.

3 Q. BY MR. SANCHEZ: So when that camera system
4 was set up, did all the neighbors have access to the
5 footage?

6 A. Yes, we did.

7 Q. And how did you have access to the footage?

8 A. The DVR that's connected to the cameras
9 that's storing the information has an IP address, and
10 it's connected to the Internet, and we all have access
11 to it.

12 Q. And when you say you had access to it, what
13 do you mean you had "access to it"? Could you pull it
14 up at any time?

15 A. Yes. There was an app on our phones and
16 iPads and computers that allowed us to see it.

17 Q. Okay. So kind of a realtime feed?

18 A. Correct.

19 Q. When you mentioned all the neighbors had
20 access to it, how many roughly?

21 A. I'd say six, six different households.

22 Q. Including yours?

23 A. Yes.

24 Q. All right. And so were you involved in
25 actually putting those -- that footage together?

1 A. I was involved in deciding which elements
2 of the footages that we had should be used.

3 Q. Okay. And the date that's depicted in the
4 video has dates and then hour clock on there. Is that
5 from the camera system itself?

6 A. It is very much so.

7 Q. Okay. And what -- excuse me.

8 How long have you lived at your current
9 location?

10 A. Since 1989. I believe that's almost 28
11 years.

12 Q. And so have you been living at the same
13 residence since Miko's first opened?

14 A. Absolutely.

15 Q. And have you experienced problems with the
16 patrons at that location since you've been living at --

17 A. Yes.

18 Q. -- your residence?

19 And can you describe briefly what those
20 problems are?

21 A. Mostly loud noise, loud music, car music
22 coming from the cars, screaming on the street, loud
23 talking on the street.

24 Q. And is there a particular time of day when
25 this activity occurs?

1 A. Yeah. Mostly between 11:00 and 2:00 a.m.

2 Q. Okay. And is there any particular day or
3 days during the week when this activity would occur?

4 A. Generally, Friday and Saturday, but
5 sometimes on Thursday.

6 Q. So in looking at what's depicted in the
7 video, a lot of the footage is taken from the hours
8 probably past 12:00 or 1:00 o'clock. Is that why those
9 particular times were chosen?

10 A. Partially, but it was mostly the activities
11 that were going on during those times.

12 Q. And when you've experienced these issues
13 with the patrons -- so first of all, the complaints
14 you've had, how do you know they're patrons of Miko's?

15 A. Well, we actually witnessed them walking
16 out of the front of the -- not out of the front of the
17 bar, but from around the corner, and sometimes we
18 actually witness them coming out of the door, the rear
19 door, but mostly just, you know, general vicinity, that
20 it was happening so close to the bar and at closing time
21 with the bar that it was pretty easily deduced.

22 Q. Okay. And have you had to call the police
23 to make complaints in the past?

24 A. Many times.

25 Q. Okay. And so back to the footage, based on

1 your knowledge and experience with the area and the
2 activities that you've witnessed, is that an accurate
3 depiction, what's in the video, or depictions I should
4 say of the type of activity that was occurring from
5 Miko's patrons?

6 A. Yes.

7 MR. SANCHEZ: Thank you. I have nothing further.

8 HEARING OFFICER TERZIAN: Mr. Kaplan.

9 CROSS-EXAMINATION

10 BY MR. KAPLAN:

11 Q. One of the scenes I think portrayed on the
12 video was from December 13, 2015 at about 1:00 a.m., and
13 it purports to show some loud people in the parking lot
14 behind Miko's.

15 Were you personally present on December 13,
16 2015, at Miko's at 1:00 a.m.?

17 A. No, sir.

18 Q. And so you would have no way personally of
19 verifying the accuracy of what the tape shows versus
20 what may or may not have happened in realtime, real life
21 at that point; right?

22 A. Okay, yes.

23 Q. Did you participate in editing the video?

24 A. No, I didn't. Just choosing the scenes.

25 Q. Okay. Did someone else edit it?

1 A. Yes. We hired somebody to do it.

2 Q. Okay. Did they make decisions as to how
3 long certain scenes would be?

4 A. Yes. It was a decision by several of us,
5 one of the neighbors and the editor, the reason being
6 that the City Council and the Planning Commission didn't
7 want to see a video that was hours long.

8 Q. And were there -- did you ever -- did
9 anybody who edited the video make any decision to
10 include video recordings of let's use the parking lot
11 behind Miko's when nothing was going on?

12 A. No.

13 Q. Were you ever in the parking lot by Miko's
14 at midnight or after when nothing was going on?

15 A. No. I may have driven by when nothing was
16 going on.

17 MR. KAPLAN: Okay. I have no further questions.

18 HEARING OFFICER TERZIAN: Mr. Clough?

19 MR. CLOUGH: Briefly.

20 CROSS-EXAMINATION

21 BY MR. CLOUGH:

22 Q. Do you know where the tape that is hours
23 long or the video that is hours long is currently
24 located?

25 A. I believe it's still on a web site, but I

1 understand that we are having problems accessing it, and
2 it's no longer on the DVR because it gets recorded over.

3 Q. And there's no copies?

4 A. There's still -- there is more video that
5 the editor still has, but -- and it's longer.

6 Q. Do you know who that editor is? Do you
7 know the name?

8 A. I don't remember the name offhand.

9 MR. CLOUGH: Okay. Thank you.

10 Nothing further.

11 HEARING OFFICER TERZIAN: Any redirect, Mr. --

12 MR. SANCHEZ: No, Your Honor.

13 Thank you.

14 HEARING OFFICER TERZIAN: Is this your last
15 witness now?

16 MR. SANCHEZ: I have at least one more. If I can
17 call Laurie Barajas.

18 HEARING OFFICER TERZIAN: Please.

19 Would you state your name.

20 MS. BARAJAS: Laurie Barajas, L-a-u-r-i-e B, as
21 in boy, a-r-a-j-a-s.

22 HEARING OFFICER TERZIAN: Would you raise your
23 right hand, please.

24 (Laurie Barajas was duly sworn by the
25 Hearing Officer.)

1 LAURIE BARAJAS,
2 having been duly sworn, testified as follows:

3
4 DIRECT EXAMINATION

5 BY MR. SANCHEZ:

6 Q. Miss Barajas, can you just tell us what
7 your current position is and who you work for?

8 A. I'm currently assigned to the Family
9 Services Section of the Long Beach Police Department.

10 Q. And have you had any dealings with Miko's
11 Sports Lounge in the past?

12 A. In the past, yes.

13 Q. Okay. And what was your position back then
14 when you were dealing with Miko's?

15 A. I was assigned to vice investigations
16 overseeing the permit section.

17 Q. The permit section?

18 A. Yes.

19 Q. So does that include Business License?

20 A. We would -- I would liaison with the
21 Business License Department at City Hall.

22 Q. So we're talking about entertainment
23 permit, occasional entertainment permits?

24 A. Entertainment permits, occasional event
25 permits, ABC licenses. We also dealt with taxi permits,

1 medical marijuana dispensaries. The list kind of goes
2 on and on.

3 Q. Okay. Thank you.

4 And you had contact with Miko's Sports
5 Lounge when it first opened back in 2014; is that
6 correct?

7 A. That's correct.

8 Q. Okay. And was that in relation to a permit
9 they were applying for?

10 A. I didn't bring any of my notes up with me
11 on all of the meetings. If I could go get them.

12 Q. Oh, no. That's okay. That's fine.

13 In the -- in your interactions with them --
14 and I'm asking you generally, so you don't have to be
15 too specific -- did one of those areas that you were
16 discussing with Miko's involve security for the bar?

17 A. Yes, it did.

18 Q. Okay. And why was the security an issue
19 with you and the bar?

20 A. Our office had received complaints
21 regarding patrons loitering, groups loitering outside
22 the establishment and being loud and disturbing the area
23 residents. So my office had met with Miss Yancey and
24 discussed ways that she could better improve the
25 business to help mitigate some of those complaints from

1 the neighbors.

2 Q. Okay. And those complaints, were they in
3 the forms of police calls for service?

4 A. Yes.

5 Q. Okay. And were you able to work with
6 Miss Yancey in order to correct the problems?

7 A. She was receptive to what the complaints
8 were when we met initially and said that she had met
9 with the residents, that she had given them her phone
10 number and that they had been communicating briefly back
11 and forth.

12 Q. Okay. How long did those problems
13 continue?

14 A. For as long as -- I don't want to say as
15 long as she was open because from my understanding,
16 she's still open, but for as long as I was working in
17 the position.

18 Q. Okay. So -- and when you left -- you're in
19 your new position as of when?

20 A. October.

21 Q. So the problems that are happening at
22 Miko's are ongoing; is that an accurate statement?

23 A. While I was there, yeah.

24 Q. Yeah, while you were there. I'm sorry.

25 A. Yes.

1 Q. So up to that point, so from 2014 up to the
2 point that you left, which was in -- was it this year or
3 last year?

4 A. I wouldn't say up until I left in October
5 of 2016. I would say up until at least when we had the
6 Planning Commission hearing, whenever that was.

7 Q. In November of 2016. Okay.

8 And in your discussions with her, with
9 Miss Yancey, did she ever indicate that those --
10 whatever the issues were were not issues or that they
11 were not true or anything to that effect?

12 A. She had indicated that she felt that she
13 was being targeted by the residents and that they were
14 complaining about things that weren't happening.

15 Q. Did she acknowledge any of the issues that
16 you were receiving complaints about?

17 A. No.

18 MR. SANCHEZ: All right. Thank you.

19 HEARING OFFICER TERZIAN: Mr. Kaplan?

20 MR. KAPLAN: No questions.

21 HEARING OFFICER TERZIAN: Mr. Clough?

22 CROSS-EXAMINATION

23 BY MR. CLOUGH:

24 Q. Did you have any discussions with
25 Mr. Mackey?

1 A. I attended one meeting here at City Hall
2 with the City Attorney's office and Development
3 Services. I don't know if Business License was in
4 attendance, but I was at that one meeting, yes.

5 Q. So that was the meeting that you were
6 sitting there and you heard other testimony relating to
7 that particular meeting or no?

8 A. I don't understand the question.

9 Q. Did you hear testimony earlier of when that
10 meeting took place?

11 A. Yes.

12 Q. Okay. That's that one meeting?

13 A. That was the one meeting I attended, yes.

14 MR. CLOUGH: Okay. I have nothing further. Thank
15 you.

16 HEARING OFFICER TERZIAN: Anything more,
17 Mr. Sanchez?

18 MR. SANCHEZ: No, Your Honor.

19 HEARING OFFICER TERZIAN: What's your first name
20 again?

21 THE WITNESS: Laurie.

22 HEARING OFFICER TERZIAN: Do you have anything
23 more, Mr. Sanchez?

24 MR. SANCHEZ: No.

25 HEARING OFFICER TERZIAN: All right. Now, we're

1 going to finish at 4:30 or no later than 4:30, so is
2 there anyone in the audience who wants to testify on
3 this matter?

4 Okay. Hearing none, final argument by
5 counsel? Mr. Sanchez, do you want to offer a closing
6 argument?

7 MR. SANCHEZ: I'm a little bit -- well, that's
8 fine.

9 So based on what was presented here today
10 and ensuring that the exhibits from the original
11 proceeding have been identified and are included with
12 this hearing, the record for this hearing, as well as
13 all the exhibits in the exhibit book that was presented
14 at the previous hearing, in addition to all the items
15 that were identified during this hearing, the City's
16 position is that as it relates to notice, that both the
17 Mackeys and Miss Yancey, as the representative for
18 Enaid's Way, Incorporated, were served with a copy of
19 the notice of the hearing originally back in -- as it
20 was identified as October 18th, 2016, as it relates to
21 the business licenses because -- and we heard some
22 testimony about the conditional use permits.

23 Because this hearing was before the
24 Planning Commission, a lot of the procedures relating to
25 the revocation of the conditional use permit applied to

1 the business license revocations, as well, at least as
2 it relates to service.

3 And you heard from Mr. Koontz or he
4 indicated that the staff report was prepared and
5 uploaded, as Miss Eidson testified, a week,
6 approximately, before the hearing on November 3rd and
7 that that information was accessible to the parties.

8 Miss Yancey was represented by counsel,
9 albeit it's a different counsel, at that hearing. That
10 counsel had access to the information or was aware that
11 the information was uploaded and available.

12 And unfortunately, Mr. Clough did not
13 contact my office until the day of the hearing, and he
14 indicated to me that he didn't have an opportunity to
15 review any of the materials, even though I told him they
16 were accessible online, because he had only been
17 retained the day before by Mr. Mackey to represent him
18 at the hearing. And he also informed me of Mr. Mackey's
19 physical condition that prevented him from appearing at
20 the hearing.

21 But in terms of notice, he did receive
22 appropriate notice. Both parties were -- not only had
23 access to each of the -- each of their respective copies
24 of the staff report from Planning, which detailed the
25 factual basis for the revocations on both the business

1 license for Miko's Sports Lounge, as well as the
2 business license for the Mackey Trust.

3 The question, I guess, before the Hearing
4 Officer is whether or not they had the -- or whether or
5 not they did access it before the hearing, and I
6 probably have some doubts about Mr. Clough being able to
7 access it before he appeared at the hearing, but
8 certainly Miss Yancey and her former counsel,
9 Mr. Cernyar, had an opportunity to review it before the
10 hearing, which leads to the next point, which is whether
11 or not that hearing before the Planning Commission was
12 -- provided a fair and reasonable opportunity for
13 Miss Yancey and Mr. Clough or Miss Yancey and Mr. Clough
14 on behalf of the Mackey Trust to assert arguments
15 relating to the evidence that was submitted in relation
16 to revocations of both business licenses, and
17 Miss Yancey through her counsel, as well as Mr. Clough,
18 had an opportunity to cross-examine the witnesses that
19 were presented on behalf of the City in support of the
20 revocation hearings.

21 And probably with one exception -- I think
22 Mr. Clough came in a little bit late to the hearing. I
23 think one -- the City's first witness, which was Ricky
24 Oropeza, he may not have had an opportunity to
25 cross-examine that witness, but he certainly had an

1 opportunity to cross-examine the remaining witnesses.

2 So in fairness, both parties had an
3 opportunity to cross-examine each of the witnesses that
4 were presented by the City, and there were a number of
5 them, and I'm not going to go and name all of them.

6 In addition to the information that was
7 presented, which included the calls for service for the
8 location, which estimated roughly about 250 calls for
9 service for that location over the period between
10 December -- actually, December 2013, which is to say
11 January 2014 and October of 2016, which is, you know, as
12 was testified to during the original hearing,
13 significant amount of calls regarding the noise
14 complaints, the nuisance activity, the loitering in and
15 around the rear parking area as it's depicted in the
16 video, which was also shown during the initial hearing,
17 as well.

18 And there are -- I guess there are
19 arguments that can be made in terms of how the video was
20 edited, how the video was presented, but what can't be
21 argued is that there were a number of different
22 residents who either testified or provided public
23 comment, that those comments and that testimony was
24 absolutely consistent with the activities that are
25 identified in the video.

1 And there's also been some argument made
2 not only during the hearing but also at this hearing, as
3 well, regarding the calls for service, that some of them
4 were made up, that some didn't happen, that somehow this
5 is a group of residents that are somehow attacking a
6 business owner.

7 But when it comes down to 250 calls for
8 service over a two-year period and for that to be fake
9 or made up or have nothing to do with the location is
10 unreasonable. I mean, it's not even unreasonable. It
11 doesn't really even make any sense.

12 And, well, Miss Yancey's response to some
13 of the calls and her response to what's depicted in the
14 video is also concerning in that she refuses to accept
15 responsibility for what her business establishment is
16 creating in a neighborhood.

17 And although the conditional use permit
18 isn't really an issue in this matter because that's
19 already been revoked as a result of the Planning
20 Commission's ruling, the items relating to what was
21 supporting that revocation are the same items that are
22 relating to the revocation of both of these business
23 licenses.

24 And the very reason that conditional use
25 permit and those conditions were in place is because of

1 the proximity of this business to the surrounding
2 neighborhood.

3 And so, obviously, the City was very
4 conscious about having that type of a business in that
5 location based on how it's zoned and how it relates to
6 the residents, and the only way that that business was
7 allowed to operate was with that conditional use permit
8 along with the conditions.

9 It's very interesting to me that
10 Miss Yancey in renting or entering a lease for this
11 location had no idea about what the conditional use
12 permit was about, what any of the conditions were for
13 that property, that it wasn't even discussed as part of
14 the lease negotiations other than she knew it was
15 required in order for her to run a business there.

16 And it's also very indicative of her
17 attitude or position in terms of the residents. She
18 didn't really care about what the CUP said because she
19 -- well, first of all, she didn't know exactly what it
20 said, but the only thing she cared about was the fact
21 that it would allow her to remain in business, and
22 that's just not -- that's not a good business position
23 to take when you're trying to run a business that is so
24 close to a neighborhood, and especially knowing the kind
25 of activities that surround any place that serves

1 alcohol, let alone play music along with alcohol or let
2 alone have events occasionally at the location, to not
3 worry about what's going on in the surrounding
4 neighborhood.

5 And based on that fact and her belief that
6 somehow the neighbors are out to get her, I'm not sure
7 why. Was never explained why the neighbors were out to
8 get her, but she was convinced that there were four,
9 five neighbors that wanted to take her, get her out of
10 business. I'm not exactly sure how that comes about
11 other than trying to make an excuse for what is going on
12 in the neighborhood as a result of her bar.

13 In any event, there is a substantial amount
14 of evidence that shows that Miss Yancey -- Miss Yancey's
15 business license or Enaid's Way, Incorporated, business
16 license should be revoked because of the nuisance
17 activity surrounding the location.

18 The fact that she had entertainment without
19 a permit, was cited for it twice -- well, she was
20 charged with it twice. She was cited once apparently,
21 but two criminal complaints were filed against her. One
22 was dismissed after she plead to the one she plead to.
23 And so, you know, clearly she's not abiding by the laws
24 pursuant to her business.

25 In the original hearing, there was also

1 evidence presented regarding noise complaints, noise
2 violations. There was also complaints regarding
3 building without a permit that was presented at the
4 original hearing.

5 All those things -- you know, you put all
6 those things together, and it more than satisfies having
7 her business license revoked. And even at the first
8 hearing, she was represented by counsel. She had an
9 opportunity to respond to those allegations. There were
10 several departments of the City that were brought to
11 testify.

12 She's now had a second opportunity to do
13 that today. She's had a second opportunity to present
14 what her defense is to those claims, which as best as I
15 can tell didn't happen or were made up.

16 As it relates to Mr. Mackey, the property
17 owner, at the original hearing, based on the testimony
18 of people from the Business License Department, as well
19 as Long Beach Police Department, that there were
20 discussions with Mr. Mackey.

21 And he wasn't present at the first hearing,
22 so the evidence was presented without any response, and
23 at that time it appeared that Mr. Mackey had some
24 culpability for what was going on at the location
25 because of the fact that he hired or he entered into the

1 lease with Miss Yancey for another bar when the previous
2 tenant was in violation of two of the same conditions of
3 the conditional use permit that resulted in the
4 revocation of the conditional use permit at the
5 November 3rd hearing and did not inform Miss Yancey of
6 what was going on with the previous establishment and
7 about the previous complaints.

8 We verified that there was complaints going
9 on with the Sandbar Lounge. Apparently, they were
10 trying to make or tried to run a rave -- rave, or I
11 guess it turned into some kind of nightclub at the -- at
12 710 West Willow, which created enormous complaints with
13 the residents who were complaining of parking and a
14 number of other things.

15 I don't know if that was translated to
16 Miss Yancey or not, but I would argue that it may have
17 been a time where Mackey should have kind of taken a
18 second look at who he's having to rent up that location.

19 At a minimum, it should have been disclosed
20 what the previous history was because after Miss Yancey
21 opened up the bar, the same complaints started to come
22 in, and, you know, Miss Yancey chose to do what she did.

23 According to Mr. Mackey, now that we heard
24 from him, he was being told one thing by Miss Yancey
25 after receiving contact from the City regarding the

1 complaints, the number of police calls for service, the
2 nuisance activity, the noise complaints, the complaints
3 regarding entertainment without a license or without a
4 permit, even the building permit issues that were cited
5 against Miss Yancey.

6 There was just a number of different things
7 where the City would argue that the property owner
8 should have taken action sooner, especially in light of
9 the situation which -- and, you know, it's the first
10 I've heard of the fact that Mr. Mackey had to evict the
11 prior tenant, the Sandbar Lounge.

12 But in that situation where that kind of
13 atmosphere is happening at that location, which, again,
14 abuts a residential neighborhood, so it's a very tricky
15 area to not only run a business but also to be a
16 landlord and oversee a tenant at that location, but
17 based on what was submitted in the original hearing and
18 what we heard today -- and I understand his condition,
19 and it may be that he didn't have an opportunity to
20 physically go down and address the issues personally,
21 and being a trusting individual, I don't have anything
22 to say.

23 I mean, he's doing the best that he can do,
24 but at least little bit more should have been done other
25 than to listen to Miss Yancey on a phone call and let

1 her tell him that everything's okay.

2 Doesn't seem -- there should have been a
3 little bit more effort taken to making sure that the
4 issues were taken care of aside from a phone call.

5 But in any event, people -- or the City
6 believes that the information relating to the Mackeys
7 would also support that the business license be revoked
8 as to him just because of the information that wasn't
9 provided to Miss Yancey and the lack of follow-up to
10 assure that all the issues were being taken care of.

11 And at least now that Mr. Mackey is here,
12 he has had an opportunity to present his evidence,
13 present his defense to the information that was
14 submitted at the original hearing and has had an
15 opportunity to make his arguments against the revocation
16 of his business license and that he's had a fair
17 opportunity to address the charges, as is required by
18 the law.

19 So I would submit on that.

20 HEARING OFFICER TERZIAN: Thank you.

21 Mr. Kaplan?

22 MR. KAPLAN: We would submit that the record is
23 insufficient to base a revocation of Miss Yancey's
24 business licenses.

25 First of all, with regard to notice, we've

1 raised the issue of procedural due process in the letter
2 of appeal. The notice -- and I won't reiterate all of
3 it, but the notice setting the matter for revocation
4 hearing in this record we've contended and still contend
5 is woefully deficient with regards to the requirements
6 of due process and not at all detailing the precise
7 legal basis for the action, nor the factual basis for
8 triggering a legal code requirement for revocation.

9 That notice itself doesn't say anything
10 except something about operating outside the bounds of
11 what was required. I'm looking for it right now, but
12 there is the staff report that is problematic at best,
13 and what the City's attempted to do is say, well, our
14 notice of revocation, while it doesn't say anything, it
15 meant to say something that's more detailed, but it
16 didn't.

17 But there's a staff report that exists that
18 details what all of the problems are. Problem about
19 that is that there is absolutely not a scintilla of
20 evidence in this record that that staff report was ever
21 served on, mailed to or received by Yancey.

22 As a matter of fact, it's highly
23 problematic. The testimony of Heidi -- is it Edelson?
24 Eidson? -- is that she believes that she mailed that
25 staff report on October 26th, 2016, but the face of the

1 staff report indicates that it didn't even exist on that
2 date because it wasn't dated until November 3rd.

3 So there is no sufficient notice of these
4 proceedings that constitutes due process.

5 As far as the evidence itself is concerned,
6 the City's bases for revocation, it's essentially a
7 nuisance argument, and the City is basically saying that
8 under Long Beach Code Section 5.06.020, there is a legal
9 basis to revoke based on nuisance.

10 And the Code cites the other Long Beach
11 code defining nuisance, which is 21.15.1870, and that
12 requires that there be evidence of and a finding that
13 there are activities that interfere with the use or
14 enjoyment of property, endanger personal health or
15 safety, offensive to the senses and that annoy or
16 disturb a substantial number of people.

17 There is no evidence in this record to
18 support that. All of the witnesses that we've produced
19 specifically said and negated all of those elements of
20 nuisance, that it was interfering with them.

21 There's no evidence in this record of a
22 substantial number of people. We don't know how many,
23 if any, members of the community allegedly were
24 disturbed by anything that allegedly went on at Miko's.
25 So it does not meet the City's own code definition.

1 With regard to the police calls, that is
2 problematic also. It is inflammatory, of course, to say
3 that there is 150 or 200 or 250 calls. On the surface,
4 that gets our attention, but calls for service that
5 never result in a citation, criminal complaint, arrest
6 or verification or corroboration that the complaint
7 which engendered the call actually exists or actually
8 was found to occur are nothing but air. It's just
9 inflammatory fluff unless something came of it.

10 Also, there is an evidentiary problem.
11 There's a decision of the federal court in BSA versus
12 King County. It's a 1986 decision, 804 Fed 2nd 1104.
13 That is cited in our appeal letter, which is at
14 Exhibit 2 of the binder, page six, and that decision of
15 the federal court says in a license revocation context,
16 look, to the City, you're saying that the basis to
17 revoke a license is their excessive or high number of
18 police calls, but that's a comparative concept.

19 So City, you have to tell us what is the
20 average number of police calls for that particular year
21 citywide for like establishments versus the precise
22 number of police calls for this establishment you're
23 trying to revoke, and unless you have that comparative
24 data, we don't know what the term "excessive" means or
25 "high volume" or "large number." Those mean that it's a

1 number compared to another number that makes it high.

2 And in this case, we have exactly the same defect.

3 I asked the question of one of the City's
4 witnesses today what are the number of police calls
5 citywide at any of these years for a like establishment.
6 Unknown.

7 So the basis to say that it's a nuisance
8 doesn't meet the legal requirements based on the
9 testimony of the witnesses, and the police calls don't
10 meet the federal standard of that holding saying that
11 it's a comparative number because we have nothing to
12 compare it to.

13 With regard to the CUP, that becomes
14 problematic as to Yancey, as well. Mr. Mackey admitted
15 in his testimony that he never spoke with Yancey about
16 the CUP. There's no evidence in the record that the CUP
17 was ever served on, mailed to or noticed to Yancey.
18 She's not a participant in it. She doesn't hold it.

19 As we know, a CUP is a land use document
20 that runs with the land, belongs to the owner of the
21 land. That's Mackey. That's not her.

22 There's no requirement in her business
23 license after the temporary one that she have security
24 or that she get these five parking spaces. That's a
25 requirement imposed on Mackey. Although she has put

1 security in place and she does have the five spaces
2 agreed to verbally, there is some quarrel with her
3 compliance because she did not record a parking
4 agreement as a document recorded against title.

5 But she doesn't have title. She can't
6 record a document validly against someone else's title.
7 That's up to Mackey to do, and that wasn't done by
8 Mackey.

9 That should not rebound to the detriment of
10 Yancey in these proceedings, and she shouldn't be held
11 to the standard of compliance with a City requirement
12 that she didn't ask for, that wasn't issued as to her
13 and that doesn't exist as to her even as we talk about
14 this today.

15 There are a number of establishments in the
16 area that are more probably liable for any community
17 misconduct. And by way of example only, there has been
18 some discussion of alcohol containers, glass bottles,
19 accumulating in the area, some alcohol debris that is
20 objectionable.

21 Well, Miko's does not sell alcohol in
22 bottles for transport off the premises. So if there are
23 alcohol bottles in the area, they must come from
24 somewhere else. Where would that be?

25 Well, it would be Eddie's Liquor, which is

1 a liquor store proximate to that that does sell alcohol
2 in bottles.

3 There are three other bars in close
4 proximity, Til-2, P.B.S. and Tailgate, which have some
5 problematic patronage.

6 My point is that if there is community
7 misconduct, the origin is most likely other than Miko's,
8 but Miko's is being tarred with that misconduct for
9 reasons that are somewhat inscrutable, unknown or
10 perhaps somewhat malicious.

11 I want to close with this. It's
12 interesting, I think, maybe substantially compelling,
13 that in all the years that I've done these cases -- and
14 it's a long time and a lot of cases -- very rarely, if
15 ever, have I ever heard testimony that the owner of an
16 establishment that is claimed to be problematic lives in
17 the community.

18 Usually they're, you know, absentee owners.
19 They live somewhere else, and they're not around very
20 much, and sometimes that leads to mischief.

21 But here what you have is Miss Yancey lives
22 in the very community she operates her business in, so
23 she is obviously concerned about what happens in her own
24 community. She's not an absentee owner, and she has
25 made every effort to operate her premises consistent

1 with the legal requirements, and we submit that there's
2 not anything in this record of substance upon which one
3 could base a conclusion that she's failed in those
4 responsibilities.

5 HEARING OFFICER TERZIAN: Mr. Clough?

6 MR. CLOUGH: Thank you.

7 As I indicated at the beginning,
8 Mr. Mackey's position in this matter is totally separate
9 and is nothing to do with what the complaints were, and
10 I'll explain that as I go about what's going on.

11 I'd like to comment, first of all, about a
12 City Attorney comment that was made, and that is that
13 the City was concerned about running, quote, that
14 business.

15 It's not the issue here. My client is
16 asking that his business license to lease property for
17 purposes other than running a bar should not have been
18 revoked. That's all he wants.

19 He has no -- he has no desire to run a bar.
20 He's too old, he's too infirm to basically take on the
21 responsibilities that are talked about with the CUP. We
22 are not involving the CUP. This is a business license
23 to rent the property, and that's it.

24 Now, the question is whether or not there
25 was sufficient evidence presented in the evidence that

1 was submitted earlier at the earlier hearing or today to
2 revoke his business license to lease property, and the
3 answer is I do not believe that is so.

4 The first of the three things that I have
5 heard is that he was on notice of problems and he didn't
6 do anything to resolve them.

7 Well, the testimony is quite to the
8 contrary. The testimony of Mr. Mackey, the testimony of
9 Ms. Yancey is that they were told about a problem on two
10 occasions in writing at two meetings, and after both of
11 those instances Mr. Mackey took affirmative action. He
12 made multiple telephone calls. He was assured on all of
13 those telephone calls that things were being rectified,
14 and he didn't really have any contact of any
15 significance on any major issue between 2014 and March
16 of 2016.

17 Then in 2016 he begins to have some notice
18 from the City, and at that point in time again he
19 contacts. He makes sure that things are being done
20 correctly. His son goes down and checks. He's assured
21 that everything is fine.

22 It's not until basically the end of the
23 line, if you will, shortly before the revocation
24 hearings are noticed that Mr. Mackey understands that,
25 you know, there's some things going on here that

1 shouldn't have gone on. He didn't know about them, so
2 he shouldn't have had that problem.

3 The second thing that is being said about
4 Mr. Mackey is that his business license should be
5 revoked because he didn't talk about the CUP to
6 Miss Yancey when she leased the property.

7 First of all, let's talk about this for
8 what it is. It's a red herring. It means nothing
9 because the only CUP violations that are being talked
10 about here are the security guard and the parking, and
11 in both instances he was assured that the security
12 guards were being hired -- and, in fact, they were
13 hired. One of them testified here today -- and
14 secondly, about the parking.

15 The initial parking was right next-door.
16 He owned the adjacent building. After that building was
17 sold, he was assured that basically there was parking
18 across the street at another business.

19 So why should he have his business license
20 to rent a building being taken because he didn't discuss
21 it with the tenant to begin with? Those are the only
22 two violations under the CUP that are talked about of
23 any significance.

24 The third one, obviously, is the question
25 of him not recording. The recording of the CUP

1 requirements and the things that we've talked about
2 today go to the CUP. They don't go to the business
3 license. They don't go to whether he would make a
4 reputable community member that could rent out a
5 building.

6 Is it basically now such that if we happen
7 to lease to someone that causes a problem in the
8 community and we believe that we're taking care of a
9 problem and because that person does something wrong
10 that we are suddenly not doing enough in hindsight?
11 That's what they're saying. In hindsight, well, he
12 should have done this and he should have done that.

13 But, you know, everything that they have
14 testified to here today he took action on. He didn't
15 just sit there. He wrote a letter. That letter is in
16 evidence. They demanded six things be done. He was
17 assured that those things were done.

18 When time passed and he receives more than
19 a year later another written notice, again he makes
20 multiple calls. He's assured again that there's not a
21 problem.

22 What the City Attorney would like you to
23 believe, that because we received a notice of hearing in
24 I think we're talking about October 26th of 2016, right
25 near the hearing, that suddenly we've received notice of

1 everything that occurred beforehand and that there was
2 nothing that had not been taken -- there was still
3 problems existed. That's not the case.

4 You know, poor Mr. Mackey basically had had
5 a surgery on July 29th, 2016. He could do virtually
6 nothing during that period of time.

7 The City Attorney talked about my reviewing
8 of the paper work. Yeah, I got the paper work on a
9 Friday before -- a couple of days before the hearing.

10 There's nothing that I could have found out
11 from that information in there, nor is there anything
12 that I could have repaired in hindsight.

13 The reality was we did everything that we
14 could, and now we're doing the only thing we can do,
15 which is present an eviction procedure, which is exactly
16 what a good landlord would do, and he's done it.

17 Now, the third or the last thing that they
18 talked about was -- and I find this bootstrapping at
19 best, which is the argument that Mr. Mackey should have
20 told the tenant about what happened with the previous
21 bar.

22 Initially, let's begin by realizing this
23 bar was run for 30 to 40 years without a problem. They
24 had one bar that had a problem with the CUP and exactly
25 the same thing that we're talking about in this case,

1 it's true, but it is not an issue which was not
2 discussed with the tenant. That's not true.

3 The evidence is overwhelming. She knew
4 about the parking, and she knew about the security
5 guards, and both of those things were things that he was
6 assured were taken care of.

7 So as I look through it, basically what
8 we're talking about is two written notices -- both
9 notices were almost two years apart. I mean, the
10 notices were about two years apart -- and two meetings.

11 He attended the meeting with the police.
12 If someone is not going to be doing something about his
13 property, is he going to go downtown and talk with the
14 police at a place that's 40, 60 miles away from his
15 home? No. He comes here.

16 So are we going to penalize him because he
17 lives in Chatsworth and not Long Beach? Are we going to
18 penalize him on a business license? Not a CUP. That's
19 not what we're talking about.

20 And with that I'll rest. I don't believe
21 that there's any evidence to support any revocation of
22 this gentleman's license.

23 Thank you.

24 HEARING OFFICER TERZIAN: Thank you.

25 Mr. Sanchez, do you have any rebuttal you

1 want to raise?

2 MR. SANCHEZ: Just briefly.

3 I know Mr. Kaplan cited a federal case
4 relating to police calls for service and submitting
5 information in support thereof regarding information
6 relating to the surrounding businesses.

7 The calls for service are -- and again, it
8 was indicated by the police officers that testified at
9 the original hearing -- are just one piece of a number
10 of different pieces of evidence that are taken together
11 to evaluate the location.

12 I thought I'd read the citation that
13 Mr. Kaplan had referred to, but -- it may not be, but it
14 seems as though that was the primary piece of evidence
15 that was submitted against whatever appealing party it
16 was in that case.

17 But the calls for service are not the sole
18 piece of information that is supporting this revocation.
19 It's a whole laundry list of different things.

20 And if you look at the public comments
21 along with the testimony from each of the residents that
22 testified at the original hearing -- and there's plenty
23 of evidence and information showing what the effect --
24 the activities at the bar had a substantial amount on
25 the neighboring community.

1 In fact, a number of them that were coming
2 in to testify at the original hearing were, you know,
3 trying to be more brief than usual because it was
4 reiterating the same thing over and over about what the
5 effects were, what the nuisance activity was, what the
6 noise was, what the effect was on their peace and
7 livelihood, essentially which is what a nuisance is,
8 affects a substantial amount of the neighboring
9 community and their health, safety and welfare.

10 And a number of the residents testified of
11 the safety issues they were having. Especially after
12 the shooting that occurred back in December of 2015, a
13 number of them talked about not feeling safe in their
14 own home.

15 And a number of them testified to the fact
16 that the activity at the bar was increasing and it was
17 very concerning because the level of activity was
18 increasing along with it, along with the significant, I
19 guess, criminal activity that was increasing as
20 evidenced by the shooting that occurred, as well as the
21 stabbing that occurred.

22 And it's just -- you know, I guess my point
23 is it's not any one thing, it's not any one piece of
24 evidence that is establishing why these revocations
25 should be granted. It's a whole host of different

1 violations that have affected this community, that have
2 affected these residents to the point that, you know,
3 the resident Mr. Ricky Oropeza, who lived adjacent to
4 the alley, sold his home.

5 And, I mean, if that isn't kind of -- it
6 kind of draws everything to a point, that fact alone,
7 that it got so bad that he had to sell his house.

8 And, you know, all these allegations about
9 making up or some kind of community -- I don't even know
10 what -- I guess criminal activity of the community is --
11 you know, if it gets to a situation where someone has to
12 sell their home because of what's happening directly
13 next-door to them, I think that's enough said right
14 there.

15 So with that I'll close. Thank you.

16 HEARING OFFICER TERZIAN: Thank you.

17 Thank you all for participating and
18 attending. The hearing is now closed at 4:55 p.m.

19 (Whereupon the proceedings were concluded
20 at 4:44 p.m.)

21 o-o-o

22

23

24

25

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF ORANGE)
4

5 I, MARY E. PIERCE, Certified Shorthand Reporter
6 No. 6143 in and for the State of California, do hereby
7 certify:

8 That I attended the foregoing hearing and that
9 all testimony, argument and comments made at the time of
10 the proceedings were recorded stenographically by me and
11 that the foregoing is a true record of the proceedings
12 and all comments made at the time thereof.

13 I hereby certify that I am not interested in the
14 event of the action.

15 IN WITNESS WHEREOF, I have subscribed my name
16 this 24th day of March, 2017.
17
18

19 _____
20 Certified Shorthand Reporter in and
21 for the State of California
22
23
24
25

ATTACHMENT D

**Miko's Sports Lounge Letter of Appeal, November
10, 2016**

November 10, 2016

Office of the Long Beach City Clerk
333 West Ocean Blvd.
Long Beach, CA 90802

Re: Written Request to Appeal and Written Appeal of Business License Revocation (notice thereof dated November 4, 2016) as to Enaid's Way, Inc., dba: Miko's Sports Lounge, 710 West Willow Street, Long Beach, CA 90806 (Damitresse Yancey); Business License Nos. BU21338610, BU21338620 and BU21338630

To Whom It May Concern:

Please take notice that "Appellant", Enaid's Way, Inc., dba: Miko's Sports Lounge doing business at 710 West Willow Street, Long Beach, CA 90806 (Damitresse Yancey), through counsel, the undersigned, does hereby make a written request for and files a written appeal as to the above referenced revocation of the above referenced business licenses. This written request for appeal and Notice of Appeal is timely made pursuant to Long Beach Municipal Code §3.80.429.5.

The "specific grounds" on which this Appeal is based are as follows:

1. THE LONG BEACH MUNICIPAL CODE SCHEME REGARDING ADMINISTRATIVE HEARINGS SUCH AS BUSINESS LICENSE REVOCATION HEARINGS (LONG BEACH MUNICIPAL CODE §§2.93.010 THROUGH 2.93.050; LONG BEACH MUNICIPAL CODE §3.80.429.1) IS UNCONSTITUTIONAL AND VOID ON ITS FACE AND AS APPLIED HEREIN UNDER THE DUE PROCESS CLAUSES OF THE UNITED STATES AND CALIFORNIA CONSTITUTIONS.

(A). DEFECTIVE NOTICE: The October 18, 2016, purported Notice to Appellant (Enaid's Way, Inc.) of a hearing to revoke its business licenses cannot pass

constitutional muster in that it utterly fails to provide any specificity of grounds for that revocation, fails to provide any specificity of charges or specific violations allegedly committed by Appellant as the bases for said revocation proceedings and thus fails to provide Appellant with the specificity of notice required by the Due Process provisions of the United States and California Constitutions. All that the Notice provides is the following vague and overbroad statement:

“At the Hearing, the City will provide evidence that your bar/tavern/lounge business, located at 710 West Willow Street, Long Beach, CA 90806 is operating outside the scope of the authorized business activities identified on your business license.”

The “scope of the authorized business activities” is not defined or specified nor is the precise manner in which Appellant’s business is allegedly “operating outside” of that scope which is not delineated.

A fundamental requirement of Due Process is an opportunity to be heard upon such notice and proceedings as are adequate to safeguard the right for which the constitutional protection is invoked. That right here is the right to earn a livelihood. As such, it is afforded maximum constitutional protection with regard to procedural Due Process. Anderson National Bank v. Lockett (1944) 321 U.S. 233, 64 S.Ct. 599, 606; Endler v. Schutzbank (1968) 68 Cal. 2d 162, 65 Cal.Rptr. 297. See also the California Constitution, Article I, §7.

It is by now axiomatic that the sin qua non of “Due Process” is “fundamental fairness” and that a party must be afforded a meaningful hearing at a meaningful time before the government deprives that party of their right to engage in a lawful livelihood. Endler v. Schutzbank, *supra*. Sailer Inn v. Kirby (1971) 5 Cal. 3d 1, 95 Cal. Rptr. 329. As the court held in Endler, *supra*, at 170:

“We note at the outset that the Fourteenth Amendment protects the pursuit of one’s profession from . . . arbitrary state action. We therefore begin with the settled proposition that the [government] cannot exclude a person from any occupation in a manner or for reasons that contravene the Due Process or Equal Protection clauses of the Fourteenth Amendment.

“Procedural Due Process requires notice, confrontation and a full hearing whenever action by the state significantly impairs an individual’s freedom to pursue a private occupation.”

Rosenblit v. Superior Court (1991) 231 Cal.App. 3d 1434, 282 C.R. 829 consigns the alleged notice and notice procedures herein to constitutional demise. In that case, the Court of Appeal held that a vague notice of intended suspension of hospital privileges to plaintiff doctor constituted inadequate notice under the Due Process provisions of the California Constitution and rendered all proceedings thereafter constitutionally void. The notice of suspension/revocation in that case stated that the hospital privileges were to be

suspended/revoked “due to poor clinical judgment and because there were problems with management in some cases”. Supra, at 1438 – 1439.

With startling applicability to the instant matter, the court ruled as follows:

“Notice of the charges sufficient to provide a reasonable opportunity to respond is basic to the constitutional right to Due Process and the common law right to a fair procedure.”

The court held that such a vague notice without any indication as to the doctor’s specific purported deficiencies contravened the guarantees of Due Process of Law and vitiated all of the proceedings occurring thereafter.

The October 18, 2016, letter is identically constitutionally infirm.

(B). UNCONSTITUTIONALLY UNKNOWN BURDEN OF AND SHIFT IN BURDEN OF PROOF:

The quantum proof required at the Hearing was and is unknown. No notice thereof exists. No code provision provides such.

The October 18, 2016, purported Notice of Hearing provides, in the second full paragraph thereof that the burden of proof is shifted to Appellant “to show cause why the referenced City of Long Beach business licenses should not be revoked”.

However, Long Beach Municipal Code §2.93.010, et. seq. and §3.80.429 do not so provide.

It is rudimentary that the Due Process clause mandates that the burden of proof in administrative proceedings to revoke a vested license is on the accuser (the City of Long Beach). The Due Process clause does not in any manner whatsoever countenance shifting the burden of proof to the accused to initially demonstrate why some vague and unexplained charge of misconduct should not be sustained. Rosenblit v. Superior Court, supra at 1449. See also Kash Enterprises v. Los Angeles (1977) 19 Cal. 3d 294, 138 Cal.Rptr. 53 wherein the court held that where the city moved to terminate a valid business, it was unconstitutional to impose upon that business owner the burden of proving that action was erroneous.

In Menefee Exxon v. Department of Food & Agriculture (1988) 199 Cal.App. 3d 774, 245 Cal.Rptr. 166, the court held that “It is essential that the . . . [accusing administrative body] . . . be required to bear the burden of proof on all issues and the statute must so provide” in order to not run afoul of the guarantees of Due Process of Law.

In the instant matter, the Long Beach Municipal Code does not so expressly provide and, most glaringly, the October 18, 2016, Notice of Hearing places the burden of proof squarely upon Appellant rather than upon the City as is constitutionally required.

That "notice" is contrary to constitutional law and the Long Beach Municipal Code and voids the entire process.

As the court held in Parker v. City of Fountain Valley (1981) 127 Cal.App. 3d 99, 113:

"It is axiomatic in disciplinary administrative proceedings that the burden of proving the charges rests upon the party making the charges."

Finally, as the court held in Ohio Bell Telephone Company v. Public Utility Commission of Ohio (1937) 301 U.S. 292, 304:

"It is necessary that the inexorable safeguard of a fair and open hearing be maintained in its integrity . . . the right to such a hearing is one of the single 'rudiments of fair play' assured to every litigant by the Fourteenth Amendment as a minimal requirement."

It is fundamentally unfair to have no provision or notice of the quantum of proof required and to shift the burden of that unknown quantum to Appellant.

(C). DENIAL OF DISCOVERY:

As the court held in Rosenblit, supra, at 1447, once again, with undeniable applicability to the instant matter:

"Fair procedure would require disclosure of evidence forming the basis of the charges. It would also require that any evidence . . . be made available to the petitioner."

Notwithstanding written and verbal demands for such, the City's failure to reasonably and timely provide discovery, i.e., disclosure of each and every item of evidence it intended to produce at the license revocation hearing to Appellant at a reasonable time prior to that hearing denies fundamental Due Process of Law.

Additionally, the failure of the City to grant Appellant's requested postponement of the November 3, 2016 revocation hearing premised upon Appellant having been denied a reasonable opportunity to prepare a defense and rebut the allegations against it due to the failure of the City to timely and reasonably provide that discovery substantially compounds the severity of the constitutional violations set forth above.

(D) INSUFFICIENCY OF THE EVIDENCE:

It is respectfully submitted that there is no substantial evidence (if that is indeed the standard?) to support the revocation decision appealed herein. Substantial evidence is evidence of ponderable legal significance, reasonable in nature, creditable and of solid value. Pennel v. Pond Union School District (1973) 29 Cal.App.3d 82, 837, footnote 2, 106 Cal.Rptr. 817. The reviewer must then examine not just the evidence in support of the administrative decision, if any, but, rather, all of the evidence in the record. Levesque v. Workman's Compensation Appeals Board (1970) 1 Cal.3d 627, 638, footnote 22, 83 Cal.Rptr. 208. Finally, see Apte v. Regents of the University of California (1988) 198 Cal.App.3d 1084, 244 Cal.Rptr. 312, wherein the court declared that the substantial evidence test requires the reviewer to consider all relevant evidence in the administrative record, including evidence that fairly detracts from the evidence supporting the agency's decision, and that this consideration necessarily involves some weighing of the evidence to fairly estimate its worth.

It is also submitted that the absence of any Findings of Fact, Conclusions of Law or statement of precise bases for the revocation herein in the November 4, 2016, Notice thereof is constitutionally and statutorily fatal. California Code of Civil Procedure §1094.6.

For over forty years, controlling authority has established that there must be a demonstrable "nexus" between disruptions in a community in the vicinity of a licensed business and that business operation in order for local government to revoke a vested right of land use and/or business operation. In other words, there must be a "nexus" between proven patron or licensee misconduct and a licensee breach of duty in order to impose liability on a licensee.

In Sunset Amusement Company v. Board of Police Commissions (1972) 7 Cal. 3d 64, 101 Cal.Rptr. 768, the court declined to impose liability upon a licensee for disturbances beyond the reasonable control of management. See also Tarbox v. Board of Supervisors (1958) 163 Cal.App. 2d 373, 329 P.2d 553.

The majority decision in Sunset Amusement, supra, did not precisely reach the question of to what extent a licensee remains accountable for off premises disturbances beyond his reasonable control because the evidence in that case clearly demonstrated that the neighborhood disturbances were indeed proximately caused by petitioner's method of operation and were within petitioner's reasonable control. However, Justice Mosk did address the instant case issue in his concurring and dissenting opinion in which he stated as follows:

"Absent a direct and causal relationship between the nature of activities taking place inside . . . [the business] . . . and those occurring outside, and absent a showing that petitioner's encouraged or acquiesced in the disorderly conduct off the premises, licensee responsibility should not

attach. "The general rule as enunciated by this court in Flores v. Los Angeles Turf Club, 55 Cal. 2d 736 . . . and . . . in Tarbox v. Board of Supervisors, 163 Cal.App. 2d 373 . . . remains sound: 'a licensee is responsible for governing only patrons' activities which are reasonably within the scope of the licensee control.'"

Thus the lesson of Sunset Amusement is quite clear. Only where there is no reasonable effort made by licensee to control patrons' conduct, where patron misconduct is the proximate result of that very failure of any effort and where there has been an independent act or omission of a duty to act which proximately caused that misconduct, can there be the imposition of any liability upon the licensee.

The evidence herein thus utterly fails to support the revocation. There has been no demonstrable evidence of any Appellant misconduct in the premises, there have been reasonable efforts by Appellant to control patrons on the premises, no off-premises patron misconduct was proximately caused by Appellant's encouragement or breach of any legal duty.

To hold Appellant liable for the alleged misconduct of persons which it cannot foresee and cannot prevent presents a classic dilemma which is legally impossible and logically untenable.

Further, any alleged community disruptions were too ancient to constitute relevant evidence.

Additionally, there was an allegation at the hearing that were "numerous" police calls for service or man hours devoted to Appellant's premises.

The Council's attention is respectfully directed to B.S.A., Inc. v. King County (1986) 804 F.2d 1104, wherein the court addressed the very deficiency in this evidentiary context. In the B.S.A. matter, the Sheriff's Department sought to present statistics regarding the "number of police calls to a particular location" as evidence that it was a problem location. The court quickly dispatched this statistical presentation as essentially meaningless in not providing comparative statistics with regard to police calls or occurrences at other, comparable licensed locations within the same city and within the same time period. The record herein is likewise fatally flawed.

Additionally, the precise outcome of any such call for service is unknown. What is known, however, is that neither Appellant nor any of its employees was convicted of a crime as a result of any of those calls.

How many resulted in a determination that nothing at all was amiss is unknown.

With regard to compliance with conditions imposed on the operation, Appellant has made every reasonable effort to, and in fact has, substantially complied with those reasonable conditions.

Appellant reserves the right to further challenge the sufficiency of other particular areas of so-called "evidence" presented below at the appellate hearing herein. Appellant thus reserves, preserves and does not waive any further argument regarding same.

2. REQUESTS REGARDING HEARING DATE:

Pursuant to Long Beach Municipal Code §3.80.429.5, Appellant respectfully requests that the hearing on this appeal be set at a time "agreed upon" later than thirty days from the City's receipt of this letter of appeal. Because of the holidays, legal counsel's prepaid and prearranged travel plans out of the State of California in late November through December and a very heavy trial calendar, it is requested that the Appeal Hearing herein be scheduled on or after January 9, 2017.

Dated: _____

RESPECTFULLY SUBMITTED,

JOSHUA KAPLAN, Attorney for Appellant

Dated: _____

ENAIID'S WAY, INC.

By: DAMITRESSE YANCY

November 10, 2016

Office of the Long Beach City Clerk
333 West Ocean Blvd.
Long Beach, CA 90802

Re: Written Request for Discovery re Business License Revocation
(Notice thereof dated November 4, 2016) as to Enaid's Way, Inc., dba:
Miko's Sports Lounge, 710 West Willow Street, Long Beach, CA 90806
(Darnitresse Yancey); Business License Nos. BU21338610, BU21338620
and BU21338630

To Whom It May Concern:

YOU, AND EACH OF YOU, are hereby required, pursuant to the Due Process clauses of the United States and California constitutions and pursuant to California Government Code Section 6250, et seq. (California Public Records Act) to furnish Licensee (Appellant), through its legal counsel as designated herein, with the following:

1. Names and addresses of all witnesses, including those intended to be called to testify by the Accuser, and those known to be intending to testify at the hearing in the above-entitled matter.
2. To supply to Appellant and its counsel with copies of any of the following documents under your possession and control:
 - a. Statements of any person, named in any Accusation against Appellant, when the act or omission of Appellant as to such person is the basis for this Administrative proceeding;
 - b. Any statement pertaining to the subject matter of any Accusation herein against Appellant;
 - c. Statements of all witnesses proposed to be called and statements of any other persons having knowledge of the acts, omissions or events which are the basis of this proceeding;
 - d. All writings and any reports which the Accuser proposes to offer in

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November 10, 2016
Page 2

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November 10, 2016
Page 7

With regard to compliance with conditions imposed on the operation, Appellant has made every reasonable effort to, and in fact has, substantially complied with those reasonable conditions.

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Dated:

11/10/16

RESPECTFULLY SUBMITTED.


JOSHUA KAPLAN, Attorney for Appellant

Dated:

11.10.16

ENALD'S WAY, INC.


By: DAMITRESS YANCEY

ATTACHMENT E

**Property Owner's Mackey Letter of Appeal,
November 11, 2016**

November 11, 2016

Long Beach City Clerk
333 West Ocean Blvd
Long Beach, CA 90802

NOTICE OF APPEAL OF LICENSE REVOCATION

Re: Business license: Account number: BU90057720
Type: Commercial/Industrial Space Rental
Owner: Mark and Ronald & Colleen Mackey
Location: 710 W. Willow St., Long Beach, CA

Written Appeal Request and Written Appeal of Business License revocation,
notice given on November 4, 2016, as to Commercial/Industrial Business
rental license number BU90057720 for 710 W. Willow Street, Long Beach
CA.

To Whom it May Concern:

The specific grounds upon which the appeal is based are as follows:

1. Insufficiency of the Evidence as to the owner having done anything improper such that his building rental license should be revoked.

Other than ownership there is no connection between any activity on the part of the owner of the building, which he rents and any disruption from the patron of the tenant.

In response to every single complaint brought to the attention of the owner prior to the hearing, the owner took action, including written and oral notices from him to the tenant that specified action had to be taken by the tenant, holding meetings with neighbors, attending meetings with governmental agencies and passing along warnings of the meetings to the tenant.

There was never a timely notice of a reason for revocation of the business rental license of the owner,.

2. There are no standards set forth in any regulations, statute or governmental entity notice such that a person who simply owns a building for rent is aware he or she is at risk of losing the business license if he or she does not comply with recognizable and addressable standards he has notice of.

There is a violation of due process

There were no specific findings of fact or, conclusions of Law or statements of any specified basis for revocation of the **owner's business rental license involved with the building.**

In every instance of a complaint about the tenant, the owner took action, much of which was included within the evidence submitted to the hearing officers. All of the evidence involved complaints the tenant did not control the patrons. There was no evidence the owner failed to act in a manner an owner should act as a landlord.. All significant complaints against the tenant were stale complaints which, when the owner was actually notified of, were addressed directly with the tenant (reflected in writing from the owner to the tenant The letter was introduced for the council's consideration.). The owner discussed the issues with the Governmental agency (as reflected in the hearsay chronology provided by the City Attorney at the hearing) The owner discussed issues with two of the neighbors and took the complaints to the tenant.

There was never a notice prior to the notice of hearing the owner was at risk of losing his business license until fifteen days before the hearing and at that point not only was it vague but it was too late for the owner to do anything. In fact, the exact opposite.

In terms of losing his building rental license, the owner was specifically told "don't worry your license is not in danger. No one is going to take your license. (pph)

The owner is recovering from serious surgery. The best he could do with this type of notice is hire an attorney and send him to the hearing at the last minute.

3. There is a violation of equal protection involved in this matter under the existing facts.

A similarly situation bar within a short walking distance whose patron are exactly the same as the patrons of the lessee of the building in question is not the subject of the same scrutiny.

It was extremely interesting to hear the words at the hearing to the effect the subject tavern license which had existed for an estimated 30 years was suddenly characterized as a inappropriate today as opposed to when it was issued when a second bar is within a short walking distance.

4. Long Beach Municipal Codes §§ 2.93.010 through 2.93.050 and § 3.80.429 are constitutionally defective, violate due process, and are thus facially void and as applied.

A. The notice of hearing dated October 18, 2016 , is a one page letter wherein it is indicated there is to be a hearing scheduled for November 3, 2016, fifteen day from mailing of the notice and thirteen days actual notice from mailing. It is constitutionally defective in a number of respects,

- (i) The notice fails to specify anything whatsoever as a basis for revocation except that commercial building space rental license number BU90057720 is somehow operating outside of the scope of the authorized business activity permitted by the license.

The owner has a license to rent his commercial building. He has done nothing outside the scope of his business license.

There is no notice of a basis to take that business license. In terms of his duties as an owner he did everything he was supposed to do short of evicting the tenant. He did not evict the tenant because the tenant had, to his understanding, resolved the issues after he, the owner had written and demanded that certain conditions be complied with on multiple occasions.

One may not be deprived of a property right without due process of law. (U.S. Const., Amend. XIV; see Cal. Const., art. I, § 7, subd. (a).)

It is firmly established that the right of every person to engage in a legitimate employment, business or vocation is an individual freedom secured by the due process provision of the federal and state Constitutions. Brecheen v. Riley 187 Cal. 121, 124-125; Bautista v. Jones, 25 Cal.2d 746, 749; Doyle v. Board of Barber Examiners, 219 Cal.App.2d 504, 509

It is an elemental and fundamental principle of law that the right to engage in a business or occupation cannot be taken away except by due process of law Trans-Oceanic Oil Corp. v. City of Santa Barbara, 85 Cal.App.2d 776, 795-797. Where the revocation proceedings are quasi-judicial in nature, due process of law requires an opportunity to be heard upon such notice and proceedings are adequate to safeguard the right for which the constitutional protection is invoked. Anderson Nat. Bank v. Lueckett, 321 U.S. 233, 246 [88 L.Ed. 692, 64 S.Ct. 599, 151 A.L.R. 824]

- B. The burden of proof set forth in the notice of October 18, 2016 was the owner had to rebut evidence produced by the City; yet no evidence was submitted by the city as to being outside the business license to rent a commercial building. As applied it was constitutionally defective to bootstrap the complaint of the alcohol related issues to the commercial rental issues without any competent evidence being presented as to the commercial business rental license being conducted outside the scope of the license.

In a disciplinary hearing setting the burden of proof the owner of the building has no burden absent evidence being presented that he did something outside the scope of his license.

To establish a procedure where the owner has to meet a burden of proof on issues that he is only tangentially involved in and has only very little knowledge of is contrary to constitutional limits on the power of a municipality.

A licensee is not required to guess at what he is supposed to do. That is exactly what has taken place here. The owner. Wrote cautionary letters, met with the authorities, warned the tenant she must obey the law and discussed the situation with neighbors and warned the tenant again. The owner who only rents buildings has not done anything outside the scope of his license.

- C. The evidence submitted by the people was not provided to the owner prior to the hearing. There was a hearsay summary of events alleged to have been violations of the CUP submitted at the hearing and prior to the hearing a small notebook was provided, however, all the papers introduced at the commencement of the hearing were not given to the appellant.

The failure to provide evidence against the owner to the owner prior to the hearing is fundamentally unfair and prevented the owner from presenting an intelligent and full defense.

That failure does not stand alone. To summarize the evidence that was presented, the persons the owner talked with about complaints prior to the hearing, advised the owner he did not have to worry about losing his license. Thereafter, at a hearing, the City Attorney presented a hearsay list of events (which appellant argues was an improper evidentiary presentation, not being reasonably reliable), did not give the evidence against the owner to the owner prior to the hearing with a small exception and then took oral complaints from the neighbors

CONCLUSION

Appellant reserves the right to present further challenges to the sufficiency of the notice and evidence introduced at the hearing of this matter.


In terms of the hearing date, appellant is willing to present his appeal as requested by the other parties to the appeal and the City Council. .

Dated: November 14, 2016

Respectfully Submitted,


Larry Haakon Clough, Attorney for
Appellant, Mark, Ronald Mackey and Peggy
Mackey

Dated: November 14, 2016


Ronald Mackey for Mark Mackey and
Peggy Mackey