

In The Matter Of:
City of Madison
Alcohol License Review Committee Non-Renewal Hearing

Transcript of Proceedings
June 13, 2018

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CITY OF MADISON
Alcohol License Review Committee Non-Renewal Hearing

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Transcript of Proceedings

Madison, Wisconsin
June 13, 2018

Reporter: Jessica Bolanos

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ALCOHOL LICENSE REVIEW COMMITTEE

NON-RENEWAL HEARING, taken before Jessica Bolanos, a notary public in and for the State of Wisconsin, at the City-County Building, 210 Martin Luther King, Junior, Boulevard, City of Madison, County of Dane, and State of Wisconsin, on the 13th day of June, 2018, commencing at 5:36 in the evening.

A P P E A R A N C E S

ALRC Committee Members:

Michael Verveer
Paul Skidmore
Kathryn Hill
Patrick Grady
Tom Landgraf
Stefan Fletcher

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APPEARANCES CONT'D

DAVID F. GRAMS, Attorney
DAVID F. GRAMS AND ASSOCIATES, S.C.
1651 John Q Hammons Drive #201, Middleton,
Wisconsin 53562, appearing on behalf of Laura
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dfgrams@dfgrams.com 608-662-0440

Also Present: Deputy City Clerk Jim Verbick;
Bing Bing Li, interpreter;
Tim Wagner

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1 MR. LANDGRAF: Okay. I'd like to
2 call the special non-renewal hearing for
3 Wednesday, June 13th, to order. This meeting
4 is governed by Robert's Rules of Order, and
00:09:48 5 all speakers wishing to address the committee
6 regarding an agenda item should first have
7 completed a speaker form. So if you haven't
8 and you want to say something, make sure
9 you've got one of those filled out.

00:10:03 10 Our procedure is initially that we will
11 time you for three minutes on your responses
12 or presentation, and then if -- the timer
13 will go off, and if committee members want to
14 give you some opportunity to continue to
00:10:22 15 chat, then we'll pass a motion to do that.
16 So I'd ask you to kind of just hold up your
17 thoughts when the timer goes off, and then
18 we'll figure what the next steps are.

19 So with regard to that, I'd ask the
00:10:36 20 clerk if we've been notified of any absences.

21 THE DEPUTY CLERK: Yes. Alder
22 Shiva Bidar-Sielaff, Fernando Cano Ospina,
23 and Michael Donnelly.

24 MR. LANDGRAF: Okay. So with that
00:10:52 25 then, let's call the roll and make sure we

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1 are legally organized for today.

2 THE DEPUTY CLERK: Okay.

3 Bidar-Sielaff, Cano Ospina, and Donnelly are
4 notified absences.

00:11:00 5 Fletcher?

6 MR. FLETCHER: Here.

7 THE DEPUTY CLERK: Grady?

8 MR. GRADY: Here.

9 THE DEPUTY CLERK: Hill?

00:11:02 10 MS. HILL: Here.

11 THE DEPUTY CLERK: Landgraf?

12 MR. LANDGRAF: Present.

13 THE DEPUTY CLERK: Skidmore?

14 MR. SKIDMORE: Here.

00:11:04 15 THE DEPUTY CLERK: Verveer?

16 ALDER VERVEER: Here.

17 THE DEPUTY CLERK: We have a
18 quorum.

19 MR. LANDGRAF: Okay. So first item
00:11:10 20 on our agenda is general public comment.

21 This appears on all our agendas. It gives
22 members of the -- the public an opportunity
23 to come to the meeting and chat about any
24 subject with regard to liquor licensing.

00:11:25 25 Does not have to be specifically associated

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1 with an item on our agenda.

2 We do have one person registered for
3 public comment, and that is Tim Wagner. So,
4 Tim, if you'd like to have a seat.

00:11:44 5 MR. WAGNER: Good evening. Name's
6 Tim Wagner. I don't know if anybody's looked
7 at the license that's currently -- I'm
8 talking about the Olbrich Biergarten. I
9 don't know if anybody's looked at their
00:11:58 10 license that's currently listed on the
11 clerk's web page. It says "June 30th, 2019,"
12 and there's absolutely no changes on the
13 conditions on this at all.

14 What I'm here for tonight is this
00:12:09 15 (indicating). This walked out of there last
16 Thursday night. How many more have walked
17 out of that Biergarten since they opened a
18 year ago? Who knows? This is one of the
19 major concerns, was because of that rope
00:12:24 20 being their line or demarcation, how somebody
21 could actually hand this over to somebody who
22 is underage drinking into the park.

23 The person I received this from walked
24 out of there with two of them right through
00:12:38 25 the front door basically. Nobody questioned

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1 them. I know I've been here for quite a bit
2 coming up here and talking about this place,
3 but there's no reason for this. I understand
4 other bars have issues where people walk out
00:12:58 5 with cans of beer and glasses, but these are
6 not souvenirs. They're not supposed to leave
7 there.

8 I had a friend of mine -- another friend
9 of mine who was at the Biergarten last
00:13:12 10 Thursday night between 4:00 and 6:00 p.m.,
11 and at approximately 5:00 p.m., he witnessed
12 a group of women come in, sit at the
13 northwest corner of the Biergarten. Out of a
14 bag that the woman brought in, she brought
00:13:28 15 in -- pulled out a bottle of wine and four
16 wine glasses.

17 When my friend left, he wanted to
18 talk -- he talked to one of the employees
19 that was standing by the building and asked
00:13:42 20 him, "What kind of license do you have?" And
21 the employee said, "Why?" This friend of
22 mine worked in this kind of industry for over
23 30 years. He knows everything about
24 licenses. He then asked him, "Well do you
00:13:56 25 serve wine?" The employee said, "No. We

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1 just serve beer and the cider."

2 My friend said, "Well, there's a group
3 of women sitting at that table in that far
4 corner, and they have wine sitting on the
00:14:11 5 table. You might want to do something about
6 it." He asked that he not be recognized as a
7 person who turned them in.

8 I still believe there are issues with
9 the security over there, and I do not look
00:14:26 10 forward to July 4th again because that park
11 was a disaster, and I know there were some
12 issues at that Biergarten. I wish I had
13 pictures from that -- from what happened last
14 Thursday night, June 7th, but I don't. But
00:14:41 15 I'm sure it shows on their surveillance video
16 what exactly happened.

17 MR. LANDGRAF: Thank you. Any
18 questions?

19 MR. SKIDMORE: I've got a question.

00:14:56 20 MR. WAGNER: Yes, sir.

21 MR. SKIDMORE: Is that plastic?

22 MR. WAGNER: Yes, it is. It's
23 20 ounces.

24 MR. SKIDMORE: Thank you.

00:15:03 25 MR. WAGNER: Yep. I know it looks

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1 like glass, but it's not.

2 MR. LANDGRAF: Mr. Fletcher?

3 MR. FLETCHER: What was the
4 resolution of the -- the -- the wine kind of
00:15:10 5 matter?

6 THE WITNESS: I don't know, because
7 he left before they went and talked to the
8 people. That's all I know. He left.

9 MR. FLETCHER: And you're -- the --
00:15:20 10 the kind of getting -- the -- the glass -- or
11 the glass out of the area --

12 MR. WAGNER: This -- there's a main
13 entrance.

14 MR. FLETCHER: Yeah.

00:15:28 15 MR. WAGNER: And this was my
16 neighbor that went over there with his
17 brother and a friend of his, and he walked
18 right out the main entrance. He had this in
19 one hand and another in his other hand.

00:15:41 20 MR. FLETCHER: Was he deliberately
21 kind of testing the security --

22 THE WITNESS: No.

23 MR. FLETCHER: -- or was he just --

24 THE WITNESS: No.

00:15:48 25 MR. FLETCHER: He just walked out

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1 with it?

2 MR. WAGNER: He walked out.

3 MR. FLETCHER: Okay.

4 MR. WAGNER: And the other thing is
00:15:54 5 a lot of people think that those people that
6 work there are City employees also. I don't
7 know if that has anything to do with anything
8 but --

9 MR. FLETCHER: Thank you.

00:16:02 10 MR. WAGNER: You bet.

11 MR. LANDGRAF: Further questions of
12 Mr. Wagner? Okay. Thank you very much.

13 MR. WAGNER: Thank you very much.

14 MR. LANDGRAF: We appreciate your
00:16:13 15 input.

16 MR. SKIDMORE: Thank you.

17 MR. LANDGRAF: Okay. Okay. So we
18 have an interpreter here for Item Number 3,
19 and it's typically the committee's practice
00:16:28 20 to take any item with an interpreter first.
21 So that is Item Number 3. And --

22 MS. ZILAVY: Except I don't believe
23 Item 1 is going to take very much time, and I
24 think Item 3 will probably take a bit of
00:16:50 25 time.

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1 MR. LANDGRAF: Okay.

2 MS. ZILAVY: And also here on
3 Item 1 to answer questions, if necessary, is
4 Captain Snyder, and he actually took the day
00:17:04 5 off today. So -- but came for this. So I'd
6 like to get him --

7 MR. LANDGRAF: Okay.

8 MS. ZILAVY: -- going as soon as
9 possible.

00:17:13 10 MR. LANDGRAF: All right. Well,
11 those are compelling arguments. So we will
12 stick with the agenda and deal with Item 1
13 first. Assistant City Attorney Zilavy?

14 MS. ZILAVY: I think the committee
00:17:24 15 is aware that the City Attorney's office did
16 not have any intent to non-renew this
17 particular license, that I had separated it
18 out because of concerns about the volleyball
19 court, and the certified letters apparently
00:17:45 20 did not get delivered. The clerk's office
21 has not -- at least as of yesterday has not
22 gotten anything back in that regard either.

23 But the parties -- I -- I've talked to
24 Attorney Matt Fleming, who is representing
00:18:03 25 Dale Beck, and we are stipulating to the

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1 facts in the complaint. There is some --

2 THE DEPUTY CLERK: I'm just going
3 to conference you in.

4 MR. LANDGRAF: For the benefit of
00:18:23 5 those in the room, the deputy clerk is
6 connecting Mr. Beck by phone, who is not in
7 the state, but we'll be able to hear him on
8 the speakerphone and he'll be able to hear
9 us. So -- I'm sorry. Continue.

00:18:34 10 MS. ZILAVY: There's -- there's
11 some -- I don't know if I want to say
12 "disagreement" as to whether he had begun
13 serving alcohol yet on the volleyball courts,
14 but the primary issue was the volleyball
00:18:52 15 courts being constructed and put in with the
16 intent of serving alcohol on them before
17 coming to the ALRC.

18 I talked to Captain Snyder in terms of
19 whether there's any police issues with the
00:19:08 20 establishment, and there really are not. He
21 said that they do what the police department
22 wants them to do in terms of calling when
23 issues do arise. They've seen that they are
24 good with maintaining security at the
00:19:23 25 Club Voodoo in terms of checking IDs, and

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1 they have a security system that includes
2 wandering, I guess, and they do that. So the
3 police department did not have any separate
4 concerns. And I don't know whether the
00:19:42 5 committee has any interest in putting any
6 kinds of conditions on, but that's --

7 MR. LANDGRAF: Is -- is there a
8 recommendation from the City Attorney?

9 MS. ZILAVY: I -- I don't really
00:19:59 10 know what condition you would put on.

11 MR. LANDGRAF: But you have no
12 suggestion?

13 MS. ZILAVY: I don't.

14 MR. LANDGRAF: Okay.

00:20:10 15 MR. FLEMING: If I may -- sorry.
16 Just to add to that, currently, there is an
17 application pending to expand the premises to
18 that area. Until that happens, there is now
19 a sign there to be clear that nobody takes
00:20:25 20 alcohol out onto the volleyball area. That
21 sign wasn't in place before, but it is there
22 now, and the ownership has taken steps to be
23 sure that no alcohol is being taken out into
24 the volleyball court area unless and until
00:20:41 25 that expanded premise is -- is approved. And

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1 I think that is on for an -- I believe to be
2 considered next week.

3 MR. LANDGRAF: Just for the benefit
4 of everyone, could you introduce yourself.

00:20:53 5 MR. FLEMING: Yeah. I'm Attorney
6 Matthew Fleming from Murphy Desmond
7 representing Dale Beck.

8 MR. LANDGRAF: And on the phone, we
9 have Dale Beck. Dale, can you hear us?

00:21:05 10 MR. BECK: Yes, sir.

11 MR. LANDGRAF: Okay. So you're
12 indicating that -- that while there may have
13 some -- been some confusion up to this point
14 in time, there is none going forward,
00:21:15 15 especially until you're back here at the end
16 of the month to change the license?

17 MR. FLEMING: Correct. If there --
18 if there was any confusion, that has
19 certainly been rectified at this point, and
00:21:27 20 there will be no alcohol on the volleyball
21 court unless and until that expanded premises
22 is approved.

23 MR. LANDGRAF: Mr. Fletcher?

24 MR. FLETCHER: I just have two
00:21:39 25 questions. Attorney Zilavy, you mentioned

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1 the -- the letter wasn't delivered, the
2 certified letter. We have kind of proof that
3 it wasn't delivered, or what's the kind of
4 backing behind that, I guess?

00:21:50 5 MS. ZILAVY: So they were sent
6 certified mail, and the tracking receipts
7 show that they tried to deliver it. Nobody
8 was there, or not an appropriate person to
9 sign was there. So they -- it says on the
00:22:04 10 tracking sheet that they left a notice for
11 pickup, and then on one of them, it said it
12 was being routed back to the point of origin.
13 But I don't think it's -- we've gotten
14 anything at this point in time. And the
00:22:20 15 other one, the tracking notice just kind of
16 cuts off, and it doesn't say what happened
17 after the -- after it was put in the mailbox.

18 Well, it does say -- let's see.
19 Something about notifying the sender, or
00:22:40 20 sender should redeliver, but it's contrary to
21 the other tracking notice. So it -- I have
22 really no idea what happened in terms of the
23 tracking.

24 MR. FLETCHER: Okay.

00:22:52 25 MR. FLEMING: If I may --

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1 MR. FLETCHER: Sure.

2 MR. FLEMING: What may have
3 happened in terms of the delivery, one of the
4 letters was sent to 6009 Exchange Street, the
00:23:02 5 other 802 Atlas Avenue. Mr. Beck doesn't
6 receive any mail at either of those
7 addresses. As indicated on the license --
8 the license has -- it's 810 Roth Street, is
9 where he received the mail.

00:23:11 10 MR. FLETCHER: Mm-hmm.

11 MR. FLEMING: So that's, I think,
12 part of why that that would not have --

13 MR. FLETCHER: Why was the mail
14 sent there in the first place then?

00:23:19 15 MR. FLEMING: I -- I don't know
16 that. The Atlas Street add -- I believe the
17 802 Atlas Avenue is the address of this
18 licensed premise. Mr. Beck had been
19 experiencing some illness and was not on the
00:23:33 20 premises much during this -- in the month of
21 May, and so he wasn't there to -- to receive
22 it, and I'm going to assume that employees
23 didn't feel they should be accepting
24 certified mail addressed to him for that.
00:23:46 25 The other address is not an address that he

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1 receives the mail at. But the long and short
2 of it, he would have been here had he
3 received those notices.

4 MR. FLETCHER: Okay. And then on
00:23:57 5 the more substantive issue, the -- I guess in
6 my mind, Attorney Zilavy, you said you're
7 sticking to the stipulation on page 3 that
8 alcohol service was permitted on the
9 volleyball courts. What's the -- the kind
00:24:11 10 of -- kind of backing of that statement and
11 where -- where is the disagreement to that
12 statement? Why, in your mind?

13 MS. ZILAVY: Well, that, I don't
14 have, like, a signed witness statement or
00:24:21 15 anything. It's not in a police report, which
16 typically for a complaint, that would be the
17 supporting documentation --

18 MR. FLETCHER: Mm-hmm.

19 MS. ZILAVY: And I had had a
00:24:33 20 conversation with Mr. Beck sometime after the
21 separation meeting but before he hired
22 Attorney Fleming and it -- I gathered from
23 that conversation, but as it turns out, that
24 may not have been what took place.

00:24:59 25 MR. FLETCHER: Okay.

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1 Attorney Fleming, kind of the -- the actual
2 construction of the -- the volleyball area,
3 etc., do you know what was the -- or maybe
4 Mr. Beck kind of going ahead and proceeding
00:25:12 5 and doing that versus getting the appropriate
6 kind of permits and going through the
7 process?

8 MR. FLEMING: Well, construction of
9 the -- of the volleyball court itself didn't
00:25:24 10 require getting ALRC approval. He got all of
11 the other approvals.

12 MR. FLETCHER: No, no. I'm not
13 saying that.

14 MR. FLEMING: Yeah. But yeah, I
00:25:30 15 mean, he understands that before alcohol
16 could be served out there, that you would
17 need the permit, but at the time of
18 construction and maybe Dale can clarify
19 further, it's my understanding that it wasn't
00:25:41 20 the intent either to have alcohol out there
21 or at least not to immediately have alcohol
22 out there. He has -- he has other
23 establishments and has had other bars with
24 volleyball courts. So he's aware of that
00:25:52 25 but --

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1 MR. FLETCHER: Mr. Beck, do you
2 have anything to -- to add.

3 MR. BECK: Yeah, was the -- hello?

4 MR. FLETCHER: Yep. We can hear
00:26:04 5 you.

6 MR. BECK: Yeah. Was -- it was all
7 based on how many volleyball teams I was
8 going to have. I got all the permits, and I
9 got everything I needed. Under the statute,
00:26:15 10 it wasn't required to have ALRC approval to
11 build or construct the volleyball court. It
12 was only -- all the permits I got were
13 approved. It was only if I'm going to change
14 the license of the premises that it was
00:26:26 15 required. At the time if we had a lot of
16 volleyball teams, I was not going to allow
17 alcohol out there because it slows down the
18 movement of teams going in and out of there.
19 So we did not end up with that many teams.
00:26:40 20 So therefore, that's when I submitted my
21 application, which is, I believe next week,
22 and I posted the orange card the day after I
23 received it from the city clerk.

24 MR. FLETCHER: Okay. Thank you
00:26:54 25 very much. Thank you, Mr. Chair.

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1 MR. LANDGRAF: Mr. Grady?

2 MR. GRADY: Yes. Attorney Zilavy,
3 you mentioned during the separation hearings
4 that we had last week --

00:27:04 5 MS. ZILAVY: Right.

6 MR. GRADY: -- that after 1:30 as a
7 condition, people wouldn't be permitted to
8 reenter. Is that something that we want on
9 this license too or not?

00:27:14 10 MS. ZILAVY: I don't think so,
11 because it's not an area where there are
12 issues that --

13 MR. GRADY: Okay.

14 MS. ZILAVY: -- were the reasons
00:27:21 15 for that condition on the other licenses.
16 And I -- I will tell the committee too that
17 in terms of Mr. Beck and other establishments
18 or issues that we've had with him, he's
19 always in the past been responsive to the
00:27:38 20 City when there have been issues. So his --
21 his not appearing last Thursday was -- was a
22 surprise and not typical of Mr. Beck.

23 MR. LANDGRAF: And as I recall from
24 our discussion last week, he was at the
00:28:01 25 meeting the day before?

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1 MS. ZILAVY: Correct.

2 MR. LANDGRAF: Okay. Mr. Fletcher,
3 go ahead.

4 MR. FLETCHER: Sorry.

00:28:10 5 Attorney Zilavy, I know if we're going to
6 consider, I guess, 1 and 2 together, you had
7 asked other 18-plus license holders a
8 standard set of, I think, questions at the
9 initial --

00:28:20 10 MS. ZILAVY: Right.

11 MR. FLETCHER: -- meeting, but I'm
12 trying to remember the exact language that
13 you had, but I feel like to be consistent --

14 MS. ZILAVY: Right. Mr. Beck was
00:28:32 15 present for --

16 MR. FLETCHER: Okay.

17 MS. ZILAVY: He has an 18-plus for
18 one of his other establishments --

19 MR. FLETCHER: Yeah.

00:28:34 20 MS. ZILAVY: -- and he was present
21 that night and --

22 MR. FLETCHER: Okay.

23 MS. ZILAVY: -- and answered
24 questions to that. But, Dale, I'll ask you
00:28:40 25 again if you are familiar with the

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1 requirements of the 18-plus entertainment
2 license?

3 MR. BECK: Yes.

4 MS. ZILAVY: And you agree to abide
00:28:50 5 by those requirements?

6 MR. BECK: Yes.

7 MS. ZILAVY: Thank you.

8 MR. LANDGRAF: Alder Verveer.

9 ALDER VERVEER: Thank you,
00:29:00 10 Mr. Chair. If I could ask a follow-up
11 question or two along Mr. Fletcher's line of
12 questioning about the permitting and so forth
13 for the volleyball court.

14 Attorney Fleming, did -- do you know --
00:29:14 15 and your client can respond if you don't the
16 information, but when exactly was the
17 conditional permit issued by the Madison Plan
18 Commission for the volleyball court to be
19 constructed?

00:29:21 20 MR. FLEMING: I'd defer to Dale.
21 I'm not sure what -- all of what permits were
22 required for the volleyball court.

23 ALDER VERVEER: Did you hear the
24 question, Mr. Beck?

00:29:31 25 MR. BECK: Yeah. The --

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1 Mr. Fleming should have the approved plans
2 for the volleyball court with all the
3 sign-offs in the papers that I gave him.

4 MR. FLEMING: Okay. Maybe I do
00:29:43 5 have that. Let me check. Let's see. I do
6 have these plans. I just wasn't sure if I
7 had the full schedule.

8 ALDER VERVEER: While
9 Attorney Fleming is reviewing his file,
00:29:58 10 Mr. Beck, if you could answer this: Were you
11 required to appear before the plan commission
12 in the last year or so regarding the
13 volleyball court, or did the zoning staff
14 inform you or a contractor or an architect of
00:30:12 15 yours that -- that it was considered a minor
16 alteration to an existing conditional use
17 permit?

18 MR. BECK: I was the contractor.
19 Design Coalition was the architect. He
00:30:24 20 handled everything related to the designs,
21 all the plans, all the submittals, and all
22 the interactions with the department of the
23 City of Madison.

24 MR. FLEMING: Looks to me if I'm
00:30:38 25 looking at this right, I do have an

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1 application for alteration of existing
2 conditional use, and it appears to have been
3 signed as approved according to 28.183(8),
4 Heather Stouder, on March 6, 2018.

00:30:54 5 ALDER VERVEER: Thank you. Are
6 there any conditions on that minor alteration
7 approval?

8 MR. FLEMING: Alder's recommend --

9 MR. BECK: There is no conditions
00:31:02 10 because it's in an industrial area.

11 ALDER VERVEER: So your addition --
12 the original -- and I realize you've held the
13 property for some time, Mr. Beck. The
14 original conditional use for the patio for
00:31:14 15 outside eating and drink had no conditions on
16 it related to hours or amplification --

17 MR. BECK: No, because that was --

18 ALDER VERVEER: -- or anything like
19 that because you're not in a residential --

00:31:20 20 MR. BECK: -- an existing patio
21 that was already built I didn't do anything
22 with, and there was no conditions because
23 it's in an industrial park. I also talked
24 with the police department. I also talked
00:31:32 25 with the alderperson. The alderperson has

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1 waived all the meetings because there's no --
2 there's no houses by, and it is an industrial
3 area. The captain didn't have a problem with
4 anything because of its location and because
00:31:48 5 of my record of running establishments and
6 working with the police department.

7 ALDER VERVEER: Thank you. On a --
8 on a different topic, I hate to bring up the
9 issue of capacity, but it was a theme that we
00:32:00 10 had during our separation hearings, we all
11 recall earlier. Well, actually, it was
12 technically last month, I guess, not this
13 month, earlier this month. But I see that --
14 no surprise, but there's an inconsistency in
00:32:16 15 the two licenses.

16 So the 18-plus entertainment license
17 says that the maximum capacity for the lower
18 level is 250 persons, and alcohol license
19 that we have states that it is limited to 168
00:32:32 20 persons with the overall capacity of the
21 establishment being 480 persons.

22 Since we technically have the renewals
23 before us, I was wondering if we could try to
24 get -- or I should say ascertain what the
00:32:48 25 correct number is. And I realize that this

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1 matter will be before us again for a change
2 of license premise at our next regular
3 meeting, but it would be --

4 MR. BECK: I can actually -- I can
00:32:59 5 actually answer that.

6 ALDER VERVEER: Thank you.

7 MR. BECK: Building required --
8 there was -- the plans that were originally
9 submitted by the previous owners have been
00:33:08 10 lost in the computer system when they changed
11 over. So in order to get this permit from
12 zoning, building required to update their
13 files and required to have a capacity seating
14 submitted by the architect. The architect
00:33:24 15 drew up a seating plan, made all of the
16 calculations, and submitted that along with
17 everything else to zoning; and that was what
18 was required. That was -- there's where the
19 discrepancy is between the previous and the
00:33:41 20 current.

21 ALDER VERVEER: So what is -- if I
22 could ask -- and, again, obviously with your
23 attorney's permission, Mr. Beck, what is your
24 understanding of your current capacity as of
00:33:51 25 today and -- and how was it further legally

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1 divided?

2 MR. BECK: The current capacity
3 would be what's on my current license that
4 was, you know, through the ALRC. The -- as
00:34:03 5 far as building is concerned, the building is
6 going to most likely be the -- the new one
7 because of the -- the architects drew
8 everything up and submitted it, and they
9 didn't have anything. So that will go into
00:34:17 10 their records as the current capacity as far
11 as the building goes.

12 ALDER VERVEER: So, again, the
13 issue is that we --

14 MR. BECK: It wasn't really a
00:34:25 15 concern of mine of ALRC. I haven't actually
16 even reviewed those. I actually haven't even
17 got a copy yet of the architectural
18 submittals on the -- on the seating
19 allocations on the upstairs and the
00:34:39 20 downstairs and the patio.

21 ALDER VERVEER: Again, my concern
22 is that we have two inconsistent capacities
23 for the lower level of your establishment.
24 The entertainment license states that the
00:34:51 25 capacity is limited to 250, and the alcohol

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1 license states that it's limited to 168
2 persons, and so you're saying, Mr. Beck -- I
3 realize you're out of state. It sounds
4 like -- I don't know if your attorney has a
00:35:05 5 file -- in his file that has the -- what the
6 current capacity, that plan review of the
7 Building Inspection Division gave your
8 architect at Design Coalition.

9 MR. BECK: I can actually -- when I
00:35:20 10 get back, I can get those -- he had to draw
11 them up per scale and submit them as an
12 architectural and submit them to building. I
13 can actually get those prior to the next
14 meeting and submit them to you at the ALRC
00:35:38 15 meeting. I can make copies of that all and
16 get them there prior to the meeting.

17 ALDER VERVEER: I appreciate that.
18 It also would be curious for me, speaking of
19 the next meeting, and a request of the City
00:35:50 20 clerk's office just to remind us -- give us
21 -- remind us of the history of the capacities
22 on the alcohol license that we're about to
23 vote on renewing. What -- if we could have
24 an original copy of the security plan that's
00:36:04 25 referenced in the alcohol license along with

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1 the -- when we consider the change of license
2 premise application at our next regular
3 meeting. That would --

4 MR. BECK: The occupancy isn't
00:36:15 5 going to be changed with the change of
6 license premise. It's all going to stay the
7 same. And to the plans that were submitted
8 by the Design Coalition, the occupancy was
9 not changed. It was staying the same. What
00:36:28 10 did change was the calculations based on the
11 requirements and codes architecturally
12 speaking. That is what -- what changed. I
13 don't have those plans. I haven't received
14 those plans. But I can get those prior to
00:36:44 15 the next meeting and have them to everybody
16 before the meeting.

17 ALDER VERVEER: I appreciate that.
18 If you could get that to the city clerk's
19 office soon as possible so that information
00:36:53 20 could be forwarded to the committee, I'd
21 appreciate it. Including, again, the copy of
22 the security plan referenced and license. So
23 we technically will have the license in front
24 of us at our next regular meeting because of
00:37:06 25 the change of license premise application.

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1 So we can, I believe -- legal counsel can
2 correct me if I'm wrong -- but we can then at
3 that time also look at the capacity,
4 certainly on the change of license premise
00:37:21 5 application -- I don't know if
6 Attorney Fleming has it with him or maybe
7 Mr. Verbick does -- but, you know, one of the
8 questions we ask is: What capacity are you
9 proposing, if any changes, as it relates to
00:37:34 10 your capacity -- excuse me -- as it relates
11 to your license premise description? I -- so
12 if I could ask -- I don't know if any of you
13 have the actual application in front of you
14 or if Mr. Beck who completed it. Are you --
00:37:49 15 Mr. Beck, did you state earlier that the
16 change of license premise application, you
17 are suggesting no change in capacity
18 whatsoever either overall or whatever the
19 patio is previously listed as?

00:38:04 20 MR. BECK: Yeah, I wasn't changing
21 any of the capacities. I wasn't changing the
22 overall capacity. I -- like I say, I haven't
23 seen what the architect drew up and submitted
24 to the building inspection, but I'll review
00:38:18 25 that, but I'm still not going to -- I mean,

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1 I -- it's my understanding that I'm still not
2 going to ask for a change in capacity. I'll
3 look at the split outside versus inside, but
4 I believe that the combination of outside and
00:38:34 5 inside was together.

6 MS. ZILAVY: Alder Verveer, I'll --

7 ALDER VERVEER: Mr. Verbick --

8 MR. BECK: It's listed separately.

9 THE DEPUTY CLERK: On the change of
00:38:44 10 license premise, it lists the current
11 capacity as 480 indoor, 320 outdoor, and then
12 the proposed capacity would remain the same
13 as well.

14 ALDER VERVEER: Attorney Zilavy, do
00:39:02 15 you wish to --

16 MS. ZILAVY: I was going to say,
17 I'll follow up with building inspection and
18 make sure --

19 ALDER VERVEER: I was going to
00:39:07 20 request that. Thank you.

21 MS. ZILAVY: Mm-hmm.

22 ALDER VERVEER: And fire department
23 as well so we could all be on the same page.
24 Thank you. We'll continue the conversation
00:39:13 25 at our next meeting.

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1 MR. LANDGRAF: Further questions
2 of -- Mr. Fletcher?

3 MR. FLETCHER: No, I don't have
4 further questions.

00:39:20 5 MR. LANDGRAF: Anyone else have any
6 questions?

7 ALDER VERVEER: Actually, can I
8 make one other suggestion as it relates to
9 the -- or maybe ask our legal counsel if it's
00:39:28 10 appropriate how to do this. As we're,
11 looking at the capacity issue and the fact
12 that the two licenses before us have
13 inconsistent numbers, is there -- would you
14 consider some sort of a technical correction
00:39:42 15 if we don't -- because we technically won't
16 have the entertainment license, I presume, on
17 our agenda for the next meeting, just the
18 alcohol license. Is there -- could I ask
19 either counselor which -- how would we direct
00:39:54 20 the entertainment license if it's not
21 technically before us at our next meeting?

22 MR. ALLEN: I think that it would
23 be -- the clerk could do it administratively,
24 first of all, because the -- the one thing we
00:40:07 25 always have to remember is it's lower of any

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1 of the three limits that apply. So I think
2 it's somewhat confusing to both City
3 employees such as police and fire officers
4 who show up at a building and the license has
00:40:23 5 one number and then their agency has another
6 number. Yeah, it's easy for me as a lawyer
7 to say, "Well, it's the lowest number that
8 governs," but when you're in the field and
9 don't have that experience or an attorney
00:40:38 10 whispering in your ear, it just gets
11 confusing, and it gets confusing to the
12 operators as well.

13 So administratively, I think the clerk
14 has the authority to amend those licenses
00:40:46 15 based upon what the other agencies determine
16 to be the lowest permissible occupancy.

17 ALDER VERVEER: Thank you. Thank
18 you.

19 MR. LANDGRAF: Mr. Fletcher.

00:40:58 20 MR. FLETCHER: I was going to move
21 approval of Items 1 and 2 on our agenda.

22 MR. LANDGRAF: Okay. We have a
23 motion. Do we have a second?

24 MR. GRADY: Second.

00:41:08 25 MR. LANDGRAF: We have a second.

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1 Okay. Discussion of the motion. All those
2 in favor say "aye."

3 COMMITTEE MEMBERS: (In unison)

4 Aye.

00:41:16 5 MR. LANDGRAF: Opposed? Okay. The
6 license is approved, and we'll see Mr. Beck
7 in person in about a week, and he'll come
8 armed with a pile of papers to get all of
9 this straightened out so we get the same
00:41:32 10 license condition on all of the licenses.

11 MR. FLEMING: Thank you.

12 MR. LANDGRAF: Thank you very much.
13 Thank you, Mr. Beck.

14 MR. BECK: Thank you.

00:41:40 15 ALDER VERVEER: Thank you,
16 Captain Snyder.

17 MR. LANDGRAF: Okay. That takes us
18 then to our -- the other item on agenda,
19 which is item 3, for which we have an
00:41:53 20 interpreter. So I would ask Mr. Verbick to
21 swear in our interpreter.

22 (Interpreter sworn.)

23 XI WANG FILION,

24 called as a witness being first duly sworn in
00:42:30 25 the above case testified under oath as follows:

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1 MR. LANDGRAF: Okay. Assistant
2 City Attorney Zilavy.

3 MR. FLETCHER: Thank you very much.

4 MS. ZILAVY: If the committee will
00:43:00 5 recall, this one was separated because of
6 work that was done on the building without
7 permits and without plan approval and because
8 the building inspection division did not get
9 any cooperation or response from Koi Sushi in
00:43:32 10 terms of the work that was done without a
11 permit and -- and remedying the situation.
12 So the City is seeking non-renewal of this
13 license, and I'll speak more -- well, I'll
14 make an argument as to why after you hear the
00:43:50 15 evidence and hear from the other side. And I
16 think Mrs. Filion is represented by an
17 attorney tonight, right?

18 MR. GRAMS: Yes, Attorney
19 David Grams.

00:44:31 20 MS. ZILAVY: And I'll begin my
21 questioning of Ms. -- Ms. Filion.

22 EXAMINATION

23 BY MS. ZILAVY:

24 Q Who are the members of Laura Garden, LLC?

00:44:49 25 THE INTERPRETER: She's only the

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1 member. She's the only member.

2 Q Who owns the building?

3 A Family member.

4 Q Who?

00:45:04 5 A The owner is Jins (sic) Sun, J-I-N-S S-U-N.

6 Q Is that the same person as --

7 MR. FLEMING: It's on here. It's
8 right on here.

9 THE INTERPRETER: I'm sorry. It
00:45:53 10 should be spelled J-I-N-G.

11 Q Pardon me?

12 THE INTERPRETER: It should be
13 J-I-N-G and not J-I-N-S. I misspelled.

14 Q Okay. So Jing Jang (sic) is the owner. And what
00:46:04 15 is your relationship to him?

16 A It is my father's side family.

17 MS. ZILAVY: What -- what was that
18 conversation you just had with her?

19 THE INTERPRETER: She -- I was -- I
00:46:44 20 was asking what's the relationship between
21 the owner and her, and she said it's a family
22 member, extended relative. So I was trying
23 to ask her specifics.

24 MS. ZILAVY: That's not her
00:46:55 25 husband?

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1 THE WITNESS: No, it's not.

2 MS. ZILAVY: She is in a
3 relationship with him?

4 THE INTERPRETER: No, it's not.

00:47:02 5 MS. ZILAVY: And she hasn't
6 represented to building inspection that he is
7 her husband or her partner?

8 THE INTERPRETER: She said, "I
9 don't know how to explain the love and a
00:47:41 10 relationship between him."

11 MS. ZILAVY: To explain what.

12 THE INTERPRETER: She -- she
13 doesn't know how to explain the relationship
14 between love and the relationship between the
00:47:59 15 owner and her. The owner is not her husband.

16 Q Is he your boyfriend?

17 A I don't know how to explain relationship.

18 Q Does she know what a boyfriend is?

19 MR. GRAMS: Is there a reason for
00:48:37 20 this line of questioning.

21 MS. ZILAVY: Yes, it's relevant to
22 who did the work in the building, who is
23 ultimately responsible.

24 MR. FLEMING: He did all the work.

00:48:48 25 MS. ZILAVY: You're -- you're

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1 testifying, by the way.

2 A He is not my husband.

3 MS. ZILAVY: Right. I understand
4 that. I asked if he is her boyfriend.

00:49:18 5 A No, not -- I just don't know how to explain it,
6 but no.

7 MS. ZILAVY: Does she know what a
8 boyfriend is.

9 THE WITNESS: No, I know. I know
00:49:28 10 the boyfriend is -- I don't know how love is
11 -- I don't know how to explain.

12 A We're in a business relationship, not in a
13 personal relationship.

14 Q Where does -- where do you live? You don't know
00:50:27 15 your address?

16 THE WITNESS: I -- I don't know how
17 to spell the street.

18 Q Just say the address. We can figure out the
19 spelling.

00:50:33 20 A 8206 Scott Street.

21 MR. GRAMS: Scott?

22 THE INTERPRETER: Yeah. Like a --
23 I can't use a -- Scott Street. I don't know
24 how to spell the street. I don't know how to
00:50:47 25 spell the street. It's 8206.

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1 MR. GRAMS: Okay.

2 A Scott.

3 MR. GRAMS: Leave it like that for
4 now. What's your next question?

00:50:56 5 Q 8206 what?

6 THE WITNESS: I can tell you later.
7 I don't know how to spell it, like Scott.

8 THE INTERPRETER: She believe it's
9 Scott Street, she thinks, but not exactly the
00:51:08 10 spelling of the street. So she says she have
11 it on her phone. She can tell you exactly
12 what it is.

13 THE WITNESS: It's --

14 MR. LANDGRAF: Excuse me. We have
00:51:16 15 an interpreter here, and I'd like to have
16 everything go through the interpreter to make
17 sure everything is consistent.

18 Q Is it in Madison?

19 A I don't know the spelling of the street. In
00:51:29 20 Madison. West side of Madison.

21 Q What's the ZIP code? What's the zip code?

22 A No, I don't know.

23 Q How long have you lived there?

24 A Two years.

00:51:48 25 Q And you're the liquor/beer agent for

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1 Laura Garden, LLC, correct?

2 A Yes.

3 Q And you're the owner of Koi Sushi doing business
4 at 502 State Street, correct?

00:52:09 5 A Yes.

6 Q You have a liquor license for the 2017, '18
7 licensing year, correct?

8 A Yes.

9 Q You submitted a renewal for the '18, '19 licensing
00:52:28 10 year, correct?

11 A Yes.

12 Q And you made changes to your dining room area at
13 502 State Street, correct?

14 A Yes, trying to.

00:52:52 15 Q Did you make changes to the dining room area at
16 502 State Street?

17 A Yes. We tried to for a couple of days.

18 Q Well, tried to and doing it are two different
19 things. You -- you cut a hole in a wall to expand
00:53:16 20 your dining room, correct?

21 A Yes.

22 Q When did you cut the hole in the wall?

23 A In May.

24 Q And what was the purpose of doing so?

00:53:48 25 A I was hoping to expand the dining area.

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1 Q And you did that work without getting a permit or
2 submitting any plans to the building inspection
3 unit, correct?

4 A Yes.

00:54:17 5 Q Who did the -- who did the actual work?

6 A It's the owner and a friend of the owner.

7 Q Who is the owner?

8 THE INTERPRETER: So the building
9 owner, correct?

00:55:09 10 MS. ZILAVY: I'm asking: Who is
11 the building owner who did some of the
12 construction?

13 A Yes. So owner Jing Sun, and a friend of the owner
14 Jing Sun. They were together.

00:55:24 15 Q Are they licensed contractors?

16 A I believe so. The owner's friend that the owner
17 hired, I believe he does have a license for that.

18 Q Does the owner have a license?

19 A I'm not sure if the owner will have it, but I
00:55:55 20 believe the friend who did the contracting did
21 have a license.

22 Q You never filed a change in premise application to
23 make the changes, correct?

24 A I have tried to ask someone or -- only asked
00:56:46 25 someone how do we go about doing that. So I guess

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1 my mistake is to not probably ask the right person
2 to get that procedure correctly.

3 Q Okay. Well the question was, you -- or the
4 statement seeking affirmation, you never filed a
00:57:05 5 change in premise application, correct?

6 A We have just filed the application last week.

7 Q Do you know Jim Sjolander from the Madison
8 Building Inspection Division?

9 A Yes, I know who he is now.

00:57:38 10 Q You talked to him back in January, correct?

11 A Yes. He has came by the restaurant, the business,
12 and we have talked.

13 Q And when you talked to him in January, he told you
14 that you couldn't do any work in that building
00:58:00 15 without doing permits and plan approval; isn't
16 that right?

17 A He has mentioned that I could not do anything --
18 and renovations in the upstairs.

19 Q And he told you if you were going to do any
00:58:31 20 renovations, you needed to get a plan approval and
21 a permit, correct?

22 A He has mentioned, but mostly mentioned upstairs.

23 MS. ZILAVY: But he told her, no
24 work unless she gets permits and plan
00:59:09 25 approval, correct?

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1 THE INTERPRETER: Yes.

2 Q And that was in January, and that was because she
3 had made changes to the building upstairs without
4 getting permits, correct?

00:59:33 5 THE INTERPRETER: Repeat the
6 question for me. We --

7 MS. ZILAVY: Her conversation was
8 in January when he told her she needed
9 permits to do any work in the building,
00:59:40 10 correct?

11 THE INTERPRETER: Yes.

12 MS. ZILAVY: And then in May, she
13 decided to go and take out the wall between
14 Koi Sushi and the next door place, correct --
01:00:07 15 or put a hole in the wall to expand her
16 dining room, correct?

17 THE INTERPRETER: Yes.

18 Q And the changes when you put the hole in the wall
19 from your dining room into the other space, that
01:00:44 20 created a different floor plan than what you had
21 originally submitted to the Alcohol License Review
22 Committee, correct?

23 A Yes. I guess I -- I thought when I expand or
24 opened the wall up, that I need to, you know,
01:01:43 25 apply for the permit with the City of Madison, and

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1 I have the -- the architect that I have been
2 working with has trying -- have done that part of
3 the application or asking questions for me
4 already. So -- so the architect was the --
01:02:03 5 helping me in regards to that process.

6 Q Didn't the architect tell you that you couldn't do
7 what you were trying to do?

8 A I have talked to the architect, and he said he
9 would look into it and get back to me in two days,
01:02:41 10 and he also said that -- he stated that we can --
11 he can -- she can open the wall up as long as it's
12 not over the capacity of the hundred sitting. So
13 that's mistake that I made between the
14 architecture (sic) and what -- I'm not
01:03:08 15 understanding, so this is a mistake. I made it
16 between all the process.

17 Q So that -- that type of thing cannot be done
18 without a permit and a licensed -- an architect
19 would be aware of that. So is she saying the
01:03:26 20 architect lied to her?

21 A I didn't say he lied to me. Maybe there's a
22 miscommunication or maybe he was too busy and
23 didn't get back to me with the right answer.

24 MS. ZILAVY: Well, she just said he
01:03:58 25 said she could put a hole in the wall.

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1 A He did say that I could open the wall up as long
2 as it didn't expand it to over a hundred, and the
3 architect also mentioned that he would draw up a
4 plan and send it over to the City and get
01:04:45 5 approval, but I'm not sure what he has done and
6 what he has not done.

7 MS. ZILAVY: Nothing further from
8 her.

9 MR. LANDGRAF: Okay. Attorney
01:05:03 10 Grams?

11 MR. GRAMS: Yeah, I have a
12 question.

13 EXAMINATION

14 BY MR. GRAMS:

01:05:05 15 MR. GRAMS: Will you ask her again
16 about the change upstairs, her role in any
17 changes that were done upstairs. Was she the
18 one that decided to make the change upstairs?

19 THE INTERPRETER: She did not make
01:05:45 20 any changes. The owner made some changes to
21 the bathroom.

22 MR. GRAMS: Okay. Well, the reason
23 I'm asking that is she previously answered
24 the question when was asked by
01:05:58 25 Attorney Zilavy -- Attorney Zilavy said "She

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1 made the changes upstairs; is that correct,"
2 and she answered, "Yes." That's cv why
3 I'm asking you to clarify.

4 A To clarify, no, I did not make any changes to the
01:06:26 5 upstairs bathroom. The owner of the building made
6 some changes to the bathroom.

7 MR. GRAMS: But Jim Sjolander did
8 tell her about the changes; is that correct?

9 THE INTERPRETER: Yes.

01:06:47 10 MR. GRAMS: Was she alone when she
11 met with -- when Jim Sjolander came and met
12 with her, or was the owner of the building
13 present?

14 THE INTERPRETER: Only she was
01:07:07 15 present.

16 MR. GRAMS: Pardon?

17 THE INTERPRETER: She was the only
18 one there.

19 MR. GRAMS: She was the only one
01:07:13 20 there.

21 THE INTERPRETER: Yeah.

22 MR. GRAMS: Did she after that talk
23 to the owner of the building about the
24 problems with the upstairs? Did she mention
01:07:20 25 that to the owner, that there were problems

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1 with the upstairs?

2 THE INTERPRETER: Yes.

3 MR. GRAMS: I have no further
4 questions.

01:07:38 5 MS. ZILAVY: Nothing. No followup
6 with her.

7 MR. LANDGRAF: Questions of the
8 applicant from the committee? Mr. Fletcher.

9 MR. FLETCHER: And I don't know
01:07:59 10 whether it's a question for the applicant
11 versus Attorney Zilavy. So I don't know when
12 you -- Attorney Zilavy, the committee, when
13 we -- when we kind of had had initial
14 conversation and initial conversation at the
01:08:11 15 license renewal hearing talked a lot about
16 kind of the -- the actual safety of the
17 building. That was a big point of -- of
18 concern.

19 MS. ZILAVY: Right.

01:08:21 20 MR. FLETCHER: Is there an update
21 just on that as a base principle? Has there
22 been a subsequent inspection on the demising
23 wall?

24 MS. ZILAVY: I am having a building
01:08:32 25 inspector testify --

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1 MR. FLETCHER: Okay. Okay. Good.
2 Sorry.

3 MS. ZILAVY: -- and we will address
4 all of those issues.

01:08:35 5 MR. FLETCHER: Okay. Thanks.

6 MR. LANDGRAF: Any questions?

7 MR. GRAMS: Mr. Landgraf, I assume
8 that she'll present her entire case, and then
9 I can make a statement and everything.

01:08:47 10 MR. LANDGRAF: Yeah, I didn't -- I
11 thought --

12 MR. GRAMS: She's not done yet, I
13 know, but --

14 MR. LANDGRAF: I'm sorry.
01:08:54 15 Attorney Zilavy.

16 MS. ZILAVY: If those two want to
17 sit back, and I'll call the inspector
18 Sjolander.

19 MR. GRAMS: Is it okay if I stay
01:09:08 20 here?

21 MR. ALLEN: That's fine.

22 JIM SJOLANDER,
23 called as a witness, being duly sworn, was examined
24 and testified on oath as follows:

01:09:10 25 EXAMINATION

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1 BY MS. ZILAVY:

2 Q Please state your name and spell it for the
3 record.

4 A Jim Sjolander, S-J-O-L-A-N-D-E-R.

01:09:23 5 Q You're an inspector with the City of Madison
6 Building Inspection Division, correct?

7 A Correct.

8 Q You're currently a Title Code Enforcement Officer
9 Level 3, correct?

01:09:34 10 A Yes.

11 Q You've been in that position for almost ten years?

12 A Correct.

13 Q Can you briefly describe for the committee what
14 your duties are in that position.

01:09:42 15 A I perform commercial and residential inspections
16 in the downtown quarter of Madison. I sign off on
17 liquor licenses when they are submitted to the
18 city clerk. We do the inspections. We handle
19 complaints, general and overall building
01:10:02 20 inspection permitted and -- and complaint basis.

21 Q Are you familiar with 502 State Street?

22 A Yes, I am.

23 Q How are you familiar with that property?

24 A We received a complaint back in January about
01:10:18 25 sewage in the basement of one of the tenant spaces

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1 in the building, and I went -- went out to do an
2 inspection to see what was going on, and we
3 discovered that some plumbing work had been done
4 and then in dealing with -- talking to the tenants
01:10:33 5 in the building, there were three tenants --
6 four -- four tenants at the time, and talking with
7 three of them, they led me to an upstairs
8 apartment and a bathroom that was a public
9 bathroom that was closed off and an apartment that
01:10:47 10 was constructed illegally with no permits.

11 Q And let me back up to the complaint. Do you know
12 who made the complaint?

13 A The original complaint in January was the tenant
14 on the downstairs. It was Mimosa store.

01:11:06 15 Q So in response to the complaint, you talked to
16 Mimosa, and then based on what they told you,
17 you --

18 A They told me there was plumbing work being done
19 with a bathroom upstairs, and they had sewage in
01:11:19 20 their basement. By the time I had got to the
21 complaint, the sewage had been cleaned up. I went
22 down to their basement. It was evident there was
23 a lot of new plumbing work done. We have no
24 permits on record. I went upstairs to investigate
01:11:33 25 further in the bathroom and only found one men's

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1 room upstairs. There was a women's room, but the
2 door was completely locked off and not accessible.
3 I talked to the two upstairs tenants, and they
4 informed me that the bathroom had been remodeled
01:11:49 5 and closed off to go with the apartment that was
6 there.

7 Q And did they have any knowledge as to who was
8 responsible for that?

9 A All three of them indicated I needed to go down to
01:12:02 10 Koi Sushi and talk to the lady in charge.

11 Q And did they identify who the lady -- lady in
12 charge was?

13 A They just said it was an Asian lady, and when I
14 went to Koi Sushi to ask to speak to the owner or
01:12:15 15 the manager, she -- she told me her name was
16 Laura, but she came out and talked to me at the
17 restaurant that day.

18 Q And "she" meaning the woman in the glasses sitting
19 behind you?

01:12:29 20 A Correct.

21 Q And what -- what was your conversation with her?

22 A I informed her that they cannot do any work
23 without permits and an architect. It's a
24 commercial building. It requires an architect to
01:12:48 25 submit a plan and a change of use because we did

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1 not have any listed apartments in that building at
2 all. It was vacant storage space or two tenants
3 up there.

4 Q And the -- did she indicate to you that she had
01:13:01 5 made those changes?

6 A She had said they had made the apartment so they
7 could have a place to stay when the weather was
8 bad, and I told her they can't stay there. It's
9 not legal. They need to hire an architect and get
01:13:16 10 a permit to make it correct.

11 Q And do you know who -- what she meant by "they"?

12 A I have no idea. I just figured it was her and a
13 husband.

14 Q But she said they made those changes so that they
01:13:26 15 could stay there overnight --

16 A Correct.

17 Q -- in bad weather? Was there any -- anyone else
18 there with her at the time?

19 A There was a -- an employee in the restaurant that
01:13:42 20 was behind the bar in the same room.

21 Q But they didn't participate in your conversation?

22 A No.

23 Q And did you have a conversation with her in
24 English?

01:13:53 25 A Yes.

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1 Q Did she appear to understand what you were saying
2 to her?

3 A It appeared to. She indicated that she had an
4 architect, and I told her to have him call me. I
01:14:08 5 never received a phone call. So I wrote a set of
6 orders, which is standard procedure for us if --
7 if we have a -- an unpermitted project, we write
8 orders, and I gave her 30 days to comply or try to
9 comply. Never received any communication. So I
01:14:26 10 forwarded that particular case on to the City
11 attorney because I had no communication from
12 anybody after the initial contact in January.

13 Q And when -- when you were having this conversation
14 with her, did she say, "Oh, I didn't do it. You
01:14:39 15 need to talk to so-and-so, the building owner" or
16 anything --

17 A No.

18 Q -- along those lines?

19 A Never indicated there was somebody else I needed
01:14:48 20 to talk to.

21 Q So in the course of this conversation, you
22 concluded that she had made those changes,
23 correct?

24 A Correct.

01:15:07 25 Q And what was it about the conversation that made

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1 you believe that she had made the changes?

2 A The three tenants told me that that's who they
3 deal with when it comes to rent and when the
4 electric bill was due, and she delivers all the
01:15:27 5 bills to them. They told me that she was the one
6 that was in charge of everything. So I assumed
7 that she was the building owner.

8 And then when I pulled -- when I wrote the
9 orders and pulled the file -- it's an LLC. And
01:15:42 10 when I pulled the registered agent's name, it was
11 a Jing, and I'm not sure of the last name off the
12 top of my head, but I figured it was her other
13 half or part of her family.

14 Q So you indicated that you at that time wrote
01:16:04 15 orders, correct?

16 A Correct. And that would have been for the
17 upstairs. It was a Gilman Street address. That
18 building has multiple addresses.

19 MS. ZILAVY: Let me mark this as an
01:16:42 20 exhibit. I'll give you a copy of that.

21 (Exhibit No. 1 marked for
22 identification.)

23 Q I've handed you what's marked as Exhibit 1. Can
24 you identify that document?

01:17:20 25 A It's a code enforcement worksheet that I started

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1 with the January 3rd inspection, an official
2 notice.

3 Q And what -- can you describe what that represents.

4 A It represents the orders they sent to 502
01:17:38 5 State Street and the owner listed as 502 State
6 Street, LLC violations, and it has 16 violations,
7 and it spells out each code article. Would you
8 like me to read all 16?

9 Q Sure.

01:17:56 10 A Item Number 1, MGO2905, No person shall erect or
11 construct a building, extend, convert, alter
12 demolish, improve, enlarge, move without -- or
13 commence any work covered by the code without
14 first obtaining a permit;

01:18:13 15 MGO2906(2), Approved set of plans and
16 specification shall be kept on site at all times.
17 Such approved plan shall not be changed, modified,
18 or altered;

19 MGO2908(1), No portion -- no portion of any
01:18:28 20 building framework shall be covered and sealed
21 without first obtaining an -- an inspection;

22 MGO2908(2), No work shall be done on any part
23 of a building beyond each point of required
24 inspection. The required inspections are floor
01:18:44 25 and foundation, framing, insulation;

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1 And finally, MGO2908(3), It is unlawful for
2 anyone to occupy or permit anyone to occupy a
3 building until all final inspections have been
4 made and a certificate of which occupancy has been
01:18:58 5 issued;

6 SPS361.31, As this building is over 50,000
7 cubic feet, plans must be signed and sealed by a
8 Wisconsin registered architect or engineer.

9 Please submit at least two sets of index title
01:19:13 10 sheets bearing the signature of the registrant;

11 SPS362.1101(2), Buildings and facilities
12 shall be accessible and designed in accordance
13 with this code, which is the International
14 Building Code 2009 and the ANZA17A1, which is the
01:19:30 15 handicap code;

16 MGO1807, Item Number 8, No alterations or
17 existing plumbing work shall be done without being
18 done by a licensed plumber;

19 Item 9, MGO1809, It is unlawful to do any
01:19:45 20 plumbing alterations without first obtaining a
21 permit. Please make sure your licensed plumber
22 obtains a building per -- plumbing permit;

23 Item 10, MGO18.11, It is unlawful to cover
24 any plumbing work without first obtaining an
01:19:52 25 inspection. Please remove the drywall, expose the

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1 piping, and call for the proper inspections;

2 Item Number 11, MGO1909, No electrical wiring
3 shall be done without being done by a licensed
4 electrical contractor;

01:20:14 5 Item Number 12, MGO19.10, It is unlawful to
6 do any electrical alterations without first
7 obtaining a permit. Make sure the licensed
8 contractor obtains a permit and calls for
9 inspections;

01:20:31 10 MGO19.12, It is unlawful to cover any
11 electrical wiring without first obtaining an
12 inspection. Please remove the drywall, expose the
13 electrical work done for inspection;.

14 SPS364.403, Provide heating and ventilation
01:20:47 15 per 364.04023, which is the mechanical code
16 requirements for heat and ventilation in an
17 apartment;

18 MGO30.10(), It is unlawful to do any HVAC
19 alterations without first obtaining a permit.
01:21:04 20 Make sure your licensed contractor pulls a HVAC
21 permit;

22 MGO3001(11), It is unlawful to cover any HVAC
23 work without obtaining an inspection. Please
24 obtain a heating inspection, and then it has a due
01:21:19 25 date of 1-18.

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1 Q And when -- once you issued that, then you didn't
2 hear anything ever again in regard to --

3 A No.

4 Q -- that?

01:21:35 5 A Never got any conversation at all after the
6 initial contact on site on the 3rd.

7 Q And then what did you do in response to that
8 issue?

9 A Being I had no contact and -- and nobody called to
01:21:48 10 figure out -- you know, ask me what to do or where
11 to go, I forwarded it on to the City attorney and
12 referred it to her for prosecution because, if we
13 don't get any communication, we have no other --
14 that's our -- that's our outlet. That's our
01:22:02 15 process.

16 Q And then you had occasion to go back to the -- to
17 502 State Street at another point in time,
18 correct?

19 A We had another complaint come in in May about
01:22:17 20 construction work going on and construction
21 materials being hauled in the building. And when
22 I went back out, it was May 16th or 17th, I
23 believe, one of those days, and talked to the
24 complainant, and he indicated there was a lot of
01:22:36 25 construction noise over the weekend. It was

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1 downstairs. And when I went and looked -- that's
2 also when I found out that the downstairs tenant,
3 Mimosa, had moved out, and one of the upstairs
4 tenants, the comic book shop, had moved out,
01:22:52 5 broken their lease and left early.

6 I went downstairs to investigate, and looking
7 through the windows of the Mimosa storefront that
8 was there, there was a large hole in the wall of
9 the building with dining room tables set up, and
01:23:05 10 it was a dining room for the restaurant.

11 Q And --

12 A Again, with no permits, no architectural plans, no
13 anything.

14 Q And upon observing that, what did you do?

01:23:17 15 A I went immediately into the restaurant to ask to
16 speak with Laura, who was not there. I left my
17 card. I told the gentleman behind the bar that
18 she needed to call me right away in the morning
19 and they need to stop everything they were doing,
01:23:29 20 that they could not proceed with anything.

21 Q And at the time that you observed this hole in the
22 wall, what were your concerns?

23 A It's a structural wall, which draws a red flag
24 right away, especially in an older building
01:23:45 25 downtown. They're not always in the best of

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1 shape, but looking at it, if it would have been --
2 if it would have been a larger opening or -- or a
3 different style of wall, I would have shut the
4 restaurant down immediately due to life safety
01:24:04 5 concerns. It is a structural wall. There are
6 concerns, yes, but it was a -- roughly 6-foot
7 opening from what I could tell in what appeared to
8 be a thicker masonry possibly width wall. I still
9 have not seen it up close, so I don't know what
01:24:20 10 the wall construction is, but it was a smaller
11 opening in the -- in the wall, roughly 5 to
12 6 feet, and it didn't -- it didn't appear at the
13 time to negate shutting down the entire restaurant
14 at that point in time.

01:24:35 15 Q And at that point, are there still concerns with
16 safety in terms of that -- of what was done?

17 A Not from a structural standpoint, but more from a
18 fire protection standpoint, because adding the
19 extra dining room and more tables would make more
01:24:56 20 space in the restaurant, and we figure our
21 occupant load by square footage, not by what the
22 owner says they're going to put in there -- with
23 the additional square footage, it would have
24 required a change of use for that space. It went
01:25:12 25 from a B business occupancy to a A restaurant,

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1 bar/restaurant, and it would have been over a
2 hundred people, which would have required right
3 away a sprinkler system in the building to make it
4 safe, and without those changes, we have a large
01:25:28 5 amount of people in an unsprinklered and
6 unprotected building.

7 Q Did anything change in terms of the hole in the
8 wall since you've last been there?

9 A I've been back to stop and just walk down. The
01:25:46 10 whole store front is all windows, so it's very
11 easy to see from the sidewalk. I was over in the
12 area one day, so I stopped in a couple weeks ago.
13 There is a -- the hole has been filled in. Again,
14 no permits, no inspections. We don't know what's
01:26:02 15 behind the sheetrock. I did call Jing, the owner,
16 because he had been into the office before, and I
17 have his phone number, and I told him that he
18 cannot do that. He has to get the architect to
19 get the plan down to us, and we need to approve it
01:26:15 20 to see what kind of structural alterations need to
21 be made to make it safe and make it code
22 compliant, and at that time, we still did not have
23 permission or plans.

24 Q And going back to May 16th or 17th -- and you
01:26:31 25 stated that you left a message asking Laura to

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1 call you. Did she call you?

2 A It was a day -- I want to say it was a day or two
3 later, I did receive a phone call, and then they
4 stopped down to the office, her and Jing, a little
01:26:49 5 while after that. A couple days later they came
6 down to the office, if I remember correctly.

7 Q And when she called you, do you remember what the
8 substance of that conversation was?

9 A That she cannot -- that I told her before, she
01:27:02 10 cannot do any work in that building without an
11 architect. She's continuing to do work. As far
12 as I knew, we still had no reconciliation for the
13 upstairs project, and it had been several months.
14 I knew it was in the City attorney's, but we still
01:27:18 15 had an illegal apartment with no public bathrooms
16 upstairs for two tenants -- well, at the time it
17 was two tenants. So I told her that we were going
18 to pursue other options to get compliance, and one
19 of them it was liquor license renewal.

01:27:34 20 Q And what -- in that conversation, did you tell her
21 to seal the hole back up?

22 A No. I told her that she needed to hire an
23 architect and get plans submitted to figure out
24 what needed to be done.

01:27:54 25 Q I'm going to go back to January for a minute. And

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1 when you had that conversation with her about
2 doing the work without permits, did -- did she
3 indicate to you at that time that she was working
4 with an architect?

01:28:06 5 A Yes.

6 Q So she told you that she was working with an
7 architect?

8 A She told me she had an architect and he had
9 submitted plans. When I went back to the office
01:28:17 10 this next morning, we have nothing on record.
11 Zoning had nothing. Building inspection had
12 nothing. Planning review had nothing; hence, why
13 I wrote the orders right away because nobody had
14 brought anything into the office.

01:28:30 15 Q And then in May, you had the conversation about
16 the hole in the wall, and when you spoke with
17 Laura on the phone, was there any conversation
18 regarding architects at that time?

19 A I don't remember if it was a phone conversation,
01:28:45 20 but I remember when they were in the office, she
21 said she had an architect and that he told her he
22 could go ahead. I said I want to talk to the
23 architect. I want to know who she is. And he
24 showed me an e-mail from him that said that he
01:28:58 25 would look into plans, and I -- she gave me the

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1 name and phone number for the architect who, after
2 our conversation, I went upstairs and called the
3 architect, and he told me that, no. He told her
4 that -- he did look into it, and he told her that
01:29:15 5 if they wanted to do any work, they'd have to
6 sprinkler the building and he told her that she
7 wouldn't be able to do that at this time without
8 sprinkling the building, and he said, "That was
9 it. She didn't want me to draw plans or anything
01:29:28 10 after that."

11 Q And when you said that she came -- they came in
12 and you said Jing was one -- was with her and that
13 you knew it was him because you had talked to him
14 previously. When did you talk to him before that
01:29:42 15 day?

16 A When they came into the office was the first time
17 I had met Jing.

18 Q And how did you know who he was at that time?

19 A She introduced me to him and told me his name was
01:29:59 20 Jing and I -- and gave me his phone number. I
21 assumed they were a couple. That's what it
22 appeared like but --

23 Q And what about them together made you think that
24 they were a couple?

01:30:13 25 A Just the way that talked and interacted and

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1 they -- she had -- she had said they -- when we
2 had worked with the -- talked about apartment, and
3 then when two of them come in, I figured that that
4 was "they."

01:30:38 5 Q You mean "they" when she said that they wanted to
6 make the changes so they could sleep there?

7 A Correct, yes.

8 Q And --

9 A And then he had told me that he had done work. So
01:30:50 10 I figured that they -- it was them.

11 Q And at the point, do you recall when it was they
12 came into your office?

13 A Probably the third week in May was the first time.
14 It was after I was there on the 17th. It was
01:31:12 15 probably within four days of that, five days of
16 that.

17 Q And what -- what was the conversation when they
18 came to see you?

19 A They wanted to know what they need to do again,
01:31:26 20 and I -- this time, Jing was -- that's the first
21 time I had met Jing, and I said, "You need to hire
22 an architect." He said, "Well, we have an
23 architect," and I said, "Who? Because we have
24 nothing. Nothing's been brought in to the City,"
01:31:40 25 and that's when they gave me the architect's name

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1 and number. And I said, "He has to submit plans.
2 He had to get zoning changes, change of use and
3 fill out all the applications," and they thought
4 he had done that, I guess. And when I called him,
01:31:54 5 he said, "No, there's" -- he said, "I told them a
6 long time ago they couldn't do it."
7 Q So this is the same architect that they -- that
8 you talked to --
9 A Yes.
01:32:05 10 Q -- a few months ago?
11 A Yep.
12 Q Do you recall whether it was a time that they came
13 in together to find out what they needed to do --
14 was that before May 31st? And if you don't know,
01:32:56 15 that's fine.
16 A I believe it was the first time.
17 Q And then did they come to see you again after the
18 meeting?
19 A They came to see me again after the paperwork for
01:33:08 20 the license got filed and they were notified about
21 that. They came to see me again to find out why I
22 was doing that, and I explained that we've had no
23 communication, no plans submitted, no -- no
24 forward progress on any of the violations for two
01:33:23 25 different properties and -- in the same building,

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1 and it's our only next recourse, is to here and
2 then next one after that is to shut the entire
3 business down.

4 Q Mm-hmm. And how often do you run into this
01:33:38 5 situation?

6 A This particular scenario, first time in ten years.
7 Usually when we write orders, the architect gets
8 ahold out of us rather quick and says, "Hey, it's
9 going to take me some time to get plans drawn, and
01:33:56 10 can I have an extension." We know somebody's
11 working on it, we grant an extension, and then we
12 get plans.

13 Q And going back to my questions in terms of when
14 you spoke with her, you spoke English, and she
01:34:11 15 spoke English back to you, correct?

16 A Yes.

17 Q And were there some tangible things that happened
18 in the course of your conversations that -- that
19 led you to believe that she did, in fact,
01:34:29 20 understand what you are saying to her?

21 A Every time I asked her a question, you know, about
22 the architect, she responded right away that, yes,
23 they had an architect; and she knew who he was and
24 even had his e-mails and phone numbers. Pretty
01:34:45 25 much every time I asked her a question, she was

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1 able to answer them right away. I could
2 understand her 95 percent of the time when she was
3 explaining things. She stopped in the office
4 yesterday to talk, and we talked for probably 15,
01:35:06 5 20 minutes about, you know, what was going on
6 and -- and what she needed to do and what she
7 wanted me to do, and which I couldn't do because
8 we have to enforce code.

9 Q Mm-hmm. And at this point, the architect has
01:35:25 10 submitted plans, correct?

11 A We did receive plans from a different architect,
12 but plans were submitted. They have not been
13 reviewed yet. They're in line. We're running
14 roughly a week to two weeks behind on plan review
01:35:40 15 with the amount of plans that are being submitted
16 right now. But they --

17 Q Do you -- sorry. Do you know why it's a different
18 architect?

19 A I have no idea. When -- when the plan reviewer
01:35:49 20 told me the plans had come in, I said, "Well, who
21 brought them in," and he told me the architect's
22 name, and at this time I don't remember. R-
23 something. I'm like, "Well, that's not who I've
24 been talking to." I said, "I've been talking to a
01:36:03 25 different architect." He said, "Well, this is who

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1 brought the plans in." I said, "Okay. Fine."

2 And he said that at the time when we had
3 talked -- Mike, the plan reviewer, had talked to
4 the architect. He's a very -- he's been around a
01:36:15 5 long time in Madison and knows plan review very
6 well, and he had stated that they had talked to
7 him about this restaurant expansion a while ago,
8 and he told them the same thing. "Without being
9 sprinklered, it was not possible."

01:36:53 10 MS. ZILAVY: I have nothing
11 further.

12 MR. LANDGRAF: Just from a process
13 standpoint, it -- it would now be the time if
14 the committee has any questions of this
01:37:02 15 witness to ask them or -- or would we --

16 MR. GRAMS: Sure.

17 MS. ZILAVY: Well, I think he --

18 MR. LANDGRAF: He's -- he's on
19 deck, and then we are?

01:37:11 20 MR. ALLEN: Right.

21 MR. LANDGRAF: Okay. Sorry about
22 that.

23 MR. GRAMS: I have no questions.

24 MR. LANDGRAF: Mr. Fletcher?

01:37:26 25 EXAMINATION

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1 BY MR. FLETCHER:

2 Q Mr. Sjolander, can you, just as a rough guess --
3 you know, Attorney Zilavy was kind of walking
4 chronologically kind of through the -- the -- the
01:37:37 5 process. How many different points roughly
6 speaking do you feel like you notified either
7 Laura or the -- the owner of, you know, kind of
8 saying, "Hold on. You need kind of an architect,"
9 or "Hold on, you need, you know, to -- to stop and
01:37:56 10 get either, you know, building permits, etc."?

11 Because it -- just running through my mind that
12 entire conversation, it seems like you had quite a
13 few conversations at various points before work
14 actually occurred potentially that was in
01:38:12 15 violation or that you said, you know, this isn't
16 permissible because of the sprinklering issue or
17 -- just rough guess how -- how many times?

18 A There was the first one in January, and then the
19 next one would have been May 17th, and then since
01:38:30 20 that, they've been in -- been into the office
21 twice together. I've talked to Jing on the phone
22 once, e-mail conversation with Laura once, and she
23 came into the office again yesterday. So at least
24 seven different times.

01:38:58 25 Q You had noted in Attorney Zilavy's line of

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1 questioning that in your ten years that this was a
2 very unique situation. Is -- is that because of
3 the -- you know, just to clarify again for my
4 mind, is that because of the lack of
01:39:13 5 responsiveness to remedying the issue?

6 A Yes. We've had many projects done without
7 permits, but usually --

8 Q Yeah.

9 A -- when we write orders -- I've never had to go to
01:39:23 10 this extreme. Usually, we write the orders, and
11 if there's no contact, the way it works is we
12 refer to the City attorney. There's a 30-day time
13 frame because a letter goes out to the owner
14 going, "Hey, you have 30 days to communicate with
01:39:43 15 the inspector or this is going to go to
16 prosecution." So usually in that 30-day time
17 frame when that attorney letter goes out, we get a
18 phone call right away. And this time it didn't
19 happen.

01:39:54 20 Q Is this the -- the first time you've, you know,
21 from what you've heard this evening where you have
22 kind of a business inside of a -- kind of a
23 business that -- inside of a building that's owned
24 by another individual where, you know, the -- the
01:40:10 25 kind of business as the owner maybe, as you heard

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1 tonight, maybe for the first time that the owner
2 kind of did some of the -- the work, the initial
3 work with the bathrooms. Is that kind of -- have
4 you run into that before, and what's usually your
01:40:25 5 reaction to some of that?

6 A Where the owners do the work?

7 Q Yeah, where the owners do the work and the
8 business says, "Well, is the owner's respon -- you
9 know, the owner's doing kind of some of the
01:40:35 10 upstairs, in this case the bathrooms. What's your
11 typical response to that?

12 A We've run into it before where the owner does the
13 work. It -- they still have to have an architect.
14 I mean, it's still not permissible. It's a
01:40:49 15 commercial building, and anything over 50,000
16 cubic feet has to have an architect. It still
17 needs a permit no matter what, and we always write
18 the orders to the owner.

19 Q Mm-hmm. Mm-hmm.

01:41:02 20 A And when I wrote the orders, the contact I got
21 back was from Laura, so I assumed, being she was
22 the one communicating, that she was the owner.

23 Q Okay. And the -- you know, just from a
24 layperson's perspective, I know you have 16 counts
01:41:19 25 or 16 violations right here. Is that kind of a

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1 typical account of when you do these sorts of --

2 A For the extent of work that was done, yes, because
3 creating an apartment, there's electrical
4 requirements for outlet spacing every so many
01:41:35 5 feet. So electrical work has to be done. There's
6 heating and ventilation code requirements where we
7 have to maintain 70 degrees of heat. So depending
8 on -- it wasn't an apartment before. It was a
9 vacant storage room. We don't know what was done
01:41:54 10 in there. So basically when it's that type of
11 work, we routinely write all four code sections,
12 building and electrical, plumbing and heating,
13 because we know at some point that work has to be
14 done or was done, and if it wasn't, it needs to be
01:42:06 15 done correctly by a licensed contractor.

16 Q And, you know, currently, you -- you mentioned
17 with the -- the hole in the wall that was cut and
18 then replaced now and filled in, you -- you don't
19 -- just again to clarify -- that you don't have
01:42:20 20 any current immediate kind of life safety concerns
21 of that nature?

22 A No. If I did, I would have shut the restaurant
23 down on May 17th and posted no occupancy to whole
24 building.

01:42:34 25 MR. FLETCHER: Okay. Thank you

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1 very much. Appreciate it.

2 THE WITNESS: Thank you.

3 MR. LANDGRAF: Alder Verveer.

4 ALDER VERVEER: Thank you. A

01:42:43 5 couple of follow-up questions, please,
6 Inspector.

7 EXAMINATION

8 BY MR. VERVEER:

9 Q The first is, do you recall the name of that first
01:42:47 10 architect that you spoke with on more than one
11 occasion that was --

12 A Yes. Kevin Sword.

13 Q Kevin Sword. And then when you relayed to the
14 committee the conversation that Mike Van Erem had,
01:43:02 15 I guess, at the plan review counter in person, it
16 wasn't clear to me who -- who Mr. Van Erem was
17 speaking with. Was it the --

18 A It was a different --

19 Q Was it a --

01:43:10 20 A -- architect. I -- I believe -- didn't you have
21 the plan inspection?

22 MS. ZILAVY: It's Russ Kowalski.

23 MR. GRAMS: It's Russ Kowalski.

24 A It's Russ Kowalski.

01:43:22 25 Q And --

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1 A So it's a different architect, different firm.

2 Q Can you help me then understand the time line of
3 when Mike Van Erem was approached. What --

4 A It was within this week, I believe.

01:43:36 5 Q Oh, I see. I misunderstood. I thought you were
6 saying that -- that Mike Van Erem also had a
7 conversation with the architect where -- some time
8 ago where he informed the architect --

9 A Mike knew what was going on with the --

01:43:50 10 Q -- that sprinklers would be required if the
11 capacity exceeded 99.

12 A Yes, Mike knew what was going on with the
13 property. I work very closely with Mike in the
14 downtown --

01:44:00 15 Q Certainly.

16 A -- buildings, and he knew I had a case there, and
17 he knew it was work without a permit. And he knew
18 I was talking with a different architect, Kevin,
19 and when Russ brought plans in -- Russ has been in
01:44:11 20 the city a very long time and knows Mike very
21 well. Mike was like, "Oh, what are you doing with
22 these?" And that's when Russ told him, "Oh, yeah,
23 they asked me to correct it," and he says -- he
24 said, "Well, Jim's had some problems there." And
01:44:24 25 he said, "Yeah, they asked us a while ago about

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1 that, and we told them they would have to sprinkle
2 the building." And then Mike told me the next
3 day.

4 Q Okay. I see what you're saying. So this
01:44:33 5 architect, Russ Kowalski, had relayed to
6 Mike Van Erem in the last week or ten days that he
7 had had that similar -- that Mr. Kowalski had that
8 conversation --

9 A Yes.

01:44:46 10 Q -- with the license holder --

11 A Yes.

12 Q -- or someone affiliated --

13 A With -- with --

14 Q -- with the building owner or whoever --

01:44:53 15 A -- whoever -- yeah.

16 Q -- regarding the sprinkler issue?

17 A Correct.

18 Q Okay. But so really it was two different
19 architects then that have had communication from
01:45:02 20 the building inspection division --

21 A Yes.

22 Q -- at least verbally that sprinklers would be
23 required under the code if --

24 A Yes, if they made any alterations.

01:45:11 25 Q -- if the expansion was happening?

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1 MR. VERVEER: Okay. Thank you very
2 much.

3 MR. LANDGRAF: Mr. Grady.

4 EXAMINATION

01:45:16 5 BY MR. GRADY:

6 Q The sprinkler system seems to be the catching
7 point of doing any remodeling there. What -- what
8 would something like that one cost just off the
9 top of your head?

01:45:26 10 A If I had to guess, I'd say probably upwards of --
11 oh, not knowing what the water -- main water
12 supply is for the building -- If they didn't have
13 to alter anything there, you're probably talking
14 70,000 maybe for a sprinkler system.

01:45:47 15 MR. GRADY: Thank you.

16 MR. LANDGRAF: Other question?

17 With the committee's permission, I'd like to
18 ask a couple since we're down to quorum here.

19 EXAMINATION

01:45:56 20 BY MR. LANDGRAF:

21 Q The document that you were reading from --

22 A Mm-hmm.

23 Q -- with the 16 or 17 items, that's dated when?

24 A It was written --

01:46:12 25 Q Or written, I -- I guess.

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1 A -- January 3rd. Take that back. This is the
2 state -- the original -- the first one was
3 January 3rd, and the 502 State Street one was
4 May 17th.

01:46:43 5 Q The -- the one in -- the first one?

6 A Mm-hmm.

7 Q The -- the conditions that you listed there were
8 largely related to what was going on in the second
9 floor, the apartments and the --

01:46:59 10 A Correct. The January one, that was the only work
11 done at that time was the upstairs apartment and
12 bathroom.

13 Q Okay.

14 A In May it was the dining room alteration
01:47:08 15 downstairs.

16 Q The hole in the wall for the --

17 A Yes.

18 Q -- the dining room?

19 A Yep.

01:47:12 20 Q And the -- the piece of -- of -- the -- the second
21 one of those, the conditions that were with regard
22 to the dining room was the -- you can't --

23 A Identical. The same 16, because there -- there
24 probably should have been more on the zoning end
01:47:36 25 of that. I don't write the zoning code

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1 violations, but there's still electrical work.
2 There's still egress lighting. There's egress
3 pathway. There's still heating issues because
4 there were two separate businesses and two
01:47:51 5 separate entities. We don't know if it was
6 separate heat systems, separate water supply
7 systems. What happened to all of that, we don't
8 know.

9 So usually when it's a commercial building,
01:48:02 10 we write all four of them, all four electrical,
11 plumbing, heat, and building. We cover all the
12 bases otherwise we get in there and have to write
13 another set of orders for this and that and other.
14 We try to cover it all under one at the beginning
01:48:17 15 so that we can get in there and find out exactly
16 what needs to be done or have an architect tell us
17 what needs to be done.

18 Q Okay. The reason I'm asking this is I'm trying to
19 track or keep straight in my mind what's related
01:48:29 20 to the licensed premise as far as building code
21 issues and what is related to the second floor,
22 which is not the licensed premise?

23 A The second floor alteration would still dictate
24 the entire building be sprinklered.

01:48:42 25 Q I -- I understand that.

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1 A Okay.

2 Q But the -- the -- if nothing had happened on the
3 second floor and the only thing that happened was
4 on the first floor, which is where the license
01:48:53 5 premise is --

6 A Mm-hmm.

7 Q -- for the liquor license, that violation was the
8 opening of the hole in the wall to make it a
9 dining room?

01:49:05 10 A Mm-hmm.

11 Q And then that's now been closed.

12 A The hole has been closed. We still don't have
13 permits and inspections for it?

14 Q I understand.

01:49:16 15 A Okay.

16 Q But the -- the -- the area is no longer expanded?

17 A Correct.

18 Q Since that hole in the wall has closed, we're
19 back, in theory, to what was there before?

01:49:27 20 A Correct.

21 Q Even though the hole in the wall was not opened or
22 closed according to the spec -- to the
23 specifications and -- am I right on that?

24 A Correct.

01:49:42 25 Q Okay. So the way the wall is set right now, the

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1 building doesn't have to be sprinklered with
2 regard to the restaurant. It's the second floor
3 that's driving that?

4 A Yes, at this particular time.

01:49:55 5 Q Okay.

6 A The second floor supposedly has been corrected,
7 but I haven't seen it.

8 Q Okay.

9 A So I don't know.

01:50:01 10 Q Okay.

11 A I was told it was, but, again, no permits, no
12 inspections. We don't know.

13 Q And the second -- the first floor you have not --
14 am I correct in -- in your -- what you said is

01:50:18 15 that you haven't -- you issued that. Have you had
16 a response from the --

17 A The plans --

18 Q -- an architect or the --

19 A The plans were just brought. I haven't seen them
01:50:32 20 yet. But they were just brought in, I believe,
21 this week.

22 Q And that's for the first floor?

23 A Supposedly it's for the entire building.

24 Q Okay. Right. But we don't know that?

01:50:41 25 A I haven't seen them, so I don't know.

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1 Q Okay.

2 MR. GRAMS: You have a copy of it.

3 Q And just -- one last question. The -- the --

4 the -- the opening of the wall and the closing of

01:51:07 5 the wall on the first floor with regard to that,

6 your -- even though it wasn't done correctly,

7 either opening it or closing it, so I get that.

8 I'm just trying to get the issue of responsiveness

9 for the first and second floor, that the issues

01:51:27 10 that you had concerns about got addressed -- I

11 mean, because you're -- the first one was issued

12 in January, and you just got the plans?

13 A Correct.

14 Q The second one was issued in May?

01:51:42 15 A May.

16 Q And in theory, those plans also cover that?

17 A Correct.

18 Q It -- we -- we're presuming?

19 A Yes.

01:51:49 20 Q Okay. All right. Okay. I guess I do have one

21 more question. If there wasn't a licensed premise

22 on the first floor, so you wouldn't have any need

23 to be at the ALRC if it was a bookstore or

24 whatever --

01:52:07 25 A Mm-hmm.

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1 Q -- the process that the City would go through
2 would be to document this, turn it over to the
3 City attorney's office. They'd do some
4 investigation or --

01:52:19 5 A They -- even involved in one other case that took
6 two years to come to fruition. It was a high fine
7 of \$2.3 million, and owner was forced to sell the
8 building immediately after two years of not
9 correcting any of these violations. That was a
01:52:39 10 little bit different scenario. A lot more
11 violations, obviously.

12 When it goes to the City attorney, there's
13 usually an outcome, and then they still have to
14 correct it, and if they don't correct it, then we
01:52:52 15 go back again. But when we go back again, it
16 doubles. And when we go back again, it doubles
17 again. So it doesn't take long for them to get
18 very high fines in the attorney process that way
19 from what I've understood.

01:53:05 20 Q Okay. And the -- well, my last question just to
21 make sure I understand how you responded to
22 Mr. Fletcher's questions, the status of the closed
23 hole on the first floor, even though it wasn't
24 done properly, I think I heard you say it doesn't
01:53:28 25 give you enough angst to be over at the City

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1 attorney's office saying, "We got to close the
2 whole building down"?

3 A I wouldn't have to go to the City attorney's
4 office to post a no occupancy. I can do that on
01:53:44 5 my own.

6 Q Okay.

7 A But no, it -- I've seen a lot. I go on a lot of
8 911 calls for cars hitting the buildings and cars
9 driving through restaurants. I see the gamut.

01:53:59 10 The hole was not large enough. The load of the
11 upstairs coming down on that particular wall, I --
12 it didn't -- it didn't draw a super red flag that
13 I need to grab the placard and post the door right
14 now, where I am assuming you guys have all heard
01:54:19 15 about the card on Willy Street. That one is still
16 posted because you cannot walk in the building and
17 be safe there. This one, yes, it's a structural
18 wall; yes, it's a red flag, but it didn't -- it
19 wasn't a big enough red flag that I feared that
01:54:34 20 somebody would die in the building.

21 Q So the -- in that scenario, you just kind of go
22 through the normal process. You --

23 A We go through the normal process because we figure
24 we're going to get a response fairly quick.

01:54:43 25 Q Okay.

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1 A This one we haven't until I mentioned revoking a
2 license, and then we started to get some action.

3 MR. LANDGRAF: Mr. Fletcher?

4 EXAMINATION

01:54:53 5 BY MR. FLETCHER:

6 Q Just to clarify on the issue of the licensed
7 premises versus that -- Jim followed up on -- on
8 the Chair's kind of line of questioning. Back in
9 January on the upstairs work, you talked with the
01:55:07 10 owner of -- of Koi Sushi according to the
11 complaint here. So you talked to Laura, correct?

12 A Correct.

13 Q And so she knew from that point on that any work
14 in the building, from your belief, would require
01:55:19 15 you to go through the building permitting and
16 planning and approval process?

17 A Correct.

18 Q So is it your belief that it was kind of later on
19 as you found out in May with the work downstairs
01:55:32 20 that there -- do you believe it was a willful
21 violation?

22 A Yes.

23 MR. FLETCHER: Okay. Thank you.

24 MR. LANDGRAF: Alder Verveer.

01:55:45 25 MR. VERVEER: Thank you.

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EXAMINATION

BY MR. VERVEER:

Q Additional clarification on Chairperson Landgraf's line of questioning about kind of the process of what building inspection division follows. So if we could just -- if you could elaborate further, please. So you issued the official notices on different occasions regarding 502 State Street building, and then when you -- when you bring the office of the City Attorney involved and refer the matter to the City Attorney's Office, am I correct that they then draft a formal complaint in Madison municipal court?

A Yes.

Q And so they draft a long form complaint. Assist Attorney Lana Mades is the current building inspection prosecutor. And so can you just explain that process a little further so that -- some might be under the impression on the committee here that your official notices is kind of where things end. So could you fill in the gap of that fine of that earlier egregious case and can you talk about the rest of the process, please.

A I don't know a whole lot of it. I'll be honest.

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1 I know once I turn it over to the City attorney,
2 it's kind of out of my hands. They still have to
3 get a permit. They still have to correct the
4 violations, but I can't -- and the dealings I've
01:57:03 5 had with Attorney Mades, when they've been
6 corrected, I will shoot her an e-mail or call her
7 and say, "Lana, address such and such, the
8 violations have been corrected." It still goes
9 through the court system. They still, depending
01:57:18 10 on what happens in court whether they get a fine
11 or not, that's up to Court, but they still have to
12 comply with my orders.

13 If they don't, after the court -- if the case
14 gets settled or whatever happens in court and they
01:57:32 15 pay the fine, if we still don't have a permit,
16 then I turn right around and write another set of
17 orders and the whole process starts all over
18 again. And depending on the violations, if
19 they're bad enough, we will post the building no
01:57:45 20 occupancy until it gets corrected.

21 Q So I just wanted to clarify for the committee that
22 indeed there's another -- there's a whole due
23 process --

24 A Yes.

01:57:53 25 Q -- element that is in the -- and the appropriate

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1 venue for that is Madison municipal court. It's
2 -- that's -- that's who then takes on the action
3 when the -- when the -- when there are initial
4 notices that are lingering and are uncorrected.

01:58:07 5 A Yes. And then when we have multiple cases,
6 whether it's the same building or one owner with
7 multiple buildings, which is more common, the
8 problem, then we seek alternative ways to get
9 compliance because a lot of the times it's just
01:58:31 10 the -- the court system will take forever, and we
11 need to make the public building safe. So there's
12 other alternative routes, one being the ALRC if it
13 involves a liquor license. I have a current one
14 going on with a restaurant with a food and drink
01:58:52 15 license. It's just -- it's -- that one's in the
16 City attorney as well. Six months, no words,
17 still an illegal restaurant not with no grease
18 trap. Only the next step is to pull the food --
19 food license because it's a bad kitchen.

01:59:10 20 MR. VERVEER: Thank you for the
21 further clarification.

22 MR. LANDGRAF: And I appreciate
23 that because I was trying to sort out whether
24 the liquor license is the tool to fix the
01:59:21 25 non-liquor license --

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1 THE WITNESS: It's not the first
2 tool, no. It's --

3 MR. LANDGRAF: Okay.

4 THE WITNESS: -- it's -- I did the
01:59:26 5 orders first, got no response out of that. I
6 know it's been in court with one, two,
7 three -- four months now with still no
8 rectification until I had mentioned revoking
9 the liquor license, and then magically plans
01:59:43 10 showed up.

11 MR. LANDGRAF: Any further
12 questions of -- oh, Assistant City Attorney
13 Allen.

14 MR. ALLEN: One hopefully quick
01:59:53 15 question.

16 EXAMINATION

17 BY MR. ALLEN:

18 Q You mentioned that the wall that had been opened
19 between the restaurant and another area at one
02:00:00 20 point you found that there were tables and chairs
21 set up in that area?

22 A Correct.

23 Q Did it appear as though they were actually
24 conducting business in that area where the tables
02:00:11 25 and chairs were set?

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1 A Tables were set, and they had napkins on them. So
2 I would assume so.

3 MR. ALLEN: Thank you.

4 MR. LANDGRAF: Further questions?
5 Okay.

6 THE REPORTER: We didn't swear in
7 the witness when we started. Do you want me
8 to do that now?

9 MR. LANDGRAF: I'm sorry?

10 THE REPORTER: Do you want me to
11 swear in the witness now? We didn't swear
12 him in when we started.

13 MR. LANDGRAF: Oh, I'm sorry.

14 THE REPORTER: That's okay.

15 MR. LANDGRAF: Go ahead.

16 (Witness sworn.)

17 MR. GRAMS: I have a question now.

18 EXAMINATION

19 BY MR. GRAMS:

02:00:43 20 Q Because you didn't hear from the January letter,
21 did you wonder at all that maybe something --
22 somebody didn't get the response at all? Because
23 you sent it to this other LLC. You didn't send it
24 to Koi Sushi, LLC?

02:01:03 25 A I sent it to the registered owner that we have on

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1 record for the building.

2 Q Right, and you assumed that Laura was the
3 registered owner?

4 A When the three tenants told me that that was who I
02:01:15 5 needed to speak to, yes.

6 Q Do you think that she might have just been an
7 agent and because she had the restaurant, it might
8 be inconvenient, so the landlord might use her to
9 do some of that stuff? Did you think about that?

02:01:27 10 A I -- I just talk to whoever's on site, and then
11 the orders go to the owner, and I would assume
12 that the owner would have got ahold of me.

13 Q Well, Laura did say in her testimony that she did
14 tell the owner about this. I think you might have
02:01:44 15 heard that, right?

16 A Yes, I heard that, but nobody ever contacted us
17 or --

18 Q Yeah.

19 A -- to indicate what needed to be done or how to go
02:01:52 20 about fixing the --

21 Q Mm-hmm.

22 A -- the violations.

23 Q So you are basically saying because she used the
24 word "they" one time that you thought that they
02:02:07 25 were a couple, right?

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1 A Yes, I did.

2 Q Do you think she really did the work?

3 A No. Jing told me that he did the work.

4 Q Okay. And when did he tell you that?

02:02:20 5 A When they came into the office.

6 Q In May, I assume?

7 A Yes.

8 Q And did you say tenants said that she was in
9 charge? That's another -- the tenants told you
02:02:35 10 that?

11 A Yeah.

12 MR. GRAMS: No further questions at
13 this time. I reserve the right to call him
14 in adverse later for my case.

02:02:58 15 MR. LANDGRAF: Okay. Thank you.

16 (Witness excused.)

17 MS. ZILAVY: I have no further
18 witnesses.

19 MR. LANDGRAF: Okay. Then I guess
02:03:09 20 we're on to you.

21 MR. GRAMS: Okay. First of all, I
22 have an opening statement that I'd like to
23 make.

24 I'm Attorney David Grams, and I was
02:03:18 25 asked by a friend to look into this situation

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1 last week. So undoubtedly, I had a lot of
2 scrambling to do to talk to various people to
3 try and figure out what happened here. From
4 what I learned, that Jing is the landlord. I
02:03:36 5 have talked to him. I actually spoke to him
6 a few different times. I talked to him
7 specifically last night, and I know I'm sort
8 of making his testimony. He isn't here, but
9 he claims he never received the first
02:03:52 10 response from the City, and I will say that I
11 did check that, and in his original
12 application -- in the original application in
13 the building --

14 MS. ZILAVY: I'm going to object to
02:04:04 15 testimony, that you're testifying on his
16 behalf.

17 MR. GRAMS: This is my opening
18 statement. Okay?

19 MS. ZILAVY: But you're testifying.

02:04:12 20 MR. GRAMS: I'm just stating --
21 making a statement. They can take it or
22 leave it.

23 And the address that was originally on
24 the application for the building and where he
02:04:23 25 wanted his stuff sent is 913 Emerald Street.

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1 That's the address. He claims he never
2 received the first one. I think that's why
3 nothing happened in this situation. Although
4 Laura sort of was acting as agent for the
02:04:42 5 building, I don't believe she had anything to
6 do with fixing up or doing anything with the
7 upstairs.

8 MR. ALLEN: Point of order. There
9 was an objection by the City's
02:04:57 10 counsel/prosecutor. That gets ruled on not
11 by the opposing counsel, but by you,
12 Mr. Chair. And she has objected that he's
13 testifying rather than doing an opening
14 statement, the purpose of an opening
02:05:14 15 statement being an explanation of what the
16 counsel thinks the evidence will show, not
17 the presentation of evidence or hearsay.

18 MR. LANDGRAF: Now, I -- I
19 understand what -- what you're saying. If --
02:05:38 20 if -- if you're done with your -- with your
21 statement, will you come back and be able to
22 deal with the information you're --

23 MR. GRAMS: I'll start over and
24 forget about what I -- I said before.

02:05:51 25 MR. LANDGRAF: Okay.

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1 MR. GRAMS: Okay. There's been a
2 violation of the wall. The restaurant did
3 that. They shouldn't have done that, and
4 they're sorry about it. Once they really
02:06:06 5 knew that that was a problem, they did engage
6 an architect. The architect they engaged is
7 Russ Kowalski. Russ Kowalski works jointly
8 with Kevin Sword, who was originally
9 involved, and they're trying to make amends
02:06:25 10 by filing a new building approval
11 application.

12 I think that it's unfair that the
13 restaurant be held for violations in the
14 building. The restaurant is a separate
02:06:39 15 operation. It did do the wrong thing by
16 cutting the hole, and I think that was based
17 upon miscommunication between the architect.
18 That's it.

19 MR. LANDGRAF: Okay. So that's the
02:07:00 20 opening statement. Now we deal with evidence
21 that you want to -- want to put out.

22 MR. GRAMS: I'd like to call Laura.

23 EXAMINATION (via interpreter)

24 BY MR. GRAMS:

02:07:24 25 Q Laura, you heard the statement by Jim Sjolander

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1 for the City where he states that you said that
2 they -- you had made changes to the upstairs. Did
3 you make any changes personally with the upstairs?

4 A No, I have not. I don't know anything about
02:08:02 5 remodeling. So I wouldn't have done it.

6 Q Why did you pick up the rent checks for the
7 building?

8 A Because it's a family -- a family member. So I --
9 I'm just helping out.

02:08:31 10 Q You said you did speak to Jing with regard to the
11 the problems with the upstairs?

12 A Yes, I have.

13 Q Do you know why Jing didn't do anything to fix the
14 problems?

02:08:59 15 MS. ZILAVY: Objection,
16 speculation. I don't know how she can know
17 why he did or didn't do something.

18 MR. LANDGRAF: Can you restate
19 that.

02:09:20 20 Q What did Jing -- what was Jing's reaction to the
21 problems with the up stores -- upstairs problems?

22 A He say he will contact or he'll get that
23 corrected.

24 Q Did you think it was your responsibility to fix
02:10:08 25 the problems with the upstairs?

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1 A No.

2 Q Why did you allow them to make a hole in your
3 restaurant?

4 A I just want to expand -- give the restaurant more
02:11:05 5 room or expand the restaurant's space.

6 Q But you were told it was a violation to expand the
7 restaurant. So I'm asking you: Why did you let
8 them do that?

9 A It's probably a mistake between the --
02:12:12 10 miscommunication between my architecture and me.
11 I thought that he would apply for the permit and
12 get that approved for me. So that's why I did
13 what I did, but it was a mistake.

14 Q Are you sorry about what happened now?

02:12:32 15 A Yes.

16 Q How important is the beer and wine license to your
17 business?

18 A The liquor and wine license, it's part of the
19 business for running the -- the restaurant
02:13:05 20 business.

21 Q I guess, what does it mean as far as your sales?
22 How much of a loss does it mean if you don't have
23 your liquor and wine -- excuse me, your wine and
24 beer license?

02:13:19 25 A It would be very important. I would feel it would

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1 probably -- I'm not exactly sure, but I would feel
2 it would be thousands of dollars lost per month.

3 Q What will be the way you go forward with regard to
4 future plans for expansion, etc.?

02:14:22 5 A I will wait on the -- the drawing, the
6 architecture drawing and make sure the City
7 approved, and once it's approved, then we'll
8 follow the instruction as to what I have to do to
9 get that corrected before I will do anything else.

02:14:38 10 Q Have you had any other violations or bad incidents
11 involving any of your patrons or people in your
12 restaurant?

13 A No. No one has said anything about it.

14 MR. GRAMS: That's all I have, your
02:15:17 15 Honor.

16 EXAMINATION

17 BY MS. ZILAVY:

18 Q Didn't you open and operate without a liquor
19 license for a period of time?

02:15:25 20 A No. We can't sell any liquor license without
21 permit -- can't sell any liquor without permit.

22 Q Right. But she had the license without the
23 alcohol for -- she had the restaurant without
24 alcohol for a period of time, didn't she?

02:15:58 25 A No. I have not sell any liquor -- sell any liquor

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1 or any beers prior to -- in the period when just
2 the restaurant license but not the liquor license.
3 We have not sold any liquor during that period.

4 Q Did she -- did you open and have the restaurant
02:16:18 5 operating before you got a liquor license?

6 THE INTERPRETER: Can I ask you to
7 repeat the question, because I think
8 basically we're saying she did not sell any
9 liquor prior to not having the liquor
02:16:49 10 license.

11 Q Right. And I'm not saying that she did. I'm just
12 trying to establish that she had her restaurant
13 opened and operating before she got a liquor
14 license. She served food without alcohol for a
02:17:01 15 period of time?

16 A Yes.

17 Q And the liquor sales are not a significant part of
18 her business, correct?

19 A No. It was very important just because I have to
02:17:46 20 pay a large amount of rent for using the space,
21 \$11,000 per month.

22 Q Well, I asked about her liquor sales, the alcohol
23 sales. The alcohol sales are minimal compared to
24 the food sales, correct?

02:18:03 25 A The sales of the liquor, it will improve and help

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1 the income towards making, you know, rent payments
2 for each month.

3 MS. ZILAVY: Okay. Well, that
4 wasn't the question I asked, but I have no
02:18:34 5 further questions.

6 MR. GRAMS: No further questions.

7 MR. LANDGRAF: Any further
8 questions?

9 MR. FLETCHER: Just -- I have one.

02:18:45 10 EXAMINATION

11 BY MR. FLETCHER:

12 Q It -- it goes back to -- I think Attorney Zilavy
13 was going to -- was trying to ask the same
14 question that I was thinking of, which can -- can,
02:18:57 15 you know, on your -- on the liquor/beer license
16 kind of renewal form that we have, question 13
17 talks about your estimated percentages of food
18 versus alcohol sales. You know, as a -- as a
19 restaurant, you have to meet the definition of a
02:19:16 20 restaurant under the Madison General Ordinances.

21 It indicates that your percentage of sales
22 for alcohol -- thank you, Deputy City Clerk. On
23 the top of the back page there, it indicates that
24 your percentage of alcohol sales compared to food
02:19:35 25 is -- is 10 percent alcohol sales versus

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1 90 percent food. Is that -- do you still believe
2 that to be an accurate statement of your alcohol
3 sales for this establishment?

4 A I'm not sure. I think it might be just a little
02:20:30 5 bit more than that, but it'd be roughly about
6 that, but I think it's possibly a little bit more
7 than what's there, but I'm not sure.

8 Q But still, roughly -- roughly speaking, this is
9 accurate?

02:20:47 10 A Yes.

11 Q One other kind of question, and -- and -- you know
12 just for my understanding, the -- the building
13 owner has a -- has an LLC for the building,
14 correct?

02:21:13 15 A Yes.

16 Q Do you have any formal involvement with that LLC?

17 A Not -- not part of it.

18 Q You're not listed on the LLC or anything like
19 that?

02:21:35 20 THE INTERPRETER: She said no.

21 MR. FLETCHER: Okay. Thank you.

22 Thank you, Mr. Chair.

23 MS. ZILAVY: I do have a followup
24 on that.

02:21:43 25 EXAMINATION

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1 BY MS. ZILAVY:

2 Q Did you register your LLC, your Laura Garden, LLC,
3 together with 502 State Street, LLC? Did you two
4 go and do that together?

02:22:12 5 THE INTERPRETER: It's the LLC just
6 under my -- under her name.

7 Q Right. But did you register yours at the same
8 time that 502 State Street registered theirs?

9 A No, I don't think so. I don't remember. It was a
02:22:53 10 CPA who did it for me.

11 MS. ZILAVY: Nothing further.

12 MR. LANDGRAF: Any further
13 questions? Then I think from the process
14 standpoint, we are down to your closing
02:23:15 15 arguments, then his, and then back to you.
16 Okay? You can take a seat back there, if you
17 want.

18 ALDER VERVEER: Are the witnesses
19 released then so Jim can leave if he wishes
02:23:35 20 to?

21 MS. ZILAVY: Unless -- I don't
22 know. I guess I'll have him stay, if he can,
23 in case you have any questions if you go into
24 deliberation and might have questions for
02:23:48 25 him.

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1 MR. LANDGRAF: Okay. Thank you.

2 MS. ZILAVY: Well, there's a lot of

3 ground to cover. I'm not sure where to

4 start. So I'll start with the building

02:24:00 5 inspector's conclusion that that was a

6 willful violation, and this is a building

7 inspector with ten years' experience, which

8 is a lot of experience, and he was pushed to

9 the point in this case where he asked for

02:24:20 10 something to be done with the license because

11 he was not getting any response to his orders

12 and requests to comply with the building

13 code. I think without a doubt, I don't know

14 how you can't conclude that -- that Laura was

02:24:41 15 aware of the process, aware of the fact that

16 she needed permits and building plans

17 submitted and approval before she went ahead

18 and did anything. Perhaps not in January,

19 but absolutely for cutting the hole in the

02:24:58 20 wall, she knew.

21 She knew because of what the building

22 inspector told her. She knew because of what

23 her architect told her, and yet, she went

24 ahead and did it because she wanted to

02:25:09 25 increase the capacity of her restaurant, and

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1 she did that without coming to the ALRC. She
2 did it obviously without permits and plans,
3 and that was illegal, and I agree with the
4 building inspector that it was all willful --
02:25:28 5 also willful that she is aware of what she
6 needed to do, and she made a choice to not do
7 it.

8 I included the building code violations
9 for that upstairs apartment because I frankly
02:25:43 10 don't believe that she didn't orchestrate
11 those. I don't believe that she doesn't have
12 some kind of personal partner/relationship
13 with the owner of 502 State Street. I -- I
14 don't think people, tenants who have been
02:26:03 15 dealing with somebody just randomly
16 determined that she's in charge without good
17 reason. They said she's the one they always
18 deal with. They pay the rent to her, bills,
19 etc., etc., and if she's a tenant of 502
02:26:19 20 State Street, why is she collecting rent
21 and -- and taking care of business?

22 I think also if you listen back to
23 Inspector Sjolander's testimony that he had
24 the conversation with her, she didn't say,
02:26:40 25 "Oh, no. Wait. I didn't do this. I didn't

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1 do this. I didn't do this." She had a
2 conversation, spoke about the work being
3 done, said that they did the work because --
4 in the upstairs apartment because they wanted
02:26:54 5 a place to sleep when the weather was bad.
6 And based on his interactions with her and
7 also seeing Jing Jang (sic) and her coming to
8 the inspector's office, that he concluded
9 that they were partners, and I think that's
02:27:11 10 an accurate conclusion. And I would -- I
11 would direct you back to her testimony that
12 asking her the relationship -- and this goes
13 way back. I don't know if you remember, but
14 when she came before you to get her license,
02:27:25 15 there were questions, "Well, who owns the
16 building?" "Family." "Well, who?"
17 "Family." I mean, she never answers the
18 question. What is family? I asked, "Is it
19 your boyfriend?" "Well, what is love? I
02:27:38 20 mean, come on. That's absolutely ridiculous.
21 There's -- I think you need to evaluate
22 the credibility and I -- I think when you do
23 that, you can come to the conclusion that she
24 absolutely was responsible for those changes
02:27:51 25 made upstairs in addition to cutting the hole

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1 in the wall. I think that the evidence just
2 screams that that is, in fact, the case.

3 The architects told her, "No, you can't
4 do this." The first architect told her she
02:28:10 5 couldn't do what she wanted to do unless she
6 sprinklered the whole building. Those things
7 had been made very clear to her, and she
8 chose to ignore what experts in the field
9 advised her to do in terms of the building.

02:28:26 10 I asked her where she lives. She's
11 lived there for two years and doesn't know
12 her zip code. Come on. Really? Maybe I
13 could believe that she doesn't know how to
14 spell the street, but I don't. You can
02:28:39 15 decide what you want to do with that
16 information.

17 She testified that she wanted to expand
18 her restaurant. That's why the wall was cut
19 open and she, in fact, did expand it and had
02:28:56 20 tabled in that space, napkins on the tables.
21 I have no doubt she was using the tables
22 and -- and using that has an expansion of her
23 licensed premises, which would be in
24 violation not only of Chapter 38 for not
02:29:14 25 coming to you for prior approval, but also

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1 the occupant load and the fire protection
2 issues with the sprinkling.

3 So she was in violation well beyond just
4 the liquor code. She filled in the hole,
02:29:34 5 didn't get permits or inspections for that.
6 You heard the building inspector testify that
7 the wall needs to be opened back because he
8 had to see what was done and what exactly
9 is -- the wall is to determine whether or not
02:29:49 10 something more than just the filling in of
11 the hole by who knows who was enough to make
12 the building safe.

13 And I -- I mean, the evidence is clear
14 also that -- that nothing was done until the
02:30:15 15 point where she found out her, like, liquor
16 license might be in jeopardy, and all of a
17 sudden, they're running to building
18 inspection, "What do we do? What do we do?
19 Oh, we don't want to lose our license," but,
02:30:26 20 you know, they had six months of -- of notice
21 of violations and zero action on their part.
22 I mean, it was not just getting official
23 orders, but there was a municipal court
24 prosecution and then the revisit in May, and
02:30:42 25 that's where we get to today.

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1 And the reason why the City would ask
2 you to non-renew the license is because,
3 well, first of all, I think it's pretty
4 egregious, her conduct and her behavior, and
02:31:10 5 I don't feel that she's been honest before
6 the committee either. And that coupled with
7 the fact that her liquor license is located
8 in the 500 block of State Street -- everybody
9 knows that's an area where we have a lot of
02:31:25 10 problems related to alcohol, and quite
11 frankly, I don't know that she would honor
12 the conditions that are on her license.
13 There's a condition that she close at a
14 certain time. I don't know. Is she going to
02:31:44 15 do that? Is she going to do that long term?

16 I just -- I don't -- I don't have
17 confidence in her ability to comply with the
18 liquor code based on everything that I have
19 heard and seen related to this case. So I
02:32:03 20 would ask that you non-renew her license.

21 MR. GRAMS: Okay. First of all, I
22 think part of the problem we have here is
23 cultural as far as how, let's say, Chinese
24 culture operates. They -- a lot of times
02:32:29 25 they have extended family, and they all kind

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1 of help each other. I'm currently working
2 with the Chinese community with regard to
3 some objectives that they want to do as far
4 as helping other cultures and be more of a --
02:32:44 5 have identification in Madison. But I find
6 them very willing to help other people, and
7 that's how I got a start in volunteering for
8 their organization, and I sort of got asked
9 if I'd help out on this situation.

02:33:00 10 I don't feel this is a willful
11 violation. I think the City should have --
12 maybe Jim should have gone back and maybe
13 tried to talk to Jing or find out who owned
14 this 502 LLC versus the fact that she was
02:33:17 15 running the restaurant. So I don't --
16 there's no response because I believe that
17 Laura believed that Jing was going to take
18 care of it. So I don't think the January
19 thing really was -- got to the right person.

02:33:34 20 She -- at the time when she did -- she
21 did know that she needed to have
22 architectural approval. I think from talking
23 to her, she believed that the architect was
24 doing that and that she -- she could open it
02:33:51 25 up, and he would follow through and get the

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1 approval.

2 I did talk to the architect, and by the
3 way, the architect I first talked to was
4 Kevin Sword. Kevin Sword works for
02:34:04 5 Interior Logic. Interior Logic's one that's
6 more involved with design, and he actually
7 works with Russ Kowalski. Kowalski is the
8 actual architect that submitted the new plan.
9 So they really worked together. So it wasn't
02:34:19 10 like they jumped from one architect to the
11 other.

12 I don't think it's unusual that she may
13 have picked up the checks. It's cultural
14 there as far as helping each other. Whether
02:34:31 15 the tenants think she owns the building --

16 As far as the work upstairs, you know,
17 she didn't do any of the work, and even the
18 work that was done to knock the hole in the
19 wall, that was done by Jing. So I don't
02:34:48 20 think that she should be held responsible for
21 what happened upstairs. She told Jing what
22 the problem was and expected him to take care
23 of it. You know, he may have helped -- have
24 her help being involved, but it wasn't like
02:35:03 25 she was ignoring the City.

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1 I walked with her from the parking lot,
2 and she couldn't find the City-County
3 Building from the parking lot, which is a
4 block away. She's not good on directions.
02:35:17 5 I'm not surprised she doesn't know the zip
6 code. She said sometimes she drives around
7 and gets lost.

8 You know, it's -- I think she will be a
9 good citizen and do the right thing. I think
02:35:33 10 she's running a good operation. I've eaten
11 there a few times. I think they work real
12 hard every day of the week, and it's sad to
13 feel that she would lose this. She is a --
14 you know, the license is not a big part,
02:35:49 15 necessarily, of her total overall volume, but
16 it is something that brings in clients. Some
17 clients and patrons want this. So I hate to
18 see her lose this.

19 She has had the architect submit --
02:36:02 20 well, she and actually Jing now has submitted
21 because he's the owner of the building. He's
22 really responsible for her wall, and so the
23 new application that's been submitted to the
24 City, which you're aware of, requires -- has
02:36:17 25 taken care of the wall downstairs and fixing

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1 the upstairs. So it's in process, but like I
2 said, it'll take some time. I just hate to
3 see her lose the license. Thank you.

4 MR. LANDGRAF: Assistant City
02:36:33 5 Attorney Zilavy?

6 MS. ZILAVY: Well, if you do, in
7 fact, non-renew, that's all you're doing is
8 non-renewing the liquor license. She can
9 continue the restaurant as long as she wants.
02:36:46 10 And I will also submit -- I mean, we all make
11 inferences or judgments based on
12 circumstances based on our life experiences,
13 based on things we observe, and
14 Inspector Sjolander is not stupid, and I -- I
02:37:11 15 think under -- should believe his perception
16 and conclusion of -- of -- well, A, that
17 Laura was and is running the show there and
18 was responsible for not only what happened
19 upstairs but downstairs as well. And I note
02:37:37 20 the telling slip in what the attorney said.
21 He said, "She has had the architect
22 submit" -- and he said, "Well, Jing did,
23 because he knows that" -- that's it. So
24 that's it. No more.

02:37:59 25 MR. LANDGRAF: Okay. Well,

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1 Assistant City Attorney Allen just to make
2 sure we've got the process right, this
3 concludes the evidentiary part of the -- the
4 hearing. So we would now vote to go into
02:38:18 5 executive session and discuss the matter.

6 MR. ALLEN: There's no such thing
7 as executive session. It would be closed
8 session.

9 MR. LANDGRAF: Closed session? All
02:38:25 10 right.

11 MR. ALLEN: And that's -- I'm not
12 going to belabor the point, but there is a
13 distinct difference between the two.
14 Wisconsin only has closed session under the
02:38:36 15 open meetings law. No. You could go into
16 closed session. You don't necessarily have
17 to, and I've been kind of tracking this on my
18 phone on the City channel. Since we don't
19 have somebody here, I don't even know if
02:38:48 20 they'll be -- if they're monitoring us to be
21 able to shut off the video feed and the audio
22 so that you can go into the closed session.
23 That -- I'm kind of surprised we don't have
24 somebody in the room here tonight. Do you
02:39:03 25 have a contact point, Jim?

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1 THE DEPUTY CLERK: There is
2 somebody who is producing it right now who is
3 dedicated to this meeting. So I would
4 imagine they are listening right now to all
02:39:13 5 us and following this.

6 MR. ALLEN: I hope so. I've done
7 the type work myself, and it's easy to be
8 watching the video and watching the -- the
9 equalizer to make sure there's audio being
02:39:24 10 recorded and not really following along with
11 what people are saying because you're working
12 on an assignment for your class or something
13 else, you know, so -- I -- I wish they could,
14 like, give us a heads up. I don't know.

02:39:39 15 ALDER VERVEER: On that point -- on
16 that point, I can interject. So I serve on
17 the City's finance committee. This is our
18 meeting room while the municipal building is
19 under renovation, and we regularly go under
02:39:49 20 closed session and they do have a
21 producer/director at Madison City Channel.
22 Usually there's actually three people that
23 work on each show, believe it or not, and so
24 their studio's right around the corner, and
02:40:00 25 typically they are actually listening to what

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1 we're doing.

2 MR. ALLEN: Right.

3 ALDER VERVEER: And they will, you
4 know, turn off the live feed for a meeting if
02:40:10 5 we do decide to go into closed session. But
6 typically the finance committee City's staff
7 does leave the room and confirms that the
8 City channel offices, again, around the
9 corner that -- that the live feed has ended.

02:40:24 10 MR. ALLEN: Perfect.

11 ALDER VERVEER: Sounds like you're
12 following along anyway, Attorney Allen. So
13 you would know.

14 MR. ALLEN: There's actually a
02:40:31 15 couple minute lag time here. So it'd
16 probably be more efficient to have staff --
17 if you do go into closed session, you don't
18 have to go into closed session. The law only
19 permits you to.

02:40:42 20 MR. LANDGRAF: Okay.

21 MR. ALLEN: Sometimes I think it's
22 valuable to have these types of discussions
23 in public. Not always. You know, the reason
24 to allow you to go into closed session in
02:40:53 25 sort of these quasi judicial hearings is so

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1 that you can hypothesize and say things you
2 might not say in front of a live audience
3 because you're trying to resolve issues, but
4 maybe they're not that delicate an issue to
02:41:07 5 resolve in closed session.

6 MR. FLETCHER: I just have one
7 procedural question, Attorney Allen.

8 MR. ALLEN: Certainly.

9 MR. FLETCHER: If -- if we had an
02:41:16 10 additional -- like, a question for -- the --
11 the defendant, I guess, in this case, are we
12 allowed to ask that, or are we kind of done
13 with questions at this point? I just want to
14 clarify.

02:41:31 15 MR. ALLEN: You're really done with
16 the evidence gathering phase.

17 MR. FLETCHER: Okay. Okay.

18 MR. ALLEN: The way we notice it
19 was that you could go into and out of closed
02:41:45 20 sessions, but we didn't state that as grounds
21 or a purpose for doing so. We -- we have for
22 consulting with counsel for deliberating,
23 but --

24 MR. FLETCHER: So even now,
02:41:58 25 question period is kind of --

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1 MR. ALLEN: No, no. The question
2 period, you could still -- because they
3 haven't gone into closed session.

4 MR. LANDGRAF: I'm wondering if we
02:42:09 5 might take a five-minute break before we go
6 any further --

7 MR. FLETCHER: Oh, okay.

8 MR. LANDGRAF: -- if that would be
9 okay with everyone. Can we -- can you make
02:42:16 10 the motion?

11 MR. FLETCHER: Yeah.

12 MR. GRADY: I second it.

13 MR. LANDGRAF: A motion and a
14 second. All right. All those in favor, say
02:42:23 15 "Aye."

16 COMMITTEE MEMBERS: (In unison)
17 Aye.

18 MR. LANDGRAF: Okay. Thank you.

19 (Recess taken.)

02:56:06 20
21 MR. LANDGRAF: Okay. Thank you for
22 agreeing to take a little break. So I'd like
23 to have the clerk take a roll call to bring
24 us back into -- into order.

02:56:18 25 THE DEPUTY CLERK: Sure.

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1 Bidar-Sielaff and Cano Ospina and Donnelly
2 are excused absences. Fletcher?

3 MR. FLETCHER: Here.

4 THE DEPUTY CLERK: Grady?

02:56:24 5 MR. GRADY: Here.

6 THE DEPUTY CLERK: Hill.

7 MS. HILL: Here.

8 THE DEPUTY CLERK: Landgraf?

9 MR. LANDGRAF: Here.

02:56:28 10 THE DEPUTY CLERK: Skidmore is not
11 here. Verveer?

12 MR. VERVEER: Here.

13 THE DEPUTY CLERK: We have quorum.

14 MR. LANDGRAF: Okay. I just was
02:56:38 15 conferring with Assistant City Attorney
16 Allen, and I'll hopefully state this
17 correctly. If I don't, jump right in. But
18 from a process standpoint going from a point
19 Mr. Fletcher made, if committee has any
02:56:52 20 questions of anyone who -- who testified
21 before us, we would ask them -- ask those
22 questions now, and then we'll make a
23 determination if we want to discuss the
24 matter in open session or closed session.

02:57:12 25 If we go into closed session, we'll need

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1 a motion to do that. And if we do go into
2 closed session and/or if we're going to
3 debate it in open session, we can make a
4 decision if any of the witnesses that were
02:57:31 5 here can leave or if we want them to stay.
6 So I think if -- if we don't have any
7 interest in additional questions, we might
8 want to consider that.

9 The court reporter will remain for the
02:57:47 10 record vote whether it occurs either in open
11 session or in closed session, and we would
12 come back out of closed session and announce
13 what the decision is. So that's from a
14 process standpoint. So that brings us -- did
02:58:01 15 I get it right?

16 MR. ALLEN: Yes.

17 MR. LANDGRAF: That brings us to
18 the point if anyone has any questions that
19 they would like to ask before we decide to
02:58:10 20 discuss the issue. Mr. Fletcher.

21 MR. FLETCHER: Mr. Chair, I'd like
22 to just ask Laura to come back and ask her a
23 couple of questions.

24 MR. LANDGRAF: Sure.

25

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XI WANG FILION,
called as a witness, being previously duly sworn,
was examined and testified on oath as follows:

EXAMINATION

BY MR. FLETCHER:

Q I -- just -- just a clarification in my mind just
from a timing, do you know roughly how long --
like, when was the hole cut in the -- in the
drywall, the kind of -- the -- the illegal
construction that we've talked about in the
restaurant, the expansion, the drywall, when was
the work performed?

A Sometimes in May.

Q Sometime in May?

A Yeah.

Q What was the -- let me ask it this way: What was
the length of time between the -- the work being
done to open up that space and then the wall being
filled in?

THE INTERPRETER: So your question
is asking the time when the wall's open and
time when it is closed?

MR. FLETCHER: That's correct.

A Roughly estimate about a week to about ten days.

Q During that period of time, did -- you know, as

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1 you heard the inspector Sjolander kind of discuss
2 earlier on the thought that -- that the space --
3 the tables and -- were set up in the space with
4 kind of the table settings like napkins, etc.,
03:00:38 5 were you using that space to serve food during
6 that period?

7 A When the space was open, it was about two days,
8 and inspector -- Jim, the inspector, came through
9 already. I think we had one customer went
03:01:20 10 through, but after that, there was nobody going in
11 there.

12 Q So you only had in the time that that space was
13 open one customer sit in that space?

14 A So to clarify, it's one time, there was about six
03:01:56 15 to eight people sitting in -- in that one table.

16 Q Did --

17 A In that space.

18 Q So food was served to those individuals, correct?

19 A Yes.

03:02:15 20 Q Was alcohol served to those individuals?

21 A No liquor.

22 Q Okay. For total of ten days, that space was open,
23 though?

24 A It was open for two days, but then it was all
03:02:49 25 completely closed up. So like the -- from the

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1 period the wall was open until the time it was
2 closed up, that period is ten days. The time that
3 it has table and chairs, it was only two days --

4 Q Mm-hmm.

03:03:02 5 A -- and the inspector came through, and then it was
6 sealed up and not served or used after that. So
7 we have someone come in and seal up the wall just
8 because the inspector came through and told us we
9 can't do that anymore.

03:03:25 10 Q And just to help me, again, just clarify here
11 because there's a lot of different moving parts,
12 right, who was the individual who sealed up the
13 wall?

14 A The owner asked someone to come over and close it.

03:03:44 15 Q How often do you and the owner interact?

16 A If it needed, we'll have phone calls, but estimate
17 probably about couple a week because he got his
18 own business too. So we communicate as needed.
19 And sometimes he comes and help out in the
03:04:54 20 restaurant.

21 Q When you had noted earlier on that the architect
22 told you that he would take care of,
23 quote/unquote, of the -- the building permits, did
24 you ever follow up with the architect to see if
03:05:12 25 they had taken care of the permitting process at

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1 all, or did you just rely on their -- their
2 suppose -- their word, as you claim?

3 A I thought he has get that process and get that
4 done for me because when I talked to him, he came
03:06:21 5 over. He said -- he said that he'll check on it
6 and then get back to me. So then after two day,
7 he stopped by and talked to me and said that as
8 long as it's not to her sitting of a hundred, that
9 he would -- that she could do it, but if over,
03:06:38 10 then she cannot. So I thought that the architect
11 would care of it.

12 Q But you did not follow up with him after that
13 point to see if he would take care of it?

14 A I -- he said that he would take care of it, and
03:07:14 15 also he sent an e-mail to me said that he take
16 care of it.

17 MR. FLETCHER: Thank you. Thank
18 you, Mr. Chair.

19 MR. LANDGRAF: Any additional
03:07:27 20 questions for either the applicant or
21 Mr. Sjolander while he's here? Okay. All
22 right. Thank you. You can take a seat.

23 All right. Well, then we are to the
24 point where we are -- we will discuss this
03:07:53 25 and make a determination as to what -- what

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1 our decision is. Does the committee have a
2 preference to do that in open or closed
3 session?

4 Alder Verveer?

03:08:13 5 ALDER VERVEER: I have a -- thank
6 you. I have a procedural question I wish to
7 raise, and I did mention to the legal counsel
8 and prosecutor during our break that it
9 appeared to me that there's a potential
03:08:24 10 defect within the four corners of the
11 complaint filed by the City as it relates to
12 the type of license in question. So I
13 believe it would be appropriate, and our
14 counsel can correct me if I'm wrong, that we
03:08:39 15 should ask the City to amend the complaint on
16 the record. As it relates to the license
17 type, the complaint repeatedly states that
18 the license issue and then question of
19 non-renewal is a combination Class B, and
03:08:54 20 this establishment does not have a
21 combination Class B license.

22 MR. LANDGRAF: Assistant City
23 Attorney Allen?

24 MR. ALLEN: That's correct. The
03:09:02 25 prosecutor can make that motion, and if the

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1 counsel for the licensee wants to, they can
2 either object or concur with it.

3 MS. ZILAVY: I would move to amend
4 that it reads class B -- B or class C wine
03:09:20 5 license.

6 MR. LANDGRAF: Do we need to vote
7 on that?

8 MR. ALLEN: Yes.

9 MR. LANDGRAF: Okay. So --

03:09:32 10 MR. ALLEN: But you should hear
11 from legal counsel for licensing.

12 MR. LANDGRAF: You have a --

13 MR. GRAMS: We won't object.

14 MR. LANDGRAF: Why don't you step
03:09:47 15 up to the mic so we --

16 MR. GRAMS: There's no objection --

17 MR. LANDGRAF: Okay.

18 MR. GRAMS: -- to amending.

19 MR. LANDGRAF: Okay. Well, then do
03:10:02 20 we have a motion to do as --

21 MR. FLETCHER: Yeah.

22 MR. LANDGRAF: Mr. Fletcher.

23 MR. FLETCHER: Yeah. I'll -- I'll
24 make a motion to amend -- to read, you know,
03:10:14 25 "Class B" be a "Class C Wine" in all areas of

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1 the -- the document that it currently says
2 "class B combination alcohol beverage
3 license."

4 MR. LANDGRAF: Do we have a second?

03:10:28 5 MR. GRADY: Second.

6 MR. LANDGRAF: Okay. Motion and a
7 second to amend the complaint as Mr. Fletcher
8 and Ms. Zilavy have requested. Any further
9 discussion? Hearing none, all those favor,
03:10:40 10 say, "Aye."

11 COMMITTEE MEMBERS: (In unison)

12 Aye.

13 MR. LANDGRAF: Okay. So what's the
14 committee's pleasure as far as --

03:10:48 15 Mr. Fletcher.

16 MR. FLETCHER: I guess, the -- the
17 question would be: Has there been a standard
18 practice for this committee to -- to go into
19 closed session to discuss these types of --
03:11:03 20 of issues based on kind of the open meetings
21 laws?

22 MR. ALLEN: I don't know of an
23 occasion where this committee has not gone
24 into closed session for those purposes.

03:11:19 25 Although, I will defer to the -- the

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1 resident, longstanding alder who has more
2 experience with the ALRC than just about
3 anybody in the city at this point as to
4 whether this body on a non-renewal hearing
03:11:37 5 has ever done deliberations in open session.

6 ALDER VERVEER: In response, I
7 can't recall an occasion where we -- we
8 deliberated in open session. There might
9 have been a time. Obviously, we -- we do not
03:11:50 10 have many deliberations where closed session
11 is appropriate in this committee. Typically,
12 the number of complaints we see are few and
13 far between, but the ones that I can recall,
14 the deliberations have all been in closed
03:12:07 15 session, and I was prepared to move that we
16 go into closed session.

17 MR. GRADY: I second.

18 ALDER VERVEER: I need to -- to
19 read the entire motion. If my colleagues are
03:12:18 20 comfortable with it, then Mr. Chair, I would
21 move that the committee go into closed
22 session pursuant to sections 19.185(1)(a),
23 (1)(b) and (1)(g) of Wisconsin statutes which
24 reads in relevant part, (a), deliberating
03:12:36 25 concerning a case which was a subject of a

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1 quasi -- judicial or quasi trial or hearing
2 before the governmental body (b) considering
3 licensing or discipline of any person
4 licensed by or investigating of charges
03:12:49 5 against such person and the taking of formal
6 action in such matter. (D), conferring with
7 legal counsel who is rendering oral or
8 written advice concerning strategy to be
9 adopted by the body with respect to
03:13:02 10 litigation in which it is or is likely to
11 become involved.

12 Further, I would note that if the
13 committee does vote to go into closed
14 session, then we may return to open session
03:13:10 15 immediately without giving the 12 hours
16 notice under Section 19.85(2) of Wisconsin
17 statutes.

18 MR. GRADY: Second.

19 MR. LANDGRAF: Okay. We have a
03:13:21 20 motion and a second, and Assistant City
21 Attorney Allen, that -- that motion meets all
22 of our standards?

23 MR. ALLEN: Yes.

24 MR. LANDGRAF: Okay. All right.
03:13:31 25 Any further discussion? Hearing none, all

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1 those in favor, say "Aye."

2 MR. VERVEER: Roll call.

3 MR. LANDGRAF: Oh, I'm sorry.

4 We'll call roll.

03:13:43 5 THE DEPUTY CLERK: Fletcher?

6 MR. FLETCHER: Aye.

7 THE DEPUTY CLERK: Grady?

8 MR. GRADY: Aye.

9 THE DEPUTY CLERK: Hill?

03:13:49 10 MS. HILL: Aye.

11 THE DEPUTY CLERK: Landgraf?

12 MR. LANDGRAF: Aye.

13 THE DEPUTY CLERK: Verveer?

14 MR. VERVEER: Aye.

03:13:57 15 THE DEPUTY CLERK: That passes.

16 MR. LANDGRAF: Okay. The motion

17 passes. So we will now go into closed

18 session. So just to make sure, we're okay

19 with the inspector leaving? Okay. You can

03:14:12 20 go, and applicant I'm presuming will --

21 MR. ALLEN: Everyone except for the
22 clerk, all of you, and myself.

23 MR. LANDGRAF: Okay.

24 (Begin closed session.)

04:03:20 25 MR. LANDGRAF: Okay. Well, we have

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1 as a committee deliberated the items in the
2 complaint. We've discussed it. We have
3 taken some votes on those items, and I will
4 ask Mr. Verbick to announce the --

04:03:44 5 THE DEPUTY CLERK: Do we need role
6 call vote?

7 MR. LANDGRAF: Oh, that's right.
8 We need a roll call vote to come back into
9 session. So all those in favor --

04:03:57 10 THE DEPUTY CLERK: Bidar-Sielaff,
11 Cano Ospina and Donnelly are excused
12 absences. Fletcher?

13 MR. FLETCHER: Here.

14 THE DEPUTY CLERK: Grady?

04:04:00 15 MR. GRADY: Yes.

16 THE DEPUTY CLERK: Hill?

17 MS. HILL: Here.

18 THE DEPUTY CLERK: Landgraf?

19 MR. LANDGRAF: Yes.

04:04:03 20 THE DEPUTY CLERK: Skidmore, no.
21 Verveer?

22 MR. VERVEER: Here.

23 THE DEPUTY CLERK: We have quorum.

24 MR. LANDGRAF: Okay. We are now
04:04:11 25 back in session, and as I was saying, we've

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1 -- we've deliberated the information, made
2 some decisions, and I will ask the Deputy
3 City Clerk to go through the three counts of
4 the complaint.

04:04:28 5 THE DEPUTY CLERK: Sure. There was
6 a motion to sustain violation 1, violation of
7 Chapter 38 of the Madison General Ordinances
8 within the meaning of 38.05(3)(a)(1), Madison
9 General Ordinances expanding or changing the
04:04:46 10 licensed premises without common council
11 approval. The vote was unanimous.

12 Number 2, violate -- sustained violation
13 number 2 -- violation of Chapter 38 of the
14 Madison General Ordinances within the meaning
04:05:03 15 of 38.10(1)(a)(11), Madison General Ordinance
16 has failed to operate the licensed premise --
17 licensed establishment in accordance with the
18 floor plan and plan of operations submitted
19 to the City. That vote was also unanimous,
04:05:22 20 and there was a motion to not sustain
21 violation number 3, violation of Chapter 38
22 of the Madison General Ordinances within the
23 meaning of 38.10(1)(a)(12) of the Madison
24 General Ordinances operated the licensed
04:05:37 25 premises in the manner that constitutes a

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1 public nuisance. And there was a motion to
2 not renew, and -- and that was unanimous as
3 well.

4 MR. LANDGRAF: Okay. Thank you.

04:05:55 5 So just to -- just to review for everyone,
6 the committee's determination was that in
7 counts number 1 and 2, the significance of --
8 of those led to the committee's decision to
9 not renew the license. Building code
04:06:20 10 violations are significant issues, and
11 there's long and tortured history of the
12 first floor or the second floor and the
13 process in other things, but the bottom line
14 is, the licensed premise was expanded
04:06:40 15 without -- without going through the proper
16 channels.

17 Now, having said that, the committee
18 also wanted to make sure that the applicant
19 knows that when those violations are taken
04:06:58 20 care of and the building inspection folks
21 agree that it was done properly -- and you're
22 already in that process because you've
23 submitted the architectural stuff to the City
24 and that's now got the process going -- when
04:07:18 25 the work is completed and the City Building

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1 Inspection Department has signed off on it,
2 the applicant would be free to come to the
3 ALRC and ask for a new liquor license.
4 There's no guarantee that the committee would
04:07:42 5 approve it, and there's no guarantee that the
6 council would further support the committee's
7 action, but I think it's safe to say that the
8 building code violations, however it is that
9 they occurred, need to be fixed, and the
04:07:59 10 faster that they're fixed, the faster you
11 would be able to get -- get yourself in the
12 queue to make your request for a new license.
13 And there's a whole process for that, and
14 you'd certainly want to talk to the City
04:08:19 15 clerk to make sure you tick off those steps
16 as correctly and quickly as you can. And we
17 would welcome you coming back saying the
18 building is fixed and you're ready to go.

19 Mr. Fletcher?

04:08:42 20 MR. FLETCHER: Mr Chair, you want
21 to talk about -- a little bit about the --
22 the next step in the City Council answer to
23 interrogatory, accept the report?

24 MR. LANDGRAF: Oh, yeah, from a
04:08:49 25 process standpoint, the City attorney will

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1 draft a report. The committee members will
2 have to sign that. It will go to the
3 City Council. It'll be discussed there, and
4 then it -- it becomes the law of the land
04:09:05 5 when the council approves it. So there's a
6 last step to the process, and it's scheduled
7 to go to the council --

8 ALDER VERVEER: Next Tuesday.

9 MR. LANDGRAF: -- next Tuesday. So
04:09:22 10 that would be -- that would be the thing to
11 do and --

12 MR. ALLEN: You can register and
13 speak to that item on the common council's
14 agenda.

04:09:38 15 MR. LANDGRAF: And you would
16 probably want to put your architect's phone
17 number on your speed dial and be checking
18 with him daily to make sure it's getting done
19 and getting done right. Okay. Any --
04:09:53 20 Mr. Fletcher?

21 MR. FLETCHER: If there's nothing
22 else, and it's procedurally in order, then
23 I'll move adjournment.

24 MR. LANDGRAF: I think we're ready
04:10:03 25 for that. City Attorney Allen? Okay. We

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1 have a motion and a second to adjourn. All
2 those in favor say, "Aye."

3 COMMITTEE MEMBERS: (In unison)
4 Aye.

04:10:13 5 MR. LANDGRAF: Opposed? Okay.
6 We're adjourned.

7 (Adjourning at 9:36 p.m.)

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1 STATE OF WISCONSIN)
2 COUNTY OF DANE) SS

3 I, JESSICA BOLANOS, a Notary Public in and for the
4 State of Wisconsin, do hereby certify that the
5 foregoing ALRC Non-Renewal Hearing was taken before
6 me at the City-County Building, 210 Martin Luther
7 King, Junior, Boulevard, City of Madison, County of
8 Dane, and State of Wisconsin, on the 13th day of June
9 2018; that it was taken in shorthand by me, a
10 competent court reporter and disinterested person,
11 approved by all parties in interest and thereafter
12 converted to typewriting using computer-aided
13 transcription; that said transcript is a true record
14 of the proceedings; that the appearances were as
15 shown on Page 3 of the transcript; that said
16 witnesses before examination was sworn by me to
17 testify to the truth, the whole truth, and nothing
18 but the truth relative to said cause. Dated June 25,
19 2018.

JESSICA BOLANOS
Notary Public, State of Wisconsin

Jessica Bolanos

Notary Public, State of Wisconsin

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