

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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February 25, 2016
Start: 10:18 a.m.
Recess: 11:10 a.m.

HELD AT: 250 Broadway - Committee Rm.
16th Fl.

B E F O R E: DONOVAN J. RICHARDS
Chairperson

COUNCIL MEMBERS: Daniel R. Garodnick
Jumaane D. Williams
Antonio Reynoso
Ritchie J. Torres
Vincent J. Gentile
Ruben Wills

A P P E A R A N C E S (CONTINUED)

Patricia Valencia, Owner/Operator
Cafe Cortadito

Ricardo Arias, Owner/Operator and Chef
Cafe Cortadito

Ron Skola
Neighbor and Patron of Cortadito Cafe

Matt Viggiano, Director
Land Use and Planning
Council Member Margaret Chin

Susan Stetzer
Community Board 3

Bruce Meltzer
Co-chair, Local Block Association

2 [sound check, pause]

3 [background comments, pause]

4 [gavel]

5 CHAIRPERSON RICHARDS: All righty, good
6 morning.

7 MALE SPEAKER: [off mic] Good morning.

8 CHAIRPERSON RICHARDS: I am Council
9 Member Donovan Richards, Chair of the Subcommittee on
10 Zoning and Franchises. Today we are joined by
11 Council Members Antonio Reynoso and also Council
12 Member Jumaane Williams, and there's a lot going on
13 today. Council Member Gentile was here, and he's
14 holding a hearing downstairs, but he will join us
15 back shortly. Today, we will be considering two
16 items, Land Use Items No. 332, a sidewalk cafe
17 located a 210 East 3rd Street in Manhattan, and
18 Resolution 935 to authorize the granting of
19 telecommunication franchises. I will now open up a
20 public hearing--I will now open up the hearing for
21 Land Use Item No. 332, Cortadito Sidewalk Cafe. This
22 item is in Council Member Mendez's district. This
23 particular cafe has been cause significant problems
24 in the neighborhood, and Council is, therefore,
25 recommending that the subcommittee pass a resolution

2 disapproving of this application. Although she could
3 not be here today, the Council Member has prepared a
4 written statement, and I know she has staff in
5 particular that is here as well. So, at this moment
6 I will now call up the first panel. Patricia
7 Valencia from Cafe Cot-- Am I saying it--

8 COUNCIL MEMBER REYNOSO: [off mic]
9 Cortadito.

10 CHAIRPERSON RICHARDS: Cortadito. I can'
11 read this name. Arias, Ricardo Arias--Arias
12 Cortadito, LLC; Felix Cafe Cortadito and Ronald--
13 Ronald Skolyola, Cafe Cortadito--Corito? Did I do
14 that right. Cortido?

15 MALE SPEAKER: No, it's Cortadito.

16 CHAIRPERSON RICHARDS: Cortadito. So you
17 may have a seat here. `

18 [background comments]

19 LEGAL COUNCIL: [off mic] The guys can
20 introduce themselves.

21 CHAIRPERSON RICHARDS: Yeah. [pause] All
22 righty, I'll ask you to say your name and who you're
23 representing for the record today, and then you may
24 begin your testimony. [pause]

2 PATRICIA VALENCIA: Okay. Good morning.
3 My name is Patricia Valencia. I own Cafe Cortadito.
4 I'm here to make just a couple of mentions. I know
5 this Councilwoman has recommended to not having my
6 sidewalk cafe any more, but I had an issue a few
7 months ago with a lady that came to Cafe Cortadito to
8 dine, and she request a bigger table. I was unable
9 to give her because I was extremely busy. So she get
10 up and without paying the bill, she left the
11 restaurant and I had--I had to go outside, and say,
12 listen, you have to pay the--the bill. So she--she
13 started things that I was rude, and I was racist,
14 that she's going to do whatever it takes for her--for
15 me to lose my license, my sidewalk license. And she
16 said I hate you, I hate you, and she walked away.
17 Three weeks ago, I had a meeting with Mr. Matthew
18 Viggiano (sic) at his office and when I went, I
19 opened the door and I see this woman, the woman that
20 she said that she hate me and she's going to do
21 whatever it takes for me to lose my license.

22 CHAIRPERSON RICHARDS: I don't really
23 want to get into like the personal side.

24 PATRICIA VALENCIA: [interposing] Yeah,
25 but she works at--I mean Councilwoman Mendez. So

2 what I'm saying is why she has to say that to me that
3 she's going to do whatever it takes for me to lose
4 my--my license when she work--when she knew that she
5 worked for Mr. Rosie Mendez. And also, one Saturday
6 Councilwoman Rosie Mendez went to my place. I was
7 extremely busy, and she started screaming at me, and
8 telling me that she's going to do whatever it takes
9 of her power for me to lose my license. I know she's
10 a council woman, but there's other ways to talk to
11 people. She shouldn't set up a meeting because
12 honestly, to have a meeting with the councilman or
13 Mr. Susan Stetzer from the Community Board, I can
14 easier get a meeting with President Obama than these
15 two ladies. It's impossible, impossible to get a
16 meeting, and they're so really nasty in the way they
17 just approach to you. I--I didn't have an
18 opportunity. I know that I make mistakes, but I just
19 wanted to have a meeting with them and explain. I did
20 make a mistake. I'm not going to do anything against
21 you. Please listen. They don't want to. They
22 refuse to have a meeting with me. They refuses, and
23 it's so frustrating because I was hoping for someone
24 to listen to me. You know, I--to hear me and--and
25 saying what's going on. I know it's my fault. It's

2 not anyone's what I did. But sometimes when there's
3 the nice weather, and you see a lot of people, you
4 don't want people to go to another place. You want
5 to make that money, and even sometimes you don't
6 think. You make mistakes, but that's what I have to
7 say.

8 RICARDO ARIAS: My name is Ricardo Arias.
9 Thank you so much for giving me the opportunity to
10 talk. I'm chef from the owner of Cortadito. I grew
11 in Brooklyn, one of the worst neighborhoods in
12 Brooklyn. I went to one of the worst high schools in
13 Brooklyn, Eastern District High School back in the
14 '80s. My dream--I'm from El Salvador. I'm the chef
15 and owner of Cafe Cortadito.

16 CHAIRPERSON RICHARDS: Can you speak of
17 where you grew up?

18 RICARDO ARIAS: I grew up in Brooklyn.

19 CHAIRPERSON RICHARDS: Bedford
20 Stuyvesant. We could barely--some things I see back
21 in the '80s in a really bad, bad neighborhood. My
22 dream always was, you know, to get over it when I
23 grew up, and I become a chef. I worked for 20 years
24 at Victor's Cafe, a very popular Cuban restaurant in
25 the city. Then me and my wife decide to open a small

2 Cuban restaurant, only 46. Even City Council Speaker
3 Melissa has been having lunch there, and they told me
4 even, you know, Loretta Lynch was having dinner a few
5 months ago there. This is not a bar. This a
6 restaurant. We don't--we do not have a liquor (sic)
7 license. We close at 10:00 p.m. It's--it's--I don't
8 know why this refusing. We tried for a near a year
9 and a half to get in touch with Ms. Rosie Mendez a
10 year and a half trying to get in touch with her
11 office by email, by phone. Never got a request, and
12 thank you so much for having an opportunity to listen
13 to us. Because we are a small business. We run the
14 city. It's not fair for these people to come, and
15 treating you like you're a criminal. We are not
16 criminals. We are not criminals. Please keep it in
17 your mind. Thank you so much.

18 RON SKOLA: Hi, my name is Ron Skola. I
19 live in the neighborhood on 3rd Street. I'm a
20 customer of Cafe Cortadito. I've been patronizing
21 their restaurant for several years now. I find the
22 food to be consistently good, staff to be very
23 helpful. I've never--I mean it--it is a small
24 restaurant and I've never been there where it's been
25 loud or crazy. It's very--it's a--I find it to be a

2 very cozy, quaint restaurant. That's why I like
3 going there. It has a nice clientele. Ricardo and
4 Patricia they're very dedicated to their business.
5 They look to improve business, and make betterments
6 to the business in any way they can. I--I find the
7 place is very clean inside and outside. I think
8 they're very respectful to their neighbors and the
9 neighborhood, and in living in that area, I think the
10 restaurant it's an asset for the neighborhood. It
11 provides a service to the residents that live there.
12 It brings other people from different communities
13 down there. I know in the summertime working in the
14 city, you're an office all day. You know, you want
15 to go out and you want to enjoy a dinner outside, and
16 every time I've been there it's never been crazy or
17 loud or--it's always been very low key, respectful
18 place. And--and I think, you know, as a community we
19 need to support small businesses like--like them. I
20 mean in this neighborhood for many years when you
21 didn't even want to go down to that area, you
22 wouldn't cross there for any way. Now, people go
23 down there, and I think we need more places like them
24 down--down in the East Village.

2 CHAIRPERSON RICHARDS: Thank you for your
3 testimony, Sir. You're going to testify?

4 COUNCIL MEMBER REYNOSO: Yeah, and he
5 speaks Spanish. Deborah, do you want to translate,
6 Antonio? Okay, [speaking Spanish]

7 MALE SPEAKER: [Speaking Spanish]

8 COUNCIL MEMBER REYNOSO: They're they in
9 the adjacent building.

10 MALE SPEAKER: [Speaking Spanish]

11 COUNCIL MEMBER REYNOSO: I never see
12 anything to speak of, (sic) and the restaurant closes
13 at 10 o'clock.

14 MALE SPEAKER: [Speaking Spanish]

15 COUNCIL MEMBER REYNOSO: And the reason
16 why there's a lot--a lot of people in front of the
17 restaurant is because--

18 MALE SPEAKER: [interposing] [Speaking
19 Spanish]

20 COUNCIL MEMBER REYNOSO: --the food is
21 good and all that. And he's saying that he really
22 appreciates the--the--the sidewalk cafe, and that it
23 seems like in the Lower East Side there's been an
24 attack on the sidewalk cafes, and he doesn't want it
25 go back to what it was in the past.

2 MALE SPEAKER: [Speaking Spanish]

3 COUNCIL MEMBER REYNOSO: And there's an
4 attempt to close all the sidewalk cafes. Thank you.

5 CHAIRPERSON RICHARDS: Well, I want to
6 thank you for coming, and certainly we're sensitive
7 to small business here in this committee. We work
8 very hard to ensure that, you know, communities and
9 small businesses certainly can work together to both,
10 you know, support a good quality of life so the
11 businesses do well, but also the quality of life in
12 the neighborhood. So I know Council Member Mendez
13 had in particular some issue. I know she's pointed
14 it out, and I know we are joined by one of her
15 staffer today who will certainly go through the
16 testimony. I would just--so I'm--I'm going to go to
17 Council Member Williams in a second, but I know that
18 there--you know, you're obviously a very successful,
19 from what I hear, restaurant. And I'm very happy
20 that you at least admitted on the record that there
21 some things that, you know, that your--your--your
22 business was doing that obviously was not, you know,
23 the wishes of the community, and perhaps Council--and
24 obviously Council--

25 PATRICIA VALENCIA: [interposing] Even

2 CHAIRPERSON RICHARDS: --Member Mendez as
3 well. So, I would just say as we move forward, you
4 know, in--you know, her staffer is here. I would
5 suggest you speak to him before you leave today so
6 that you can really start to work to ensuring that
7 this application eventually can move forward because
8 unfortunately, this committee has always going to
9 support the local members' wishes. They know their
10 communities best. I don't want to get into the
11 personal, you know, the--whatever happened there, but
12 there are some things that we see--clearly see in the
13 picture that we've seen that Council Mendez admitted
14 that surely you have not been in compliance with--
15 with certain--the community's request and--and some--
16 So I would just suggest that we move forward with
17 that happening. I'm going to go to Council Member
18 Williams, and then I'll you a statement, and I'm--and
19 then Council Member Reynoso and then I'll circle
20 back.

21 COUNCIL MEMBER WILLIAMS: Thank you very
22 much for coming to--to tell your story. I do know
23 you--you get know members that--Council Member Mendez
24 has a fairly large body of work because she's been
25 here for a while. I've never known her to really be

2 anti-small business or anti her community. Quite
3 opposite that. She's always championing particularly
4 a small business and her community from where it was
5 to where it now. So, I just want to make sure I
6 focus on what I think the issue is. I don't think it
7 was the food. The food takes very well. I've been
8 hearing complaints about noise, or when they--or when
9 you open it seems to be a--it was specifically about
10 the size of the sidewalk cafe. So I wanted to keep
11 my comments and questions to that, and I know because
12 I guess the food is very good, it's--it's an
13 opportunity for more people to come. But I know the
14 as a council member we have to balance a lot of
15 things, and one of them is the size, you know, people
16 expanding outward. And so my understanding is,
17 therefore, actually--I understand you said you made a
18 mistake, which I can appreciate it, but it seems that
19 that happened multiple times. So how many violations
20 have you gotten over the past two years for having
21 too many tables and chairs?

22 PATRICIA VALENCIA: Only one in 2014 for
23 having extra tables. I--from 2011 to 2015, I have
24 four. Out of those four, it was three minus. It was
25 one because the railing was too high. So I had to

2 replace them, and the other one was there was no sign
3 for--for dis--disabled people, and I also got a ramp
4 in--in--in the side. And the other one was one
5 Saturday an inspector came, and he gave me a ticket
6 for the extra tables. And the last one that I had
7 was December 15th because I--I closed the sidewalk
8 because if you noticed the window of my restaurant is
9 very weak. So it's a lot of---they--in the heat and-
10 -and the--the--and the service plan doesn't work. So
11 it's too cold, and when the inspector came he said
12 that that was an enclose, and it has to removed right
13 away. I--I paid \$4,000 to have that built, and then
14 in order to remove it was another \$895, and there's a
15 \$1,000 fine that I got. I explained just--and takes
16 and the things pay less than 60, \$60,000. (sic) And--
17 and--but I asked the--the gentleman that built the
18 enclosed--I got some. I didn't know it was enclosed.
19 I asked him do you think this fine? And he said
20 everybody has it. If you walk around the city,
21 everybody has even bigger that the one I had
22 everywhere, everywhere.

23 COUNCIL MEMBER WILLIAMS: How many--so
24 you're--you're saying you only did this illegal
25 activity once time?

2 PATRICIA VALENCIA: Yes. Oh, the ticket
3 that I have on--on one Saturday. That was the--

4 COUNCIL MEMBER WILLIAMS: How many times
5 have overexerted how much table and chairs you're
6 allowed?

7 PATRICIA VALENCIA: Well, there was times
8 that like I said it was so busy that sometimes you
9 don't think, and you--you don't want to lose your
10 customers. You don't want them to go to the next
11 establishment because I don't have tables or I don't
12 have the space. And you have, you know, you--you--
13 you made a mistake, but honestly if I did it, I did
14 it probably only in the weekends, never on weekends
15 because there's nobody coming because they always
16 sat. The--the--on the weekends, is when you tried to
17 make your money out and, you know, because during the
18 week it's--it's empty.

19 COUNCIL MEMBER WILLIAMS: So I think
20 that's--that's what the issue is. I think it happened
21 multiple times from--from what we've heard, and
22 you're kind of agreeing that this happened multiple
23 times. So I just want to make sure, you--you--

24 PATRICIA VALENCIA: [interposing] All--
25 all, I'm saying is--

2 COUNCIL MEMBER WILLIAMS: Let me just
3 finish.

4 PATRICIA VALENCIA: Oh, I'm so sorry.

5 COUNCIL MEMBER WILLIAMS: I'm just saying
6 it just seems it happened multiple times over a long
7 time period, but you may not get the result you want
8 here, but it's not because people are really not
9 considering what you're saying. It's just the length
10 of time this has been happening. I do have a couple
11 of violations that were given to me, four of them.
12 It seems that three of them were for some type of
13 unlicensed activity. At least two of them explicitly
14 say it was either tables or an enclosed cafe in terms
15 of expanding what you're trying to do. So it seems
16 that this has been happening for quite some time.
17 I'm not sure about the meetings, but I know that the
18 Council Member has gone and visited. Members of the
19 staff here have gone and visited. So it seems there
20 was a lot of attempts to try to get the activity to
21 stop, and that--that never happened.

22 PATRICIA VALENCIA: She never came to my
23 establishment to have a meeting. She only came once
24 and she started screaming at me in front of the
25 customers, and she was pointing at me and she was

2 saying, who's the owner of this place? And I didn't-
3 -I didn't say anything. And the she said, Oh, so it
4 must be you? And I say yes, and then she said to me,
5 I'm going--listen, I'm going to do whatever it takes
6 to get out.

7 COUNCIL MEMBER WILLIAMS: [interposing]

8 Did you know when you were putting it out--

9 PATRICIA VALENCIA: [interposing] It
10 really seemed like I that was like that to lose your
11 license.

12 COUNCIL MEMBER WILLIAMS: --did you know
13 when you were putting it out, that it was illegal to-
14 -to expand?

15 PATRICIA VALENCIA: No, because if you
16 see next to my restaurant there's a--a garden and it
17 belongs to this gentleman. I asked him it's okay for
18 you if I can, you know, use this--this side--?

19 COUNCIL MEMBER WILLIAMS: But you knew
20 how many table and chairs you were approved for?

21 PATRICIA VALENCIA: Yes.

22 COUNCIL MEMBER WILLIAMS: Did you know it
23 was illegal to go past the amount you were approved
24 for?

2 PATRICIA VALENCIA: At that time, no,
3 because I asked the--the gentleman from the garden if
4 I can use this side of the--of the garden.

5 COUNCIL MEMBER WILLIAMS: [interposing]
6 Okay.

7 PATRICIA VALENCIA: [interposing] He
8 said no problem.

9 COUNCIL MEMBER WILLIAMS: So, you're--
10 you're saying you didn't know it was illegal to go
11 more than what you were approved for?

12 PATRICIA VALENCIA: No.

13 COUNCIL MEMBER WILLIAMS: Okay, thank
14 you.

15 PATRICIA VALENCIA: But then when--when
16 the councilwoman came, and said that I cannot do
17 that, and I--I apologized to councilwoman and I said--
18 -

19 COUNCIL MEMBER WILLIAMS: [interposing] So
20 what--what did you think the approval process was
21 for?

22 PATRICIA VALENCIA: The what?

23 COUNCIL MEMBER WILLIAMS: The approval
24 process? If--if you were approved for--for a certain
25 amount of tables and chairs, what did you think that

2 number for if you didn't know it was illegal to go
3 past?

4 PATRICIA VALENCIA: The approval to have
5 three tables and six chairs?

6 COUNCIL MEMBER WILLIAMS: Yeah, but you're
7 saying you didn't know it was illegal to go more than
8 that?

9 PATRICIA VALENCIA: When I--I yes but
10 when I tried to use the garden, I didn't know that I
11 was illegal.

12 COUNCIL MEMBER WILLIAMS: Okay, thank
13 you.

14 CHAIRPERSON RICHARDS: Council Member
15 Reynoso.

16 COUNCIL MEMBER REYNOSO: Okay, I'm going
17 to--I'm going to try to be helpful here to some
18 degree, but I--I have to let you know, that the way
19 you're operating as an over-zealous business owner.
20 That's your biggest problem that you have so far what
21 I've heard is that you're--you care mostly about the
22 bottom line, and you want to make as much money as
23 possible because successful, which we really
24 appreciate and want to support. But what we have
25 here is that you're--you're operating illegally.

2 It's very--it's very black and white. You look at
3 the pictures it's too many tables, and that's it.
4 There's no way around it. And if you don't know
5 something is illegal in New York City you just don't
6 do what you want, and then get caught later and then
7 have to a dump. That's \$6,000 you also with an
8 enclosed sidewalk is your fault. You should have
9 gotten a lawyer. You should have made sure that you
10 looked at the--the rules and regulations, and you
11 didn't do any of that. You just do things
12 instinctually that you think would be supportive of
13 your business without recognizing the law, and that's
14 a big problem that you guys have to look at. I've
15 been to this establishment myself several times. So
16 I know how busy it gets, and it's been a great
17 experience every time I go. So I'm not going to take
18 away from the experience and the food, which is
19 great, but I do think that you guys are ignoring your
20 fault here. I think you're putting a lot of onus on
21 Councilwoman Mendez, but you make it easy for any
22 Council Member to go to your establishment and see
23 that there's something wrong. Is there an
24 opportunity here for you guys to think about
25 withdrawing your application, beginning to comply

2 with--three tables is what you're allowed, and you
3 guys have more like six tables here. In the picture
4 there's no aisle for a waiter or for somebody with a
5 wheelchair to pass through on the--in the sidewalk
6 cafe. You guys are just operating illegally. The
7 money can't be more important than the overall
8 business, and you guys are not taking that into
9 account. And today, you're jeopardizing a money
10 maker that you have in the sidewalk cafe because you
11 just don't obey laws. You just don't obey laws. You
12 completely ignore the for money, and you can't do
13 that. So what I'm going to recommend is that you
14 consider withdrawing your application because it's
15 going to get denied if you don't. I just want to let
16 you know. From what I'm hearing right now, you're--
17 it's going to get denied. SO I would recommend that
18 you withdraw and resubmit the application. Speak
19 with Council Member Rosie Mendez and start complying
20 with the law. It's very simple. You guys have to
21 comply with the law, and I'm trying to be helpful in
22 letting you know that you should withdraw because if
23 not, it's too obvious that you guys are doing the
24 wrong thing. You're making mistakes I think just
25 because you don't have lawyers that are supposed to

2 be helping you through this process or at least
3 somebody who knows the law. [[Speaking Spanish]
4 Okay? Gracias.

5 CHAIRPERSON RICHARDS: All righty. Thank
6 you, Council Member Reynoso. All righty, do we have
7 any other questions? So I'll just--I'll just in
8 closing say that once again the impact on the
9 community because of the negligence of your business
10 has certainly had a negative impact on the local
11 community. So I would also suggest as the chair that
12 you withdraw your application and then resubmit it,
13 and sort of start to work with these things with
14 Council Member Mendez. I know that she has a lot of
15 applications. You're not the first ones. So I don't
16 want you to feels sorry as if you're being targeted.
17 We get a lot of her cafes. They have issues. We
18 work through them, and she's always been gracious in
19 working with the local businesses to ensure that the-
20 -the benefit for the community with their--the--the
21 things in the best interest of the community would
22 certainly solvable. So with that being said, I want
23 to thank you for coming out, and I will now--thank
24 you--

2 PATRICIA VALENCIA: [interposing] Thank
3 you.

4 CHAIRPERSON RICHARDS: --for coming.
5 [background comments, pause]

6 CHAIRPERSON RICHARDS: Okay. I'm now
7 going to call--all right, so--okay. I'm not going to
8 call Matt Viggiano or--and Susan Stetzer from
9 Community Board 3. I'm going to put two minutes on
10 the clock, and allow you to speak on the record on
11 this. If you can just say who you're representing
12 today, what organization, and who you are and you may
13 begin. Two minutes on the clock, please.

14 MATT VIGGIANO: Thank you very much. My
15 name is Matt Viggiano. I'm the Director of Land Use
16 and Planning for Council Member Margaret Chin. The
17 Council Member could not be here today, but has asked
18 me to relay her recommendations to the committee.
19 Councilwoman Mendez recommends to the members of this
20 subcommittee, to the members of the Land Use
21 Committee and to the Council of the City of New York
22 to deny the revocable consent application for a
23 sidewalk Cafe Cortadito.

24 SUSAN STETZER: [off mic] You work
25 Mendez.

2 MATT VIGGIANO: Oh, did I? Did I say
3 Chin?

4 CHAIRPERSON RICHARDS: Yeah, I was
5 confused for a second.

6 MATT VIGGIANO: Oh, and it's--it's on the
7 record so that's awesome.

8 CHAIRPERSON RICHARDS: There must be
9 something going on.

10 MATT VIGGIANO: [interposing] I
11 apologize. My name is Matt Viggiano and I work for
12 Councilwoman Rosie Mendez at least for now.
13 [laughter]

14 CHAIRPERSON RICHARDS: That's on the
15 record.

16 MATT VIGGIANO: That's years of say
17 emergency. Okay, well, I--I, in fact, work for Rosie
18 Mendez. Let me just be clear, and she's asked me to
19 relay her recommendations to the committee, which is
20 to deny the application for a revocable consent for a
21 sidewalk cafe for Cortadito located at 201 East 3rd
22 Street in Manhattan. Since its installation at this
23 location, the cafe has steadily expanded its cafe
24 boundaries without consent and contrary to the rules
25 and regulations of the Department of Consumer

Affairs. Included in the information for your review are photos taken by the Councilwoman, the Councilwoman's staff, Community Board 3, and neighborhood residents. In addition, there are also photos from Yelp reviewers, which show the owner's improperly expanding cafe. Finally, there is a photo from Google Maps. In each photo you can see the cafe has--the cafe has grown far beyond the three tables and six chairs that is approved and--and is the permitted size for a cafe in this location. In fact, at one point the Councilwoman has witnessed the business using up to 39 chairs with six or seven different size tables. 33 chairs more than was lawfully allowed. The councilwoman believes that these photos demonstrate not the applicant's willful disregard for the requirements or the permitting agency, DCA, what it has--has presented to the community board, but also for the safety of the area, residents and passersby. When cafe owners not only refused to police the crowds around their establishments, but exacerbate the situation by expanding their business beyond their property without consent, they create a dangerous public right away. A narrow sidewalk becomes impassable for

1 parents pushing a stroller, for seniors with walkers,
2 for people in wheelchairs, even residents just trying
3 to get home or making their way to the new Greek
4 (sic) and Poet Cafe nearby. Approximately two years
5 ago, the Councilwoman and other pedestrians were
6 traveling eastbound on 3rd Street, and were forced to
7 jump into a tree pit and off the curb so as not to
8 collide with a pregnant who was pushing a stroller
9 and was traveling westbound on East 3rd Street. In
10 addition, last year the Councilwoman saw the wheels
11 of an individual traveling westbound in a motorized
12 wheelchair almost fall into a tree pit because
13 there's not enough sidewalk space for the individual
14 to safely travel East 3rd Street. Now, a revocable
15 consent is a--for a sidewalk cafe is a privilege.
16 This establishment has shown no regard for that
17 privilege as will be described by resident and the
18 Community Board District Manager who--who sits beside
19 me. Please listen to their experience and their
20 comments. Copies of notices of the violation issued
21 by the Department of Consumer Affairs are also
22 available for your review. I understand that this
23 street allows sidewalk cafes as a permissible use.
24 However, based on the evidence at hand, the testimony
25

2 from residents and land use impacts including
3 pedestrian safety, the Councilwoman cannot support
4 this application and ask you to vote to deny its
5 renewal, and we urge you to vote to approve a
6 resolution denying this cafe. And I would just add
7 since I have 20 seconds left, we don't think you're a
8 criminal. This is not a criminal violation. This is
9 a civil violation that the responsible operation of a
10 sidewalk cafe is what we'd like to see all of the
11 businesses in the Second Council District adhere to.
12 We do support small businesses, and [bell] and we'd
13 like to see them thrive. Thank you very much.

14 CHAIRPERSON RICHARDS: Thank you. Ms.
15 Susan.

16 SUSAN STETZER: Okay.

17 CHAIRPERSON RICHARDS: Two minutes.

18 SUSAN STETZER: Thank you. My name is
19 Susan Stetzer. I'm here representing Community Board
20 3. I have here a resolution from the Community
21 Board plus pictures, which I can submit. I have
22 pretty--I live about a block away as well as work in
23 4th Street. So I have observed this cafe personally.
24 In October, this October 2015, the renewal for this
25 cafe was put on the agenda. We contacted the owner.

2 We have in writing from her, which I have with me
3 that she would attend the meeting. She did not show
4 up for the meeting. She did not call and let us know
5 she was not coming to the meeting. She showed up in
6 the office the day after the meeting and said among
7 other things that she had no idea she could not
8 expand her sidewalk cafe in front of the garden
9 because the people in the garden had given her
10 permission. I explained to her that she had an
11 approved plan, that she had to follow the approved
12 plan, and she said from now on now that she
13 understood that she would do so. On November 7th,
14 about a--almost a month later, not quite a month
15 later, I was in front of her sidewalk cafe with a
16 Department of Health person on a site visit. We
17 observed that she was again in front of the garden.
18 I went in and found her and spoke to her. She and I
19 spoke, and I said, you now understand. You know you
20 can't do this. Why are you continuing to do this?
21 And her answer was she would tell her waiter not to
22 do it again. I said that's not an answer. You have
23 been continually explained you cannot do this. Why
24 are you continuing to do this? And her answer was
25 again, I will tell the waiter not to do it. So she

2 has been consciously and purposefully [bell] not
3 obeying this, and I want to say we support sidewalk
4 cafes. We have many. We--there's probably two in
5 the Community Board 3 that get complaints, and this--
6 this is one of two.

7 CHAIRPERSON RICHARDS: Thank you.
8 Council Member Reynoso.

9 COUNCIL MEMBER REYNOSO: Has the
10 Councilwoman sat down with the owners to have a
11 discussion over this--over this problem?

12 MATT VIGGIANO: I did not. My awareness
13 of their interactions I think extends to just when
14 she's walked by and--and said look you can't do thin.
15 I've met with her in our district office.

16 COUNCIL MEMBER REYNOSO: Okay.

17 MATT VIGGIANO: I've asked our scheduler
18 while I was waiting to testify if we could a record
19 of any requests. So I'm happy to report that back to
20 the committee--

21 COUNCIL MEMBER REYNOSO: [interposing]
22 No, you have to send us.

23 MATT VIGGIANO: --the results on that.
24 (sic)

2 COUNCIL MEMBER REYNOSO: Listen, I'm just
3 saying I did think--Well, I--I want to be sympathetic
4 here. I want to assist businesses and their ability
5 to do well, but it's just a complete disregard for
6 compliances. It's--it doesn't seem like there's an
7 effort to be laid here, and I want to be helpful, but
8 it just seems like they're ignoring it all for all
9 for money ultimately is what I'm seeing. Is there an
10 opportunity for them to reapply for the application,
11 have a conversation with you guys and see if they can
12 comply?

13 MATT VIGGIANO: Oh, I mean absolutely.
14 Their--once their permit expires, they're certainly
15 welcome to reapply and go through the Community Board
16 process and the DCA process, and including our own
17 hearing process here at the Council.

18 COUNCIL MEMBER REYNOSO: All right, thank
19 you.

20 CHAIRPERSON RICHARDS: All righty. Well,
21 thank you--thank you for your testimony. Are there
22 any other members of the public here who wish to--?
23 Okay. All right, two minutes.

2 BRUCE MELTZER: Yes, sir. Thank you.

3 I'll be brief. My name is Bruce Meltzer. I live in
4 the building that Cortadito.

5 CHAIRPERSON RICHARDS: And you're
6 representing?

7 BRUCE MELTZER: Well, I'm representing
8 myself as a individual--

9 CHAIRPERSON RICHARDS: Okay.

10 BRUCE MELTZER: --and I'm co-chair of the
11 Local Block Association. This location has
12 notoriously been a problem along with one next door
13 to it, which is a separate issue, and it's been
14 repeating [bell]. Since 2014 it's been going on.
15 The sidewalks are narrow and very crowded there as it
16 is, so any extension of the cafe plus the additional
17 crowds is just completely unacceptable. So that's
18 basically all I needed to say.

19 CHAIRPERSON RICHARDS: Thank you.

20 [pause] All righty. Oh.

21 MALE SPEAKER: [off mic]

22 CHAIRPERSON RICHARDS: All righty, thank
23 you. Are there any other people from the public here
24 who wish to testify on this item. Seeing none, I
25 will now close the public hearing on Item--Land Use

2 Item No. 332. We will now move on to--Oh, do you
3 want to.

4 LEGAL COUNSEL: [off mic] Do a vote.

5 CHAIRPERSON RICHARDS: All right, we'll
6 now move onto a vote to disapprove Land Use No. 332
7 sidewalk cafe in Council Member Mendez's district.

8 LEGAL COUNSEL: Chair Richards.

9 CHAIRPERSON RICHARDS: I vote no. I vote
10 to disapprove. Yes, to disapprove. Sorry. We--we
11 really do this, you see? It's, you know--

12 LEGAL COUNSEL: Council Member Williams.

13 COUNCIL MEMBER WILLIAMS: I really wish
14 the applicant would have chosen to withdraw the
15 application to fix this problem. I'm sorry that you
16 didn't, but I'm going to support the local member
17 vote yes to disapproved.

18 LEGAL COUNSEL: Council Member Reynoso.

19 COUNCIL MEMBER REYNOSO: I'm a strong
20 advocate of small businesses especially Latino owned
21 businesses. It's something I care deeply about.
22 I'm--I--I want you guys to come back as soon as
23 possible with a new application. I want to be
24 supportive, but you cannot completely ignore the law
25 here, and it seems to be what happened, and I'm--

2 thank you--I'm not too proud of the vote that I'm
3 going to take here today, because I really want to
4 support small businesses especially Latino owned ones
5 but in this case I'm going to vote yes to disapprove.

6 LEGAL COUNSEL: Council Member Torres.

7 COUNCIL MEMBER TORRES: I vote to
8 disapprove.

9 LEGAL COUNSEL: By a vote of 4 votes in
10 the affirmative, 0 in the negative and 0 abstentions
11 a resolution to disapprove LU 332 is passed and
12 referred to the full Land Use Committee.

13 CHAIRPERSON RICHARDS: Thank you. All
14 right lastly we'll be voting today to approve
15 Resolution 935 authorizing resolutions at the grant--
16 of the granting of a telecommunication franchise.
17 This resolution will permit the Department of
18 Information, Technology and Telecommun--
19 Telecommunications to grant new franchise for
20 installation of telecommunications infrastructure on
21 city property. We held a hearing on this item on
22 January 12th and we've worked very closely with DOITT
23 since then to ensure that we are making an informed
24 decision on the specifics of this resolution. After
25 careful consideration, I'm satisfied that the

2 proposed resolution provides sufficient protections
3 for the City's interest, and will allow the existing
4 telecommunications franchise programs we have to
5 continue generation revenue. I would like to thank
6 DOITT for providing timely responses to our questions
7 and concerns on these items. All righty, do any
8 other members have questions on this item? If not,
9 we will now move onto a vote to approve Resolution
10 935. Counsel, please call the roll.

11 LEGAL COUNSEL: Chair Richards.

12 CHAIRPERSON RICHARDS: I vote aye. I
13 vote aye to approve.

14 LEGAL COUNSEL: Council Member Williams?

15 COUNCIL MEMBER WILLIAMS: I vote aye.

16 LEGAL COUNSEL: Council Member Reynoso.

17 COUNCIL MEMBER REYNOSO: I vote aye.

18 LEGAL COUNSEL: Council Member Torres.

19 COUNCIL MEMBER TORRES: [off mic] I vote
20 aye.

21 LEGAL COUNSEL: By a vote of 4 votes in
22 the affirmative, 0 in the negative and 0 abstentions
23 Resolution 935 is approved, and referred to the full
24 Land Use Committee.

25 [background comments, pause]

2 CHAIRPERSON RICHARDS: All right, I'm
3 going to hold this vote open for another 15 to 20
4 minutes. Thank you. [background comments, pause]

5 SERGEANT-AT-ARMS: All right, quiet
6 please. Quiet please.

7 LEGAL COUNSEL: Continuing the vote to
8 disapprove Land Use Item 332. Council Member
9 Gentile.

10 COUNCIL MEMBER GENTILE: I vote aye.

11 LEGAL COUNSEL: By a vote of 5 votes in
12 the affirmative, 0 in the negative and 0 abstentions,
13 the Subcommittee approves the Resolution to
14 disapprove Land Use Item 332 and refers it to the
15 Land Use Committee, and a continuing vote of Reso
16 935, Council Member Gentile.

17 COUNCIL MEMBER GENTILE: I vote aye.

18 LEGAL COUNSEL: Reso 935 is approved by a
19 5 votes in the affirmative, 0 in the negative and 0
20 abstentions, and referred to the full Land Use
21 Committee.

22 COUNCIL MEMBER GENTILE: And this meeting
23 is officially closed, adjourned. [gave]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date March 4, 2016