

VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY

IN RE : COLONIAL DOWNS GROUP, LLC	)
T/A ROSESHIRE	)
4016 GLENSIDE DRIVE	)
HENRICO, VA 23228	)
APPLICATION NO. 013604287	)
CASE NO. 013699181	)

COLONIAL DOWNS GROUP, LLC’S WRITTEN CLOSING ARGUMENT

Pursuant to the agreement of counsel as reflected in the Administrative Law Judge’s ruling at the close of the evidence during the Formal Hearing on October 14, 2025, Colonial Downs Group, LLC t/a Roseshire (“Roseshire”) submits the following for its written closing argument:

**I. Preface**

This matter involves a challenge to Roseshire’s application for an alcoholic beverage license, not a license to operate Historic Horse Racing (“HHR”) terminals. That should be obvious given the venue in which this hearing took place. However, very little, if any, of the evidence and testimony offered by the so-called Citizen Objectors in opposition to Roseshire’s application dealt with any alleged impact the Roseshire’s restaurant mixed beverage license would have on the surrounding residential neighborhoods, any breaches of peace and good order, or local property values.

Instead, both the written submissions and the testimony offered by the Citizen Objectors show that their real concern relates to the 175 HHR terminals that Roseshire is operating within the same venue at 4016 Glenside Drive where food and alcoholic beverages will be served. The attorney/spokesperson for the Citizen Objectors made this distinction clear before the hearing even began. In his Submission of Evidence and Witness Lists, counsel complained that Roseshire did not seek to get the “approval” of the Lakeside community before obtaining its Virginia Racing Commission license to operate those HHR terminals. According to counsel “[t]he Citizen

Objectors oppose Roseshire as a whole, and now respectfully stand before the ABC in opposition of (sic) Roseshire's ABC license because the ABC, at present, appears to be the opposition's last administrative resort." (Emphasis added.) Thus, the so-called "Citizen Objectors" are using this VABC hearing process as an effort to throw up yet another administrative road block through which they can once again express their dissatisfaction over the fact that Roseshire will be operating HHR terminals. In short, the Citizen Objectors do not have, and never supported with evidence, any genuine concerns that Roseshire will cause harm to the neighborhood because it will be serving alcoholic beverages at the subject location,

Based on the testimony and documents offered by the Henrico County government witnesses, there real concern is much the same, in that they too complain that Roseshire did not wait until the county passed an ordinance that would have prevented Roseshire's by-right use of the subject property as a restaurant and HHR venue. Yet those same government officials acknowledged that Roseshire's venue was a by-right use of the property at the time it submitted its various applications, that Roseshire had met all of the County's requirements to be granted construction permits, a Certificate of Occupancy, and had even satisfied the County's requirements that Roseshire provide a robust written safety and security plan. Roseshire was not obligated to submit to any referendum process when it submitted its building applications to the County, nor to obtain any informal approvals from the Lakeside neighborhood.

As discussed further below, neither group of objectors offered any real evidence that Roseshire's operation under an alcoholic beverage license at a small venue located at 4016 Glenside Drive (as opposed to Rosie's operation under such a license in a much larger facility, in a different neighborhood, in a different locality) would be "so located" so as to pose problems for the Lakeside neighborhood or Henrico County as a whole. Consequently, the objectors failed to

meet their evidentiary burden that reasonable cause exists for the Board to deny Roseshire's application.

## **II. Grounds of Objection to be Considered**

The objectors in this contested application hearing fall into two groups: (1) residents of Henrico County (the "Citizen Objectors") whose residences are within 2 miles of the location where Roseshire operates, and where it will maintain its alcoholic beverage licenses if granted; and (2) individuals employed by Henrico County (the "Henrico County Objectors") (collectively the "Objectors"). The Virginia Alcoholic Beverage Authority ("VABC") Bureau of Law Enforcement ("BLE") submitted a Request for Hearing to the VABC's Hearings and Judicial Services Division, citing three (3) subsections of Virginia Alcoholic Beverage Control Act (the "Act") – specifically, Va. Code §§ 4.1-222(2)(b), (c) and (d) – as the grounds upon which the Objectors collectively opposed Roseshire's application for a restaurant mixed beverage, beer and wine license. On motion of the Henrico County Objectors, the Administrative Law Judge allowed the Objectors to proceed on yet another objection listed in the Virginia Code, namely, §4.1-222(3).

As further demonstrated below, the Objectors failed to substantiate any of their objections. The proper place to begin an evaluation of the evidence and testimony put forward is a review of what each pertinent subsection of § 4.1-222 required the Objectors to prove, and under what standard. As the Administrative Law Judge noted at the beginning of the hearing of this matter, the Objectors carry the burden of proof, and they must substantiate their objections by a preponderance of the evidence.

### **A. Objection Under § 4.1-222(2)(b).**

In order to substantiate their objection to Roseshire’s application under this subsection, the Objectors needed to show by a preponderance of the evidence that the place to be occupied by Roseshire:

Is so located that granting a license and operation thereunder by the applicant would result in violations of this title, Board regulations, or violations of the laws of the Commonwealth or local ordinances relating to peace and good order.

For many years the law in Virginia has been clear and consistent that, in order to substantiate a “peace and good order” objection, the objector must establish a causal connection between any violations complained of and the location of the license – or in this case, the proposed license. *See, Atkinson v. Virginia ABC*, 1 Va. App. 172, 177, 336 S.E.2d 527, 530 (1985); *Muse v. Virginia ABC*, 9 Va. App. 74, 80, 384 S.E.2d 110, 113 (1989); *New B, Inc. v. Va. Dept. Alcoholic Bev. Control*, 79 Va. Cir. 194, 195 (2009); *see also IN RE: ROCKYARD 2, LLC, Virginia ABC Case #013648413 (08/13/2025)*. Under *Atkinson*, an objector is required to show more than simply where a violation of the law occurred, and then ask the Hearing Officer to presume causation. *New B, Inc.*, 79 Va. Cir. at 198. The objector must offer substantial evidence that there is a connection between the violations and the location or operation of the licensee, other than mere occurrence. *Id.* “Substantial evidence does not refer to volume of material, but to relevancy. For evidence to be relevant, the applicable law” – in this instance, *Atkinson* and *Muse* – “must be examined to determine the proof requirements necessary to support a certain conclusion. If *Atkinson* requires that, in addition to violations of law, some connection between those violations and the location of the incidents be demonstrated, other than occurrence, then substantial evidence regarding location alone is not relevant or sufficient to support the finding required for revocation.” *Id.*

**B. Objection Under § 4.1-222(2)(c).**

In order to substantiate their objection to Roseshire's application under this subsection, the Objectors needed to show by a preponderance of the evidence that the place to be occupied by Roseshire:

Is so located with respect to any church; synagogue; hospital; public, private or parochial school or an institute of higher education; public or private playground or other similar recreational facility; or any state, local or federal government-operated facility, that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions.

**C. Objection Under § 4.1-222(2)(d).**

In order to substantiate their objection to Roseshire's application under this subsection, the Objectors needed to show by a preponderance of the evidence that the place to be occupied by Roseshire:

Is so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area.

**D. Objection Under § 4.1-222(3).**

In order to substantiate their objection to Roseshire's application under this subsection, the Objectors needed to show by a preponderance of the evidence that:

The number of licenses existent in the locality is such that the granting of a license is detrimental to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider the (i) character of, population of, the number of similar licenses and the number of all licenses existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may have on such county, city, town or neighborhood in conforming with the purposes of this title, and (iii) objections, if any, which may have been filed by a local governing body or local residents.

(Emphasis added.) Virginia Code § 1-202 states that “[t]he rules and definitions set forth in this chapter shall be used in the construction of this Code and the acts of the General Assembly, unless the construction would be inconsistent with the manifest intention of the General Assembly.” Virginia Code § 1-221 defines the term “locality” to mean “a county, city or town as the context may require.” The area known as “Lakeside” refers to a neighborhood located entirely within Henrico County, Virginia. The Lakeside neighborhood does not hold the status of a county, city or town under Virginia law.

The Supreme Court of Virginia has stated that, in subsection 4.1-222(3), the General Assembly granted the Virginia ABC “the right to refuse to grant an ABC license if it has reasonable cause to believe that the granting of another license will be detrimental to the interest, morals, safety, or welfare of the public.” *Norfolk v. Tiny House, Inc.*, 222 Va. 414, 423, 281 S.E.2d 836, 841 (1981) (emphasis added). The Supreme Court of Virginia has further held that, with respect to rules concerning statutory construction, the plain, obvious, and rational meaning of a statute is to be preferred over any curious, narrow, or strained construction. *Turner v. Commonwealth*, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983). A statute is not to be construed by singling out a particular phrase. Rather, every part is presumed to have some effect and is not to be disregarded unless absolutely necessary. *VEPCO v. Citizens for Safe Power*, 222 Va. 866, 869, 284 S.E.2d 613, 615 (1981); *Raven Coal Corp. v. Absher*, 153 Va. 332, 335, 149 S.E. 541, 542 (1929). The plain, obvious, and rational meaning of § 4.1-222(3) is that an objection made pursuant to this subsection must relate to burden that would be imposed by yet another alcoholic beverage license given the number of such licenses already existent in the locality. Thus, an objection under this subsection is not related to the intrinsic character of the particular applicant/licensee itself. Rather, the objection is rooted first in evidence of the number of licensees which already exist in the

county, city or town, and then further, evidence as to whether, in light of that number, an additional license (i.e., “the granting of *a* license,”) will impact that community.

**I. The Objectors’ Witnesses and Documentary Evidence Failed to Substantiate Their Objections by a Preponderance of the Evidence.**

The Citizen Objectors and the Henrico County Objectors failed to offer testimony or introduce documents sufficient to establish any of the objections pursuant to which they oppose Roseshire’s application. The total sum of the Objectors’ evidence adds up to nothing more than supposition, conjecture, unfounded fears, and the confusion of correlation with causation.

**A. The Objectors Failed to Show That Roseshire’s Operation Under a Restaurant Mixed Beverage, Beer and Wine License at Glenside and Staples Mill Would Result in Violations of the ABC Act or Violations of State Law or Local Ordinances Relating to Peace and Good Order.**

The Objectors’ evidence in support of their objection under Virginia Code § 4.1-222(2)(b) consisted entirely of the testimony of Henrico County Chief of Police Eric English, and his review of two documents offered as exhibits: (1) a spreadsheet, or log, from the City of Richmond’s emergency 911 service provider allegedly reflecting calls for service to an address listed as 6807 Midlothian Turnpike in the City of Richmond; and (2) a cherry-picked group of “event chronologies” that purport to provide some additional detail as to eleven of the calls reflected in the call log. Chief English acknowledged that the call logs themselves do not show whether anyone was charged or arrested for any of the events that supposedly occurred at the Rosie’s location on Midlothian Turnpike – the logs only established that 911 responders were called to respond to that location. Chief English could not even determine from his review of the logs whether any actual crime had been committed at that location. The calls only show where the responder was dispatched. More significantly, the call logs do not show whether there was any

causal nexus between Rosie's operation of an ABC license at that location on Midlothian Turnpike and any incident reflected on the call.

The event chronologies were no more helpful in terms of showing that cause and effect relationship. While the chronologies gave some minimal additional details about the alleged incidents that had brought Richmond police to 6807 Midlothian Turnpike, once again, the reports either showed no connection between the reported incidents and the operation of Rosie's alcoholic beverage license at that address, or alternatively, that no crime had been committed at all. Three event chronologies exemplify the lack of relevance of these alleged incidents.

The first incident in the group was alleged to have occurred on February 20, 2024, and purportedly involved an assault and attempted purse stealing in the Rosie's parking lot. The chronology reveals two inconsistent reports of the alleged perpetrator – in one, the perpetrator is allegedly a white male, in another he is described as a black male. The only contact with the alleged victim came by way of cell phone calls, and when police arrived to investigate, they found no one in the parking lot to interview. Rosie's security employees advised police they had neither seen nor heard anyone in the parking lot in distress. The event was closed with no charges, arrests, or even any alleged victim being identified.

The third incident in the group was alleged to have occurred on May 4, 2024, and purportedly involved a carjacking. Richmond police were advised to report to the Rosie's parking lot at 6807 Midlothian Turnpike. However, the event chronology reflects that the alleged victim of the carjacking was giving an unidentified male a ride when two other unidentified males jumped in his car and took off. Most importantly, the event chronology shows that the incident took place at the bus stop on Midlothian Turnpike in front of the Rosie's, not on the Rosie's premises at all.



The chronology ends with no arrests being made, no charges filed, and absolutely no connection to Rosie's other than that the bus stop happened to be in front of that location.

The ninth incident in the group was alleged to have occurred on July 29, 2025, and allegedly involved a case of indecent exposure. Again, Richmond police were advised to report to the Rosie's parking lot at 6807 Midlothian Turnpike. However, the event chronology reflects that the incident itself actually occurred in the parking lot of a nearby Kroger grocery store, not at or in the Rosie's establishment at all. No connection to Rosie's is reflected in the entire narrative, other than that is the address where police were told to respond by the 911 operator.

These are mere examples, but the entire group of chronologies fails to show any causal nexus between Rosie's service of alcohol at its particular location on Midlothian Turnpike and the events addressed in the chronologies. No officer from the Richmond police department offered testimony to make such a connection, and Chief English – as the chief of the Henrico County police – could provide no such connection as the events occurred outside of his jurisdiction.

The call log and the event chronologies would thus be irrelevant even if this matter involved a challenge to the alcoholic beverage license held by Rosie's at 6807 Midlothian Turnpike. *See, New B, Inc.*, 79 Va. Cir. at 198-200. However, this matter is not about that license or that location. This matter is, in part, whether the Objectors can substantiate their claim that Roseshire – at 4016 Glenside Drive in Henrico County – is “so located” that granting a license at that location would result in violations of the ABC Act, ABC Board regulations, or violations of the laws of the Commonwealth or local ordinances relating to peace and good order. The Objectors offered absolutely no relevant evidence on this point. The Henrico County Objectors tried to tie – actually, to smear – the Roseshire application to the incidents reflected in the call log and the event chronologies, but as shown above, those documents and the events reflected therein would not

even be relevant if this were a case challenging Rosie's Midlothian's license. The Objectors failed to show that the two locations are the same in terms size or location. Testimony and evidence offered by Roseshire demonstrated without rebuttal that Roseshire is a tiny fraction of the size of Rosie's Midlothian, and evidence offered by the Objectors' other witnesses was to the effect that the neighborhood surrounding Roseshire is actually different than the neighborhood surrounding Rosie's Midlothian.

The only "evidence" offered by the Objectors to connect the two sites was a statement offered by counsel that an unnamed "representative" for Roseshire made a statement at a hearing held by the Virginia Racing Commission supposedly to the effect that Roseshire did not anticipate that crime at the Roseshire location would exceed that experienced at the Rosie's on Midlothian Turnpike. The Objectors never identified who was that Roseshire representative, produced no transcript of the VRC hearing where that statement was allegedly made, and produced no witness to verify the statement was made. Furthermore, even after reviewing the call log and event chronologies, the most that Chief English could testify to was that IF Roseshire's location would result in the same rate of crime as was purportedly experienced at the far different Rosie's facility on Midlothian Turnpike in 2024 and 2025, then this would put a "strain" on Henrico County resources.

Of course, as noted, the call log and event chronologies provide very little evidence of crime actually having been committed even at Rosie's on Midlothian Turnpike, and absolutely no probative evidence that there is a nexus between the location of Rosie's on Midlothian Turnpike and the events reflected in those two documents. Of infinitely more relevance to this matter, Chief English offered no testimony that the location of Roseshire at 4016 Glenside Drive was already a hotbed of criminal activity before Roseshire opened, such that the Board could perhaps make a

leap that more crime would occur there if it granted Roseshire's application for a restaurant alcoholic beverage license at that site. In fact, Chief English, and each of the Objectors' other witnesses, testified to just the opposite; that is, that the shopping center where Roseshire is located was relatively quiet, with no real existing crime problem.

Moreover, Roseshire's own witnesses testified at length regarding the substantial on-site security presence it has built out for Roseshire, as well as the extensive training that both its security and food and beverage employees undergo to prevent over-consumption of alcohol by patrons, identify and interdict use of the HHR terminals if patrons appear to be gaming under the influence of alcohol, and other safety and security measures employed by Roseshire to prevent violations of Henrico County ordinances relating to peace and good order. As confirmed by Roseshire witnesses Eric Baker and Angie Garbett, all of Roseshire's security and food and beverage employees – including all servers and managers – receive extensive training in how to identify, avoid, and if necessary, quickly address any issues impacting the safety and security of its patrons, its employees, or the general public.

Further, the Objectors conveniently ignored Roseshire's compliance with all the state and local requirements related to the location and development of this facility. Roseshire has obtained all local and state approvals necessary for the development and operation of its business at this location, including a license from the Virginia Racing Commission and all building and zoning approvals from Henrico County. Notably, as a pre-requisite to Roseshire receiving its Certificate of Occupancy, the County approved the development and implementation of Roseshire's Crime Prevent Through Environmental Design ("CPTED") Plan, which addresses numerous and extensive safety and security measures at the location.

Finally, it should be noted that the Objectors offered absolutely no evidence suggesting that the location of Roseshire would result in violations of the Alcoholic Beverage Act or regulations of the ABC Board. Hence, the totality of the Objectors' evidence in support of their objection pursuant to § 4.1-222(2)(b) consisted of conjecture; that granting Roseshire's application to operate under an ABC license at the corner of Glenside Drive and Staples Mill Road in the County of Henrico would result in violations of laws and ordinances relating to peace and good order, because there is a supposed nexus between the location of Rosie's at 6807 Midlothian Turnpike in the City of Richmond and violations of laws and ordinances relating to peace and good order in that neighborhood. As discussed, the Objectors failed to substantiate the latter allegation, and offered absolutely no evidence tending to show the former. Significantly, the Objectors chose not to offer evidence as to the experience of any other Rosie's location, including ones in communities and locations more closely analogous to 4016 Glenside Drive, where crime was insignificant after the opening of a Rosie's and granting of its ABC license. Conversely, Jeremy Callahan – Roseshire's general manager – offered unrebutted testimony that during his time as general manager of the Rosie's location in Emporia, crime actually decreased in the immediate area. The Objectors failed to show that there was, or is, anything intrinsic about the operation of a Rosie's with an ABC license anywhere, in any neighborhood, that would make it more likely that awarding Roseshire a restaurant mixed beverage, beer and wine license at 4016 Glenside Drive would result in violations of the ABC Act, ABC Board regulations, or violations of the laws of the Commonwealth or local ordinances relating to peace and good order. The Objectors failed to substantiate their objection pursuant to Virginia Code § 4.1-222(2)(b).

**B. The Objectors Failed to Show That Roseshire Is So Located That its Operation Under a Restaurant Mixed Beverage, Beer and Wine License at Glenside Drive and Staples Mill Road Will Adversely Affect or Interfere with the Normal, Orderly Conduct of the Affairs of Any Church; Synagogue; Hospital;**

**Public, Private or Parochial School or an Institute of Higher Education; Public or Private Playground or Other Similar Recreational Facility; or Any State, Local or Federal Government-operated Facility.**

With respect to their objection pursuant to § 4.1-222(2)(c), the Citizen Objectors offered only a single witness – Mr. Holloway – and no documentary evidence. Mr. Holloway is a retired minister who testified that he attends services at a church in the Short Pump area, many miles away from the Roseshire location. He did not offer testimony that granting Roseshire an ABC license would adversely affect or interfere with the normal, orderly conduct of the affairs of the church he attends. Mr. Holloway did state that, even in retirement, he continues to provide counseling to various individuals, some of whom live in what he describes as the Lakeside neighborhood. Mr. Holloway testified that some of these individuals are challenged by substance abuse issues, and he worries that having a gaming establishment like Roseshire near to these individuals will be a burden on them given the issues they struggle with. However, Mr. Holloway did not testify that he regularly provides his (presumably) spiritual counseling to these individuals in any church, synagogue, hospital, school or institution of higher education, nor any other building listed in § 4.1-222(2)(c), such that the orderly functioning of his at-large ministry in any such buildings would be adversely affected. Once again, the Objectors' opposition here is focused on Roseshire's operation of HHR terminals at this location, which has been approved by the Virginia Racing and permitted under the County's zoning requirements as evidenced by the issuance of Roseshire's Certificate of Occupancy.

A written objection from the Administrator of Bonnie Brae Church of Christ was included in the Bureau of Law Enforcement file submitted to the HAJIS division along with the request for hearing, but that objection letter complained only about the installation of HHR terminals at Roseshire, and mentioned nothing about Roseshire's application for an ABC license. Other

witnesses put forward by the Objectors noted the fact that there were other churches nearby to the Roseshire location, but none of those Objector witnesses testified that they attended those churches, or that the location of Roseshire would be detrimental to the orderly functioning of those churches.

Likewise, there was no testimony or evidence that there were any schools, government buildings or recreational facilities nearby to Roseshire that would be adversely affected by the granting of an ABC license to Roseshire. In short, the Objectors offered no relevant evidence in support of their objection pursuant to § 4.1-222(2)(c).

**C. The Objectors Offered no Competent Evidence That Roseshire's Location is So Situated That Its Operation Under a Virginia ABC License There Would Adversely Affect Real Property Values or Substantially Interfere with the Usual Quietude and Tranquility of Nearby Residences and Neighborhoods.**

The testimony offered by the Objectors in support of their objection pursuant to § 4.1-222(2)(d) consisted first of the anecdotal concerns expressed by multiple residents of what the Objectors generally referred to as the Lakeside neighborhood. None of these witnesses testified that they had any objection to the operation of a Virginia ABC license in the abstract at the location occupied by Roseshire. Ms. Royal, Ms. Decker, Ms. Willis, Mr. Rumsey and Mr. Holloway only object to Roseshire's application because it combines the service of alcohol with HHR terminals. Of course, the approval of the HHR terminals is a matter outside the jurisdiction of the Virginia ABC, and no evidence was offered by the Objectors that the presence of HHR terminals inside the same location where alcohol is served leads to greater alcohol consumption by patrons of such facilities, nor studies showing that patrons of such facilities like Roseshire tend to create disturbances or interrupt the usual quietude and tranquility in the residential neighborhoods surrounding where such venues are located. The operation of HHR terminals at this location has

been approved the Virginia Racing Commission and the location of the HHR terminals at this facility complies with Henrico County's zoning requirements.

None of the Objectors testified as to any first-hand experience they had with individuals who had consumed alcohol and used HHR terminals, and who then drove or walked into a nearby residential neighborhood and caused disturbances. Ms. Royal testified that she is actually an addiction therapist, and treats individuals with addiction issues who live in the area. She also testified that there were a number of residential addiction facilities in the Lakeside neighborhood. However, at no point did Ms. Royal testify that the presence of other mixed beverage restaurant licensees located in the Lakeside neighborhood already were causing disturbances among those in the addiction community in which she lived and worked. Significantly, for all of the information offered by the Objectors with respect to police calls to respond to 6807 Midlothian Turnpike – located in the middle of a long and congested commercial corridor – no evidence was offered or testimony solicited suggesting that the neighborhoods *surrounding* the Rosie's on Midlothian Turnpike suffered a disturbance of the usual quietude and tranquility they had previously enjoyed prior to the opening of that Rosie's venue.

Other Objector witnesses testified that they were afraid that there could be an increase in traffic through nearby neighborhoods if Roseshire's alcoholic beverage application were granted. However, not a single witness offered traffic analysis studies or surveys that would tend to support their fears, whether those studies related to their own neighborhood or to the neighborhoods which surround the other Rosie's locations elsewhere in Virginia. Anecdotal fear of a gaming venue with an alcoholic beverage license may be genuinely felt, but they are not probative evidence of anything other than individual feelings, and evidence of the feelings of local residents – as opposed

to evidence of facts supporting those feelings – is an insufficient basis upon which to substantiate an objection under § 4.1-222(2)(c).

The Objectors attempted to overcome this evidentiary vacuum through the last-minute disclosure of a new witness, Ms. Rana Dean, who is a residential real estate agent. Ms. Dean offered her opinion that “some buyers” in the residential real estate market “might” be turned off from buying residential real estate in a neighborhood that was located close to a gaming venue such as Roseshire. This, she thought, might cause houses for sale in the Lakeside area to sit on the market longer, though she could not say whether those homeowners would ultimately experience any reduction in the sale value in the event that Roseshire’s VABC application was approved. Moreover, Ms. Dean cited no literature or studies that had looked at this issue, nor did she testify that she had represented any clients herself who had expressed such concern or reluctance. In short, no matter what Ms. Dean’s experience is in the field of residential real estate, her testimony amounted to nothing more than guesswork.

When asked whether she had studied the relative values of residences in the neighborhoods surrounding the Rosie’s located on Midlothian Turnpike, Ms. Dean first acknowledged that there really weren’t many such residential areas surrounding that venue. She did testify that what residences she was able to look up had not enjoyed the kind of appreciation she would have expected over the last few years. However, even this testimony fell apart once Ms. Dean admitted that she had not gone back to compare home values in the neighborhoods surrounding Rosie’s on Midlothian Turnpike *prior to* the opening of that Rosie’s location versus home values in those same neighborhoods *after* the opening of that Rosie’s location.

In sum, the Objectors offered no verifiable data upon which the Board could determine that granting Roseshire’s alcoholic beverage license, and Roseshire’s operation under that license at its



Glenside Drive location, would adversely affect real property values or interfere with the usual quietude and tranquility enjoyed by residents of the Lakeside neighborhood. Therefore, the Objectors have failed to substantiate their objections pursuant to § 4.1-222(2)(d).

**D. The Objectors Failed to Demonstrate that the Number of Licenses Existent in Henrico County, or Even the Lakeside Neighborhood, is Such that the Granting of Another License is Detrimental to the Interest, Morals, Safety or Welfare of the Public.**

The language of Virginia Code § 4.1-222(3) is clear. The ABC Board may refuse to grant a license if it has reasonable cause to believe that the number of licenses already existent in the county, city or town in which the applicant proposes to operate is such that the granting of a new license in that locality is detrimental to the interest, morals, safety or welfare of the public. *See, Tiny House, Inc.*, 222 Va at 423. In other words, under the plain meaning of this statutory subsection, an analysis as to whether the granting of a new license would be detrimental to the interest, morals, safety or welfare of the public is only proper *after* there has been a threshold showing that the number of licensees already existing in the subject locality has reached a level of concern that the addition of one more license will tip the balance in the community. Under Virginia Code § 1-221, Henrico County is the only relevant “locality” for purposes of analysis under § 4.1-222(3). There were three Henrico County officials who testified as objectors during the hearing. Not one of them testified as to the number of existing Virginia ABC licensees that currently operate in Henrico County. Not one of them expressed any concern that the total number of Virginia ABC licensees already existent in Henrico County is such that the granting of a license to Roseshire would tip the balance in terms of the threat posed to the interest, morals, safety or welfare of the public in Henrico County. It cannot be stressed enough that, as a matter of Virginia law, the term “locality” as used in this subsection must be viewed as Henrico County, and not the neighborhood called “Lakeside.” This makes complete sense when one considers that there are no generally

defined or accepted boundaries for the neighborhood referred to as Lakeside, and no evidence was provided to clarify that issue.

None of the Citizen Objectors testified as to how many existing Virginia ABC licensees were operating in Henrico County either, or that they cared how many there were. In fact, none of the Citizen Objectors expressed any concerns over the number of existing Virginia ABC licensees were currently operating even within their own small neighborhood located within the much larger county of Henrico. The Citizen Objector witnesses consistently testified that their objection was to the VABC application of Roseshire *per se*, irrespective of the number of other licenses already existent in the locality. Roseshire's own evidence demonstrates that there are numerous active ABC restaurant mixed beverage licenses in this locality, and it was consistently shown through Objectors' own testimony that some of those licenses are located within the immediate proximity of Roseshire's location. Consequently, the Objectors as a whole failed to establish the first predicate of § 4.1-222(3); that is, that the number of licenses existent in Henrico County is such that granting another license would be detrimental to the general public. Accordingly, the Objectors laid no evidentiary foundation sufficient for the Board to consider the (i) character of, population of, the number of similar licenses and the number of all licenses existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may have on such county, city, town or neighborhood in conforming with the purposes of this subtitle; and (iii) objections, if any, which may have been filed by a local governing body or local residents. As to that last consideration, it is important to note that the Henrico County witnesses filed objections based entirely on the fact that Roseshire would be operating under a permit from the Virginia Racing Commission to operate HHR terminals, not on the fact that Roseshire would be adding to the number of ABC licensees already existent in the

county. The Objectors continue to mischaracterize their opposition to Roseshire's operation of HHR terminals at this location as an objection to the VABC's issuance of an alcoholic beverage license to Roseshire. But Roseshire's pari-mutuel wagering operations at this location have already been approved by, and are subject to extensive oversight and regulation of, the Virginia Racing Commission. In addition, Roseshire's operation of HHR terminals at this location is permitted as by-right use under applicable zoning requirements. In sum, the evidence and testimony offered by the Objectors entirely failed to substantiate their objection pursuant to § 4.1-222(3).

For all of the reasons stated above, therefore, Roseshire believes that the Objectors have failed to substantiate that reasonable cause exists to deny Roseshire's application for a restaurant mixed beverage, beer and wine license at 4016 Glenside Drive, and that the Board should grant Roseshire's application and issue the requested license forthwith.

Respectfully submitted,

COLONIAL DOWNS GROUP, LLC

By Counsel

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I certify that a true copy of this document has been served electronically upon the following  
on this 10<sup>th</sup> day of November, 2025:

Craig Maxey  
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Mark C. Shuford /s/

**VIRGINIA:**

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**BEFORE THE VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY**

**ADMINISTRATIVE ACTION NO. 013699181**

***In re: COLONIAL DOWNS GROUP LLC  
t/a "Roseshire"***

**Formal Hearing Date: October 14, 2025**

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**CLOSING ARGUMENT OF THE  
CITIZEN OBJECTORS OF LAKESIDE**

The following closing argument relates to the formal hearing captioned above, and is respectfully made, through undersigned counsel, by the citizens and organizations of Lakeside (the "Citizen Objectors"<sup>1</sup>), who are collectively opposed to the applicant Colonial Downs Group LLC's ("CDG") Roseshire Gambling Facility ("Roseshire") in whole, and who are also opposed to the issuance of any Alcoholic Beverage Control Authority ("ABC") Licenses at Roseshire. All the Citizen Objectors formal filings and submissions<sup>2</sup> in this matter are hereby respectfully incorporated as if

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<sup>1</sup> The "Citizen Objectors," as used here, means that group of citizen opponents to Roseshire defined in our initial submission and discussed during the Prehearing Conference.

<sup>2</sup> These include, without limitation, Citizen Objectors' September 25, 2025 Submission of Evidence and Witness List, Citizen Objectors' October 1, 2025 Opposition to Applicant's Opposition to ABC's Consideration of Statutory Factors Under Va. Code § 4.1-222(3), and Citizen Objectors' October 12, 2025 Addendum to Witness List of Citizen Objectors of Lakeside, as well as Electronic Mail communications including October 11, 2025 at 5:34 p.m. (adding Ms. Dean to list of witnesses by right reserved in initial submission to which no objection was made), October 11, 2025 at 6:44 p.m. (providing basis and explanation for late nature of the addition of such witness), October 11, 2025 at 7:40 p.m. (further explaining the compressed timeline of the Citizen Objectors' case), October 11, 2025 at 9:10 p.m. (adding and correcting that the Citizen Objectors had produced the initial submission referred to above just **13 days** following the Sept. 12 Notice of Formal Hearing), October 12, 2025 at 3:41 p.m. (adding that even the Formal Notice contemplated some revision of the Witness Lists after the submission deadline, during the Pretrial Conference), October 12, 2025 at 5:59 p.m. (responding in defense to Mr. Shuford's e-mail which, as an e-mail message itself, ironically excoriated undersigned counsel for communicating via e-mail rather than through "proper briefing", deriding undersigned counsel and further imploring this Court not to excuse "[Mr. Bishop's] professed ignorance of proper procedure . . ."), October 13, 2025 at 10:11 p.m. (further explaining the nature of the theretofore undiscovered and thus, undisclosed witness, and providing further equitable and fundamental fairness bases for her testimony to be admitted).



set forth herein in full. This argument is submitted in writing in accordance with the Court's ruling on October 14, 2025.

Before the first witness was called in this hearing, the Court took roll. The sheer volume of parties objecting to the issuance of this license, including citizens, individuals, community groups, and the County of Henrico itself and branches thereof is testament to the objectionable nature of the applicant's operation. Also before the first witness was ever called, the Court dealt with counsel for the applicant, who sought to materially limit this proceeding. First, arguments were made seeking to limit the statutory factors this Court could consider—those arguments did not result favorably for the applicant. But that's not all.

The applicant, by and through its counsel, also unsuccessfully made efforts to limit the witnesses from whom this Court would hear, and thus to limit the evidence, in an effort presumably to improve the applicant's lie. Indeed, the first forty-five (45) minutes or so of the Formal Hearing were spent tussling over this issue, one which was ultimately decided in favor of more evidence, not less, for the Court to consider. CDG's dissension there, too, was testament to the nature and character of the applicant and its operation, and should not go unnoticed. Add to all of that the applicant's counsel's noisome and disrespectful attempts to deride undersigned counsel by calling into question the electronic means he used to communicate important eleventh hour requests when we were nearly under the wire in this hurried matter, which from Notice to Formal Hearing, spanned a *remarkably fleeting* thirty-two (32) days. And there you have an accurate picture of whom, or perhaps better said, *what*, this community is dealing with when it comes to CDG.

The Court first heard from witnesses for Henrico County, including Dan Schmitt, and Police Chief Eric English. Schmitt, Chair of the County Board of Supervisors, spoke at length about the dangers and risks associated with this operation, of its incompatibility with the County's goals for safety and development, and of the public outcry over the applicant's moving forward with the casino despite the copious objections, not to mention, reasonable alternatives, to situating it at Staples Mill Shopping Center. Schmitt's concerns included but were not limited to traffic concerns, pedestrian safety concerns, property value concerns, and security concerns that specifically result from an alcohol license at Roseshire.

The Court learned of laudable efforts on the part of the County to coordinate with CDG to identify an appropriate situs for Roseshire—near the highway, or in an up and coming development zone a few miles north. The Court then unfortunately also learned that CDG abandoned that dialogue and thereafter refused to coordinate or negotiate—or even *communicate*—with the County. Making matters worse, the Court learned CDG refused to hear publicly from Henrico citizens. Schmitt testified it would be best for the community to find a way for Roseshire to be in consonance with the goals and interests of the community, and to fit within the County's vision for its future.

Roseshire instead gave us all the cold shoulder and hung its hat on a decades-old referendum that, for now, has afforded them tenuous and hotly disputed by-right zoning for their operation. But, just because something might be arguably legal, doesn't make it right. Roseshire's steamrolling the County and its citizens, as testified to by Mr. Schmitt, is further testament to the character of CDG as an organization, as a whole. Put simply, Schmitt knows that Roseshire does not belong where it is because

of the concerns it raises and because of its incompatibility with County plans and the community's interests, and he knows that CDG *does not care* that Schmitt, the County, and its citizens feel that way. Schmitt also knows that a boozy Roseshire is *even worse*.

Police Chief English testified to the safety and security concerns the police have about Roseshire as it sits in the Staples Mill Shopping Center. Looking to the nearest comparable CDG site, Rosie's Midlothian, the Chief studied police records relating thereto and observed a remarkable **One Hundred Thirty-Seven Percent (137%)** increase in crime following Rosie's arrival in an otherwise mostly peaceful, if not somewhat economically depressed, stretch of Midlothian Turnpike. Knowing<sup>3</sup> that CDG anticipates that crime at Roseshire will be in keeping with its nearby neighbor, Chief English expressed grave concerns about the drain on resources Roseshire will likely inflict on Henrico Police, even if crime there were to reflect only a fraction of that which Rosie's experiences across the river.

Chief English also testified to the traffic- and pedestrian-safety risks presented by a full-service Roseshire. He stated that the intersection where Roseshire is situated is by itself responsible for a significant portion, nearly half as I recall, of Henrico's automobile accidents. English also mentioned the multiple pedestrian casualties on Staples Mill Road that have occurred in recent years, including children. English posited that Roseshire, especially with a liquor license, is only going to make this problem worse.

On cross, counsel for the applicant attempted to lead Chief English in an evidentiary wild goose chase, pushing on fatuous questions like whether those making

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<sup>3</sup> CDG has testified previously elsewhere that the need for security at Roseshire is believed to be in line with other CDG HHR operations.

any of the Near-Rosie's police reports (admitted into evidence on motion of the County's attorney) had confirmed that the intoxicated arrestees who were apprehended at or adjacent Rosie's had in fact imbibed at Rosie's. Chief English responded that, with the volume of intoxicated people being apprehended there, and the litany of calls for service reviewed, it is safe to say alcohol from Rosie's is at the heart of that problem. This is so even if a fraction of those disorderly conduct calls indeed were for individuals who came to Rosie's already intoxicated, or got intoxicated in the parking lot. The applicant's argument here is unmoving.

In another inapt line of cross examination questions, applicant's counsel noted a recent drug arrest at a nearby chain of vape shops. English was familiar with the arrests, which were the results of a joint task force investigation. Applicant's counsel was perhaps trying to elicit a response that the Staples Mill corridor is not a crime-free zone. No one on behalf of the Objectors ever testified as such. But English was and is vehemently opposed to adding more crime to Lakeside, a community on rise, and his professional experience informs his opinion that a "wet" Roseshire will do just that. On re-direct, Chief English acknowledged that the vape shop "drug bust" was for marijuana, and, while amounts seized were in excess of the legal amount for personal use, this was not some cocaine kingpin or meth lab getting shut down.

Turning to the Citizen Objectors, we first called Real Estate Professional Ms. Rana Dean. Though CDG objected, this Court did ultimately overrule their objection, admitting Ms. Dean's testimony to the record. Ms. Dean is a licensed real estate agent with years of residential buying and selling experience, to include pricing strategy. She testified in her expert capacity as to the likely deleterious effects she predicted

Roseshire would have on neighboring property values. Like Chief English before her, Ms. Dean used, compared, and referred to data from the neighborhood surrounding Rosie's Midlothian to predict likely outcomes for homeowners near Roseshire.

Ms. Dean looked at two-year residential sales data for the southside neighborhoods of Pinehurst and Warwick Acres, and at the Roseshire-adjacent neighborhoods of Glenside Woods, a condominium community, and Greendale Forest, comprising mostly single-family detached homes. Her findings: unlike most Greater Richmond neighborhoods, where residential real property values have increased consistently over time, home values in the neighborhoods surrounding Rosie's Midlothian have declined. She also noted other troubling metrics, like an increase in "days on market" for Rosie's-adjacent homes, when put up for sale. Ms. Dean found that the properties in Glenside Woods and Greendale Forest have been on an upward trend in value. Her assessment is that Roseshire, especially if it's anything like Rosie's, will likely change that, and for the worse.

Ms. Dean also commented on personal experience she has had when helping buyers look for homes: when informed a potential home was near Rosie's, buyers turned away, citing safety concerns. Ms. Dean went on to testify that, in her experience, **safety is the number one priority of buyers**: if an area is not safe or is perceived as unsafe, buyers will not even consider a home there. Ms. Dean's position was that, when a business operates with late-night hours, alcohol service, and gaming activity, potential buyers have concerns about noise, increased traffic, loitering, and police presence. Importantly, Ms. Dean noted that even "perceived safety concerns" (i.e., concerns based on perception rather than direct experience or hard data) make homes

near facilities like Roseshire—or Rosie’s, for that matter—less desirable to buyers and slower to sell, when compared with similar homes farther from the establishments.

By this logic, even if Roseshire does not itself cause the likely increase in crime and decrease in overall safety that Mr. Schmitt, Chief English, and others predict, real property values can *still* take a hit for nearby neighbors. Ms. Dean’s position was that buyers are quick to look elsewhere if they feel a community may become less family-friendly or experience more late-night activity. Ms. Dean testified that, over time, this can translate to measurable impacts on home values. On cross, Ms. Dean was pushed about tangential concerns like shopping center vacancies (i.e. empty storefronts) and their effect on neighboring home values. While admitting that a less-than-fully-occupied shopping center may not attract buyers, Ms. Dean posited that vacancy does not present the same safety concerns or detract from the neighborhood the way a boozy casino would.

Further on cross, counsel for the applicant sought to liken Roseshire and its potential alcohol service to popular restaurants in the area, asking Ms. Dean if the alcohol service in those establishments was not a similar detractor to buyers as Roseshire’s would-be ABC service. Ms. Dean’s response was simple: good, walkable local restaurants, like the ones counsel for CDG mentioned, could actually be a *boost* to property values and desirability. Paraphrasing her words, a great restaurant like HobNob in Lakeside is a place where folks go to gather, to have a good meal, and alcohol drinks can pair well with good meals. But, perhaps to applicant’s chagrin, Ms. Dean confirmed that, in terms of value and desirability, a casino in general, especially one with alcohol service, is fundamentally different from, and categorically worse than,

being able to enjoy a drink at HobNob with dinner, or a Bloody Mary at a breakfast diner like Eat33.

Following Ms. Dean for the Citizen Objectors, the Court heard from Ms. Kristi Decker, a nearly twenty-year resident of Glenside Woods. Ms. Decker testified that she, a middle-aged woman, lives alone in a comfortable condo with her thirty-pound mixed breed dog (*not* a snarling rottweiler), which she had historically enjoyed walking regularly in and around the neighborhood on her tod, but which she now does with an unfortunate heightened awareness and increased apprehension of crime, one she fears will increase if ABC grants applicant's license.

Ms. Decker expressed her concerns about the negative effect of combining alcohol and gambling in the Staples Mill Shopping Center, which is merely feet from her neighborhood and connected thereto by sidewalks and roadways. Ms. Decker worries a boozy Roseshire will lead to increased crime and a perception of increased crime in her neighborhood, reducing her own safety and lowering her property values, to boot. Ms. Decker testified that while she previously felt comfortable spending evenings in her rear yard and even leaving her possessions out back, she is now concerned and fearful of dangerous people who may patronize—or prey upon those who patronize—Roseshire. Ms. Decker testified as to how hard the community as a whole and the Glenside Woods community specifically have worked to improve the economic value and perceptions of real estate in Lakeside, and worries that Roseshire, especially a “wet” Roseshire, will undo all or part of that hard work. Based on the evidence, her worries are well founded.

After Ms. Decker, the Court heard from Ms. Linda Willis, a woman in her seventies who lives nearby with her husband in the Greendale Forest neighborhood. A Greendale Forest resident for the past six (6) years, Ms. Willis testified that she chose her home in that neighborhood because of how conveniently walkable the area is. She spoke of loving her home because she is able to comfortably visit Staples Mill Shopping Center and other nearby establishments on foot, something she and her husband have thoroughly enjoyed since relocating there.

Ms. Willis expressed fear and concern that Roseshire will invite a criminal element, and that motorists coming to, and more importantly, leaving from Roseshire will crowd her quiet residential street, Penick Rd. She testified that Penick Rd. has served as something of a “cut-through” road for years, and she pointed out that only recently have traffic calming measures been put into place there to maintain safety and tranquility on her street. She fears these safety measures will be for naught if a significant increase in “cut-through” traffic volume attends Roseshire, especially a “wet” Roseshire. Ms. Willis also testified that her home is her and her husband’s biggest asset, and that they poured all their money into it in hopes of growing old there. Ms. Willis testified that she cannot afford to lose value in her home, and she rightly fears that that will happen if Roseshire proceeds with a liquor license, or otherwise for that matter.

On cross, Ms. Willis was asked about her knowledge of the commercial zoning that applied or applies to some unimproved wooded land adjacent to her property at the rear—she testified she had no such knowledge or virtually none. But the applicant’s counsel continued beating a dead horse, asking about the zoning over and over until this Court moved counsel along. By all indications, counsel for the applicant wanted to



make the point that, somewhere, sometime, a commercial operation could raze the woods behind the Willises' home and put in a business. That may be true, but this case is about development and alcohol permitting that *is happening*, not about what someday could happen.

Next, the Court heard from Tiffany Royall, another Lakeside resident. Ms. Royall testified similarly to her fellow neighbors, worrying about the casino's effect on her property value (she testified she lives just a few miles away). She also expressed concerns about decreased safety and increased crime associated with the casino, especially if it were to serve alcohol. Ms. Royall also testified she holds degrees from VCU and is a licensed professional counselor with years of experience treating individuals with addiction disorders, to include substance abuse and gambling.

Ms. Royall testified that she has treated many individuals with addiction over the years, and that she had completed specialized training with the VCU Partnership for Gaming and Health. Through her training and experience, Ms. Royall testified she has become acutely aware of the triggers for addiction and harmful addictive behaviors, like substance abuse and problem or addictive gambling. Ms. Royall testified that, in her opinion as an expert on the subject, alcohol service mixed with gambling options offered in a casino can cross-potentiate the addictive nature of both vices. For problem users and problem gamblers, Ms. Royall testified that this cross-potentiation can spell disaster for recovering individuals with addiction, for whom one addictive trigger, like the ones present within a casino with alcohol service, can spell recovery total disaster for recoverees of either or both addictions.

On the subject of addiction and its prevalence in Lakeside, Ms. Royall testified to her knowledge of and familiarity with Lakeside's growing recovery community, anchored and pioneered by local facilities like the McShin Foundation and Journey House, both of which lie roughly two (2) miles driving distance from the casino. In concert with these programs, Ms. Royall also testified to the growing number of individuals benefitting from the many local residential recovery homes<sup>4</sup>, at least several of which she believes from her experience to have been placed in the affordable Lakeside market.

Finally from the Objectors, the Court heard from Mr. Guy Holloway. Mr. Holloway testified he is a lifelong resident of Lakeside, a 1960s graduate of Hermitage High School (at the "old" high school), and a retired pastor who still works with and ministers to individuals in the community, especially men in crisis. Mr. Holloway testified that he, along with his nearly-centenarian mother with whom he resides and for whom he cares, have historically frequented the Staples Mill Shopping Center ("SMSC"), including trips in the evening. He further testified that he now fears for his and his mother's safety on those visits to patronize businesses in the SMSC due to a likely increase in crime and a decrease in overall safety as a result of the casino, especially with alcohol. Mr. Holloway also worries deeply about the negative implications of this casino, especially with liquor, on his flock, many of whom are wayward men with substance and addiction issues that have stunted their lives. Mr. Holloway worries that the churches to which he belongs and through which he meets and ministers to those he helps will be confounded by Roseshire in their missions of leading men to live godly lives.

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<sup>4</sup> "Recovery homes" as referred to here, are typically located in affordable single-family houses where individuals with addiction work to find programs and lifestyles that align with their goals of sobriety and abstention.

Moving to the applicant's case, the Court first heard from Ms. Pamela Strieffler, a commercial real estate broker with CBRE, whom applicant offered ostensibly as a rebuttal expert to Ms. Dean for the Citizen Objectors. Ms. Strieffler's testimony was that she worked for CBRE in commercial real estate, that she was a Richmond native and a Freeman High graduate, that she was familiar with Lakeside, and that she had worked in real estate for twenty-five years. Her basic position, contradicting Ms. Dean, was that Roseshire, and its \$35M investment in SMSC, would lead to additional commercial development nearby that would ultimately increase property values in the neighborhood. When later asked about CDG's alleged \$35M investment, Ms. Strieffler could not point to any—not a single one—improvements CDG made to the SMSC itself, like resurfacing parking lots, replacing and adding streetlights, or providing any other facelifts to the SMSC property, apart from Roseshire's own footprint.

The applicant here, as with Ms. Dean, also sought testimony from Strieffler concerning vacancy in the SMSC and its surrounding shopping centers, and its impact on neighboring home values. Astonishingly, Ms. Strieffler testified, under oath no less, that the SMSC was and had been a "dead zone," operating at a mere **twenty-percent (20%)** occupancy before Roseshire came in. On cross, when pushed on this testimony, it became clear that Ms. Strieffler did not know who had been in SMSC or for how long<sup>5</sup>, could not identify which spaces were occupied or vacant and when, and merely stuck to her disputed position that SMSC was and had been 'mostly empty'.

When pushed on cross examination, the Court sadly learned that Ms. Strieffler, while indeed an experienced *commercial* real estate professional, had positively no

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<sup>5</sup> When asked about a doctor's office in the shopping center that has operated continuously for decades, Ms. Strieffler testified that it had been there "maybe five or six years." She *does not know* Lakeside.

experience working in residential real estate<sup>6</sup>, thus she lacked the knowledge to be an expert testifying to residential property values. Further, she admitted had not reviewed or summarized any data or evidence of any kind to support her contention that values would increase, and thus she lacked any factual foundation for the “expert” testimony she was attempting to render on a subject with which she was admittedly not an expert. Strieffler was simply shooting from the hip, making a so-called “educated guess.” Also unfortunately, the Court learned that Ms. Strieffler was *the very commercial broker* who originated the Roseshire/SMSC, revealing immense bias on her part and discrediting her testimony as an expert, to the extent she could have so testified. She admitted to, along with her employer, receiving and sharing in a commission in the five-figure range for her work to secure a location for Roseshire.

Further on cross, Ms. Strieffler was pushed to apply her hypothesis to the neighborhoods surrounding Rosie’s Midlothian. Strieffler was asked, if her hypothesis is that all commercial development, including this operation (Roseshire) will lead to additional commercial development and ultimately increase property values, then could she point to any nearby commercial development that followed Rosie’s? Her answer was, essentially “well, that was different.” Thereafter, asked if Ms. Strieffler could point to any increase in residential real property values that followed, her answer was, essentially, **no**.

Following Ms. Strieffler, the Court heard from another expert witness, Ms. Laura Lee Garrett, Esq., who testified that she was the commercial attorney who represented the true owners of the SMSC in the negotiation of Roseshire’s commercial lease. Ms.

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<sup>6</sup> Ms. Strieffler did admit to having completed one (1) residential transaction in her professional capacity, as counsel recalls, it was either for herself, or for a friend.

Garrett also testified that the Metzgers own the neighboring Dumbarton Square Shopping Center (“DSSC”). Ms. Garrett testified to her years of experience, and weaved through a series of questions again tailored by applicant’s counsel to elicit responses about the the tangential issues of shopping center vacancy, and likewise, occupancy, that the SMSC and DSSC had experienced over the years since the Metzgers acquisition thereof. Ms. Garrett testified that the Metzgers and she had dealt with “homeless people” and “squatters” in their properties, but provided no specifics as to who, or when, or how those issues were dealt with.

Garrett testified, like Strieffler, that these centers were experiencing high rates of vacancy before Roseshire came in. And like Strieffler, on cross, it became apparent that Ms. Garrett did not know the shopping center or the area well enough to render a fact-based, experience-informed expert opinion on the SMSC. For example, when pushed on the issue of alleged rampant commercial vacancy in the SMSC prior to Roseshire’s arrival, Garrett testified, mystifyingly, that there were “ten to twelve (10–12) unoccupied storefronts in SMSC<sup>7</sup>”. Wrong.

Following Miss Garrett, the Court heard from other representatives for Roseshire and CDG as a whole. These included the general manager of Roseshire, the manager of food and beverage for all of CDG properties, and a security manager who works with all CDG locations.

As for the restaurant general manager, he testified mostly to the relative size and capacity of Roseshire as compared with other CDG HHR properties throughout the

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<sup>7</sup> Apart from Roseshire’s own large space, by reference to the map data and images already admitted into evidence, one may surmise there were a sum total of five (5) or (6) unoccupied courtyard spaces (one of which was previously occupied by “House of Vapes,” the vape shop that evidently got booted to make room for Roseshire). Of these courtyard spaces, most were tiny spaces suited for perhaps a tailor or a shoe repair, with the exception of a former restaurant space (the defunct “Greek Circus”) at the rear of the courtyard, now occupied by Roseshire’s bathroom and back-of-house.

state. On cross-examination, the manager did admit that larceny has already occurred at Roseshire, but was handled, in his words, "internally." He also testified that he came to Roseshire from a location in Southside, Virginia known as Emporia, a tiny town with a population not directly comparable to Richmond or Henrico. The general manager admitted to being mostly unfamiliar with the Lakeside area, and testified that he was just getting used to it. He testified that he had dealt with drunks and fights at the Emporia location.

The court also heard from a security manager for CDG with a background with the military police. That manager testified to the safety measures that CDG puts in place across its locations, including at Roseshire. He gave some detail and made much ado about a security plan, but when presenting the written document to the Court and counsels, the document was so overwhelmingly redacted as to be valueless. As explained by applicant's counsel, it was so heavily redacted "to protect CDG's private information from admission to the public record." On the Objectors' objection, the plan was not admitted.

When the security manager was asked on cross-examination about the obvious difference between an enclosed parking lot location, like Rosie's Southside as compared with Roseshire, the security personnel admitted that Roseshire would not patrol the parking lot on any given schedule. He stated that Roseshire security would respond upon request, or if they become aware of safety or security issues in the parking lot. But he admitted numerous times that Roseshire intends to limit its security presence to its "leased footprint," and that he feels their security efforts should be limited thereto. When asked about CDG's placement of exterior security cameras at

SMSC, his response was similar. When asked if adding alcohol would make the establishment any safer, his answer was a resounding **no**.

The Court also heard from the food and beverage manager for all the CDG locations, who testified that she came to CDG with years of experience in the food service industry, mostly in theme parks. This witness for the applicant testified that she took the lead when it came to planning Rosieshire's food and drink menu, and commented on all the hard work she did to curate a good food menu for the location.

In terms of alcohol safety, this manager spoke of ways that she revised drink recipes to limit the alcohol content; for example, she reduced liquor pours from one and one half (1 ½) ounces of liquor per mixed drink to one and one quarter (1 ¼) ounces per drink. Interestingly, she did not testify to any improvement in pricing associated with this less generous pour. The food and beverage manager further went on to describe the two (2) drink per hour policy to which all her service employees supposedly ascribe and are held. Essentially, patrons of Roseshire (and all of CDG), are supposed to be limited to ordering two (2) alcohol drinks per hour.

On cross-examination, the enforcement of this policy was explored, leaving much to be desired. When asked about how, and by what system Roseshire and CDG employees are to keep track of who's had what—and how much—to drink, the manager admitted that there was no tally sheet, no written chart, no digital card, and no drink tracking system to ensure adherence to the policy, especially on busy nights. She testified that as few as two (2) or three (3) service staff might be on duty at a time, and that at most eight (8) to ten (10) might be working at a time. When asked how on earth a handful of waitstaff could keep track of the drink orders of up to one hundred

seventy-five patrons (or more), she responded, disappointingly, that as long as her staff communicates, no one will be served in excess of two drinks per hour. No flow chart. No explanation of what is to happen when shift changes occur. Just “communicate”, and hope for the best. Further, and alarmingly, the food and beverage manager was also adamant that a patron drinking two (2) drinks an hour was not, as a matter of fact, “under the influence of alcohol” for the purposes of safe alcohol service. This dissonance between CDG’s leadership and reality tells the Court all it needs to know about what this witness had to say about alcohol safety.

To summarize:

- The Court heard from County leadership who stated that Rosie’s situs was not in keeping with the County’s plans for growth and development, and raised serious safety concerns, which were echoed and expanded upon by the County’s own Chief of Police; and
- The Court heard from a residential realtor who reviewed data and determined that Roseshire with alcohol will reduce the perception of Lakeside and thus, reduce property value; and
- The Court heard from very closeby residents who echoed the sentiments of Ms. Dean *and* the County—they worry about losing value in their biggest investments, and they worry that the character, safety, morals, and interest of Lakeside are at risk if ABC grants applicant’s license; and
- The Court heard from a nearby resident who, while sharing the sentiments of the previous neighbors, also expressed concerns in her capacity as an addiction treatment professional as to the likely negative outcomes associated with “wet” Roseshire that will befall the recovery community and its organizations; and
- The Court heard from a faith leader about the effects of Roseshire on the ordinary conduct of affairs at his churches and with those to whom he ministers, and you also learned that this faith leader, a lifelong Lakesider, has real concerns about beginning his 100-year-old mother to SMSC now; and
- The Court heard from a commercial real estate broker who made money off the Roseshire deal who testified, with no basis in fact and no relevant expertise, that home values would go up, but she couldn’t quite say why, nor could she explain why such hasn’t been the case elsewhere for CDG; and
- The Court heard from a real estate lawyer who negotiated the lease for Roseshire on behalf of the property owners, who talked about past vacancy and issues with vagrancy in SMSC, but gave no details and, on cross, turned out to not know the shopping center very well; and



- The Court heard from CDG leadership, including Roseshire's GM, the head of security, and the food and beverage director, all of whom talked a good game, but demonstrated the need for serious scrutiny and concern when cross examined.

CDG wants this Court to rule in its behavior because, despite the vast array of objections that run the gamut of real concerns, maybe the spot that would have otherwise been vacant at the location would likewise detract from the community. CDG wants the Court to agree with this position despite producing no evidence to that effect. CDG wants the Court to take a massive logical leap, ignore the police chief, and consider the possibility that the litany of drunkards at other Rosie's locations might have "shown up drunk." CDG wants the Court to "take its word for it" when it comes to a security plan. And CDG wants the Court to trust waiters and servers to "simply communicate" and know when to stop serving patrons whose drinks have been otherwise unaccounted for.

**On the basis of the foregoing and all the evidence before the Court, the Citizen Objectors respectfully ask that the applicant be denied a license to serve alcohol *in toto*. In the alternative, if the Court should grant any license over these objections, the Citizen Objectors respectfully ask that the applicant be granted only a limited license to serve wine and beer, on a limited schedule that serves the safety and the interests of the community.**

**RESPECTFULLY SUBMITTED,**

**By: /s/ Thomas E.A. Bishop  
Of counsel**

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## **CERTIFICATE OF SERVICE:**

This 10th day of November, 2025, I served a true and accurate copy of the foregoing by electronic mail upon the following:

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 Maegan Schuder - 9003 Tweed Rd, Henrico, VA 23228  
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November 10, 2025

***Via Electronic Mail***

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Attn: Craig Maxey, Esq. (william.maxey@virginiaabc.com)

Re: **THE COUNTY'S WRITTEN CLOSING STATEMENT**  
***In the Matter of Colonial Downs Group LLC (Roseshire)***  
Administrative Case No. 013699181  
Application No. 013604287 (Wine, Beer, and Mixed Beverage)

Dear Mr. Maxey:

As you know, the County of Henrico (the "County") retained my firm to assist its officials in objecting to applications submitted by Colonial Downs Group, LLC ("Applicant"), which ask the Virginia Alcoholic Beverage Control Authority ("ABC") to grant licenses to serve wine, beer, mixed beverages, and specialty liquors—in conjunction with off-track horse betting and 175 historical horse racing terminals ("HHR Slot Machines")—at a newly constructed gambling facility at 4016 Glenside Drive ("Roseshire").

On October 14, 2025, Applicant, the County, several witnesses, as well as dozens of upset resident objectors appeared at the ABC's headquarters for a formal administrative hearing, where a large volume of testimony, evidence, and argument was presented during a lengthy hearing that ended before the parties made closing arguments. As agreed, this letter will serve as the County's written closing statement.

Based on the evidence and testimony, as explained more fully below, the ABC should deny Applicant's request to serve alcohol at Roseshire because the objectors presented overwhelming and often uncontested evidence that combining alcohol sales with gambling at Roseshire would pose an unreasonable risk to public safety through inflated rates of crime and automobile crashes, increase costs on the County and taxpayers, undercut the ABC's statutory purpose, and destroy the general quietude and property values of nearby neighborhoods.

As a result, the County respectfully requests that the ABC issue an initial decision denying Applicant's request to serve alcohol at Roseshire, or alternatively, denying its request to serve mixed beverages and specialty liquors, while imposing additional time, manner, and place restrictions on the service of alcohol.

## PROCEDURAL BACKGROUND

In response to the Applications, ABC received approximately eighty-five (85) written objections from local residents and neighbors that strongly objected to the sale of alcohol at Roseshire (the “Upset Residents”). In addition to the Upset Residents, the ABC also received written objections from several of the County’s highest ranking officials, including: (a) Daniel J. Schmitt, Chair of the County’s Board of Supervisors; (b) John Vithoulikas, County Manager; and (c) most importantly, Eric D. English, Chief of Police (the “County Officials”).<sup>1</sup> Like the Upset Residents, the County Officials articulated well-founded concerns about the Applicant’s unilateral decision to location of Roseshire in a largely residential area of the Henrico, where alcohol sales, coupled with gambling, would negatively impact public safety (crime, vice, and car crashes), place undue risk on persons with substance abuse issues (problematic combination of gambling, drugs, and alcohol nearby recovery facilities), while decreasing residential home values.

On September 12, 2025, the ABC’s Hearing, Appeals, and Judicial Services Division (“HAJS”) issued a Notice of Pre-Hearing Conference & Formal Hearing (the “Notice”), which set the schedule for adjudication of the Applications. A Pre-Hearing Conference was set for October 1, 2025, and a Formal Hearing was scheduled for October 14, 2025. In the Notice, the HAJS also identified three subsections of Va. Code § 4.1-222, specifically Subsections (2b), (2c), and (2d), which were the subsections that HAJS believed to be the most relevant to the written objections.

On September 19, 2025, in compliance with the deadline stated in the Notice, the County submitted a Witness and Exhibit List articulating the sources of evidence and testimony that it would present in support of its various theories.<sup>2</sup> In short, the County feared that serving alcohol, in conjunction with gambling, would inflate costs on taxpayers, impose undue logistical hardships, and create an unreasonable risk to public safety. The narrative submission included a request that, when rendering its decision, the ABC also consider Subsections (3) and (4) of Va. Code § 4.1-222.<sup>3</sup> They County argued that Subsection (3) must be considered because it focuses on the ABC’s right to refuse a license if it finds cause to believe that issuing the additional license sought in the Application would impact the “*interest, morals, safety or welfare of the public*” of the surrounding neighborhood. Va. Code § 4.1-222(3).

On September 25, 2025, Applicant submitted its Witness and Exhibit List, consistent with an extended deadline, where it raised an objection to the ABC’s consideration of the additional Subsections noted above because they had not been included in the Notice. On the same date, the Local Objectors, through their advocate and representative, Thomas Bishop, Esq., served a Witness and Exhibit List identifying the Upset Residents as witnesses, as well as evidence, including maps, crime data, news articles, and academic resources, that would together support their objection to the sale of alcohol at Roseshire.

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<sup>1</sup> The County hereby incorporates by reference, as if fully restated here, Chief English’s February 13, 2025 objection; Mr. Vithoulikas’ February 13, 2025 objection; and Chairman Schmitt’s February 14, 2025 objection.

<sup>2</sup> The County hereby incorporates by reference its September 19, 2025 filing, as if fully restated here.

<sup>3</sup> Before the Formal Hearing, the County agreed to withdraw its request for consideration of Va. Code § 4.1-222(4).

On October 1, 2025, the parties appeared for the Pre-Hearing Conference to discuss matters of procedure, as well as the request to amend the Notice to include consideration of Subsection (3) of Va. Code § 4.1-222. Oral argument was presented, and the parties were asked to submit written statements before the close of business. In its same-day filing, the County argued consideration of Subsection (3) was necessary to render a full and complete determination, and it pointed out, *inter alia*, there was no surprise because Applicant received copies of the written objections, which overwhelmingly articulated concerns within the ambit of Subsection (3).<sup>4</sup> Applicant responded with concerns about adequate notice, as well as argument that Subsection (3) did not apply.

On October 2, 2025, after consideration of the briefs, Mr. Maxey issued a letter opinion on the issue of whether Subsection (3) would be considered, finding in relevant part:

*Without addressing the arguments in this case, there are some cases in which objectors object on grounds that could not reasonably empower Virginia ABC to deny a license, but this deficiency does not deprive an objector of the right to be heard if they are an “interested party who would be aggrieved by a decision” to grant a license. See 3 VAC 5-10-10(A).*

*It is the objectors’ case, and once receiving the Notice they promptly argued that their timely, preexisting objections should also be addressed under § 4.1-222(3). Therefore, the Notice will be amended at the October 14, 2025, formal hearing in a manner consistent with this opinion.*

See Letter Op. at 3.<sup>5</sup> Applicant was thereafter afforded the right to either accept *consideration* of Subsection (3) or otherwise obtain a continuance of the Formal Hearing. Applicant elected to proceed to the Formal Hearing and withdrew its objection, while retaining its right to argue that the evidence and testimony did not support an adverse ruling under Subsection (3).

On October 6, 2025, the County supplemented its Witness and Exhibit List by circulating certified copies of criminal complaints and emergency-call chronologies drafted and maintained by the Richmond Police Department, based in part on Applicant’s representative testifying that the crime at Roseshire was expected to be similar, or at least not exceed, Applicant’s other facility in the City of Richmond. On October 9, 2025, Applicant amended its Witness and Exhibit List by circulating additional records related to its expected food and beverage program at Roseshire. On October 11, 2025, the Upset Residents amended their Witness and Exhibit List to add Rana Dean, a licensed realtor, as a witness to testify about Roseshire’s impact on residential property values. The question of whether Ms. Dean could testify was reserved for the Formal Hearing.<sup>6</sup>

### LEGAL STANDARD

Under 3VAC5-10-70, the administrative law judge must issue an initial written decision to articulate his or her “findings of fact and conclusions, as well as the reasons or bases for the

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<sup>4</sup> The County hereby incorporates by reference its October 1, 2025 filing, as if fully restated here.

<sup>5</sup> The County hereby incorporates by reference the October 2, 2025 Letter Opinion, as if fully restated here.

<sup>6</sup> The County hereby incorporates by reference its October 13, 2025 filing, as if fully restated here.

findings, upon all the material issues of fact, law, or discretion presented on the record.” Relevant here, Mr. Maxey must determine whether the evidence and testimony presented at the Formal Hearing supports denying a license to serve alcohol at Roseshire, pursuant to any of the following Subsection of Va. Code § 4.1-222:

Subsection 2b. The place to be occupied by the applicant...[i]s so located that granting a license and operation thereunder by the applicant would result in violations of this subtitle, Board regulations, or violation of the laws of the Commonwealth or local ordinances relating to peace and good order.

Subsection 2c. The place to be occupied by the applicant...[i]s so located with respect to any church; synagogue; hospital; public, private, or parochial school or an institution of higher education; public or private playground or other similar recreational facility; or any state, local, or federal government-operated facility, that the operation of such place under such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such facilities or institutions.

Subsection 2d. The place to be occupied by the applicant...[i]s so located with respect to any residence or residential area that the operation of such place under such license will adversely affect real property values or substantially interfere with the usual quietude and tranquility of such residence or residential area.

Subsection 3. The number of licenses existent in the locality is such that the granting of a license is detrimental to the interest, morals, safety or welfare of the public. In reaching such conclusion the Board shall consider the (i) character of, population of, the number of similar licenses and the number of all licenses existent in the particular county, city or town and the immediate neighborhood concerned; (ii) effect which a new license may have on such county, city, town or neighborhood in conforming with the purposes of this subtitle; and (iii) objections, if any, which may have been filed by a local governing body or local residents.

*See* Va. Code § 4.1-222. An agency’s factual findings are affirmed so long as there is “substantial evidence in the agency record to support the decision.” *State Bd. of Health v. Godfrey*, 223 Va. 423, 433 S.E.2d 875 (1982); Va. Code § 9–6.14:17. “The phrase ‘substantial evidence’ refers to such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Va. Real Estate Comm’n v. Bias*, 226 Va. 264, 269 (1983). High deference is given to an agency’s factual findings in recognition of its expertise, and it promotes “great stability and finality to the fact-findings of an administrative agency.” *Id.*

### **THE FORMAL HEARING**

The General Assembly determined that creation of a formal authority was needed to control the potentially harmful impact of alcohol on local communities and residents, so ABC was created to regulate the industry and promote “the health, safety, welfare, convenience, and prosperity of the people of the Commonwealth.” Va. Code § 4.1-101. That is the ABC’s statutory purpose.

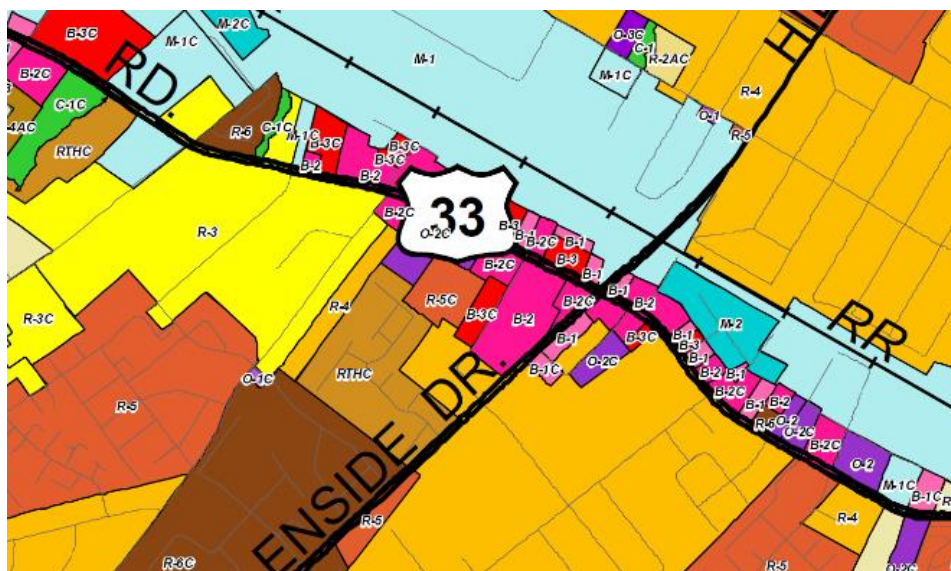


At the formal hearing, the ABC received essential, relevant evidence admitted through the testimony of (1) the Chair of the County Board of Supervisors, Daniel J. Schmitt; (2) the Chief of Police, Eric D. English; and (3) the Upset Residents' real estate expert, Rana Dean. Those three witnesses, among others, provided compelling and substantial evidence that serving alcohol at Roseshire, which Applicant unilaterally situated near residential neighborhoods, will negatively impact the ABC's statutory purpose, impact peace and good order, disturb the general quietude, create an unreasonable risk to public safety, and negatively impact property values.

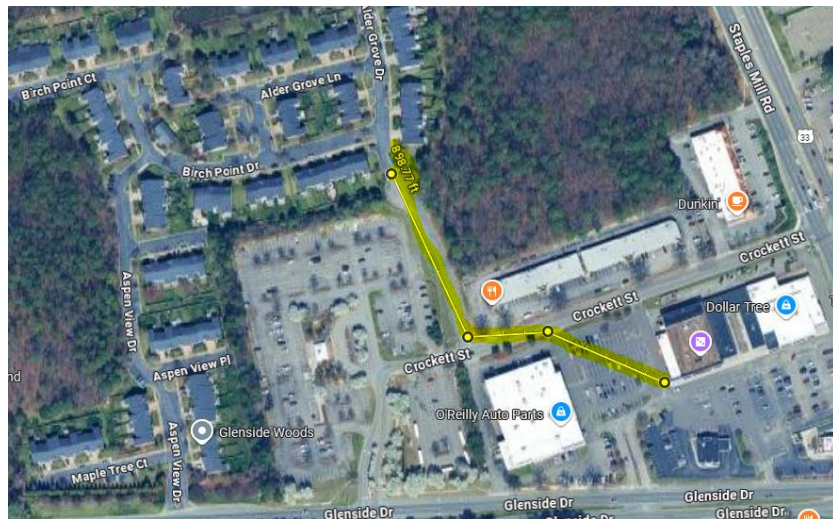
For those reasons, as explained below, the ABC should refuse to grant a license to serve alcohol at Roseshire. Alternatively, the County requests substantial limitations be imposed.

## **I. Highlights from Chairman Schmitt's Testimony and Evidence.**

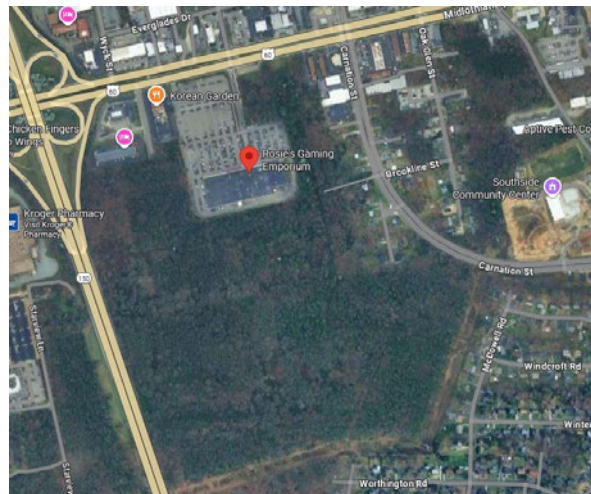
Chairman Schmitt provided testimony about how the specific location chosen unilaterally by Applicant raises unique concerns vis-à-vis the surrounding neighborhoods. He authenticated a zoning map, which confirms that Roseshire is not situated in a major commercial or entertainment district, but rather inside a thin business district along Staples Mill Road, which lacks similar establishments and directly abuts residential areas.



As a result of this proximity, *after imbibing alcohol at Roseshire, patrons will be able to enter a residential neighborhood by walking or driving less than 900 feet along a flat, paved roadway*. Going through neighborhoods would also allow intoxicated drivers to avoid traffic lights and major intersections, thereby creating an incentive to travel south, along Penick Road.



This direct access sets Roseshire apart from other gambling facilities serving alcohol because Roseshire was unilaterally situated in a small shopping center that lacks natural barriers to prevent ingress or egress through surrounding neighborhoods. *See Capital Land, Inc. v. Virginia Alcoholic Beverage Control Bd.*, 1997 WL 393179, at \*2 (Va. Ct. App. July 15, 1997) (noting that testimony regarding the potential for increased traffic through residential neighborhoods supported decision not to issue a license). That is not true at similar establishments. For example, Applicant's facilities in Richmond and Hampton are shielded from neighbors by commercial development, limited access highways, wooded areas, and a lack of direct access:



Chairman Schmitt further testified about the generally quiet nature of the neighborhoods surrounding Roseshire, which was echoed and reinforced by testimony from several other Upset Residents. The Chairman testified that there were other better equipped entertainment zones that had been considered for Roseshire, but ultimately, Applicant unilaterally chose the intersection of Staples Mill and Glenside Drive. Continuing, Mr. Schmitt testified that a major gambling facility with 175 HHR Slot Machines, particularly one serving alcohol, did not fit in the general character of the surrounding area, nor the County's plan for development. There were earlier late-night bars

and restaurants in that area that had already caused problems, not to mention a serious traffic and crash history in the area that would be exacerbated. Some of the well-founded objections could have been addressed and maybe even avoided, if Applicant had pursued public comments, rather than refusing to listen to concerned neighbors.

Lastly, Chairman Schmitt was called back to testify that he attended a recent hearing before the Virginia Racing Commission, on September 15, 2025, where a representative for Applicant testified in response to public safety concerns, *similar to those raised in the objections here*, that Applicant had performed internal studies predicting crime rates at Roseshire would be consistent with—or, at least, not exceed—crime rates experienced at Rosie’s in Richmond, which can be seen above in the image to the right. Rosie’s crime rates were discussed in more detail by Chief English, as described below, but Chairman Schmitt recognized that Roseshire (unlike Rosie’s) would have high rates of crime in very close proximity to neighborhoods.

## **II. Highlights from Chief English’s Testimony and Evidence.**

Chief English is a highly decorated and well-regarded expert in the fields of police work and public safety, and he earned his specialized knowledge through decades of experience as both an officer and administrator in multiple police departments. His opinions about the risk to public safety created by serving alcohol at Roseshire were almost entirely uncontested. His opinions are essential to this determination because it is unlikely that any person is better qualified than Chief English to opine about the risks to public safety created by selling alcohol at Roseshire, and to explain the incompatibility of the expected crime rates, as compared to the surrounding area.

In his initial objection, Chief English wrote on behalf of the entire Division of Police to object to alcohol being served at Roseshire based on public safety concerns. His concerns were elevated because of Roseshire’s close proximity to neighborhoods, local churches, public schools, as well as substance abuse recovery programs. He opined that the sale of alcohol at Roseshire—and the resulting crime expected—would be completely incongruous with the surround area, which he described to be a “long-standing, law abiding, and family oriented” neighborhood. The initial written objection highlights several documented examples of serious crimes at Applicant’s other locations in New Kent and Richmond, that are incompatible with the surrounding neighborhoods *See Capital Land*, 1997 WL 393179 at \*2 (determining that resident testimony about noise, traffic, and crime supported denying a license when “the operation of the applicant establishment under an on-premises ABC license will substantially and adversely affect the peace and tranquility of the surrounding residential area.”).

In his testimony, Chief English highlighted that, ***if Roseshire experiences even a fraction of the crime observed at Applicant’s other facilities***, it would be an unreasonable safety risk to the public, while simultaneously imposing a significant monetary and logistical strain on the Police Department. Regarding Rosie’s, Chief English was asked to review certified public records from the Richmond Police Department recording emergency calls received from persons identifying

their location to be Rosie's in Richmond.<sup>7</sup> The certified records reviewed by Chief English logged emergency calls during only a 22-month window from December 2023 through September 2025. In that short period, ***the records revealed hundreds of complaints about serious crimes, including fights, assaults, car-jackings, robberies, drug overdoses, car crashes, DUIs, disorderly conduct, and public intoxication.*** Chief English testified that a majority of calls reporting disorderly conduct and/or fights involved incidents with intoxicated individuals, and that alcohol sales increase the likelihood of criminal activity.

He acknowledged that Roseshire might have less incidents than Rosie's due to the two facility's differing sizes. Rosie's in Richmond is larger, but Roseshire is still expected to exceed 22,000 square feet and operate 175 HHR Slot Machines. Moreover, after speaking to the Chief of Police in Richmond and reviewing the certified records, Chief English reaffirmed, if Roseshire exhibits even a fraction of the crime recorded at Rosie's, that increase would disturb the quiet nature of the area; create an unacceptable risk to residential neighbors who would see increased traffic; heighten risks to third-party drivers on Glenside and Staples Mill; and impose significant financial and logistical burdens on the way his officers would be forced to police the surrounding area, which had not historically seen similar crime.

After the certified records from Rosie's were thoroughly discussed, the public records were admitted into evidence. Even without amplification by Chief English, they qualify as "substantial evidence," sufficient for rejecting the Applications. *See, e.g., Sights & Brightwaters Investors, Ltd. v. Va. ABC Board*, 44 Va. Cir. 359, 1998 WL 34180219, at \*3 (affirming the ABC's rejection of a license based, in part, on a factual finding that the applicant had sold alcohol to an intoxicated person, who later got into a fight outside). If evidence of a single incident involving an intoxicated fight between patrons helped to justify denying a license in *Sights & Brightwaters Investors*, then the certified records from Rosie's are completely disqualifying. Particularly after hearing from Chief English, who used his experience and knowledge to confirm those records provided good insight into the types of crimes that would increasingly occur around Roseshire, if the ABC grants a license for the sale of alcohol.

Opposing counsel made a good faith effort to challenge the reports by arguing that perhaps the ***hundreds of complaints*** recorded at Rosie's might really be detailing crimes that just happened to occur nearby, and perhaps the intoxicated persons had never been served alcohol at Rosie's. At best, those arguments might apply to a few reports of disorderly conduct in the parking lot, but the sheer volume of complaints recorded at Rosie's renders the arguments unpersuasive, particularly when the records themselves clearly state the location of each call to be "6807 MIDLOTHIAN TPKE RICH: @ROSIE'S GAMING." Additionally, Chief English reviewed call summaries with statements that confirm certain incidents could not have occurred elsewhere. For example, on July 2, 2025, the EMS entered the rear of Rosie's to provide care for a potentially violent person that overdosed. Intoxicated persons were also recorded driving cars on July 26<sup>th</sup> and September 1<sup>st</sup>.

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<sup>7</sup> The certified records detailing crime at Rosie's are compelling because they constitute the best available evidence of expected crime at Roseshire, as it has only recently opened. Indeed, Rosie's is a comparable facility, even if larger, because it is owned by the same Applicant, and Chairman Schmitt confirmed that Applicant's own representative testified that Applicant expected similar crime rates at Roseshire.



In response, most of Applicant's testimony and evidence concerned internal policies and procedures that allegedly reduce the risk of serving drinks to intoxicated patrons by limiting the number of drinks served to each patron per hour. However, cross examination revealed that the limits were not controlled electronically, and Applicant relied on servers to remember how many drinks each patron received. Applicant's representatives also testified, unlike Rosie, they did not own the own parking lot, so Roseshire's security would not patrol outdoors. In sum, the internal plans are insufficient to overcome the risk to public safety, given their existing use at Applicant's other facilities, where Rosie's still showed excessive rates of public intoxication and crime.

### **III. Highlights from the Real Estate Testimony.**

The Upset Residents also presented compelling testimony confirming that a license to sell alcohol at Roseshire would negatively impact surrounding home values, and that it would impact the general quietude of the surrounding area.

Rana Dean is a licensed real estate agent, who is as an expert in residential home sales and valuations due to her significant experience assisting local homeowners in determining a good listing price, and then helping them sell their homes. Her extensive professional experience further includes buying and selling comparable homes in and around Roseshire, while also having helped sell homes in and around Rosie's in Richmond.

Based on that experience, Ms. Dean proffered expert opinions that the close proximity between some of the Upset Residents' homes and Roseshire would make selling those homes more difficult. Her opinion was supported by the fact that, while selling comparable homes near Rosie's in Richmond, she found that potential homebuyers held a negative stereotype about homes in close proximity to gambling facilities, since homebuyers often identified safety as a primary factor in selecting a new home. If Roseshire starts serving alcohol, she opined that the negative public perception would be increased, that public perception would believe the area to be unsafe, and that an appreciable segment of homebuyers would not consider purchasing those homes. She opined that this would result in the homes remaining on the market for longer and receiving fewer offers, thereby decreasing the price. Utilizing her specialized knowledge, as well as her experience selling comparable homes, Ms. Dean gave an admissible expert opinion that an alcohol license at Roseshire would negatively impact the value of homes in the area.

Her opinions and sentiments about the public's negative perception of gambling facilities were echoed and reinforced by testimony from several Upset Residents, including several that live around the corner from Roseshire. Even if homeowners lack specialized knowledge, Virginia law still allows the Upset Residents to opine about their property values. Indeed, the Virginia Supreme Court has "recognized the general rule that an owner of property is competent and qualified to render a lay opinion regarding the value of that property." *See Snyder Plaza Props., Inc. v. Adams Outdoor Advert., Inc.*, 259 Va. 635, 644 (2000) (citing *Haynes v. Glenn*, 197 Va. 746, 750 (1956); *Parker v. Commonwealth*, 254 Va. 118, 121 (1997); *Walls v. Commonwealth*, 248 Va. 480, 482 (1994)). The fears and concerns reiterated by the Upset Residents about increased crimes further supports Ms. Dean's opinion that a significant proportion of the public are fearful about crime near nightclubs and gambling facilities that sell alcohol late at night.

In contrast, Applicant presented a *commercial* broker, who testified that Roseshire would spur more commercial development in her opinion, which might also increase surrounding home values. The broker's opinion must be disregarded for bias, lack of foundation, and lack of specialized knowledge. First, her opinions are biased because she and her employer were hired (and received a monetary commission) in exchange for providing the service of locating a suitable commercial property for the construction of Roseshire. Because the Upset Residents' biggest concerns about Roseshire relate to its location, the broker has a personal interest in defending her services, which are being directly criticized in this action.

Second, the broker lacks a factual foundation to support her opinion that Roseshire might increase the price of surrounding residential real estate. She admitted that she had not pulled prices from any comparable properties to support her hypothesis, which she styled as a general principle. Instead, she relied on an "educated guess" that home values *probably* increased in neighborhoods surrounding Spring Rock Green Mall, when that vacant property was redeveloped into a mixed-use shopping area. That project has little, if anything, to do with the construction of Roseshire at Glenside and Staples Mill, and regardless, the broker did not pull "comps" to support her theory.

Finally, the broker lacks specialized knowledge and relevant experience to support her opinion. Other than a personal favor to a family member, she does not have experience buying or selling residential real estate. She works exclusively on commercial transactions, and testified that she merely had an interest in residential real estate. An interest in residential real estate is not enough to create expertise. Because of her bias, lack of factual foundation, and dearth of relevant experience, her opinions should be wholly disregarded, or at the very least, set aside in favor of the admissible and well-supported opinions of Ms. Dean and the Upset Residents.

#### **IV. Alternative Relief.**

They County is asking the ABC to deny the Applications and prohibit the service of alcohol at a gambling facility situated adjacent to residential neighborhoods. Alternatively, it asks that the ABC impose reasonable, tailored limits to mitigate the substantial, adverse impacts demonstrated within the record. Applicant wants to serve alcohol throughout Roseshire, including in and around its HHR Slot Machines, and it wants the right to sell alcohol for an extended period each day, beginning during school hours and extending late into the evening. Even if a license is granted to Roseshire over the County's objection, the ABC should **not** provide a sweeping and untailored license, similar to the one requested by Applicant.

The Virginia Code directs the ABC to "promulgate regulations that...[p]rescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on licensed premises." Va. Code § 4.1-111(B)(1). It continues that "regulations...relating to hours of sale for licensees" need not "be uniform in their application," *Id.* § 4.1-111(D). While the regulations do include some standard hours for on-premises sales and consumption, they expressly provide that "[i]ndividual licensees whose hours have been more stringently restricted by the board shall comply with such requirements." *See* 3VAC5-50-30. The ABC is also empowered to impose other limits. For example, in *Va. ABC Comm'n v. Rok St. Inn, Inc.*, 220 Va. 310 (1979), the

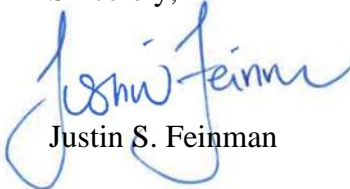
Virginia Supreme Court affirmed the ABC's right to restrict a licensee from serving alcohol on a countertop that had been specially designed for playing backgammon, as that surface did not meet the ABC's regulatory criteria for a table, while also increasing the risk of alcohol consumption during potentially illicit, dice games. *Id.* at 315–16. Similarly, in *Harrison v. Ocen View Fishing Pier, LLC* and *In re Southern Retailers*, courts found that the character of the surrounding area and potential increase in crime supported restricting sales of alcohol to halt at midnight and 10:00 PM, respectively. *Harrison*, 50 Va. App. 556, 771-72 (2007); *Southern Retailers*, 1993 WL 946322, at \*3 (Richmond Cir. Ct. Nov. 19, 1993).

Putting those powers together, the ABC is empowered to place reasonable restrictions on any license awarded for Roseshire to, among other things, limit its sales to beer and wine (*i.e.*, refusing to grant a license for liquor or mixed beverages), impose reasonable time limits on the hours during which alcohol can be sold, and/or limiting the locations within Roseshire where beverages may be served.

To the extent the ABC is inclined to grant a license, the County alternatively requests that alcohol sales at Roseshire be limited to beer and wine only, and that sales only be authorized between the hours of 5:00 PM and 9:00 PM (or during some other reasonably narrow window that will adequately protect schoolchildren traveling home from school, nearby residents walking along secondary roads, as well as drivers and pedestrians on larger thoroughfares). Imposing restrictions make sense because testimony at the hearing indicated that most, if not all, of the licenses for on-premises alcohol sales at nearby restaurants do not permit late night sales. Chairman Schmitt also testified about the problems that arose when a late-night bar had operated in that area historically. In addition to those limitations, the County asks the ABC use its discretion to find that the gaming machines (and any side tables attached thereto) fail to meet the ABC's minimum criteria for the service of alcohol, and therefore, the ABC should restrict the service of alcohol to portions of Roseshire that can appropriately be characterized as a restaurant.

WHEREFORE, Henrico County, its officials, and the Local Objectors respectfully request that the administrative law judge issue an initial decision rejecting Applicant's request for a license to serve alcohol at Roseshire. Alternatively, the County requests that the ABC impose other reasonable restriction, consistent with the arguments above, to narrowly tailor and restrict the rights afforded to Applicant.

Sincerely,



Justin S. Feinman

**CERTIFICATE OF SERVICE**

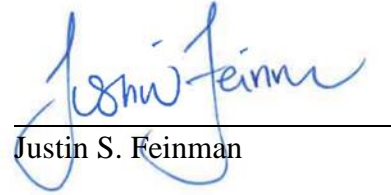
On November 10, 2025, I certify that a true and correct copy of the foregoing was e-mailed, using the existing distribution list, to the following interested parties and objectors:

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