

## COMMONWEALTH OF MASSACHUSETTS

## CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

LICENSE COMMISSION BOARD MEMBERS:

Robert C. Haas, Police Commissioner  
Gerald Reardon, Fire Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building  
831 Massachusetts Avenue  
Basement Conference Room  
Cambridge, Massachusetts 02139  
Tuesday, October 12, 2010  
6:10 p.m.

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P R O C E E D I N G S

MS. LINT: License Commission General Hearing, Tuesday evening, October 12, 2010. It's 6:07 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room. We have a quorum of two tonight: Chief Gerald Reardon and Commissioner Robert Haas.

The first matters are Application: Sonesta of Massachusetts, Inc., holder of an All Alcoholic Beverages as a Hotel license at 40 Edward Land Boulevard has applied to hold several events that require a Charity Wine license. Dates of the events are: October 21, October 28, and November 6, 2010. Windrush Therapeutic would be the first application. Come forward please, and if you could just state your name.

MS. TARTHELIA: Jennifer Tarthelia.

MS. LINT: If you could tell the Commissioners who it is that you're working for and what the event is, just briefly.

MS. TARTHELIA: I work for Windrush Farms. It's an organization, we're non-profit. We hold a benefit each year at the Sonesta. We get our alcohol donated by Cappy's. This year I believe it's a new procedure that we have to apply for a Charity Wine license to have the event. It's our biggest fundraiser. It generates about 20 percent of our operating budget. We serve about 1,000 clients each year, and again, it's our largest fundraiser.

MR. REARDON: How long have you been doing this?

MS. TARTHELIA: I've been at the farm for about 15 years.

MR. REARDON: So they've been doing this annually for many years?

MS. TARTHELIA: This is our fifth year at the Sonesta.

MR. HAAS: And you've served alcohol at each of these events?

MS. TARTHELIA: Yes.

MS. LINT: This is a new requirement

of the ABCC that it comes before the local boards before it's submitted to them.

MR. HAAS: Is there anything different other than the fact that you're making application?

MS. TARTHELIA: No, everything is the same. Cappy's has donated year after year. We're just applying this year.

MR. HAAS: So they're still donating this year as well?

MS. TARTHELIA: Yes.

MR. REARDON: Move to approve.

MR. HAAS: Second. All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MR. REARDON: Thank you.

MS. TARTHELIA: Thank you very much.

MS. LINT: Boston Area Rape Crisis Center. If you could just state your name for the record as well.

MS. CONWAY: Kelly Beth Conway.

MS. LINT: And a description of what this event is?

MS. CONWAY: It's a Champions for Change Gala Auction to support the Boston Area Rape Crisis Center. It's our annual gala that we hold. It's our first year at the Sonesta. We previously held it at the Seaport Inn.

MR. REARDON: How long did you do it at the Seaport?

MS. CONWAY: We've had the event at the Seaport for two years, and prior to that I was not involved at the event but was held -- it was not held for a number of years.

MR. HAAS: Alcohol has always been served at the prior events?

MS. CONWAY: Yes.

MR. REARDON: Who is the donator of this?

MS. CONWAY: Martignetti's, and they only donate the wine. The rest of the alcohol is provided by the Sonesta.

MR. HAAS: Donated by a Sonesta?

MS. CONWAY: No. We purchase the rest of the alcohol, so only the wine is donated.

MR. HAAS: My understanding is it's donated alcohol.

MS. LINT: It's donated wine.

MR. REARDON: So this special permit will only be for the wine you're receiving as a donation, and the rest will be all carried under the Sonesta's regular license?

MS. CONWAY: Exactly.

MR. REARDON: Move to approve.

MR. HAAS: Second. All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MS. CONWAY: Thank you.

MS. LINT: Family Business Association, Inc.

MR. DANAPOLI: My name is Al Danapoli. I'm one of the executive directors of the Family Business Association. This is our fourth year of holding our Family Business Award Night. We have approximately 400 people attend at the Royal Sonesta a pre-award ceremony reception and then a full dinner with awards given out to family businesses.

During the dinner Gordon's Liquors has donated the wine and we're seeking the proper license relative to the donated wine that will be served during the dinner.

MR. REARDON: And the same thing as the previous ones, the bar prior to would be under the Sonesta's license?

MR. DANAPOLI: Under the Sonesta's license, yes.

MR. HAAS: How many years have you been doing this?

MR. DANAPOLI: This is our fourth year

at the Sonesta.

MR. REARDON: Move for approval.

MR. HAAS: Second.

MR. REARDON: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye.

MS. LINT: Disciplinary Matter: Tommy Doyle's Pub and Restaurant, LLC, Garrett Tingle, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 96 Winthrop Street due to a police report dated August 26, 2010, received by the License Commission regarding an alleged incident between Tommy Doyle's staff and a patron.

If we could start on this side and everybody could state their name for the record and identify yourselves.

SGT. GRANGER: Thomas Granger, police officer for the City of Cambridge.

MR. TINGLE: Garrett Tingle, manager of Tommy Doyle's.

MR. WOODMAN: Peter Woodman, owner of Tommy Doyle's.

MR. FIGUERO: Sam Figuero, head of security at Tommy Doyle's.

MR. NORTON: Edward Norton, installer of the video surveillance equipment.

MS. BOYER: Andrea Boyer, investigator for the City of Cambridge License Commission.

MS. LINT: I think that perhaps if we start with the officer that would be best.

SGT. GRANGER: Should I read from my report?

MR. HAAS: Yes.

SGT. GRANGER: "On August 26, at about 9:31 in the morning I responded to Copperwaite Street to take a report from a gentleman who lived on Copperwaite Street who claimed that he was assaulted two nights earlier at Tommy Doyle's on Dunster Street." This should have been Winthrop Street.

"He stated he entered the facility and immediately a doorman came up from behind him, put him in a choke hold, and said something to him, but the reporting person did not know exactly what he had said. This individual stated a brief struggle ensued, and the reporting person states that he was physically carried from the establishment and told not to return. This gentleman also stated that he had not been drinking and does not know why this even happened.

A friend of this gentleman did see the struggle and see his friend being escorted from the bar. This witness stated that there were about four individuals that carried his friend out."

The person is spoke to states he can't identify the suspect. He also told me that his neck and throat hurt him, and this was two days later, or a day-and-a-half later.

MR. HAAS: Did he indicate why it took so long for him to report it to the police?

SGT. GRANGER: No. He initially said he wasn't sure if he wanted to report it, and when his throat was still sore a day-and-a-half later he felt it was best to report it.

MR. HAAS: And he couldn't give any reason why he thought he was being accosted this way?

SGT. GRANGER: No, not at all.

MR. HAAS: Was he actually going to Tommy Doyle's; was that his intended place to go?

SGT. GRANGER: Yes. His friend and he were going into Tommy Doyle's.

MR. HAAS: This was at what time in the evening?

SGT. GRANGER: 11:30 p.m. on the 24<sup>th</sup> of August.

MR. REARDON: Did he say that he was just going in at the time this happened, or was her in there for a while?

SGT. GRANGER: They were just getting there.

MS. BOYER: I have a little bit more information that may be helpful also from the witness who actually is out of country, but did e-mail something to the License Commission. This may clarify some things, and then also, Tommy Doyle's will be able to say what they have to say.

We did redact this so the name of the witness -- he's formally of a street in Cambridge and he's making the following report regarding the events of the night of Wednesday, August 25, 2010.

MR. HAAS: The 25th or the 24th?

MS. BOYER: It said Wednesday, August 25 in his report.

"On the night in question, the complainant and I decided to meet with some incoming LLM students from Harvard Law School who we had met recently through our respective affiliations there. We walked from our home in Cambridge. I had not had any alcohol that day, and as far as I know, neither did the complainant.

We arrived at the club at around 11:40 p.m. Upon reaching the club I was surprised to find no security guard on the steps leading to the entrance, which there often was the case. I entered the first floor and turned right and was about to enter the second door when a security guard appeared and asked for my identification. I showed him my passport and was readily admitted. I walked inside to look for our friends. I then realized that the complainant was not behind me.

I retraced my steps and found that he remained outside. The reason, the complainant informed me, was that had presented his identification to the security guard. The security guard had asked him to remove the identification

from the clear plastic slip, which displeased the complainant.

I returned to the club to seek out Our friends and I could not find them. I then returned to find the complainant, informing that I thought our friends had moved on and suggested that as the hour was late and we both had busy schedules the next day that we should just have one quick drink at the club and then go home. The complainant agreed.

I then re-entered the club with the complainant behind me. As I passed the security guard, he said to me words to the effect of "your friend does not have to come in, you know." I took them to refer to the fact that the complainant had appeared reluctant to enter the club. I assured the security guard that all was fine.

I entered the club and was about to speak to the complainant when I realized he was not behind me. I then suddenly saw the complainant held in a headlock by the security guard. Although both were upright, the security guard had looped

his arm around the complainant's neck and had his other hand against the side of the complainant's head. The complainant appeared under much distress. I was very concerned that the complainant was either being strangled or about to have his neck broken. As the complainant struggled to remove the stronghold by moving forwards, the two men fell onto the steps leading up to the second-floor.

I stepped over to where the two were struggling and told the security guard that we did not want any trouble; that we were just there for a quick drink, and that if he did not want us to be here, we would happily go to another establishment. At that point, another person from the club stepped in and asked me to stand back, pushing me back as he did so. Then two others arrived, one of whom grabbed the complainant by the feet, and together with the security guard removed the complainant from the club.

After seeing the complainant had been freed from the outside steps, I returned inside to

retrieve his umbrella and cap. When I returned I saw the complainant on the steps facing four men: the security guard and the three men from the club who had intervened. The complainant requested to see the owner or manager of the club. One of the three men who had intervened stepped forward. He had silver hair, a silver goatee, and was wirely built. He claimed to be the owner and requested the complainant leave his premise.

I could see the complainant was rather distressed so I persuaded him to leave the club. We then agreed to go home and resolve the issue the next day. Sincerely," and the signature.

MR. HAAS: So he couldn't give you an account as to why his friend was detained other than the fact that it would seem he wasn't going to take his ID out of the plastic holder?

MS. BOYER: Yes, that's what it seems from the writing. The victim may be here tonight to talk about that himself.

MR. REARDON: Let's hear from him.

MS. LINT: Is the complainant here?

MR. DARROW: Yes.

MS. BOYER: Come on up.

MR. DARROW: My name is Jonathan Darrow. I was at the establishment -- it sounds like it was the 24th. I don't recall the date. I was choked from behind without warning from someone who appeared to be an employee of Tommy Doyle's. The reason that I waited was that I did not want to escalate the matter. We left and I didn't expect to report it at that time. Two days later when I woke up and was feeling sore, I was concerned there would be some permanent damage. So at that point, I did contact the police.

MR. HAAS: So you're still not certain why you were detained at the door?

MR. DARROW: I think I understand why the employee was upset with me. What I think the issue is though is that the strangle was completely unjustified. I did nothing to provoke violence. I did not do any violence before he strangled me.

MR. HAAS: So it was over the idea? He was upset with you because you wouldn't take the

ID out of the plastic holder?

MR. DARROW: That would be my guess, yes.

MR. REARDON: Did you have a valid ID that night?

MR. DARROW: Yes, I did.

MR. REARDON: And they took it to let you in?

MR. DARROW: I showed it to the employee. I don't think he bothered to look; he just asked me to take it out.

MR. REARDON: And when you took it out, did you give it to him and he looked?

MR. DARROW: I didn't take it out. I held it up so that he could see it.

MR. REARDON: All right.

MR. WOODMAN: Can I ask questions?

MR. HAAS: Ask us the questions.

MR. WOODMAN: I was the manager on duty that night and what I saw and what was divulged to me was this gentleman rushed our doorman. He refused to show his ID. He allegedly

showed it in a plastic cover. Our standard is we don't allow our employees to touch his wallet or take IDs out of wallets. We say, "Please you're your ID out." Sam has worked for us for five years. Never an issue, never a problem. He simply asked to see his ID. And what I've been told is this gentleman rushed our door guy and basically attacked him. Sam defended himself, removed him from the building. I helped him remove Mr. Darrow from the building. He was -- he seems very calm now but he was --

MR. HAAS: I'm trying to figure out what the question is.

MR. WOODMAN: I just want to ask him: did he rush the door guy? Did he try and push his way in through the door and rush our employee?

MR. HAAS: Did you have any contact with the doorman when you were trying to get into the establishment?

MR. DARROW: Do you mean any physical contact?

MR. HAAS: Yes.

MR. DARROW: No.

MR. HAAS: So you didn't push the doorman?

MR. DARROW: We walked in, my friend was ahead of me. It was not a particularly speedy entrance. I didn't look at or say anything to the doorman as we were several steps inside the door. The next thing I knew, his arm was around my neck and he was saying, "I know you heard what I said."

MR. HAAS: Meaning, taking the ID out of this wallet?

MR. DARROW: I don't know what he meant.

MR. HAAS: Were you present when your friend was saying to you it's okay to come in? What was that interaction about?

MR. DARROW: I had wanted to go home and my friend had encouraged me to go in for one drink, and we agreed, and that's when we walked back in. I was certainly not rushing back in.

MR. HAAS: Any other questions?

MR. WOODMAN: The point is the

doorways at Tommy Doyle's are quite narrow. Sam is obviously a big guy. It would be very hard to walk past him, just casually walk past him. Sam's a big guy. You know how when you come in the front door there's a slight turn, you can't physically walked past that.

MR. HAAS: So how do you reconcile the witness' statement that when they got to the front door there was no security there?

MR. WOODMAN: Sam was there. Sam was inside. On the weekend, we have our doormen on the steps and on the quieter days like Tuesday, Wednesday nights, he's inside the actual doorway. So it comes in at a kind of L. So he's inside the doorway and either they're sitting by the window and go straight up the stairs, or just in the doorway. So he physically could not have gotten through the door without pushing past him.

And his friend apologized to me profusely. He said he's having a really bad day. I apologize. This gentleman was waving an umbrella at me. I said, "Buddy, just go home." And in no

way was he viciously assaulted from behind. He couldn't have gotten past Sam. When I got down there I literally picked him up by his legs and -- Buddy, get the hell out of here.

MR. FIGUERO: My answer to that --

MR. REARDON: Are you the doorman?

MS. LINT: We need to have one person speaking at a time. The stenographer cannot keep the record.

MR. REARDON: Why don't you come up here. We need your name.

MR. FIGUERO: I'm Samuel Figuero. I am the door guy in question. I wanted to respond to your question is that -- if the person proceeding him was ID'd, so therefore, there had to be somebody at the door, simply put.

MR. HAAS: It sounded like though the way he described it -- I've never been in Tommy Doyle's but it sounds like there one doorway and then a second doorway, and he was encountered at the second doorway.

MR. FIGUERO: And in between is where

I stand. The air-conditioning there is better.

MR. REARDON: Are you the doorman in question?

MR. FIGUERO: Yes, I am.

MR. WOODMAN: Sam is also our head of security for the past five years.

MR. REARDON: Maybe we would like to hear your rendition.

MR. FIGUERO: Certainly. On the night in question I was standing in the doorway. The gentleman right here approached with another fellow, an Asian fellow before him. He came in, I asked him for his ID. He readily showed his passport. I asked this other gentleman to show his ID. He flashed it to me without -- like he was reluctant to show it for whatever reason. Maybe he believed he was too old to show an ID or whatever it was. I politely asked him if I could just take a closer look, if he could just pull it out and show it to me. He refused and then he left the establishment.

He stood outside, which was no

problem. His friend came to me and he asked me what the situation was. I said he refuses to show me his ID, therefore, he cannot come in unless he shows me an ID, which is the law, which I'm enforcing -- or doing my job.

At that point, he went down and talked to his friend. They had conversation. The gentleman looked very upset. His fellow came back to me and asked me, he said, "I apologize. He's having a bad day today. Is he allowed to come in?" I said all I'm asking for is an ID.

At this point, the gentleman thought that he could just - he put his head down and he had an umbrella in his hand, and he tried to bowl through me. At that time I grabbed him, because he assaulted me, and then I restrained him and he was trying to fight me. I understand he's not a big fellow so I wasn't threatened, but I didn't want to be assaulted. So I grabbed him and restrained him at that point.

A bartender and the manager came down and they helped me remove the gentleman away from

the property, and then he started waving umbrellas and started insulting or yelling whatever else at the managers and threatened people. That's when my manager spoke to him and I stepped aside and let them --

MR. HAAS: So you're saying he never got past you?

MR. FIGUERO: No.

MR. HAAS: So how do you account for the fact that he claims he was grabbed from behind?

MR. FIGUERO: I think that's inaccurate. We were trying to pull up the cameras; we don't have a visual on it, but it's inaccurate.

MR. HAAS: SO you have a photograph of the incident?

MR. WOODMAN: That's why I've got the owner of the company that installed the camera. They had a problem with the hard drive. We've got 16 cameras in the building.

MR. HAAS: So do you have it available?

MR. WOODMAN: No, we don't have the

hard drive. That's the problem.

MR. HAAS: Can you produce it at another time?

MR. WOODMAN: It was sent to California four weeks ago. They're trying to get the images off of it.

MR. REARDON: So you're say there is a camera in the vestibule that should have or potentially would have seen that?

MR. WOODMAN: Yes. Basically it's not physically -- to get past -- I'm not a big guy and I can't get past Sam in the doorway and just slip by him. It's not possible to get past. It's like a porch if that's an apt description.

MR. HAAS: I understand what you're describing. I'm just trying to reconcile the differences of the story where you have one person saying he got into the establishment and somebody came from behind and grabbed him. You're saying he never got past you. As I understand, you kind of wrapped your arms around him. Did you wrap your arms around his neck?

MR. FIGUERO: I don't recall exactly where I grabbed him. He's a small gentleman. My point being is that I don't allow entrance unless an ID is produced.

MR. HAAS: I get that part.

MR. FIGUERO: So he tried to avoid that and tried to run through me, and at that point is when I grabbed him. I did not grab him from behind; he somewhat like tried to tackle me or spear nose or whatever you call it where he came at me head-on.

MR. WOODMAN: When I got to the scene the guy literally had his hands on the door jams refusing to leave. I various other people involved to help remove him and we literally picked him up, brought him, put him down. We didn't throw him down the stairs. We placed him at the bottom of the stairs and said, Buddy, go away, and he started waving his Harvard umbrella. I said, man, it's a Wednesday night, it's a quiet Wednesday night as well. We're not in business to turn away money, revenue. It's just the guy was -- there was

something genuinely wrong with the guy. And his friend came back and apologized profusely. He said, look, he's having a really bad day. I really apologize. I said, no problem, just tell him to go home.

MR. HAAS: How fast do you think you'll be able to produce this film?

MR. WOODMAN: It all depends on the company we got the camera from.

MR. NORTON: They indicated that it's not going to be possible at this point.

MR. HAAS: So you're not going to be able to recover any film?

MR. NORTON: They said the hard drive is fried; it's been corrupted. There is a series of hard drives that I had from two or three years ago and these were installed, and out of about 20 of them, two have had problems.

MR. WOODMAN: He's now upgrading our system.

MR. NORTON: They run 7/24, so it's not -- of all the computer work that we do it's the

hard drives in the DVRs that are most easily corrupted. There is a camera that looks right at the foyer.

MR. WOODMAN: There's three cameras that would have covered that whole thing. There's two on the main stairs and there's one on the corner.

MR. HAAS: Right now, it's not going to help us at all; right?

MR. WOODMAN: It's just not physically possible. For this gentleman's description, it's not physically possible to get inside the restaurant, to go through the doors. At the end of the day, the guy -- his friend apologized profusely. In my mind, again, we should have followed up and Sam should have pressed charges against the guy, but we're not in the business -- again, it was one of these things, just buddy, go home. Come on, you're having a bad night, you're causing a scene, go home. It was a quiet Wednesday night, and as I said before, we're not in the business of turning away revenue. It doesn't

happen, it does not happen. And this guy was personally threatening me with his umbrella and calling me this, and calling Sam this and that. I'm not even going to go into it. I'm not going to lower myself to that level.

MR. HAAS: At this point in time, it's going to be hard to reconcile the event, and they're so a different from one another.

MR. WOODMAN: It's just not physically possible. He could not have physically gotten in the building by Sam. And as I said, Sam has worked for us for five years. He's the head of security for five years. We haven't been sitting in front of you guys in five years over anything like this. I've been in the business for 15 years and Sam is one of the best door guys I've ever employed.

MR. DARROW: I can add more if you'd like.

MR. HAAS: If you think it's going to be relevant. I'm just trying to figure out how we can reconcile the difference in the story.

MR. DARROW: Let me try to help. I

think he's right that I wouldn't have been able to get through the door if he's been standing in front of it. He wasn't; he was standing next to it. And as I walked by, he didn't make any attempt to say anything to me. I walked into the store and at that point he came up from behind me.

As the witness wrote in his testimony stated, and I don't think they're denying, we ended up on the stairs, which is about 10 or 12 feet inside the door. Like I said, he's much bigger than I am. If I had tried to get in and he tried to prevent me, how would we have ended up that far inside the restaurant?

MR. WOODMAN: The stairs are actually about three feet from the door.

MR. DARROW: The only contradiction with his statement is that his friend showed his ID and walked in, so if there was no doorman at the door -- his friend was only five feet in front of him, so therefore, there had to be someone in front of the doorway.

MR. DARROW: He was next to the door.

MR. HAAS: Somehow according to the Witness' statement you were somehow delayed or detained or not able to get into the restaurant, because he looked around for you and you weren't there. He had to go back out to find out what happened to you.

MR. DARROW: That was earlier.

MR. HAAS: Right. At some point -- I think there's two events that have taken place here. First, when you first tried to get into the establishment and you weren't allowed entry, and then he came back out to persuade you to come in with him to get one drink to go away, and that's where it sounds like the encounter took place. Again, it wasn't clear to me from his statement whether or not you were side-by-side.

MR. DARROW: He was ahead of me. You can't walk in side-by-side; the doorway is not wide enough. I have a medical record, a medical report. I have some photographs as well.

MR. HAAS: We'll take that.

MR. REARDON: Is there any reason why

you wouldn't have had a valid ID to show that night?

MR. DARROW: No, and I'm not contesting their identification policy. I'm simply suggesting that he could have stated, "You need to leave," or said something to me rather than put a chokehold around my neck as his first action.

MR. WOODMAN: That wasn't his first action. He asked you to show your ID and you refused to show your ID, and then you attacked the guy. That's reality.

MR. REARDON: Can we also get the gentleman from the security, just get your name on the record, too.

MR. NORTON: Edward Norton.

MR. REARDON: And the company?

MR. NORTON: It's Private Eyes, E-Y-E-S. Do you need a phone number?

MR. REARDON: If it's a published number, sure.

MR. NORTON: It's not but it's fine. It's 617-599-2400.

MR. REARDON: I don't think there's anything else I can discern at this time.

MR. WOODMAN: Just to add to it. There are a number of staff who would have no problem making a statement if they need to. There were three other members of the staff there, three or four regulars that witnessed the whole thing. I believe I can get those statements in the next two or three days if that would help.

MR. REARDON: Do you want to take the statements?

MS. LINT: I can take them.

MR. DARROW: I think the statements wouldn't reveal the important part, which was the beginning. The manager, as far as I know, was not there. The other staff, as far as I know, were not there until after he had his arm around my neck.

MR. WOODMAN: There were two members of staff on the bar so they would have seen any incident. If the incident occurred inside as you alleged, then the two members of staff would have seen it.

MR. HAAS: It's clear that there was some type of struggle that took place. There's no question about that.

MR. WOODMAN: There's no denying that.

MR. HAAS: I'm just trying to figure out what initiated the struggle, and then reconciling the chain of events in terms of did he come at you and you tried to restrain him, or did he get by you and then you went behind him and grabbed him around the throat. That's the thing that's in dispute right now. Without the videotape -- I mean that would be the preferred way to resolve this issue.

MR. WOODMAN: It's frustrating on our side.

MR. DARROW: It's frustrating on my side as well.

MR. FIGUERO: Another simple question to ask is -- I didn't ask him and I don't think he's said it is, did he produce his license the second time around, which kind of gives you a little bit more insight.

MR. DARROW: Yeah, I think that's right. That does give some insight. I did not produce it the second time around. I walked by him and that's why I think that he came at me, because he was upset. And again, I'm just suggesting that he should have said something rather than used violence.

MR. FIGUERO: Another rebuttal is that our first encounter said more than enough. He came back with a physical statement.

MR. HAAS: Do you recall ever saying to the gentleman's companion, "he doesn't have to come in here if he doesn't want to"?

MR. FIGUERO: I explained to him that all he has to do is produce an ID and he can come in. If he does not want to show an ID, then he can't come in.

MR. WOODMAN: That's our standard policy that if you don't show an ID, you're not coming in.

MR. HAAS: I understand. I'm just trying to figure out who initiated the assault.

MR. REARDON: I move to take it under advisement.

MR. HAAS: Do you have anything else to add?

MR. WOODMAN: No. Just should we get statements from the other staff? And there's some regular customers that have brought it to my attention that they were there as well.

MR. HAAS: We'll look at the statements and then we'll render a decision at the Decisionmaking hearing.

MS. LINT: Motion.

MR. REARDON: Motion to take under advisement.

MR. HAAS: Second.

MR. REARDON: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye.

MR. HAAS: You don't need this medical record back, do you?.

MR. DARROW: No

MS. LINT: Informational: Corazon, Inc. d/b/a Green Street Grill, Dylan Black, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 280 Green Street due to a complaint received by the License Commission regarding refusal of service.

I think in keeping with the License Commission policy, since the complaint was brought in, Ms. Boyer does the investigation and I would ask that she present her report, and then certainly the complainant is here and could add.

MS. BOYER: There's quite a few pages involved so I'm going to give some of the major facts and then the complainant is here if she'd like to add more. The complainant is here in the first place based on two dates that are involved.

On July 7, Kathy Podgers, who is the Complainant stated that she was denied service, denied equal enjoyment, and subjected to retaliation based on her disability because she was accompanied by her trained service animal. She has stated that she is a trained community access

monitor and is disabled defined by the Civil Rights Act of 1990, Public Law 101-336.

Previous to the July 7 date, on May 2, she stated that she had gone to the Green Street Grill accompanied by her service dog in the afternoon when it was not busy. She presented herself at the podium at the entrance and the hostess picked up a menu and asked her if she preferred to sit at a high-top or at the bar. The complainant told her that she would prefer to sit at a low table.

The hostess took her there and assisted her into getting seated. She then told her that she was a community access monitor and that the hostess should have challenged her before seating her because the Health Department does not allow pets in restaurants.

She explained to her that she was disabled and that the service dog was a trained service animal and not a pet. She explained that telling patrons that they had a no pet policy would protect the restaurant from people who might

falsely claim their pet was a service animal. She explained that when a restaurant stated they had a no pet policy, the disabled person had the opportunity to state this is not a pet, it's my trained service animal that helps me with my disability. The hostess said that she understood. She was very polite and she order the mussels and then she was served.

The complainant states that in the middle of the meal the owner, Dylan Black, came rushing up to the table and gruffly order me to take my dog outside. I asked him why -- I'm speaking from her point of view now, obviously -- and he said no dogs in the restaurant, I said I was surprised to hear that and asked him if he had spoken with the hostess and waitress, and he said that he had, and he accused me of being rude to her. I then asked how I had been rude and what he had said. She had told him something that I had not said. I then told him exactly what I had said to the hostess/waitress and he professed to not know about service animals. I told him again, the

law and trained community access as she is a trained community access monitor, which encourages voluntary compliance with the ADA.

She said that she would discuss it with him further. She finished the meal. She didn't want the food to get cold. He had made a copy of the -- excuse me -- she had had a copy of the code with an explanation published by the Delta Society. He made a copy, returned the copy. The interactions were amicable and he apologized for interrupting the meal.

Then on July 7, on the way home from shopping, Kathy Podgers had gotten off the bus and walked past the Green Street Grill and had stopped in at approximately 10:00 p.m. She decided to stop for a beer and was exhausted from shopping and presented herself accompanied by the service dog to the hostess. She told her she was disabled and this was a trained service animal. She asked if she could have a seat at the bar. She said no, and the tables were filled, I would have to wait a little. Another woman ran up to me and told me no

dogs, so I explained I was disabled and it's a trained service animal. She demanded I show her certification for the dog. I asked to speak to the owner/manager. She told me she was the owner/manager, so I asked if the co-owner Dylan -- have Dylan explain this to her.

At that point that's when Dylan Black rushed up and said please step outside. He took arm and escorted her out the door and said that this isn't about the dog, it's about you harassing me. Kathy Podgers claimed she was shocked to hear this and remained silent to hear what else he might have to say. Then he accused me of making harassing phone calls to him. He said at one point, "you called me at 4:00 a.m. to complain about the pasta." I started to deny this but he rudely interrupted me and said, "don't try to deny this, I know your voice."

I told him that I had never called him and that I had been denied service because of the certification of the dog. I tried to explain what happened but all he did was accuse me of

making harassing phone calls.

I told him that I could not sought this out myself and called the police to assist. I called the police on a non-emergency line. After the call, he yelled at me and said I had no right to tell the police what I said to you.

At one point, a sergeant did arrive, and I think at this point it would be good if the complainant could explain more about what was about the police involved.

MR. HAAS: So there are two contacts: one earlier in the day and the second one at 10:00 that evening; right?

MR. BLACK: Yes.

MS. PODGERS: Two different days.

MR. HAAS: What was the date of the second incident?

MS. BOYER: It was July 7. May 2 was the first incident, then July 7.

MR. HAAS: Any questions?

MR. REARDON: Not at this point. Do we have the complainant here?

MS. LINT: Yes, Ms. Podgers.

MR. REARDON: Your name?

MS. PODGERS: My name is Kathy Podgers. I live at 148 Pearl Street and I'm accompanied tonight by my trained service animal. You all know; I've been here before.

This is really scary for me to go out to a restaurant, to go to CVS, to go to a bar, to go to a hotel, to go anywhere where I don't have a witness accompany me. I have in the past been accused of all kinds of things, falsely. This is the first time I was accused of making harassing phone calls at 4:00 a.m. I did not make any phone calls to any manager. I didn't make it to this manager in this restaurant and certainly not at 4:00 a.m.

In the last part of my report -- I'd just like to briefly read to you what I wrote. "In this case I was falsely accused of behavior that could be construed as criminal offenses. Trespassing was raised as an option." I called the police because I wasn't allowed and being served.

I was being accused that -- it wasn't because of the service animal, it was because I had made phone calls before I couldn't get served. So I know I'm not making phone calls. To tell you the truth, I didn't believe any phone calls were being made.

So I called, and right after I called I was yelled at by Mr. Dylan Black, who yelled at me and said, "You can't tell the police what I said to you." I didn't respond to that.

When the police came they didn't know the law, the first officer. So I gave a copy of the law. Do you have the packet; do you have a copy of this?

MS. BOYER: Yes. They were given a packet.

MS. PODGERS: The reason I hand people the Delta Society's description rather than the color description we hand out to the taxi drivers and people that might do business is because it's very quick to read. It actually cites the code, it has a telephone number to the Department of Justice where you can call and hold on the line and press 7

at the prompt and you can speak to technical assistance who will explain the law to you.

It also has [DeltaSociety.org](http://DeltaSociety.org) on the Internet, so you can go and it has all the information regarding this. It explains it all out: how the dogs are trained, how dogs are selected. So it's a lot more comprehensive than just the business brief, which I recommend to all the establishments that raise these concerns; that they post the business brief in an area where their staff walks by it because it is an unusual situation. Having people show up who are blind with guide dogs, or deaf with the hearing dogs, or service animals is not an everyday event.

So largely we get along in our lives based on the kindness of people willing to understand what accommodating people with disabilities is, out of their kindness and they hear you. You get to explain what it is and then they accommodate you. Then they might go -- I've had sometimes the manager will go and check online. I tell them they can download the business brief at

the DOJ. You can do a Google search.

The reason I have this is they have actually a copy of the law and a brief description. It deals with all kinds of confusion like doesn't it have to have a special collar.

MS. BOYER: Kathy, if you could --

MS. LINT: If we could go back to the facts so the Commissioners can hear what happened.

MS. PODGERS: Prior to the 4th, I had told Elizabeth that almost every place I went to all of a sudden was denying me service, even people who knew me. So in visiting them I discussed with them, reviewed with them and passed out some information, not to everybody but just when there was a problem. The purpose of a trained community access monitor isn't to find complaints, to find violations and file complaints, but to provide a free service to the venue.

As you know, I'm more interested in Title II complaints. This is a Title III. So let me finish what I wrote.

So the police officers immediately

raised the issue of trespass. You can be trespassed for any reason; he just doesn't want you in here. I'm not sure what it has to do with the dog. He said he didn't deny you service. I said so why am I out here; why am I calling the police? What about the phone calls to the police? When I try to get them I can't get them because other witnesses were there, other people can be heard.

I believe there's a video camera where I was grabbed on my arm and escorted out. The reason I use a trained service animal -- and this is my neighbor, and she'll tell you that when people offer to help me I say don't help me, it's not safe for me. I have a severe multiple degeneration of the spine, my neck curves backwards, I have cervical radiculitis (that's inflammation of the nerve roots) so it feels like I have broken arms and legs, and causes weakness. I have balance problems; I can't even use a wheelchair. So the dog helps me with my balance to walk. And when somebody touches me, the slightest little push, pull, lifting the elbow, all of this

puts the whole thing out of whack, and I have collapsed before losing all sensation below my waist and taken to the hospital.

So first of all, I see no reason why anybody should have touched me. It's scary for me to be threatened with trespass since I've already been falsely arrested in this city for trespass because my dog looks like a wolf and might bite someone. The judge threw it out, but what good is that. That's upsetting to me that when I explain what the law is and I get this kind of thing coming at me.

So what I wrote here is when I pointed out to the officer -- this is before the Sergeant came -- that I was concerned that false statements were being made, the police officer said that Mass. General Laws say it's a criminal offense to make false statements to the police only when they are investigating a criminal matter, not a civil matter, and they were going to leave with me out on the sidewalk.

I said that I had a meeting with the

Police Commissioner and an advocate from the Mayor's Office, Neil, and some other people, and specifically asked the police to modify their policy so they could take a police report right at the time that something happened, so they could fix the details of what happened. Because what happens is after the fact, people conjure up a whole different story, whereas, if the police show up and then there are witnesses there -- at any rate that's why the police have modified their policy and take incident reports.

Therefore, I have a serious question: does that mean that it's not unlawful to make false statements to the police in investigating a civil complaint, even when the false statements could result in trespassing me?

MS. LINT: I have to stop you again because I think we're not really talking about the situation in terms of what happened on the two occasions at the establishment.

MS. PODGERS: I'm telling you what happened to me on that night. I'm standing outside

on the sidewalk, I'm not being served. The police officer said he didn't refuse to serve me. When I went to walk in, he said you can't go in. I said, why not. He said you can be trespassed. And I want to know if I can be trespassed and taken off to jail because someone can make false statements since it's not a criminal offense to refuse to accommodate a disabled person? This is what's happening to me. It might not be the way you view it.

MS. BOYER: I think Kathy what we need to do is bring it back to just Dylan.

MS. PODGERS: I will. I want to know if this can happen with impunity, and that's why I brought this here. So let's go back to the police show up, I give them a copy of this because they didn't know. They thought they should leave me on the sidewalk because he wasn't refusing access, but they also said I couldn't go in. SO I said why, you can't tell me not to go in because then I'll file a complaint against you. You have no right to tell me I can't go in somewhere.

My point is, am I being trespassed; that's why I can't go in? Or, is it about the dog? Well, it's not about the dog; he's not denying you service. Then why can't I go in? Well, we have to wait for the Sergeant to show up. I said, well, it's like a 100 degrees, it was 100 percent humidity that night and I was shaking all over. I said I need to sit down and have a beer. So the police officer arranged with Dylan Black that I could have a beer while we waited for the Sergeant to decide whether or not I would receive service in this restaurant.

So the Sergeant shows up and he's also Confused, and he said, well, you're not being denied service. I said I was told that you have to have a conversation with Dylan Black before he's going to decide whether or not I get to have service. How many other patrons in the restaurant here have to call the police and have a discussion with Dylan Black before they are served?

I believe I was dressed something like this on that evening. I had three bags from Ann

Taylor, a polite and decent person. I previously provided the information. It's scary to me.

Now, I know that most of you don't have to call the police because you're being threatened with trespass. But I want to ask what happens, what about if he doesn't want a black person or a Jewish person or a gay person in his bar. This is a disabled person accompanied by a service animal. It's a whole sub-class, a whole group of protected people. And it's scary because there is no one with me. I just heard the thing before here. I didn't have a witness with me. It's all based on how I present myself and this goes on everywhere, riding on the bus, everywhere.

The second part of that same evening -- so the first one was May 4, where they provided information to him and then six weeks later the second event happens. So after the Sergeant speaks to Dylan, he comes back and said, "You're all set. He's going to serve you. There'll be no more problems." And he left.

Then when I finished the beer the

waitress came up and asked if I wanted another one. I said yes and she never came back. So another waitress came by -- I had been sitting there for quite a while - and said, "Do you want another beer"? I said, "Yes." She went over and spoke to my waitress and neither one approached the table.

So after a few minutes -- I know it's busy and sometimes you order the beer from the bartender and it takes a while for it to come up. I didn't want to bother the waitress but after another 10 minutes or so I waved. She went walking by the table and then she went walking back, and she went walking by the table again. Then she came over and I said, "I asked for another beer and I still don't have it." She said, "We have to wait until Dylan Black agrees that you can be served a second beer." I wonder how many people have to have the beers they're served approved, the waitress has to go to Dylan Black and each beer they're served is approved one-by-one by Dylan Black.

So what happened to me is initially

I was denied service. Then it was equal enjoyment. I'm denied equal enjoyment. That's what this is. This isn't access; I'm not in a wheelchair. This is denying equal enjoyment. I should be able to enjoy the environment of the restaurant like every other customer there. Once they know I'm disabled and it's a service animal, it's Kathy the person you're dealing with.

The third thing is the harassment, the retaliation, falsely accusing me of making phone calls, making a waitress approve each beer. The whole point is, the idea is well, you're being provided access. That's not it. I was singled out based on my disability and subjected to different treatment because of my disability, because I didn't feel welcome because I wasn't welcome.

Part of the frustration here is that people don't understand the nature of the law. Most people would be shocked and appalled if a restaurant was refusing to serve black people or Jewish people, and in Cambridge, gay people.

MR. REARDON: I guess I'm having

trouble with that you told me it wasn't the service dog issue, it was issues over what our Mr. Black thought you made.

MS. PODGERS: I'm telling you he used as an excuse to deny me equal enjoyment, to keep me out of his restaurant, he conjured up a falsehood. He falsely accused me of making harassing phone calls.

I did ask the police to find out if anybody made harassing phone calls, because by the way, if I say to you -- I'll just use you as an example because you're brave enough to ask -- if I say I'm upset because you're here tonight, I don't know that you can be here because you've been making harassing phone calls. You say, wait a minute. I didn't make harassing phone calls. Why do you say that? And I say, three nights ago at 4:00 a.m. you called me, and you say, no way, I didn't. And there's no evidence.

So what reasonable people do is say, I guess I misunderstood. But you don't stick it out until the police show up, and then you tell the

police, and then -- whether or not the police are investigating this, I have no idea. I got an e-mail from the police wanting me to pay for the investigation to subpoena the phone records, because I don't think any phone calls were made. I don't think anybody called him to harass him, but certainly it wasn't me. I've never had pasta at his restaurant. I had mussels on the first occasion.

So what I'm describing to you is when a person with a disability, whether you're blind, or deaf, or whatever your disability is, people conjure up excuses why you can't come in, if they know the law. If they don't know the law, they don't mind telling the cops, I don't want the dog in here, the Health Department won't let it in. And then the police say it's a working dog, not a pet. But when they know the law and they still don't want you to come in, that's when they conjure up something that you did that you didn't do, and I've heard it all.

MR. REARDON: Do you have any

paperwork for the dog as a service dog? Is there a certification?

MS. PODGERS: The initial certification is this: There is no such thing as certification for the purposes of Civil Rights and being accommodated. There is no certification of service animals in the City of Cambridge. There's no certification in the State of Massachusetts, and there's none at the federal level. Some dog schools provide certificates that you graduated from their dog school.

MR. REARDON: And I'm asking this because I'm not aware of any certificates, I was just asking to see if you had some knowledge about it.

MS. PODGERS: And there's a reason why they don't have certification. One thing there is, is a special law in the State of Massachusetts regarding schools that claim they train dogs to be hearing dogs for the deaf, because they give the hearing dog to the deaf person and it wasn't properly trained.

The problem is more than 50 percent --

MR. REARDON: The problem is certification increases liability claims?

MS. PODGERS: No. The problem is that the dog schools want the federal government to require certification so they can make money training the dogs, but slightly over -- it's around 54 percent of the dogs that are trained at these so-called dog training schools for disabled service animals, slightly over 50 percent fail their training and within one year need to be retrained.

So people who self-train their dogs -- what, I'm supposed to make up my own certification? My dog is very well-trained, and most people who have experienced training animals as I did previously have you better trained service animals. So that's why the Department of Justice refuses to have this because the push to have certification -- first, the dog schools aren't certified. Second of all, people in different states and different countries have different ideas. That's why if you go onto the [DeltaSociety.org](http://DeltaSociety.org), and my dog is trained

according to their guidelines.

I think what's going on with this requesting paperwork for the dog is you have a restaurant or a bar, they're used to checking driver's licenses; they want to check something. They want proof. They used to ask: prove that you're disabled.

Now, I have no objection to prove that I'm a member of the protected class, because when I was unlawfully arrested previously in Cambridge and went in front of a judge, he could care less about the training of the dog. He told the Assistant District Attorney and my court-appointed attorney, certification isn't relevant; I want her to prove she is a member of the protected class. That's why I carry proof with me that I am a person with a disability, so I can prove that I am a member of a protected class, and this is my trained service animal. It's not a pet. It's a working dog and it's actually helping me. The certification is something that people got into their head.

MR. REARDON: I'm not purporting --

MS. LINT: I think we need to move on.

MS. PODGERS: The other thing is about the signs on the dog. I am especially polite when I go places because I don't have a sign on my dog. I'm not blind and it doesn't have a harness.

People who are deaf put signs on their dogs because if somebody says excuse me, no dogs here, the deaf person can't hear that and the dog isn't going to bark, woof, woof, woof, to alert them that they were told you can't come in. But I prefer not to walk down the street with a sign advertising to everybody that this person is disabled because it's a need to know issue.

What really happened at the restaurant Here, in my opinion, is after I gave the information to Dylan on May 2, he didn't put a notice on the wall, he didn't train the staff, and the other owner/manager, which she claimed she was, made a mistake of denying me service, and I think that Dylan just used this to cover it up because nobody wants to be accused of discrimination. That's how I feel in my heart about what happened.

Then how it transpires after that, like if I leave like a good little girl, but why should I leave? Why shouldn't I go in like everyone? I see the place is filled with people having beers. Why shouldn't I go in and have a beer?

The other thing, and I think you heard from the taxi meeting but maybe Dylan hasn't heard, you know the effort I've gone to both with the police and here to provide people with a copy of the ADA business brief.

MS. LINT: Again, I'm sorry, but that's not what the issue is here tonight. Tonight, the issue is informational for the two Commissioners to hear what happened at that time and to form their own conclusions based on what you have to say and what Mr. Black has to say in regards to those two occasions.

MS. PODGERS: I think it would be great if we could get all the tapes of my calls to the police, and if we could have the video cameras from inside showing how the waitress had to keep

checking, how long it took for me to get the second beer, and how I got grabbed by the arm and taken outside to the side walk --

MS. LINT: And I think it's up to the Commissioners.

MS. PODGERS: -- for what reason.

MS. LINT: And I think it's up to the Commissioners to ask --

MS. PODGERS: When you say you're going to wait for a seat --

MR. REARDON: I think we should listen to -- and you'll have the opportunity after. Let's listen to Mr. Black.

MR. BLACK: I'm Dylan Black, I'm the owner of Green Street, 280 Green Street in Cambridge, Mass. I'll just read some information of the two events, the two nights.

I responded to a request on an early Sunday night for a manager from one of my servers. She had told me that there was a woman in the bar area with a service dog who wanted to talk to me. As I approached her she was being sat at a bar

table with her dog.

She told me that the server did not use the correct language when she was seating her. She told me that she was to say, "We don't allow house pets." She produced papers containing information about service animals and demanded that I read them. I read them and I returned them to her. The whole time she spoke to me in a very rude manner and was very cooperative.

At one point, she had mentioned to me that I didn't like to have my tail bitten and I didn't like it when Mr. Muey had bitten my tail, in a threatening tone. At this moment, I realized that she thought I was the previous owner of Green Street, another gentleman. I mentioned that to her and I said I didn't have any previous problems with Michael Muey, who she had mentioned she was an advocate for.

I had asked if there were any issues at the table. At that point, I stopped and went back to work. She ordered food, she was served food, a beverage. Then I would say about a week-

and-a-half later, or further on down the road I received a phone call in the middle of the night while I was working in my office, which I believe was her from what I thought was her voice and her tone, asking me if we serve whole wheat pasta or whole wheat bread, and thought that it was horrible that we did not. I thought that this was -- I believed that it was her on the phone.

I mentioned this to a staff member the next day, to a hostess, and she had mentioned that she, too, had received these phone calls on different times but while she was working.

On another weekend night, a busy weekend night, I received a request for a manager and was told that again it was the same woman from the Sunday night. As I approached her, she was inside the restaurant. She said to me, "Why are you not letting me in your restaurant?" I said, "You're in the restaurant; we are serving you." She said, "Why are you denying me service?" I said, "We're not denying you service." At that moment I asked her, I said, "did you call here the

other night at 4:00 in the morning and ask about pasta?" And at that moment she said, "I'm calling the police." She pulled out her cell phone, left the restaurant, and called the police. I was outside with her for a moment. I chose not to engage. The officer arrived and I gave him a statement of pretty much what I told you.

MR. HAAS: What led to Ms. Podgers being able to come back into the restaurant that second night?

MR. BLACK: After making the statement the officer had asked, have you been denying her service? I said she had not been denied service and she wasn't denied service the previous time. He felt that it was a non-issue but he had to fill out a report. He said, "Are you denying her access?" I said, "No. She can come into our bar." And she entered into the bar and she sat at a table and I believe she ordered a beverage, and after that I left. That was around 7:00, 8:00 at night.

MR. HAAS: So you weren't there for the second time she was looking for a second

beverage?

MR. BLACK: I wasn't there after the police report. Pretty much I was there for a moment shortly after to tell my staff that she was allowed in and to reiterate the policies.

The first evening, I was informed by my server that she was aware, or of her server, that she was aware of the policies and that you weren't allowed to ask somebody's disability, or that it wasn't necessary to produce papers or to have clear markings of a service animal. This is something that I clearly understand and I always have as a restaurant owner and just as a citizen.

MR. REARDON: On the second occasion, would you have any knowledge of why they were looking for you before they served her an additional beverage?

MR. BLACK: I don't know to be honest with you. This is something I was unaware of until now, as well as her being asked for papers at the door. I was unaware. I just responded to a request for a manager.

MR. HAAS: I have no other questions.

MR. REARDON: Neither do I.

MS. PODGERS: I have a question.

MS. LINT: Yes.

MS. PODGERS: I'd like to ask Dylan -- first of all, I'd like to point out my statement is signed under pains of perjury, and what Dylan Black just presented is not at all what happened. I have a couple of questions but I'd also like to ask if Dylan Black's statement is --

MR. REARDON: First of all, you can't question other people; you can direct it towards us.

MS. PODGERS: There's a statement that is written down and his oral testimony, is that being made right now under pains of perjury or not?

MR. REARDON: This is an official hearing and it is all recorded.

MS. PODGERS: That's not exactly my question.

MS. LINT: Statements submitted to the License Commission are not required to be made

under the pains and penalties of perjury.

MS. PODGERS: Thank you. So first of all, as I understand Dylan Black's first statement regarding my first visit at 4:00 in the afternoon, or late in the afternoon, that he's claiming I ordered my food after I had a conversation with him. And I am pointing out that after I was seated, after I had ordered food, and after the food was served -- I'm having a hot bowl of mussels. In the middle of eating a hot bowl of mussels, Dylan came -- and the restaurant was basically empty; there might have been one other person at the bar that I couldn't see, but Dylan came running down the aisle up to my table and said, "You have to take that dog outside," and he pointed out the doorway. I was in the middle of my meal. Was I rude? No. I just said, "Why"? I really didn't know who he was. He hadn't introduced himself. He said he's the manager and you can't have dogs.

MR. HAAS: So on that first occasion, did you challenge Ms. Podgers and ask her to leave

the restaurant when she was eating?

MR. BLACK: I just responded to her request for a manager where she presented me with information and told me that the server had used incorrect language where the server had just seated her and didn't mention anything about a service animal.

MS. PODGERS: I did not request to speak to the manager on that occasion. I told him I was disabled and it was a trained service animal, and he seemed unclear about what that meant. So I took out -- I have this in a little plastic folder. So I pulled it out and I said here's a copy of the law. I can discuss this with you later but right now, I'm in the middle of my meal. But do you have a copy machine? And he said, yes. And I said you could make a copy of it and then afterwards, we could talk about it if you want. That's what I said. I see nothing rude about that.

MR. HAAS: Any other questions that you have?

MS. PODGERS: The other question is,

on the second evening, he stated that I was inside. In fact, he said nothing to me, and he said, "Will you step outside with me for a moment"? And he grabbed my arm, this arm, and he escorted me, pushed, delivered me outside onto the sidewalk.

In which case, as soon as we got out there he said, "This isn't about the dog; this is about making harassing phone calls to me." He was very loud. In fact, he was so loud that there were guests sitting at the bar, even though it was loud and crowded in that bar that came out and tried to stick up for Dylan. They said you don't look disabled and there's no sign on the dog. I said I know but --

I'm not against Dylan. This isn't because I'm against Dylan. This is that I just want to come and have a beer. The other thing I disagreed with --

MR. HAAS: You can ask questions. I mean, we've heard what you had to say.

MS. PODGERS: Well, I can't ask him a question.

MR. HAAS: The question I think you're asking is --

MS. PODGERS: So the next question is -- I mean I'm disagreeing with what he's saying.

MR. HAAS: I understand that. And he's disagreeing with what you said. What's your question?

MS. PODGERS: The next question is, it was 10:00, 9:30, 10:00, not 7:00. It was very hot and humid. Dylan was sitting up front at the table like when you walk in the door there's a table that can sit maybe six people. And I think he was sitting there with some other people. So the question I have is, is it true that the first police officer went and asked Dylan over to the right corner there if I could sit and have a beer until the Sergeant showed up?

The next question I have is after the Sergeant showed up, is it true that the Sergeant came -- I was two-thirds of the way down at one of those high-tops. The Sergeant went back and spoke to Dylan again at that large table. This is 10:00

or a little later. There's two police reports, I believe. Is it true the Sergeant spoke to him and then came back and told me there would be no more problem? And then is it true that the two waitresses both asked me did I want another beer, and I didn't get served these beers. And that's why I ask, is there a video, because you can see. The one waitress apologized to me profusely and she said, "We have to wait for Dylan Black to approve this, because you called the police tonight."

MR. REARDON: Did you see Mr. Black still there at that time?

MS. PODGERS: I did not turn my head but I saw them both go way up to the front. So I don't know why they were going there. But that's why I'm asking is there a videotape. Can you see on the videotape, me being grabbed by the arm and delivered outside, because he just said I was inside. As soon as he showed up, he grabbed my arm and said, "Will you step outside, please"? What is that all about? What crime did I commit that I would be treated this way in a restaurant?

MR. HAAS: Sir, did you physically escort Ms. Podgers out of the restaurant?

MR. BLACK: I did not. I was standing next to her.

MR. HAAS: Are there any videos?

MR. BLACK: No video. I don't have recorded video.

MS. LINT: Any other questions?

MR. HAAS: I have no other questions.

MR. REARDON: No questions.

MS. LINT: Does anybody from the public want to be heard on this?

MS. PODGERS: I have one more question. In your investigation, did you talk with the hostess?

MR. HAAS: No.

MS. PODGERS: Because she told the police exactly what happened up front in the restaurant.

MS. BOYER: Actually, the next item on the agenda is pertaining to lack of communication.

MS. PODGERS: One more thing that I'd

Like to be done about this other than what I wrote in my complaint: I'd like a sign on the front door that either says, "No pets except service animals," or that says, "No dogs except service dogs," or "Service animals welcome," because that would put an end to this kind of stuff. Thank you.

MR. HAAS: Make a motion to take the matter under advisement.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MS. LINT: Disciplinary Matter:  
Corazon, Inc. d/b/a Green Street Grill, Dylan  
Black, Manager, holder of an All Alcoholic  
Beverages as a Restaurant license at 280 Green  
Street for failure to respond to an inquiry made by  
the License Commission.

MS. BOYER: Andrea Boyer, License  
Commission, Chief Investigator.

MR. BLACK: Dylan Black, owner of  
Green Street.

MS. BOYER: Please be advised that I  
attempted to obtain information pertaining to this  
particular case from Dylan Black. On August 11,  
2010, I spoke directly to Dylan Black explaining  
that we received a complaint from Kathy Podgers  
stating that she was discriminated against while at  
the Green Street Grill.

I informed Mr. Black that based on  
this complaint a Green Street Grill version is  
needed for the alleged incident to determine  
whether or not a hearing should be held or not.  
Mr. Black stated to me that he would give me the

information as soon as possible.

On August 13, I called to ask if he would be able to e-mail me the information over the weekend for me to review and he stated that he would.

On August 19 of August, I left a message with a staff member to have Mr. Black call me. And then on August 27, 2010, I left a message for Mr. Black on his voice mail box asking for the info and if there had been a reason that he had not been able to submit the information. I also stated that if I did not hear from him, a hearing could be held in front of the License Commission.

On September, I went to the location and noticed that there were people working in the kitchen but the door was locked. On the same day, I left another message directly in Mr. Black's voice mail box stating that the Executive Officer had scheduled a hearing since I had not been contacted.

MR. HAAS: Did you ever get any responses to your inquiries?

MS. BOYER: No. This is the first time I've seen him.

MR. HAAS: Mr. Black.

MR. BLACK: It is true. I did not contact her. I was -- a lot of -- for no other reason that I was very busy. I understand that it is an important matter for my business for you guys and for her to give you information on the three nights.

I was working with a detective immediately to sequester some phone records that he recommended. Those are -- I'm unable to obtain. But yes, I did not respond and for no reason but lack of -- just overwork, just getting everything together for her, and not knowing exactly what to give her, not knowing whether I should approach a lawyer for my statement about my -- beyond the police report, my statement to you or to the License Commission.

MR. HAAS: Do you understand there's two investigative bodies. There's the police department and there's the License Commission.

They're two separate investigative bodies and they both have different missions.

MR. BLACK: I'm understanding more and more now, yes.

MR. HAAS: The information that Ms. Boyer was asking for, are you able to provide that to her?

MR. BLACK: Yes, right now I am.

MR. REARDON: The question too is, did you know what information to provide her?

MR. BLACK: I knew that she had asked about the two nights that she had come in and wanted my statement for that night. Yes, I was aware of what she wanted from me.

MR. HAAS: Your reason for not responding is that you were just too busy?

MR. BLACK: I'm very busy, yes.

MR. HAAS: Okay. I have no other questions.

MR. REARDON: No. So we're talking almost a month; right?

MR. BLACK: Yes, almost a month.

MR. REARDON: And one, two, three, four, five attempts?

MS. BOYER: Yes.

MR. BLACK: I did talk to her several times and I did tell her that I would give her a statement, and I didn't.

MR. REARDON: So it's not the case that you're denying you didn't get notified?

MR. BLACK: I'm not denying that. I was out of the country for a week for a death in the family, but I just --

MR. HAAS: Ms. Boyer, when did you initiate your investigation?

MS. BOYER: The first time I spoke with Dylan Black was on the 11th of August.

MR. HAAS: And he represented that he was going to provide you with information but just never did so; right?

MS. BOYER: Yes, sir.

MR. HAAS: I have no other questions.

MR. REARDON: Unless you have something else to offer, it's pretty clear that you

failed to respond to a reasonable request from the License Commission in the course of an investigation. So we'll take it under advisement.

MS. LINT: Motion?

MR. REARDON: Motion to take it under advisement.

MR. HAAS: Second.

MR. REARDON: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye. Ms. Lint, is there any other history?

MS. LINT: No history.

If anyone is here for the matter of 62 Putman Avenue, it's been taken off the agenda. The matter is resolved.

MS. LINT: Application: Continued from September 21, 2010. Area Four Operating, LLC d/b/a Area Four, Michael Leviton, Manager, has applied for an All Alcoholic Beverages as a Restaurant license at 500 Technology Square. Proposed hours of operation are 7:00 a.m. to 2:00 a.m. seven days per week with alcohol sales starting after 8:00 a.m. Monday through Saturday and after 10:00 a.m. on Sundays. The proposed seating capacity is 125. Applicant is also applying for an Entertainment license to include: audiotape machine/CD, which may play music below, at, or above conversation level.

MR. RAFFERTY: Good evening, Commissioners. For the record, my name is James Rafferty, an attorney with the Law Firm of Adams and Rafferty, located at 130 Bishop Allen Drive, Cambridge. Seated to my left is Mr. Michael Leviton, L-E-V-I-T-O-N. Mr. Leviton is the principal of Area Four, which is the LLC that is making application for this license.

To Mr. Leviton's left is a

representative of the landlord.

MR. CARLI: Michael Carli, C-A-R-L-I, property manager for Technology Square.

MR. REARDON: Maybe you can just get into where it's going to be located and the space.

MR. RAFFERTY: This space is on Main Street in the complex known as Technology Square. It most recently had a Common Victualer license and a restaurant was somewhat short-lived there by the name of --

MR. CARLI: La Molisano.

MR. RAFFERTY: Regrettably, the operator there had developed some health issues and my understanding is he is --

MR. REARDON: Is this the original Polcari's?

MR. RAFFERTY: No. That's across the green. The Commission acted on that case but it's across the green from that. This one was more of a casual type place. It did not have alcohol.

Mr. Leviton is an accomplished restaurateur and chef. He is the owner/operator

and chef at Lumiere. Lumiere is a modern French restaurant in West Newton, right opposite the movie theater, if you're familiar with that location. He has had an outstanding record there.

It's an acclaimed restaurant. He has developed a following locally, and this would be his second venture, coming back to Cambridge. Many years ago, he operated as the chef upstairs at the Pudding when it was at its Holyoke Street location about 12 years ago. So he does have familiarity with Cambridge.

This location as I noted did have a Common Victualer license in the past. Mr. Leviton's concept is perhaps best understood by looking at the floor plan. There's actually a portion of the space that will operate in the early morning hours as a coffee shop, a café style operation. It is depicted in the floor plan as the coffee shop. Then the balance of the restaurant will serve the lunch and dinner menu, and that will become more active obviously during those hours.

This is a section of the City that I

know the Commission is aware of; there has been some focus on trying to create some activity and street life. The Polcari's space has been dark for many years. A few weeks ago, the Commission saw fit to approve a license in that location. Now that's a larger, a more I would suggest, formal dining. This is a little more casual. If you had an opportunity to see the menu, it's soups and salads, pizza, a range of different sandwiches and entrées.

It's designed to serve the existing office population, the Tech Square community and the surrounding MIT building, and also then to have vibrancy to sustain business well into the evening hours from neighborhood and other residences.

It's a section of Cambridge, I'm sure you're aware, where the level of activity drops noticeably in the evening hours. The hope is that with the activity at the Legal Seafood a block or two up the street, and now with the new Catalyst Restaurant across the green that there might be a sufficient critical mass of venues and locations to

keep this section of the street.

It is in a no cap district, so the applicant is seeking a no value, nontransferable license pursuant to the cap policy that allows such applications.

There are just a couple of changes to the application, they are rather brief, with regard to the CV license and the number of seats. I think the refined floor plan has the seat count change by one. The new seat count would be 127 seats. I think it was applied for at 125. So that's two additional seats. And the breakdown is 68 in the dining room and 32 in the coffee shop; 27 are in the bar. It's a small tweak in the floor plan.

Also, I should note that in reviewing the application with Mr. Leviton, he noted that in Question 10B, where the buildout is estimated, the value indicated there at \$1,600,000 is about double what it should be. That involves capital and working capital. The actual buildout cost is \$750,000. So with the Commission's approval we'd be looking to resubmit an amended Page 3 with a

change in Question 10B from estimated cost to be \$750,000.

MR. REARDON: Would the cafe area also serve as dining later?

MR. LEVITON: The cafe will operate from morning until night as a cafe.

MR. REARDON: And those seats won't be used in the dining area?

MR. LEVITON: No.

MR. REARDON: The dining doesn't move into there as well, later on?

MR. LEVITON: The hope would be that if we were able to, a private function would be able to use it as a dining room.

MR. REARDON: So normally you wouldn't use it but you would be able to use it for functions.

MR. HAAS: It's only the front part of the restaurant that will be open during the morning hours, so you wouldn't have customers in the back area of the restaurant?

MR. LEVITON: Correct.

MR. REARDON: Can you explain the alcohol sales starting at 8:00 a.m.?

MR. RAFFERTY: That would have been the traditional start time of the CV. I don't imagine, with the exception of the Sunday brunch policy at 10:00 a.m.

MR. HAAS: So are you going to want to modify the application?

MR. RAFFERTY: For alcohol sales, surely.

MR. HAAS: The alcohol sales, not the CV on this question.

MR. RAFFERTY: The alcohol sales, I imagine, with the exception of the 10:00 a.m. on Sunday, probably 11:00, 11:30?

MR. LEVITON: 11:00.

MR. HAAS: So it will coincide with your lunch business?

MR. LEVITON: Yes.

MS. LINT: What time would that be?

MR. RAFFERTY: Maybe 11:00 for an early lunch.

MR. REARDON: On brunch days, there's people who have --

MR. HAAS: Mr. Rafferty, you concede the fact right now that there's really not a lot of business late in the evening in that area. Wouldn't it make sense to start with a sooner closing hour and then see how the business goes? Because what I'm afraid is going to happen is you're going to find you're not going to get the business until 2:00. I understand you're hoping that between Legal Seafood and this establishment you'll be able to drum up business, but if that doesn't happen, what happens to these late hours?

MR. RAFFERTY: I think if the demand isn't there then the applicant could conceivably look to close early and seek the opportunity to do that. I don't think there's an expectation that there's business at 2:00 a.m. I think we would look for a 1:00 a.m. license.

MR. HAAS: So you want to modify it to 1:00?

MR. RAFFERTY: Yes, we should. I

thought on the new non-transferable, they're only at 1:00; are they not?

MR. REARDON: It's listed as 2:00 here.

MR. RAFFERTY: I think in our application that was a mistake on our part. I don't think we have an expectation that the demand will be until 2:00.

MR. REARDON: Certainly, if it turns out that business is so good, you can come back. And that would be a happy moment to come back and say we'd like to go to 2:00 because we're still loaded at 1:00.

MR. RAFFERTY: Depending on how you define loaded.

MR. REARDON: Thank you for that, yes.

MR. RAFFERTY: I don't think we want to concede the business isn't there. I think what we're suggesting is that there's a market there; the right mix hasn't been achieved yet. I do think that there is some optimism. There's new housing down there, there's new business. That whole

stretch of Main is built out now with the Brain and Cognitive Center, and the Status Center. But you're right, there's no question, it's a challenge. The 2:00, I do believe is unnecessary. I think in reality you'll probably find in the early part of the week there isn't much business beyond midnight. I think that's probably true with most of our 1:00 a.m. license; that you probably don't find most of the restaurants here open until 1:00.

MR. HAAS: How late is Legal Seafood open now?

MR. RAFFERTY: Good question. They draw heavily from the hotel.

MS. LINT: I think it's a 1:00 a.m.

MR. RAFFERTY: I imagine it's a 1:00 a.m. license but I suspect -- you'd be hard-pressed to get a meal there after 11:00 on most nights would be my guess. They may have a late-night dining. Certainly in the early part of the week I know oftentimes I leave a hearing like this when you've been going for hours and gosh, other than Au

Bon Pain in Harvard Square, there aren't too many places.

MR. REARDON: You miss The Tasty, don't you.

MR. RAFFERTY: In many many ways.

MR. HAAS: You do have a bar area though; right, in the restaurant?

MR. RAFFERTY: There is the bar in the front.

MR. REARDON: Obviously Mr. Leviton is familiar with the alcohol. Did you do any serving or manage at the -- I know you were a chef and all, but are you personally familiar with alcohol service?

MR. LEVITON: We have a number of bartenders and managers that are TIPS certified.

MR. HAAS: In Cambridge, we expect you to take the 21-Proof training.

MR. LEVITON: Certainly, yes.

MS. LINT: I was going to add, it has always been the Commission's policy on a new license that it is a 1:00 a.m.

MR. RAFFERTY: I think we were overly ambitious in preparing the application, but thank you for catching that.

I do know that the landlord both in this case and with the applicant you saw two weeks ago has put a lot of effort into finding a properly capitalized experienced operator with a track record that can succeed because of the challenges at the location. So this has not been a case of let's put up a sign and find the first bidder. There has been considerable --

MR. CARLI: It's been vacant for about one year now. We've been very selective.

MR. HAAS: You think it's a good match?

MR. CARLI: I do think it's a good fit.

MR. REARDON: How long is construction estimated?

MR. RAFFERTY: In the three to four month range.

MR. REARDON: Obviously, this is all

contingent on all the permits.

MR. RAFFERTY: Correct. The chicken and the egg is of course that construction won't begin until there is an ABCC approval, because -- heaven forbid, the concept here just wouldn't succeed without the ability to serve. The caliber of this restaurant, the price point are such --

MR. REARDON: Mrs. Lint, other than that is all the paperwork in order?

MS. LINT: Yes. The background check is fine.

MR. HAAS: Any issues with trash or delivery?

MR. RAFFERTY: No. The complex has that pretty well -- there's loading in the rear. There's trash removal. It's a pretty well managed venue from both the retail and the office side.

MR. REARDON: I make a motion to approve.

MR. HAAS: Contingent upon --

MS. LINT: Yes. We have to tweak the capacity.

MR. HAAS: He has a number of modifications in the application.

MR. REARDON: Assuming the paperwork, so they can start pushing it on.

MS. LINT: You can do the approval and orally amend the seating capacity to 127 and the amended hours.

MR. HAAS: And the amended hours for the sale of alcohol as well; right?

MS. LINT: Yes. So that would be 11:00 a.m. to 1:00 a.m., Monday to Saturday, and then Sunday 10:00 a.m.

MR. HAAS: And a closing hour of 1:00 a.m. seven days a week.

MS. LINT: And then the entertainment as well.

MR. HAAS: So do you want to do the alcohol first, or do it as one whole motion?

MS. LINT: Whatever you choose.

MR. HAAS: Let's do the alcohol first because there are a number of attachments to it. I would guess you're making a motion to approve

based on the amendments that have been suggested thus far.

MR. REARDON: Yes.

MR. HAAS: Contingent upon the fact that they take 21-Proof training. You understand it's a no value, non-transfer license; right?

MR. LEVITON: Yes.

MR. HAAS: I'll second that motion.

MR. REARDON: All in favor?

MR. HAAS: Aye.

MR. HAAS: So with respect to the entertainment, there are no issues around noise as far as --

MR. RAFFERTY: It's only background music, no live entertainment.

MR. HAAS: So I make a motion to approve the application for the entertainment portion of the license.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MS. LINT: If I could just have the seating plan and amended floor plan?

MR. HAAS: Sure.

MS. LINT: Application: House of Chang, Inc. d/b/a House of Chang, Kathy Chang, Manager, holder of a Common Victualer license and Entertainment license at 282 Concord Avenue has applied for a new Wine and Malt Beverages as a Restaurant license at said address. The current hours of operation and seating capacity would remain unchanged. This is on Cap Area No. 11.

MR. RAFFERTY: Good evening, Commissioners. For the record, James Rafferty on behalf of the applicant. Seated to my left is Kathy Chang and to Ms. Chang's left is her daughter, Jasmine Chang. Mrs. Chang and her daughter in approximately November of last year opened up the House of Chang Restaurant at this location on Concord Ave. It's probably best known by Cantebrigians as the longtime home of the Lucky Garden, Chinese restaurant on Concord Ave., at 280-282 Concord Ave.

Mrs. Chang, and her daughter, and her husband operate the restaurant. She's there seven days a week. She put a considerable amount of

capital into renovating the space: all new kitchen, all new dining room, all new systems. It really is an impressive venue. As I said, it had been a restaurant for many decades.

One of the reasons Mrs. Chang is here is that the restaurant itself is doing well. It's proven to be very popular with neighborhood residents but there has been a repeated desire expressed by customers and others to see the possibility of having beer or wine.

Recognizing that this is in a cap district, I advised Ms. Chang to have those customers and residents who expressed an interest sign a petition. There are over 200 signatories to the petition. If you look closely, I would estimate that 90 percent of them are from Cambridge, and of that 90, I would estimate about 60 percent of them live within less than a mile radius of the location. It's a very neighborhood friendly style restaurant.

Mrs. Chang for many years worked at the Chang Cho Restaurant on Massachusetts Avenue in

Cambridge and she has a considerable local following for her cuisine. Really the opportunity here is to better serve the public and respond to the need that has been expressed to her.

The floor plan would require little by way of alteration. There would be no bar. There would be no service of the alcohol independent of seating in the dining room. The restaurant itself is rather small; the capacity is only 50 seats.

MR. HAAS: Most of your business was take-out, if I recall, at the time. Wasn't that the concept?

MR. RAFFERTY: In the original CV application?

MR. HAAS: Am I confusing that with the one on Huron Avenue?

MS. LINT: I think that's another one. It's not this one.

MR. HAAS: I'm having a hard time visualizing it.

MR. RAFFERTY: A significant effort went into the design of this dining room.

Architecturally it's very impressive. It has high-volume space. It's dramatically different. It was more of a storefront style operation but Mrs. Chang and her family have really -- I have some photos of it.

MR. HAAS: You have 50 seats, you said?

MR. RAFFERTY: They have 50 seats. It's essentially one dining room. It has been very favorably reviewed on Boston.com, and it emphasized its neighborhood friendly service.

I know there are members of the public who are here to speak in favor of this matter. They are close neighbors who are in support of it. I'm not aware of any opposition to it.

There is an established pattern of access to the restaurant. It's not anticipated that this would necessarily result in a higher volume of activity, it just means that those customers who come in -- and some people come in or will call for a reservation, and when they learn that there is not beer or wine they sometimes don't

choose to stay.

It really is very much a complement to the food. The orientation here is very focused on the dining. And based on the reviews in the press as well as the customer demand, Mrs. Chang is looking -- she did explore the opportunity to acquire a beer and wine license but with a restaurant of this size, you can imagine the return on this is quite small. We are not aware of any beer and wine licenses currently available for sale because we did explore to see if you knew of any.

MS. LINT: There are none.

MR. RAFFERTY: This has been the only option. The Commission used to have a policy, I recall, that you had to wait six months or nearly a year to apply for this. So when I first heard from Mrs. Chang about her interest, I suggested she should prove herself as a new operator in that location. This marks her 11th month in operation and I'm not aware of any complaints or criticisms in the 11 months that she was there.

Prior to opening she spent several

months with a the buildout here. She informs me that she put in an advanced fire alarm system at the requested of the department, which came up during the building inspection process. She has all new kitchen equipment, all new exhaust, ventilation. It's an investment of hundreds of thousands of dollars and she is looking for this opportunity to better serve the patrons that have quickly made this a success.

MR. HAAS: So is she still affiliated with Chang Cho?

MR. RAFFERTY: No. Chang Cho was sold many years ago.

MS. CHANG: Moved to Lexington in 1993.

MR. HAAS: Is this the only restaurant you currently own?

MS. CHANG: I work seven days a week so it's the only one I have. I only can work one.

MR. REARDON: Are you familiar with alcohol service?

MR. RAFFERTY: Mrs. Chang, because of

her prior involvement at Chang Cho and other restaurants, she is very familiar. She understands the training that would be required to go along with this. She's very much a hands-on operator, there every day, seven days a week. She envisions a time in the future where she might only work six days, so Jasmine, her daughter would pick up the slack for one day.

Her daughter actually has another career in addition to this but she's very committed to the family business and is willing to help out, It's mother, father, daughter; it's very family-run. I'm eager to allow people who have been here since 6:00 to have a few words to express.

MR. REARDON: So we're talking 50 seats, no change, no bar. Beer and wine only.

MR. RAFFERTY: Beer and wine only.

MR. REARDON: No value, no transfer, and the 21-Proof training for everyone.

We should hear from whoever is here in support.

MR. REARDON: You're not compelled to

but if you're here --

MS. GAGLIARDI: Helen Gagliardi, 279 Concord Avenue.

MR. RAFFERTY: Could you describe your home in proximity to the restaurant?

MS. GAGLIARDI: My home is directly across the street. Since the House of Chang has opened it's been an asset to the neighborhood. They're very reliable. They're more than just business owners; they're part of the family of the neighborhood. And those of us in the neighborhood appreciate the way they keep up their property, and the service to everybody in the neighborhood.

They have an elegant restaurant. It's very nice. It would be nice to go in and have a glass of wine with a wonderful meal. They work very hard and they're deserving of this.

MR. HAAS: How is this different than the restaurant that was there before, or is there any difference?

MS. GAGLIARDI: The atmosphere of the restaurant is wonderful. The staff, the family,

the Chang family is much more friendly, and they are part of the neighborhood. They care about the neighborhood and they show that.

MR. HAAS: There's a marked difference in this operation from the prior operation?

MS. GAGLIARDI: Yes.

MR. REARDON: As far as outside, you know, trash removal, noise; no issues?

MS. GAGLIARDI: No issues whatsoever.

MR. REARDON: Markedly improved over the previous?

MS. GAGLIARDI: Drastically. It's only increased the value in the entire neighborhood.

MR. HAAS: Thank you very much.

MR. DODI: My name is Gordon Dodi and we live at 276 Concord Avenue. We live next door on the same side.

MR. HAAS: Are you in support of the Wine and Beer license?

MR. DODI: Yes. I think it would be nice to have an occasional glass of wine with

supper. My wife and I, and my daughter and her husband are there continually since they opened. I think we were some of the first customers. I think it would be a nice addition to be able to have a little wine with the meal.

Everything has been run very well. We have absolutely no -- nothing but praise for the whole operation. And to go back to a question you asked the prior person, I think it's an extremely different restaurant than the previous one. The previous restaurant was primarily I think a take-out restaurant in the sense that you very rarely saw any people eating there. This certainly has take-out but it's fairly full in the evening and it's very quiet. And they keep everything looking absolutely top. Everything is clean and organized. They're very good neighbors.

MR. HAAS: No parking issues at all?

MR. DODI: None whatsoever.

MR. HAAS: The hours of operation again are?

MR. RAFFERTY: Unchanged. What are

Your hours, Kathy?

MS. CHANG: Weekends, 11:30 to --

MS. LINT: I have it. Sunday through Thursday, 11:30 to 9:30, and Friday and Saturday, 11:30 to 10:30.

MR. HAAS: Sunday to Thursday?

MS. LINT: 11:30 to 9:30.

MR. RAFFERTY: I think we might have applied for 11:00 p.m. on Friday and Saturday, and 10:00 p.m. Sunday through Thursday.

MR. HAAS: So there's a change in hours then?

MR. RAFFERTY: By a half-hour it sounds like.

MR. HAAS: So it's 11:30 to what time, Sunday through Thursday?

MS. CHANG: 9:30.

MR. HAAS: And that's what you want?

MR. RAFFERTY: I think on our application though we asked for 10:00.

MS. LINT: You indicated hours as they are. There was no change in the hours.

MR. RAFFERTY: In the new CV application?

MS. LINT: Yes. Current hours of operation and seating capacity will remain unchanged.

MR. HAAS: So are you going to keep it at 9:30 then?

MR. RAFFERTY: I guess we have no choice.

MR. HAAS: Friday and Saturday is what time?

MS. CHANG: Until 10:30, because we a neighborhood restaurant.

MR. RAFFERTY: With all due respect, that's not what we applied for.

MS. LINT: It's what was advertised.

MR. RAFFERTY: But that's not what's in the application.

MR. HAAS: So we'd have to re-advertise now; right, if you want to change it? Are there any issues with noise on Friday and Saturday nights?

MR. DODI: No. It's in everyway an asset to the neighborhood. There's no noise and I think they've done such a nice renovation to their front. And it's a very high-grade restaurant. I feel it's brought the whole neighborhood up.

MR. RAFFERTY: I suspect what happened is we may have advised Mrs. Chang as we prepared the application that the half-hour closing time -- she likes to close by that time but if someone was still lingering. But if it's a problem and the advertisement didn't reflect it, I'm sure we'll just live with what's there and at some point, come back.

MR. REARDON: What's the issue on the half-hour change, Mrs. Lint?

MS. LINT: If it's an extension of hours, we'd have to advertise the extension of hours. But I can check the license and see what's actually reflected on it.

MR. RAFFERTY: So if the license currently is 11:00, then we could live with that?

MS. LINT: Yes. I don't have a

background check.

MR. HAAS: Oh.

MS. LINT: It is not back yet.

MR. RAFFERTY: That has nothing to do with the filing, just the response. So we'd have to wait and take the matter under advisement until you get that back?

MR. HAAS: Maybe.

MR. REARDON: Or we could move to approve subject to.

MR. RAFFERTY: I think there's one other member of the public. If you've been here as long as some people have, they'd appreciate the chance to speak.

MR. SPEIGLER: My name is Adam Speigler, 286 Concord. I moved in halfway through January of this year, and Kathy's been like family. She sees my girlfriend walking down the street and they exchange gardening tips. They're great.

As far as noise goes on the weekends, there's a yoga studio on the other side of my apartment building that's way more noisy than House

of Chang.

MR. HAAS: So you're supporting the applications for a Beer and Wine license?

MR. SPEIGLER: I am, yes. It's a really nice place to eat. It's real friendly.

MR. REARDON: And you are probably a direct abutter; right next to?

MR. SPEIGLER: Yes.

MR. RAFFERTY: I believe the three people testifying are on either side and across the street.

MR. SPEIGLER: No problems with parking. Everything is great.

MR. REARDON: I would make a motion to approve subject to the background check.

MR. HAAS: Anybody else want to be heard?

MR. REARDON: Is that it? I'm sorry.

MR. RAFFERTY: I'm only aware of three people in support.

MR. HAAS: I was just wondering if there was anybody else that wanted to speak in

favor of the application?

MR. REARDON: Does anyone else wish to be heard on this?

MR. YANG: I represent the landlord, David Yang, Y-A-N-G. And my name is Richard Yang, David's nephew. I've been working for the old Lucky Garden and the Corner Concord Café for about 30 years on that corner. I think Kathy is the most of value for those properties. She spend a lot of money on that one and uses professional experience to build up this restaurant. Even the old name, Lucky Garden, but I think Lucky Garden has continued. It goes with their experience.

MR. HAAS: Thank you. Have you ever had a liquor license in your name before?

MS. CHANG: Not under my name.

MR. RAFFERTY: She's worked in other establishments serving liquor.

MS. CHANG: In the restaurant in Newton, too, we have. We have the restaurant in Newton with a full liquor license.

MR. HAAS: Are you the registered

manager at the Newton restaurant?

MS. CHANG: No, but I'm the owner of that restaurant.

MR. HAAS: Okay, but the liquor license in Newton was never under your name though?

MS. CHANG: You're right.

MR. REARDON: Motion to approve subject to the background check and --

MS. LINT: 21-Proof training, no value, non-transferable. The license has to be turned in if the business closes.

MR. REARDON: And you're going to check on the license hours.

MS. LINT: I will check on the hours.

MR. HAAS: So second. All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MS. CHANG: Thank you.

MR. HAAS: You just have to wait for your background check to come in before you can move forward. And then you should arrange for the 21-Proof training in the meantime for your staff.

MS. LINT: Amendment: The Cambridge Board of License Commissioners will discuss on amending the cap of Common Victualer license seats imposed on the Porter Exchange, 1815 Massachusetts Avenue.

MR. RAFFERTY: Sean has the applicant on this next case. I think this is the request by the landlord.

MS. LINT: Oh, okay.

MR. RAFFERTY: James Rafferty, you recall me from the earlier case, Adams and Rafferty. Seated to my right here is George Smith. He's Vice President with Lesley University. Lesley bought the building at this location at 1815 Mass. Avenue, best known as Sears Roebuck for people who've been around for a while.

Back in 1983, there was an agreement that was entered into by different people, and Mr. Wasserman, who was developing the building. The concept then was going to be an entertainment complex, more of a mall with movie theaters. It's about a six or eight page agreement, and it's

unique in that it's the only cap district I'm aware of that caps not only alcohol seats but non-alcohol seats.

So under the present cap policy for this building, and it has its own cap much like the Galleria Mall or the Charles Square Complex, there are at present count only 12 non-alcoholic seats available out of the cap number. The location which you'll be hearing in the next case that you actually heard last meeting for the Bourbon Coffee case is seeking to have 60 seats in a setting, the former Gap location that's been empty for several years now on Mass. Avenue.

In order to do that within the context of the cap, we're requesting that the Commission amend the cap policy to increase the number of non-alcohol seats in that cap district by 50, in order to allow the applicant. I think it's probably worth noting if you look at the agreement and what was contemplated and the parties to it that with a little more time and distance it might make sense for the new owner -- Lesley calls it University

Hall. With the exception of the ground floor, it's a total university run building with offices, and classrooms, students, faculty, administrators. It's not the building that was contemplated in 1983, when this agreement was entered into.

In fact, the big push and even the Lesley rezoning effort that took place last year was an encouragement by the neighbors for Lesley to have the ground floor of the building be active, have uses. There was the typical criticism of cell phone stores and banks, and those types of activities that while they meet the definition of retail, don't generate the type of street life and activity that is favored.

As you know it's a location about 400 feet from rapid transit and commuter rail. And while there are some other coffee opportunities in the neighborhood, this is, you'll recall from Mr. Hope's case, this is a somewhat unique concept; a little bit of a different approach that Bourbon Coffee has taken to this.

So without going into the merits of

the Bourbon Coffee case, in meeting with Ms. Lint we discovered that there was a threshold issue that needed to be addressed by the Commission; that is, how to deal with the current cap limitation of non-alcohol seats. So the request is for the Commission to consider amending it and to allow for the additional 50.

MR. HAAS: Has this been vented with the neighborhood just to make sure there's no obvious objection?

MR. RAFFERTY: Mr. Doncaster may want to come up. He's the community representative for Lesley University and I believe he can share some perspective on that.

MR. DONCASTER: Bill Doncaster, Director of Public Affairs, Lesley University. Between last meeting and this meeting, there actually hasn't been a cycle of neighborhood meetings. They meet pretty regularly with an agenda so we actually haven't had that opportunity. I have discussed it with leadership of both those groups. Porter Square Neighbors Association used

our List Serve to let people know that this issue is on the table tonight, suggesting that if anyone had issues that this was the forum to address them. I'm on the agenda for their next meetings, which are next week for an update on several matters so we'll discuss this with them.

MR. HAAS: I'm wondering if this would be premature until you've had an opportunity to meet with the association.

MR. RAFFERTY: Didn't you meet with them in the BZA context though?

MR. DONCASTER: Yeah. We discussed with a host of neighbors that this was coming up.

MR. RAFFERTY: Just to back up for the Record, the Bourbon Coffee use required a fast-food special permit from the BZA, and that was obtained earlier this summer, I think in May or June. I know there was outreach at that time in support from the neighborhood for the Bourbon Coffee. I don't think the neighbors -- no one had focused at the BZA level on this agreement issue. It was only when we got here for the CV that this agreement

came up.

MR. REARDON: This is present retail space on ground level that the Gap was in?

MR. RAFFERTY: Correct.

MR. DONCASTER: And there is a consciousness among the neighbors that this is changing from a retail clothing store to a coffee shop, which they're all very supportive and excited about. It's exactly the type of use when the space became empty and I attended neighborhood meetings that they would prefer.

MR. REARDON: On the Roseland corner of the building?

MR. RAFFERTY: No. It's probably closer to -- I think it's next to the Tavern.

MR. DONCASTER: It's kind of in the middle of the building between the two entrances of the mall.

MS. LINT: I do have one e-mail from a residents on Frost Street. She understands this consideration due to a seating cap. "As a Frost Street resident who walks by that space on a daily

basis, my inclination is that I would rather have a business in there than an empty space. I would also rather have a coffee shop than another bank or cell phone store. Places where people gather have the potential to build community in a way that retail shopping doesn't. Given the empty storefronts on Mass. Avenue, it would be nice to have one less. Perhaps there are other issues I'm unaware of, but off the top of my head, I can't think of a drawback in expanding seating capacity."

MR. HAAS: When you talked to the Porter Square Association leadership, did they give you any feedback or indication how they felt?

MR. DONCASTER: They expressed an excitement similar to the letter that was just read, a very positive response to there being a coffee shop, particularly this one. They know a little about it; I've shared the website with some folks as this application has been going through.

MR. HAAS: And you made them aware that the hearing was tonight?

MR. DONCASTER: Yes.

MR. RAFFERTY: They know, because they sent out the notice. But we understood that the bigger issue about the future of this agreement, seeing that that would require a level of exchange with the neighborhood groups, and that's why it's not -- one of the options was, is this agreement even relevant and should this conversation with the Commission be about a more substantive change to this whole concept of why we're limiting the number of non-alcohol seats on the ground floor of the building where there seems to be a demand and an interest in seeing it.

Lesley's thinking was there may be some merit to that conversation but they wouldn't want to make such a request without first having a full exchange with the Porter Association. So this is almost an interim step that could someday lead to a bigger -- if you look at the agreement itself, there are whole portions of it that are totally irrelevant to the current use of this building; talking about malls, and food courts, and movie theaters, and things that just don't exist there.

MS. LINT: It goes back to 1988.

MR. HAAS: 1983.

MS. LINT: It was signed in '88.

MR. HAAS: Mr. Rafferty said 1983  
though.

MR. RAFFERTY: I hate to say it,  
Commissioner, but I would always go with what  
Mrs. Lint says. I thought it was '83, but maybe  
1983 is the address of the building.

MR. HAAS: Is there anyone here who  
wants to speak on behalf or against?

MR. HAAS: I'm willing to make a  
motion to amend the non-alcoholic seating capacity  
of this particular building to 50 additional seats  
bringing it up to 62.

MR. RAFFERTY: It wouldn't bring it to  
62.

MR. HAAS: I thought you said 12.

MR. RAFFERTY: We need 50 more to  
accommodate the next licensee.

MR. HAAS: I understand that but you  
said there's 12 now.

MR. RAFFERTY: There's 12 available.

MR. HAAS: Right, and you want to increase it by 50 more?

MR. RAFFERTY: Right.

MR. HAAS: That's 62.

MR. RAFFERTY: But there are other CV seats in the building. I think the cap calls for 100.

MR. HAAS: 108.

MR. RAFFERTY: This would make it 150. See, of the 100 there's only 12 available.

MR. REARDON: So the bottom line is you're asking for 50 seats.

MR. RAFFERTY: We want 50 more than what's currently allowed. The current cap allows for 100. Mr. Smith tells me that all but 12 of those are currently in use with other CV licenses. So to accommodate the Bourbon, who has a seating of 60, we need 12 plus 48. We thought we'd ask for 50, being a round number. The amendment would list the non-alcohol seat cap from 100 to 150; that would free up 62 seats in the cap, and Bourbon

would come in behind us and ask for 60 of the 62 seats.

MR. HAAS: Okay. I got that.

MR. RAFFERTY: I'm saying it to convince myself, too. In Paragraph 8 of the agreement it says, "100 non-alcohol seats." And apparently Mr. Smith and License Commission maintain a log, because there are some other restaurants on the ground floor with non-alcohol seats. So Paragraph 8 when I looked at it --

MR. REARDON: So increasing it from 100 to 150 non-alcohol seats at 1815 Mass. Avenue.

MR. HAAS: For that entire usage in that building. There's multiple establishments that are in that address; right?

MR. RAFFERTY: That's correct. So this building would appear to have what feels like its own cap district, and that cap includes alcohol and non-alcohol seats. The current cap as set forth in the agreement for non-alcohol is 100, and we're asking for 50 more.

MR. REARDON: Which is very unusual.

MR. RAFFERTY: I'm not aware of another cap in the city that will be capped for non-alcohol seats.

MS. LINT: That also raises the issue that Paragraph 8 says: "There can be no more than eight non-alcohol establishments."

MR. RAFFERTY: And I don't think we're afoul of that at all. But it also talks about the number of movie theaters they can have, and they don't want any or have any. I think this was a big issue when Sears went out, and it was a very ambitious plan to make this a large entertainment complex. I think that's what led to the thinking that --

MR. REARDON: I hate to admit I'm well aware of that whole era, yes, Mr. Wasserman and company.

MR. RAFFERTY: The building has had two owners since then but is very much an academic building now, with a ground floor that -- they're encouraged. There was even a bit of a concern when a particular market was closed and Lesley put a

bookstore in there. Some of the neighbors said we want it to be not just serving the Lesley community but the larger community as well. This is certainly consistent with that objective.

MR. REARDON: So do you want to modify it so --

MR. HAAS: Modify what?

MR. REARDON: What you just said last time, but not I forget.

MR. HAAS: I think it's a matter of whether we're going to approve the application or not, as stated. Right?

MR. RAFFERTY: The request to amend as presented.

MR. REARDON: Is that a motion?

MR. HAAS: I thought you were making the motion.

MR. REARDON: Make the motion that we increase it from 100 to 150 seats at 1815 Massachusetts Ave. as prescribed in the application.

MR. HAAS: Non-alcoholic seats.

MR. REARSON: Non-alcohol seats, subject to all conditions.

MR. HAAS: Second.

MR. REARDON: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye.

MR. HAAS: Can you just report back to Ms. Lint how that meeting goes when you meet with Porter Square to let us know?

MR. DONCASTER: Sure. I'd be happy to.

MS. LINT: Application: Continued from September 21, 2010. Bourbon Lesley, LLC d/b/a Bourbon Coffee, Stacy Manley, Manager, has applied for a Common Victual license to be exercised at 1815 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 60, and a total occupancy of 108. The hours of operation would be 6:00 a.m. to 10:00 p.m. seven days per week.

MR. HOPE: Good evening. I'm Attorney Sean Hope, 130 Bishop Allen Drive in Cambridge.

MR. REARDON: What firm are you with?

MR. HOPE: Hope Legal.

MR. REARDON: Thank you.

MR. HOPE: I'm representing Bourbon Coffee, LLC d/b/a Bourbon Coffee. At the last hearing we presented our CV application with a floor plan as well as a menu, but there was the issue of the number of seats. It has 60 seats and it went over the cap by 48. So now, we're back before you again and we'd like to have 60 seats.

At the time, I believe Chief Reardon had a question about the floor plan and actually outlining the 60 seats on the plan. So we submitted that in the file. It's the same floor plan, but we just made it clear for the record.

MR. HAAS: I guess the question I have for you, and we brought this up last time, is I understand what the total capacity is, but we also talk about whether or not the restaurant had the ability to even achieve that capacity.

MR. HOPE: Right. It was the total occupancy of 108, so it looks like we were adding 48 additional patrons. So we revised the application for the record.

We talked to the architect. I believe it was a typographical error. We don't need an additional 48 people to be in there. So we are fine with doing the 60 overall seating with the 60 occupancy in the restaurant.

MR. REARDON: So if you have 60 seats, you'd have no standing for take out?

MR. HOPE: I think they looked at the

actual space and with the amount of furniture it's not likely that you're going to have everyone seated.

MR. REARDON: There's an architectural figure, you know, how many people occupy per square foot. But the total occupancy probably should be higher than 60.

MR. HAAS: You have to figure a percentage of that is going to be take-out business.

MR. REARDON: It's not overwhelming.

MR. HOPE: But it wouldn't be the 48. If we had asked for 75, so an additional 15, and then if we needed to amend that if there was a reason to amend that, that would allow for 60 seating and then an additional 15 people in the queue getting coffee, so for a total of 75.

MR. REARDON: That's fine. You just need to have some flexibility there if the seats are taken that you're not over occupancy because of people standing for take-out.

MR. HAAS: I make a motion to approve

the application for 75 total, 75 capacity.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MR. HOPE: Thank you.

MS. LINT: Disciplinary matter:

Continued from August 16, 2010. Hong Lui d/b/a A Cambridge House Bed & Breakfast, holder of an Innholder's with food license at 2218 Massachusetts Avenue due to having an unlicensed annex at 2210 Massachusetts Avenue.

MR. HOPE: Attorney Sean Hope, 130 Bishop Allen Drive in Cambridge, Hope Legal Offices.

The last time we were here, I was here with the petitioner, Hong Lui, and at that point in the disciplinary hearing we asked to have the case continued so we could go before the Zoning Board and have that use for 2210 Massachusetts Avenue be authorized. That actual property is in a split zone. The rear part is residential; the first part is Business A2, the North Cambridge corridor of Massachusetts Ave. We were successful at the BZA.

MR. REARDON: Is there still a dental?

MR. HOPE: No. that lease ended five years ago. There was a dental office there and they lived in the back. That was kind of part of

the subject of the variance. So now, we have that 20 day appeal period. The 20 days doesn't start until the recorded decision is submitted and certified by the court. So we're looking at another potential three or four weeks before that appeal period runs.

I talked to Mrs. Lint about what we should do in that period. So at this point, someone could appeal and then the variance may not be effective. So we asked if we could continue this disciplinary hearing, because really the subject was, are you operating a business that's authorized. Mrs. Lui is also aware that she actually has to come before -- maybe not the Board, but she has to apply for a license to operate the bed-and-breakfast. But if Zoning didn't allow it, then we couldn't operate.

MR. REARDON: Are you looking to use 2210 in totality as another bed-and-breakfast?

MR. HOPE: Yes.

MR. REARDON: How many rooms is that? Do you have any idea?

MR. HOPE: We asked for 18. The rear portion as you're aware was built as a residence. It's connected to the front Victorian house and if we count the number rooms, it would be 18. But that would also be subject to this Commission. Zoning said that the building could have 18 rooms.

MR. REARDON: And this is going to require a lot of renovation prior to?

MR. HOPE: No. It would be as is, and I think that part of the issue is how was it being utilized. We needed to clarify it with the Zoning Board and then come back before the Commission.

MR. HAAS: So you'd want it to be continued for another month then?

MR. HOPE: Yes.

MS. LINT: Is that enough?

MR. HAAS: Well, 21 days it will take; right?

MR. HOPE: Yeah. The thing is you don't start counting the 20 until we actually get the decision. We don't know until we get it depending on how many cases there were that night

and writing up the transcripts. We estimate six weeks.

MR. HAAS: Should we push it out two months?

MR. HOPE: Two months would do it.

MS. LINT: We only have one hearing in December.

MR. HOPE: I know Mrs. Lint would like us to try before the first of the year to at least come back before you.

MR. HAAS: But to your point, until this matter gets resolved there nothing really to do.

MR. HOPE: Is there a way I could maybe check back in and see with the clerk when they anticipate so we can have an idea of when we'll get --

MS. LINT: We can continue it indefinitely until you contact me and we can put it on.

MR. HAAS: So I'll make a motion to continue the matter indefinitely.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MR. HOPE: Thank you.

MS. LINT: Application: Continued from September 21, 2010. Greek American Political Club of Mass., Inc., Nicholas Dalamangas, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 288 Green Street has applied to extend their closing hours to 2:00 a.m. on Thursdays, Fridays, Saturdays, and the night before a legal holiday.

MR. GOLDBERG: Good evening, Ms. Lint, Chief Reardon, Commission Haas. Attorney Bernard Goldberg, 620 Massachusetts Avenue in Cambridge. Arthur Bikopolis is the secretary of the club and there are other members of the club in the audience. This matter was continued from two weeks ago at which time we made a presentation with regard to a 2:00 license. The Board continued it for a decision tonight.

This is a 2:00 license that we are Requesting. It's in the Central Square area on Green Street. As I mentioned at that particular time, there are a number of restaurants in the area with 2:00 license. We have a 1:00 license

presently. We waited about a year-and-a-half to file a 2:00 license with the Commission.

I have, and I'll pass it to Ms. Lint, some endorsements of people who are in the government, one of which I think has sent a petition of endorsement here by the Mayor. I also want to give Ms. Lint a couple of these pamphlets, which indicate our attempts at, providing we were able to get the 2:00 license, to notify the patrons and the 2:00 license on the second-floor of what we intend for them to do so far as going out.

I also asked the club to present to me the number of people that come in. They don't start at 8:00, they start at 9:00. On October 2, which is the most recent date, at 9:00, there were 139 people coming in and nobody going out. This is a dance show where people dance the Salsa, and it's been attractive to them, attractive to people in the neighborhood, attractive to people who come from out of town by the subway.

On October 2, they started out with a 139 people. Between the hours of 10:00 and 11:00,

they increased 54 but they lost 68. And between the hours of 11:00 and 12:00, there were 44 people that came in and 123 exited, so that there is a minimum of people. The ages of these people are not young, to a certain extent. They start at 35, they go up to 50, and they go up to 60.

They're given instructions with regard to Salsa at the outset and then they have a disc jockey that plays Salsa music. So far as drinking is concerned, it's to a minimum. A lot of the people there will drink water because of the exercise that they have received.

In addition to it so far as the individual by the name of Jim Iffland, who was here and who objected to it and said he represented a condominium complex in the back of the club itself, I told the Commissioners at that time that there is no exiting through the rear door. All of the exiting would come from the Green Street side, so that there is no crowds exiting at one and the same time.

They are not in competition but there

are clubs in the are of which you're familiar with that have a 2:00 license that cater to other people, young people, middle-aged people, and the like, like the Middle East or TT the Bear's. And Mr. Iffland's complaint was that a lot of people would be congregating at that time of the 2:00 license because of the fact that when they leave the garage area, it's open and there's a lot of commotion.

I would suggest that our people who exit at 1:00 or who exit at 2:00, would not be of that mix, and they are not an enormous amount even though they would be parking at the garage. And they would be given this pamphlet either at the outset of coming into the club or as they exit the club.

We have been good neighbors with regard to Mr. Iffland and the people in the complex behind us. We have created windows with soundproof to them. We have indicated to a certain extent that we don't want the disc jockey to play noise that would be overextending so far as the music is

concerned. So we are a good neighbor and to that extent we will continue to be a good neighbor if we are given the 2:00 license.

We invited Mr. Iffland to the club on Friday night so that he could see what was going on and understand this in and out paper that I read to you, and he didn't show. I'm surprised that he didn't and I don't see him here this evening to offer any response to what we're saying here.

With regard to the first-floor, which is the club license but it nonetheless has a 2:00 license that is where the members only congregate. On the second-floor, which is now a 1:00 license, is an all alcohol restaurant license, and to that extent we're asking that that license be extended for another hour. One of the reasons for that extension is that in Harvard Square there is a dance club and they have a 2:00 license. And to that extent some of the people from our club would head up there and participate in what is being offered in the Harvard Square area.

So to that extent I ask the Board to

consider two things: One, that we are a good neighbor. Two, that there are a number of 2:00 restaurants in the Central Square area. And three, if I may, our patrons would not be using the Green Street garage, and if they were, they would not be creating any commotion except exiting through the turnstile.

MR. REARDON: What is the level of restaurant service in the dance area?

MR. GOLDBERG: I'm sorry?

MR. REARDON: In the dance area as far as restaurant service?

MR. GOLDBERG: It would be tapas. There are no meals being given, but if anybody were to want some Greek specialties then that would be provided. But there isn't that much because a lot of the people there are interested in the dancing.

MR. REARDON: I guess the issue is that some people don't drink, but for those who do, food obviously is a combination of --

MR. GOLDBERG: I think the Board and the president especially is aware of over extension

of the liquor license. They are protective of that license and don't want to be cited by the License Commission. And to that extent they have indicated that of the numbers of people that are there, there are very very few people that partake of liquor.

MR. REARDON: You understand that we've tried to take that stance on all the licensees in making sure there is an adequate balance between liquor service and food so that it precludes in many cases problems by having a balance.

MR. GOLDBERG: I think the club does balance that and will not serve anybody that indicates an over-use of alcohol.

MR. REARDON: How many seats are on the second-floor?

MR. GOLDBERG: There are tables and most of the people don't sit down at the tables as such.

MR. REARDON: But we still have to go by occupancy.

MR. GOLDBERG: The occupancy I think

is 200 plus.

MS. LINT: 255.

MR. BIKOPOLIS: The license also for stand up according to the paper we have is 340, standing up only.

MR. REARDON: Is there a bar on the second-floor as well?

MR. GOLDBERG: Yes.

MR. BIKOPOLIS: It's mostly a service bar.

MR. REARDON: Any previous disciplinary?

MS. LINT: No.

MR. HAAS: Anybody wishing to speak to the application?

MR. REARDON: Name and address for the record?

MR. DUBBELS: Max Dubbels, 240 Franklin Street. I'm almost directly behind the back door of the club and I'm in opposition as are many of my neighbors. Of the 13 people I spoke to, 12 of them are in opposition. I have, if I can

submit, signatures and e-mails from 20 people who are in opposition.

I was at the hearing that was two years ago when the club initially requested a 2:00 a.m. liquor license and the idea was denied them. There was opposition from the neighbors and this Licensing Board agreed that it was a bad idea. We don't think anything has changed in the last two years that would now make it a good idea.

There are two things that concern us. One is the level of noise that comes from the club during the events. We were told two years ago that there would be sound insulation and that the noise would no longer be a problem and that hasn't been the case. The noise level is reduced but we can definitely hear it on some occasions past midnight. I know of at least two people who say they've called the police to complain about the noise late at night.

The second problem is the people who go out on the street when the club closes. We understand this is Central Square and there are a

lot of people out on the streets at night, but we would prefer to not have the problem made worse. We live in a residential area. I'm told -- I don't have this for a fact -- but I'm told that the club itself is zoned as a residential location. So either way, we are certainly a residential area and we prefer not to have even more people coming out after drinking until 2:00 a.m.

So while I and at least some of my neighbors sympathize that the club is trying to raise money so they can survive, we don't feel that means that they should be able to do whatever they want to raise money. And we feel that this application puts an undue burden upon the neighbors and we request and hope that we not be asked to bear the burden of this.

MR. HAAS: You think there were two prior occasions when noised complaints were filed with the police?

MR. DUBBELS: Two people have told me that they had filed.

MR. HAAS: What timeframe, do you

know? In the last six months, a year?

MR. DUBBELS: Since the last hearing of two years ago. I don't know how recent that was.

MS. LINT: I also have an e-mail in opposition from Stephen Spitz, 15 Magazine Street.

MR. DUBBELS: I have a repeat of that.

MS. LINT: He said he opposes the expansion of the liquor license because he believes it would have a detrimental effect on the residential quality of life in the neighborhood. He also believes a commitment had been made in the past not to use the Greek church's parking lot, and he questions how well that commitment is being honored.

I did also receive a phone call from Carl Barron saying he had no problem with the extension of the hours, as well as a letter from Mayor Mahar respectfully asking the License Commission to favorably consider the application. He's had the opportunity to speak with the leadership of the Greek American Political Club.

"They have assured me that they will do everything possible to ensure that patrons exiting their club will be respectful to the neighborhood."

MR. HAAS: The issue of the parking lot, is that other people parking there?

MR. GOLDBERG: And that condition, it's not a burden that we impose upon that parking area, it's a burden which is imposed upon the garage because of the number of young people coming out and waiting in line to pass through the turnstile. We're not going to increase that.

As a matter of fact, this is the first time I've heard that there have been complaints given to the club through the police. No issue has ever been involved with that. We're talking with regard to what we have done by way of trying to project the noise emanating from the Greek club, as we have put soundproof windows on the first-floor and on the second-floor. We have insulated the back area because we understand that that was a source of complaint.

We're in a residential neighborhood

only because of the fact that the zone has changed so we're in a non-conforming area, which before it was in the Business B area. We will not add to the noise coming from the garage because the garage is no more than 100 feet, if that, from where he lives. And we have a great deal of empathy for him.

I believe there is a 2:00 license at Green Street Grill, so we're not the only ones in the area, and we're asking to be given the opportunity to have our club open similarly without increasing -- and we understand what he's talking about -- without increasing the noise coming from the source, which is the garage.

I would think that perhaps something like this pamphlet that I've shown you could be put in areas in the garage itself so that people would see, because we're going to pass those out to people coming in and leaving the club. I think it's sufficient notice to them that they should maintain some sort of decorum leaving the area.

MR. REARDON: Is your statement that

the noise is from the music, not garage?

MR. DUBBELS: Yes. There is noise directly from the club, the music, and then there's noise that comes from the street. Obviously I don't know where the people came from when they're on the street. But it's not just that the garage is loud, it's individuals walking around, intentionally or not, are just loud when they come out late at night. So even if not a single patron goes to the garage, there's loud people in the street. To question the garage there are people in the street and we'd prefer not to have additional loudness in the street.

MR. REARDON: What about noise coming from the building itself?

MR. DUBBELS: We have a problem with that as well.

MR. PHANOS: My name, Theo Phanos. I'm the president of the organization for the last two years. My term expires the end of the year.

I'd like to ask the gentleman how long they live in the place himself right now? How many

years he living in the area? This gentleman say he living at 3 Magazine Street.

MR. DUBBELS: I live at 240 Franklin Street.

MR. PHANOS: For how many years he live in the area, this gentleman? Can you give us any idea how long you live in that area, please?

MR. DUBBELS: I've lived there since 1999.

MR. PHANOS: May I ask you when you heard the noise in the club, what's the day you hear the noise, you personally?

MR. DUBBELS: What nights of the week do I hear noise in the club?

MR. PHANOS: Yes, can you give us the days, please?

MR. DUBBELS: Friday and Saturday Nights.

MR. PHANOS: How about the other days?

MR. DUBBELS: I don't recall any noise.

MR. PHANOS: Gentlemen, we have

license up to 2:00 in the main floor. If he heard noise in the second-floor only Friday, how about the other days when the place close at 2:00 in the morning? Mostly we stay there and we take the cars and go home. If those cars no bother that gentleman at 3:00 in the morning, how about only Friday and Saturday?

The question really to me something is not the right way. If next door the public place belong to the state, the city, the garage, we not responsible for that, we no park there.

Number two, with respect to all the neighbors we are since 1952 located at that location. The organization belong since 1924. We never have problem with the city in anyway for noise. Four years ago, we come to the City they give us a license for 2:00, I believe it, made the option for temporarily 1:00 the trial basis to extends to 2:00. That's why we come down here.

We respect every single citizen because we are citizens of the place we live in. We believe we must support the neighbors and

support the city and ourselves only for surviving. We not come for begging anybody, we no accuse anybody, no disturb anyone.

If somebody have a complaint for the Greek people, I be surprised to me no complaint come Monday, Tuesday, Wednesday, Thursday, only Friday and Saturday. This is to me something bother me. We stay up to 2:00. The license those days is for 11:00 to 2:00 in the morning. All of a sudden we hear about only the weekends the noise. Thank you, you listen to me.

MR. HAAS: The special events you're running are principally on the weekends; right?

MR. GOLDBERG: Yes. Probably no Thursday, just Friday and Saturday.

MR. BIKOPOLIS: If I might add something to the gentleman?

MR. HAAS: Yes.

MR. BIKOPOLIS: Like Mr. Goldberg addressed earlier, this is the first time in two years for us to prove to the Board and to everybody else that in order for us to continue to get a 2:00

license, we did everything in our power to make sure there was no noise level and trying to keep everything with respect to the neighbors.

Like he said, if it was such a problem, in two years, someone should have addressed the fact there's still noise, not right now. So if there actually was, maybe we could have addressed it a year ago whenever the two phone calls to the police department came, so we know about it so we can do something about it. If we don't know there was a problem, we couldn't address it, and that's what was surprising to me also. It wasn't ignored, in other words. If we knew about it --

MR. HAAS: So you run the Salsa events on Thursday, Friday, and Saturday nights?

MR. BIKOPOLIS: Right now it's just Friday and Saturday.

MR. HAAS: It seems to me there's two issues that we're trying to parse out here. One is the noise that emanates as a result of the event that you're running. The second issue is the

combination or additional noise that would generate with more patrons congregating in the same matter. What I'd be interested in trying to figure out -- and I don't know how we go about doing this -- is just to check to see if there is any noise on a Friday or Saturday evening at 12:00.

MS. LINT: I could have Henderson check that.

MR. REARDON: We understand the garage is a public garage and I don't believe anyone is necessarily saying that it's all the result of your operation. But obviously on Friday and Saturday nights when there's music inside, if the music is bothering people itself, and not the garage issue, then that's a different story as the Commissioner said, from the parking garage.

MR. BIKOPOLIS: Periodically during the course of the night -- we always have Board members there working upstairs plus with the manager -- members go outside in the back and the front to see if -- because sometimes we don't realize that maybe the DJ would turn up the music.

MR. REARDON: All DJs turn up the sound.

MR. BIKOPOLIS: Two or three of the Board members go outside to check the noise level. And sure, there might be a particular time somebody opened the door and all of a sudden the noise went out, but it's not consistent. We're always trying to keep an eye on it. It's not like the whole night. Yes, somebody opens the door to throw garbage out, you're going to hear a bit of noise. That's something that cannot be helped. But it is not during the course of the night for two hours that you hear this noise coming out because we do control the area.

MR. HAAS: What we're looking for is an opportunity to make our own independent assessment. I propose we take the matter under advisement until we get a report back from Henderson as far as what his findings are at this point in time.

MS. LINT: Is that a motion?

MR. HAAS: That's a motion.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Continued from August 16, 2010. Mashed, LLC d/b/a Enzo Pizzeria, Anthony Allen, Manager, has applied for a Common Victualer license to be exercised at 1432 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of three and a total occupancy not to exceed 19. The hours of operation will be from 10:00 a.m. to 1:00 a.m. seven days per week.

MR. RAFFERTY: Good evening, James Rafferty appearing this evening on behalf of the applicant, Mashed, LLC. This is the principal, Anthony Allen of Mashed, LLC. Mashed, LLC filed application to do business as Enzo Pizzeria, but actually would prefer to do business as Otto Pizzeria.

Otto is a Pizzeria that Mr. Allen operates in Portland, Maine, a very successful pizzeria, and he had contemplated a name change. This is a location, a very small space, 600 square feet in Harvard Square on Mass. Avenue. It has

been the home, the latest home for the last couple of years of Finagle a Bagel. It's on the stretch of Mass. Avenue between Church Street and the main entrance of the Coop; that stretch with the wide sidewalk.

The pizzeria itself is quite unique. Its specialty is in the sliced pizza business but they're a very unique style and type of pizza. Mr. Allen as I said has been recognized for his work in Portland. It's really a big success. He's excited about the opportunity to open the second Otto Pizzeria here.

It's in a location that will provide a service to the visitors to Harvard Square, which we know there are many. One of the most highly visited locations in the Commonwealth. It has very good proximity to the undergraduate population across the street from Harvard Yard. It will serve the business and residential community that frequents the Square regularly.

The operation is not intended to have any delivery, so there will be no vehicles pulling

up there. There might be on occasion some walking deliveries but there are no vehicles associated with any delivery. It really is looking to join the list of food service establishments in Harvard Square that have helped make it a vibrant and exciting place.

His experience in Portland would suggest that many of the same ingredients that caused him to be successful there are in play in Harvard Square. He has received approval from the Zoning Board for a fast-food special permit at this location and he is eager to operate here.

As I said, it's a small space. If you look at the floor plan it's only about 600 square feet. The seating capacity here is three so it really is something that -- there was an earlier reference to The Tasty. I would say it's of that caliber in terms of a small place but a place that can serve.

MR. REARDON: Where's the other similarity?

MR. RAFFERTY: In terms of size, an

example?

MR. REARDON: Emma's.

MR. RAFFERTY: Oh, the old Emma's on Huron Avenue, yes, a small place in Huron Village, before it was called Huron Village. And good luck to you if you went in there with a service dog. I don't think you were getting a slice of pizza.

MS. LINT: We have a couple of housekeeping issues. The application says, "1432," but the business certificate says, "1430."

MR. RAFFERTY: We're going to change the business certificate. That came up in the Zoning. I think the location is 1432.

MS. LINT: He needs a new business certificate.

MR. RAFFERTY: We'd like to change the d/b/a to -- as long as we're changing the d/b/a from Enzo to Otto.

MS. LINT: Then you need another hearing.

MR. RAFFERTY: You need another hearing on a CV with a d/b/a? It's not like it

hasn't been approved yet. It's not an ABCC matter.

MS. LINT: I understand that but we advertised it.

MR. RAFFERTY: But you could choose to accept a motion, a request to amend the application to alter the d/b/a.

MR. HAAS: So why did he come up with a different name?

MR. RAFFERTY: There's a story. He has two restaurants in Portland, Enzo and Otto. This is Mr. Allen. Why don't you just briefly explain how this came about?

MR. ALLEN: We simply like the name Enzo for being in Harvard Square. It sounded more appropriate for what we were doing, but we actually have a lot of brand with the word "Otto," and we like the name Otto.

MR. RAFFERTY: The d/b/a has no legal significance. I know for purposes of noticing the restaurant, but the LLC is in place, the ownership interest is in place, the lease runs to the LLC. If we did this later on, we could come back, but

it's hard for me to understand in terms of the intent behind the public notice why one would have to re-advertise a d/b/a on a non-alcohol CV with three seats.

MS. LINT: It's because that's what we've always done.

MR. RAFFERTY: I would suggest that that logic doesn't -- the view of the ABCC on the d/b/a's is that they just acknowledge them; there's no approval. And this obviously isn't an ABCC matter.

MR. HAAS: Wouldn't it be simpler just to keep it Enzo for now and then change it?

MR. RAFFERTY: Simpler only in the bureaucratic sense, and I don't mean that in a pejorative way. The name means so much in first impressions. You can't open as Enzo and then be Otto. They've wanted to Otto for a while now.

I honestly, and I'd stand to be educated, I fail to understand what statute or regulation we would be running afoul of if a request at the hearing to approve a substitute or

successor d/b/a. There was a limited number of noticing to begin with because it's already a CV location and it's been one for years.

You'd be amazed at what it means. Otto is the place in Portland. This has been delayed a long time because of some other issues in the permitting. The application was filed way back in June. Otto, O-T-T-O, really is the preference. So we would request consideration given to that if possible.

MR. HAAS: Does anyone else want to be heard on the application?

MS. LINT: Ms. Jillson.

MS. JILLSON: Good evening. Denise Jillson, the Executive Director for the Harvard Square Business Association. Anthony has become a member of the Association several months ago, and I don't know anything about this technicality, but this is what I do know. As recently as this afternoon, I was received a call from the Harvard Crimson saying when is this place going to open? You know, I want to talk about the delays in these

restaurant applications coming to Harvard Square. And I thought there's no delay; we're all on track for this.

So one would hope we could, as long as it's within reason, move forward, because I know that Anthony has been waiting a long time we were really hoping that he would be open for Oktoberfest and that didn't happen because of the special request that he needed to make in front of the BZA. And then we were hoping that it would be ready for the Head of the Charles Regatta and the Harvard/Yale game. It's tough opening up business in the middle of the winter in Harvard Square.

So first of all, we lend our overwhelming support because we don't want empty storefronts, particularly along Mass. Avenue, and the longer it goes the more difficult it gets to keep people apprised that it really is a bureaucratic procedure that needs to be taken care of. So we hope we can move this forward and I thank you for your consideration.

MR. HAAS: Is the space all built out

now at this point in time?

MR. ALLEN: It's not. We're waiting on the CV license and we're also waiting on the written approval from the City of Cambridge for the d/b/a.

MR. RAFFERTY: What happened was it was a June filing at the BZA, and it went to the hearing in July, and discovered on the night of the hearing that the BZA wasn't able to hear the case and continued it. Then I notified Mrs. Lint. I said I don't want to come before the License Commission on an issue where the use hasn't been established. So it got delayed here for another month.

So now we're completed with Zoning, weeks have turned into months, and as I said, it's a small place. The issue, aside from the issue around the CV, which I think the merits of that are pretty straightforward, the d/b/a change is really -- it's pretty integral. It just seems we'd lose yet another month to get the d/b/a.

I suppose in theory we could get this

approved and the re-file, and he could get going and then we'd come in and have a hearing on the change of d/b/a. A change of d/b/a/ seems necessary after the license has been approved. Prior to the issuance of the license it's not clear to me why the d/b/a couldn't be changed in the context of the application.

MS. LINT: I don't even have the corrected d/b/a certificate, business certificate, so we don't have anything that reflects. It's not the right address and it's not the name that you're interested in.

MR. RAFFERTY: These technicalities.

MR. REARDON: You live off this Counsel. What are you talking about. You can't have it both ways.

MR. RAFFERTY: I want to say for the record, I didn't prepare this application.

MS. LINT: I was just going to say that. I did notice that.

MR. RAFFERTY: When you're called in as a relief pitcher you do your best. When the

bases are loader when you're brought in you own some of those runs. I accept that.

When is your Decisionmaking hearing? Could we get our revised d/b/a certificate to you by that date?

MR. REARDON: It was advertised as a pizza so nothing has really changed.

MS. LINT: Yes.

MR. RAFFERTY: Truth of the matter, Advertising and outreach on the Zoning side is much broader: certified letters to all types of people. That's from the fast food aspect of it and there wasn't any opposition.

MR. HAAS: When is our decision hearing; next Thursday?

MR. LINT: It's not next week. It's the first week in November.

MR. RAFFERTY: Subject to the filing Of a d/b/a tomorrow, could we get a vote?

MS. LINT: That's the pleasure of the Commissioners.

MR. HAAS: Can they do this without

re-advertising?

MS. LINT: I would check on that. It's routinely been the License Commission's policy to advertise the d/b/a.

MR. HAAS: Policy of practice?

MS. LINT: Practice.

MR. RAFFERTY: Not to contradict. I agree that if this was a CV already issued and voted and approved, and the license issued d/b/a -- we are not yet pregnant, or we are pregnant and we haven't given birth -- I don't know if that's the right metaphor, but we could still change this, I would suggest. I think the legal significance of the d/b/a is quite low. I'm not convinced of what statutory requirement related to the d/b/a that we would run afoul of.

I mean, we should have a d/b/a certificate. The d/b/a certificate is a \$15 check at the City Clerk's office tomorrow morning; it's filing an application. We can have it to the License Commission. There's no criteria or anything; it's ministerial function that can be

accomplished.

MS. LINT: We could put it on the 26th.

MR. HAAS: I won't be here.

So for the sake of argument, once you got approval, how long would it take you to build out and be prepared to open the restaurant?

MR. ALLEN: Six weeks.

MR. REARDON: Do you have to install pizza ovens?

MR. ALLEN: We do.

MR. REARDON: Is that something you already have ordered?

MR. ALLEN: We have, yes. They're not delivered yet, but we have them ordered.

MR. REARDON: It takes six months to get a vent hood in there.

MR. RAFFERTY: The way the deal is structured with the landlord and everything else is you get your final municipal approvals, then you get a build out period and you have to commence then. Not that he's not going to get a CV license,

but for his investors to start spending money he needs to have his approval for the CV license. So if that were to happen today, he could order a hood tomorrow. He's already done a lot to do that, but until that last piece is done, it's just another couple more weeks.

MR. REARDON: It's the same name, it's the same description. I would defer to Mrs. Lint on it but I personally don't have a problem with it as long as --

MS. LINT: It's your choice.

MR. REARDON: Administrative-wise, if it doesn't fly, it doesn't fly.

MR. RAFFERTY: It's the same ethnicity; Enzo and Otto are both Italian.

MR. REARDON: I thought Otto was German.

MR. RAFFERTY: All right, same continent. There's got to be something. They both end in O.

MR. HAAS: I agree with the Fire Chief, unless Ms. Lint thinks there is some kind of

statutory barrier or prohibition, or we're going to run up against some kind of procedural rule, I don't have a problem with them changing the d/b/a absent re-advertising it. But I would rely upon you to just steer us in the right direction.

MS. LINT: I would have to look it up, but I would agree with Mr. Rafferty where it hasn't been voted and approved under one name, that it's not quite the same as a name change.

MR. HAAS: What I would offer then is to make a motion to approve the application under the name of Otto Pizzeria, barring or pending there's no prohibition against doing that without re-advertising. So in other words, if you think it's okay, right --

MS. LINT: And submitting an appropriate d/b/a.

MR. HAAS: And then taking care of the paperwork that's incorrect.

MR. RAFFERTY: We'll get that tomorrow. Thank you. I apologize but appreciate the understanding.

MR. HAAS: You accuse us of being bureaucrats and then we're not the ones that made the mistake on the application.

MS. LINT: Is that a motion.

MR. RAFFERTY: I love bureaucrats. Bureaucrat is a whole school of government at Harvard.

MR. REARDON: Did you make the motion?

MR. HAAS: I did make the motion.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Darul Kabab, Inc., d/b/a Darul Kabab, Monir Saji, Manager, has applied for a Common Victualer license to be exercised at 2072 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 37. The hours of operation will be from 8:00 a.m. to 10:00 p.m. Monday through Saturday and 8:00 a.m. to 8:00 p.m. on Sundays.

MR. SAJI: My name is Monir Saji, I'm the owner of the location. With me is Dan Hughes, he's the manager in Logan Airport. I have a few other locations around here.

MR. HAAS: How many locations do you have now?

MR. SAJI: I have five locations in Logan Airport, and this is No. 6. We're trying to do something here. This location at 2072 Mass. Avenue is formerly Banjo's Roast Beef Sandwich Shop. Before that it was Kentucky Fried Chicken. The gentleman didn't make. I bought it from him

and try to make some changes to the color and stuff.

The reason I bought it is I'm originally from Bangladesh. There is a huge community in this neighborhood living around Rindge Avenue. There's two grocery stores there. There's a restaurant down there too. Most of the events we have from our community is happening in Cambridge. Most of the time I think you know is Longwood Kennedy School, lots of events happening all the time. Our Councilor come from Bangladesh. He come every six months to Rindge Avenue. Lots of private events happening in this area.

I was thinking that even though it's a bad economy, I was thinking we could do something in this neighborhood for our people. Also, this concept is completely hallal; there's no alcohol involved. Hallal means it's cooking, serving, and no alcohol on the premises. It's not hallal if you have liquor in there or beer in your store.

There is a mosque right on Rindge Avenue. There's a need there, Friday prayer.

There's also there's a school there; a lot of young people that are looking for it. Thinking of that, the market and suggesting all the things, I think I can pull out justification and do something good around there. That is my marketing strategy.

There are also events happening here, Food comes from New York. Most of the events coming, they pay \$500 freight fees to bring the food from New York City. So every time you see the Rindge Avenue Community Center is rented, it's typical 50 people, 60 people. I was thinking that it's a good location for me to do that but there's also lots of foot traffic there. Based on that I made this decision to come in Cambridge to do that location with a kabab place.

I own five restaurants in Logan Airport right now and Mr. Hughes is helping me there.

MR. REARDON: Are they all the same venue?

MR. SAJI: No. There are two Italian, two Asian fusion and American. I created the

concept, and also have one United Pier, Pier B. It's called Back Bay Café, and American concept, sandwich, salad.

MR. HAAS: So this would be very different menu than what you're offering at your other establishments.

MR. SAJI: Yes. It's a completely Bangladeshi and Pakistani. It's Bangladeshi with some kababs and very few items there. It is not a very extensive food service restaurant. It's a very simple menu. People can see if they want a seat. If they want to take it out, take it out, there's no fees involved in there that much. It's not a fast food place, but it's some kind of fast food type. Mainly the price would be a very reasonable price compared to this economy and our people can afford.

MR. HAAS: So you're not going to run afoul of any kind of Zoning issues?

MR. SAJI: No. We are keeping the same hours, same seating previously approved by the Board. Nothing changes, nothing happening here.

My landlady, she's suffering. She's been trying to rent this location for long time. She tried a couple of people and it's still empty. And Mr. Martin, a good man but he couldn't make it. He tried hard. The community is also changing. It's not like before he can do those beef things.

MR. REARDON: Does anyone here pro or con? Yes, sir.

(Speaker's name was inaudible.)

UNIDENTIFIED SPEAKER: Good evening everybody, my name is (inaudible). I'm the owner of (inaudible). It's the same, next door the same, same menu. That's why (inaudible).

MR. REARDON: So you own the restaurant across the street?

UNIDENTIFIED SPEAKER: Yes, same next door.

MR. REARDON: and your issue is that it's going to be similar to yours?

UNIDENTIFIED SPEAKER: Yes, all this is similar.

MR. SAJI: Can I say something

regarding this?

MR. REARDON: Certainly.

MR. SAJI: The menu is not the same. Barely you can find one or two items there. I have a personal pizza he doesn't have, I have a burger he doesn't have. It's Bangladeshi food, it's completely different. This gentleman is -- our intention is not to hurt him or take away his business. The taste is not going to be the same, the food never ever will be the same because he's cooking some kind Nepalese style there.

It's not my intention to come and sink my money, \$200,000, \$300,000 invested there to have it next to something similar. I do extensively my market research. It's not similar menu, it's not similar clientele he's going to have. He's a full-service type. This will be -- it's not a fast-food but it is cheaper, faster service will be there. So you can't apple to apple to compare.

UNIDENTIFIED SPEAKER: It's 90 percent same menu.

MR. HAAS: You have a beer and wine

license; right?

UNIDENTIFIED SPEAKER: Yes. Already Indian and Pakistani and Nepali, I have already one of the rooms, yes. So it's the same Bangalese, Indian, Nepali.

MR. SAJI: If it's the same, why Bangalese don't go to your restaurant? Does it taste the same? No. The flavor the same? No. The spices the same? It's different. I want Commissioners both to take a look at the menus and make their own judgment there. It's not my intention to come and take his business away.

There's nothing there to be similar. One or two items should be there because India used to be a whole India, one India, and Nepal was not included in that India. India was Bangladesh, Pakistan, and Indian. This is not an Indian concept; it's a Bangladeshi concept. And it's not going to hurt his business at all because he has a different clientele; he's already there. These people will be different. It's going to bring people from outside to this neighborhood, plus

serving this community living around there.

MR. REARDON: I understand different seasoning but there is a lot of similarities on the kababs.

MR. SAJI: There is a Greek kabab, there is Italian kabab, there is a Middle Eastern kabab. Kabab is no different than a kabab. The flavor and the taste is different and the mixture is different. It's not same, same, same, no.

MR. REARDON: But in general.

MR. SAJI: Kabab is a common name.  
I agree.

MR. REARDON: Does anyone else want to be heard on this?

MR. AZIZ: My name is David Aziz. I am a regular customer for years. I am familiar with the restaurant. I'm a regular customer. They have a lot of food. And I had great difficulty obtaining the menu for Darul Kabab. I had to file an application and I got it just this morning and I studied it very thoroughly. It's exactly the same dishes. Kalahi (phonetic) chicken, kalahi

lamb for the main dishes. So the main dishes are exactly the same. Here is my letter for your records.

MR. REARDON: Do you live in the neighborhood?

MR. AZIZ: Yeah.

MR. SAJI: The reason our menu is not available yet is because we're not open yet. It will be widely available because we are using modern technology to go to everyone. That's the main business strategy. We are going to have Internet, TV advertisement, Pakistani, you know, and Bangladeshi TV.

The hallal concept is really needed. The MIT student body is looking for that. Northeastern Association, Harvard also the same thing. There's a real real need. If you go hallal eating and there's beer, people don't go there.

MR. REARDON: Does anyone else wish to be heard?

MR. AZIZ: I have one more thing. Why I came was my concern was that he is an

owner/operator and somebody coming right next door to him will drive him out of business.

MR. REARDON: Understood.

MR. SAJI: It's not our intention, honestly. The intention is to be -- there's a need there, as I mentioned to you. A few days ago we have a Bangladeshi Parliament, opposite problem the government came. There's was a meeting they had and they were looking for something to eat. There's no place for Bangladesh community to eat. There's lot of people in this community. Bangladesh is also registered in Cambridge so you can see that a lot of people from our community live there.

UNIDENTIFIED SPEAKE: I think 2188 is Bangali Café. This is a Bangali restaurant.

MR. SAJI: So why isn't he here today?

MS. LINT: It's not a debate between you two.

MR. SAJI: He should be here but he's struggling. We talked to him. He's struggling to survive. He tried to get out because he couldn't

afford to hire a chef.

MR. REARDON: Is all the paperwork in order?

MS. LINT: The paperwork is in order.

MR. REARDON: Take it under advisement.

MR. HAAS: Yes.

MS. LINT: Is that a motion?

MR. HAAS: Motion to take it under advisement.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Sodexo Operations, LLC d/b/a Amgen Café, John Driscoll, Manager, has applied for a Common Victualer license to be exercised at 360 Binney Street. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 24. The hours of operation will be from 7:30 to 4:00 p.m. Monday through Friday.

MR. HAAS: Good evening. Tell us your name.

MR. DRISCOLL: John Driscoll.

MR. HAAS: Talk to us about the concept.

MR. DRISCOLL: Sure. This is for the Amgen site over here. It's completely a grab-and-go concept. There's no food prepared on site. Everything comes in daily pre-packaged for resale. It's just for the Amgen employees. It's a secure building not open to the public.

MR. REARDON: And the food is prepared by your company?

MR. DRISCOLL: The food is prepared by a company, Lorenzo Food Group out of Boston. They're a USDA approved facility.

MR. REARDON: It's a closed shop, so it's basically for the employees?

MR. DRISCOLL: For the employees at Amgen, correct.

MR. REARDON: And it's just a weekday operation?

MR. DRISCOLL: Monday through Friday.

MR. REARDON: All the paperwork in order?

MS. LINT: It is.

MR. DRISCOLL: Do you need these?

MS. LINT: I do. Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Sodexo Operations, LLC d/b/a Sanofi Aventis Café, John Driscoll, Manager, has applied for a Common Victualer license to be exercised at 270 Albany Street. Said license, if granted, will allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 50. The hours of operation will be 7:30 a.m. to 4:00 p.m. Monday through Friday.

MR. DRISCOLL: Exact same concept as the Amgen site.

MR. REARDON: Whose site is this?

MR. DRISCOLL: Sanofi over at 270 Albany.

MR. REARDON: It's the same deal.

MR. DRISCOLL: Exact same.

MR. REARDON: Make a motion to approve.

MR. HAAS: Second.

MR. REARDON: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye. You're all set.

MS. LINT: Application: M & R Restaurant, LLC d/b/a Cambridge Coffee Shop, Maria DaCruz Afonso, Manager, has applied for a Common Victualer license to be exercised at 847 Cambridge Street. Said license, if granted, will allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 19. The hours of operation will be from 7:00 a.m. to 10:00 p.m. seven days per week.

MR. REARDON: Good evening. Unfortunately you're at the end of the roster here tonight.

MR. HAAS: So give us your name for the record.

MR. AFONSO: My name is Roger Afonso. I live at 11 Raymond Street in Medford, and I have a business in Cambridge.

MR. REARDON: And you are?

MS. AFONSO: My name is Maria Afonso. I live at 11 Raymond Street, Medford. We live in Medford so we have a business in Cambridge.

MR. REARDON: Tell us a little bit

about what you plan on doing here.

MR. AFONSO: Maria has 10 years experience in food service working in restaurant. We read the advertisement in the paper and we purchase the restaurant. So what we're trying to do here is settle in the community, residential and business. Our service is serving breakfast, lunch, and dinner seven days a week.

MR. REARDON: What was in here before?

MS. LINT: The Cambridge Coffee Shop.

MR. AFONSO: We are the d/b/a.

MS. LINT: It's actually just shorter hours.

MR. HAAS: So you're taking up this business that is already established?

MR. AFONSO: Yes.

MR. HAAS: You're not changing it at all?

MS. AFONSO: No.

MR. HAAS: Same menu?

MS. AFONSO: Same.

MS. LINT: Same capacity.

MR. AFONSO: Nineteen seats.

MR. HAAS: Are you making any major renovations to the establishment at all?

MR. AFONSO: No.

MR. REARDON: You don't need different kitchen hood, appliances, or anything? Everything is all set?

MS. AFONSO: Everything the same.

MS. LINT: I do have a letter from Councilor Toomey in support of the application. He said, "The coffee shop has been operating in the neighborhood for many years and provides a service to the residents and other businesses in the area."

MR. REARDON: Is all the paperwork in order?

MS. LINT: Yes.

MR. REARDON: Motion to approve.

MR. HAAS: Second.

MR. REARDON: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye. Good luck.

MR. HAAS: Motion to adjourn.

MR. REARDON: Second.

MR. HAAS: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

(Whereupon, the proceeding was  
concluded at 9:28 p.m.)

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL COUNTY, SS

I, Anne Ouellette, a Professional Court Reporter, the undersigned Notary Public certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of these matters.

I further certify that the proceedings hereinbefore set forth is a true and accurate transcription of my record to the best of my knowledge, skill and ability.

In Witness Whereof, I have hereunto set my hand this 20th day of October, 2010.

Anne Ouellette



ANNE OUELLETTE  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
March 16, 2012

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