

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARING

LICENSE COMMISSION BOARD MEMBERS:

Michael Gardner, Commissioner
Robert Haas, Police Commissioner
Gerald R. Reardon, Fire Chief

STAFF: Elizabeth Y. Lint, Executive Officer

AT: Citywide Senior Center
806 Massachusetts Avenue
Walter Milne Ballroom
Cambridge, Massachusetts 02139

DATE: Tuesday, April 26, 2011

TIME: 6:10 p.m.

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P R O C E E D I N G S

COMMISSIONER MICHAEL GARDNER: We'd like to call the meeting to order, please.

ELIZABETH LINT: If anybody has a cell phone on please turn it off. We ask that you not have private conversations because then the Commissioners can't hear.

COMMISSIONER MICHAEL GARDNER: So, good evening. My name is Michael Gardner, I am the Acting Chair of the City's Licensing Commission.

Also serving with me are Fire Chief Gerald Reardon and Police Commissioner Robert Haas.

We have a very full agenda this evening. So we are going to try to start right now.

We have had a request to move up on the agenda one item, which is calling for public comment relative to the public health, safety and welfare of hotel guests. And we have had the

request that that be moved to the beginning of the meeting, and without objection, we will do that.

If there are people here for other items who feel that they just can't wait because of this, please speak to Ms. Lint, the Executive Director for the License Commission, about whether you would like to have the matter moved to another time.

Is that right, Ms. Lint?

ELIZABETH LINT: Yes. And if I could just announce the meeting and the two that I know are continued that would be fine.

License Commission, general hearing,
Tuesday evening, April 26, 2011 at 6:08 p.m.

We are in the Citywide Senior Center,
806 Massachusetts Avenue, Walter Milne Ballroom.

Two matters that have already been continued. If anyone is here for Uno's, that's

been continued to May 31, and the The Upper Crust has been continued to May 17.

COMMISSIONER MICHAEL GARDNER: So after the matter of public comment on the hotel industry is finished, we will return to the agenda and proceed in the regular course.

The policy matter that we are considering this evening is relative to the public health, safety and welfare of hotel guests, as such may be affected by the employment status of workers providing services for such guests.

We are considering this issue pursuant to the authority of the License Commission to regular inn holders and common victualers on matters that directly affect those license holders' services to the public.

In that regard, we are prepared to hear testimony and receive documents related to the ways in which any possible regulations we might

impose relative to the employment status of persons providing services to members of the public how such regulations might affect licensed inn holders, their operations, the nature and quality of their services to their customers and how any such regulations might effect the general public.

The purpose of this hearing is to allow the License Commission to be fully informed on the issue of whether any regulation of the employment status of those providing services to the public would be for the public good.

Tonight we will be taking testimony, but we will not be taking any votes as we consider the matter.

Although this matter appears to have first entered the public discourse as it relates to housekeeping services, our call for the meeting has cast the question somewhat more

broadly than that, although, of course, it encompasses the housekeeping function as well.

I note that there are several elected officials here this evening, and we will give them the opportunity to be heard first on this matter, if they wish.

But before we begin in terms of trying to understand the length of the hearing and how it would go, I would just like to see a show of hands of how many members of the audience would like to speak on this particular matter.

If I could have a show of hands?

All right. Thank you very much.

We do have a sign-up sheet in the front if any of you would like to come and sign up as we begin the hearing.

We will take people in the order in which they are signed up. And I have been advised that one or more members of the press are here this

evening, and so our proceedings may be recorded by them in addition to the fact that we will have a transcript of the proceedings.

Given the number of people that have indicated that they would like to speak, we request that you please keep your remarks concise and to the point.

The Commissioners do reserve the right to ask questions, but we will also try to keep our responses concise -- our questions concise and to the point as well.

In general, we will try to follow a three-minute time limit, and we would ask that speakers are supportive of, or want to reiterate the same things that were said by a previous speaker, you might just quickly do so.

And when you do come up to speak, we would request, for purposes of the record, that you spell your name and any affiliation you might

have so our record is correct.

Thank you.

And now, I would like to invite any of the City Councillors who might wish to speak on this matter, if they are ready, to please come forward.

Again, we just ask you to introduce yourself for the record and spell your name.

MARJORIE DECKER: Good evening, everyone. My name is Marjorie Decker, Cambridge City Councilor, spelled M-A-R-J-O-R-I-E, D-E-C-K-E-R.

Thank you for this tonight.

I am here to obviously support this. This was a resolution that I sponsored with my colleagues, and as you know, the Council unanimously passed support of this. It's not something we did lightly, but I think there's a real connection here, and I think you're going to hear -- I know you're going to hear tonight from

a number of experts out there who can tell you about the importance of public safety and public health as it really makes sense. It makes sense that, one, you grant a license, a license is a privilege.

Now, there's been some discussions about whether or not a license is, you know, this law is so old it just doesn't make sense anymore, it just happens on the books.

I heard from some people it's just a way for the City to collect revenue.

None of that matters. The point is is that hotels and inns cannot operate without a license from you. And because you have that power, and because you grant that privilege, what the Council is asking to you do is to amend it to and say that from now on -- and I'm really focused on, I'm not concerned about the smaller sort've bed and breakfast that operate there and

I would even leave those details for you to work out. I think there's, you know, a scope here to be reasonable and to look at sort've a sheer number of the masses of people and workers that we're talking about. But that we are inviting people from all over the world to come to the City of Cambridge, and when they come here as tourists or guests of our hospitality, we are saying to them, you can trust us, you can feel confident that you are coming into a vibrant, welcoming city, and that where you stay, because the place you have stayed has been granted the private to operate by the City of Cambridge, we are, in fact, saying to them, that it's safe and that it's comfortable, and that you can -- your health is not going to be compromised.

When -- and I think you will hear from people who can talk about better than I can on this, but when we talk about housekeepers, I

mean, housekeeping and custodial services in any industry is the backbone -- it is the gateway to public health and public safety, and I want to know that when a housekeeper comes into a room in one of our hotels that, in fact, that if something happens whether an infectious disease breaks out or something is missing from that room, that the hotel can very quickly identify whose room that was and that they're able to actually trace that down who that worker is.

Now, some of them are going to say, "Well, we can do that anyway." But we actually know that's not true. We know we have -- you're going to hear tonight testimony of what's happened when one local hotel, in fact, did outsource its housekeepers, you could not tell necessarily who the housekeeper was week to week because they didn't actually come to the hotel everyday every week. They actually rotated. And

the responsibility lies with the company that's actually been granted the privilege and that's the license.

Other folks have said, "Where does it end?"

So, we start doing this, you know, are we gonna -- where does the city stop?

What I have said is that it doesn't matter. Those questions -- you know, public policy and laws are always evolving. We're always evolving when we have a better understanding of what the needs of our community are and how to keep our community safe and clean.

And right now, at this very present moment, I am specifically asking you to just look at the scope of this issue, to look at the scope of making sure that people who come into clean our hospitality industry here, specifically our hotels, that they are directly reporting to the

hotel that's been granted the license.

You will also know from your notes and from tonight, you have the power to do this. This wasn't done lightly.

Our legal counsel, the City Solicitor worked very hard on this, looked at a lot of case law around the country, and the only thing that he determined would be a barrier, not even a barrier, but that was, in fact, he recommended that a public hearing take place.

Now, I know for a fact that you have had the opportunity to look at notes around the argument opposing this, and that you have not necessarily had any private meetings with the other side that's proposing this.

You will have lots of testimony here tonight that says this is important, and I will tell you that I heard from constituents all over the city that this is important to them.

I hope it matters that the City Council unanimously supports this. I hope it matters that the privilege that you are granting that you understand that is a privilege and you do have the right and the responsibility to decide how that privilege gets granted and how that license is given.

You know, if you don't find the arguments compelling enough tonight to support this, I am going to be really curious about what was so compelling on the other side. The idea that it's not broke, we've never had this problem, those are not compelling arguments. We don't create public safety laws after we wait for a crime to happen.

It's about prevention and that's what this is. We don't create laws around fire safety after a kind of fire that had never happened before has all of a sudden or explosion or

something has happened.

This is about saying it's our responsibility to ensure prevention and it's a changing industry out there and we've seen that now. And so, as the industry has changed how it operates, we, too, have to change, in fact, what our expectations of them are and what we think their rights and responsibilities are.

And I want to be clear that this for me at this time, you know, I have an enormous amount of respect for the people in our hospitality industry, and I have had a number of private conversations with individuals who run our hotels and run our hospitality and they know that directly. For those who feel otherwise, this is the truth, this is not personal, this is not targeting any one hotel or just one part of the hospitality industry, it's to say that we understand that times are changing and this

industry is changing, it's trying to keep up with the times, but this is a change that, in fact, is not in the interest of the public health, it's not in the interest of public safety and it's something that you have the power to do, and I really hope that you are compelled to do so.

If you have any questions, I'm happy to answer any.

POLICE COMMISSIONER ROBERT HAAS: So, Councillor, I just want to get a clarification. When you're talking about outsourcing, you're talking about what you're proposing is people who are part of housekeeping, the staff are employees of that establishment?

MARJORIE DECKER: Absolutely.

That the institute that you grant the license to is the one that directly employs them and the one that is directly responsible for training them, directly responsible for

disciplining them, directly responsible for them.
Not a third party. The third party is not who
gets the license.

If that's the case, then let's say we're
gonna grant the license to the third party and
let's have a whole separate process for that.
That may be a different conversation that I would
be willing to engage in as well.

For me, the bottom line is that whoever
is employing those folks -- and again, from a
public health perspective and from a public
safety perspective, I want whoever is directly
responsible for their employment to be the person
responsible for the license.

So, if you want to talk about creating a
new licensing category -- and this is the beyond
the scope of, you know, what I'm familiar with
legally, but if you want to create a whole new
category of licensing for outsourcing, then do

so. I think I would have a higher comfort level, but at the time -- at this time today, that's not the way it works.

COMMISSIONER MICHAEL GARDNER: I wonder, Councillor, if you could speak to the issue of whether or not there's anything or what particularly there is about the housekeeping function that we should be addressing as opposed to any of the other types of employees who might serve the public in an inn holder operation, including security staff, like the restaurant --

MARJORIE DECKER: These are people who are going directly because the security staff, kitchen staff, these people are not on a day-to-day basis going into a room and responsible for the sanitation of rooms. They are not.

So I am more concerned with those who are the day-to-day folks who are going in and they're

ensuring -- with this license, what they are ensuring is that the City of Cambridge says you can trust that this establishment actually has standards of cleanliness and sanitation and security, that the people coming into your room on a day-to-day basis can be trusted and be held accountable for in a moment's notice, that the operation has been granted, the license doesn't have to go and seek the third party that it subcontracted out to and maybe that third party subcontracted out from another state which has actually been the pattern so far for institutions in this industry who have chosen to subcontract. They have subcontracted out of state.

We should not have to worry about whether or not we have to -- if something really happens, and someone really has to be held accountable for whether it's infectious disease or, you know, something has happened that involves the police,

we should not have worry about who are we going to track down in another state to actually also be involved in this. I know people will talk about insurance and liability, and I don't doubt that there's anybody in this industry in Cambridge who doesn't want the same thing. That's not was this is about. It's not about doubting that. It's not about saying that they are not as committed, concerned and that they're not also wanting the same level of accountability. Of course they do because it's still a reflection of their business.

What I'm saying is that the privilege of operating in the city requires a license, and that we should still be saying that the license requires you to directly employ those people who on a day-to-day basis are coming into your rooms and to the rooms of guests, and we can just -- the accountability, there's no question.

And I think you're going to hear tonight some examples where, in fact, it's not just sometimes as easy as reaching out to the third party who has been subcontracting and immediately getting that person back to the hotel if there's questions. There's examples in this kind of subcontracting where they're floating around the cities and rotating in and of hotels.

The supervisor for that subcontracted company is not on site everyday. So, while you may have one of the -- while you may have the industry that has a contract, they are not responsible for the day-to-day supervision always, and there may be different forms of that that where they can happen, but I want the people who are going to directly employ and be responsible for hiring and responsible for benefits, that's who should be included in the license.

And, you know, again, I just thought of this tonight and I'm offering this: If we want to create another category that licenses subcontractors, then let's do that. But until we do that, we have to take this responsibility seriously, and just because there has not been a problem is not reason enough to say this shouldn't happen, and just because we actually know that we have individuals who run hospitality in the city who are extraordinary individuals, it can't be left to just those individuals because it's not about one individual, it's about the institution, it's about the privilege of the license. People come and go in these jobs.

And so whoever -- wherever the license is that's where the responsibility has to be tied to.

MARJORIE DECKER: Any questions, Chief?

CHIEF GERALD REARDON: Not at this time.

Thank you.

MARJORIE DECKER: Well, I thank you for the time, I thank you for the deliberations that you will make on this, and I really do thank all of those in the hospitality industry for making Cambridge a vibrant and welcoming place for people to come. Their experience here is seamless when they come and stay at our hotels. This Council resolution is not a reflection of whether or not I think that. I do think that and I have been clear about that.

It's about saying that as the industry changes, so should we, and that we have a responsibility to look at how those changes would impact our ability and our needs to re-license.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

If you would so kind as to state and spell your name for the record.

SAM SEIDEL: Good evening, Commissioners,
Sam Seidel. Last name S-E-I-D-E-L. Cambridge
City Councilor here in Cambridge.

And I think you've heard the arguments
and I'm not going to go through them all. I
would just make a couple points for the record.
One is that the City Council spoke on the matter,
and I just want to share that and reemphasize
that because we took a point of view about this,
and we felt it was important and we did so in a
public vote.

I believe you also have a letter from me
to the same effect. I want to share that as
well. There should be a letter in the record on
this.

The second point is that really -- two
points to the same point, which you've heard this
argument, but I think that you grant a license
and that license has some meaning. You approve

an activity. And it is in my estimation that these positions that we are talking about are core activities of a hotel and of the hospitality industry.

So that license that you grant speaks about an approval of certain activities on the part of the hospitality industry and these are core to that activity.

So that your approval means that you have evaluated and you have placed some faith and confidence in that activity, and I do believe that there is a connection between the people who occupy these positions and the health and safety of the environment that they are operating in, so that the room that I rent when I go to a hotel is also shared by the individual who comes in on a daily basis and has complete and total access to that room whenever they so choose, and they should be directly reportable to the people who

are reportable to you.

And that in a nutshell is the argument that I would make to you, that the license that you offer speaks about that chain of reporting, so that my experience when I come to the city and spend three days, has some provisions that guarantee the safety of the environment that I'm in.

I think beyond that, there's not much that I would add. I would just say it again that I've shared a letter with you and the Council has also spent on the matter. Happy to answer questions.

Thank you.

CHIEF GERALD REARDON: No questions.

COMMISSIONER MICHAEL GARDNER: I wonder, sir, in terms the -- you identify a core activity of the hotel as being housekeeping. In your view, are there any other core activities that

the hotel or a common victualer operating with an inn holder's license might perform where you think the same logic and argument would apply, and if so, why, and if not, what distinguishes the housekeeping matter?

SAM SEIDEL: Sure. Well, I think I heard in your opening statement that you actually expanded the scope a little beyond just the housekeeping. I'm not sure if that is correct, but that's what I --

COMMISSIONER MICHAEL GARDNER: That is correct. We ask about whether the employment status of employees has an effect on the public health, welfare and safety. We did not specify specifically housekeeping.

SAM SEIDEL: Well, I suppose what I would say just in regard to housekeeping specifically is I can't -- why offer that a different status than, say, a front desk person just to the issue

what is a core activity in a hotel.

My experience -- the person I interact with is the person at the front desk, but they are no more core than that totality of experience than the person who has access to my room.

I will say that my concern today are the people who have access to the room, you know, I certainly could've -- you know, are there other possible activities in a hotel that deal with health and safety? You know, I will reemphasize that my concerns about the people who have access to the room, but you want a safe environment, you want to make sure the food you're eating is safe. I would have that as a note.

POLICE COMMISSIONER ROBERT HAAS: So would you expand that to kitchen staff then?

SAM SEIDEL: Not this evening. My concern this evening is to address the people who have access to the room.

The reason I don't go that route is because I want to keep the focus there, but one could go through a list of things, like anything, like what I put in my mouth presumably has an impact on my health and safety, but tonight I want to focus on that.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

If you would be so kind as to state your name and spell it for the record.

KENNETH REEVES: Kenneth Reeves,
K-E-N-N-E-T-H, R-E-E-V-E-S.

Member of the Cambridge City Council.

It's always a pleasure to join the License Commission, and we have some several issues before you tonight that are of importance, I would say.

First and foremost thank you for giving us this opportunity to speak out of order.

I would like to address the proposal that we have you determine what licensees can do with respect to hotel keepers and the contracting out of the cleaning services.

Now, I don't tend to beat around the bush so I'll just be frank. I think that -- the industry is evolving, meaning changing.

I think it's disgraceful that the hired hotel brought in people, had their existing people train those people and then fired the people who trained them.

I think it's unconscionable, I think it's bad business, I think it's bad inn-keeping. I think that the hotel has done itself, as a chain, a great disservice. I, myself, do go to Hyatt Hotels anymore, and until they correct this, I wouldn't be going.

Now, I can make many arguments that logically suggest that people who work in hotel

rooms might reasonably want to be connected to the hotel and not be contracted out. I can give you 50 of them.

But I will give you one analogy, which is kinda why I think this is a good idea.

Couple years back, I had a tenant who called me up and said she wanted to have her lock changed. She thought maybe a friend of hers she had given a key, she didn't want to have the key anymore. So I thought, well, I can tell you who a locksmith is and you can call that locksmith and arrange whatever you like.

And so, I went to some kind of Yellow Pages that they deliver at home, and I found a number that said they cover Cambridge and I gave her the number.

Well, it turns out whoever it was came and they changed the lock, and later that evening, I got a call from the tenant that

whoever the guy was that came to change the lock also came back later to find out if they might go out at some point.

And the tenant called me and she was mortified that, you know, this guy changed the lock, he may have a key. Who is he?

So, I called the 800 number in the Yellow Pages wanting to say, you know, "What's the matter with this company and who have you sent to the house and said they're gone," except the company that's in the Yellow Pages is actually in New York. There's no address for them. And they will not tell me the company's name, nor the address.

So, by analogy, if something is important you want to know who is the bottom line. I was never able to satisfy my concern for the tenant until now I go -- by local is real. I go to a locksmith who I know, I can go right down to the

shop and say, you know, "who did this?" Because there's no accountability in certain of other systems.

No, if you were going to ask me do I think this should stretch to the kitchen or to security, my answer is going to be this: If this is an evolving industry, hotels, where they are going to contract out everything and the innkeeper -- and we have some great innkeepers in Cambridge -- is not going to be aware of who is on their staff. I can think of one particular inn, I won't call it out, unfortunately, but where the employees are a team, they're a family. You go in the lobby, ten people will say "hello" to you, they know who you are. They know, you know, you like your coffee how you like it.

I mean, it's all a great thing that everybody who belongs to the thing belongs to the thing and they didn't just roll in.

So there are many arguments, I think, that could be advanced, but make no mistake and I think everybody from the industry relations groups and from the organized hotels groups, I think you all ought to go talk to the Hyatt, and tell them that they have messed up and it's causing great consternation in places. We would like to be home for dinner now, we would not all like to be out here. But they have clearly made it important for us to be here, so what happened to the Hyatt can never happen here again.

Now, we don't control the world, but we control here and we have -- you have the licensing authority and you can say who can and cannot be connected to the hospitality here in Cambridge.

So I would go on, but it's -- I think as a policy matter, we want to have good employers and we don't want them to abuse employees, and we

want the people who are serving the customers to be well versed in customer service with the standards of here as opposed to blow-ins from whenever they came from who are not used to be paid very much or trained very well. That wouldn't be our strongest -- wouldn't be the best we can do.

So I don't know if there are questions. I hope I didn't anticipate them incorrectly or something.

POLICE COMMISSIONER ROBERT HAAS: So, Council, with respect to scalability, I mean, Councilor Decker mentioned the fact that she saw some of the smaller operations, like the bed and breakfasts that necessarily can't afford to have a full-time staff would be somewhat excluded as opposed to -- I'm talking about the scalability in terms of, where is the breaking point?

KENNETH REEVES: In my experience, the

smaller establishments, they have rather than full-time staff, they have half-time staff or every-other-day staff. And I've not seen any of the bed and breakfasts contract out their housekeeping.

So, in fact, they, again, run these very family-like, team-like operations where who cleans the room might also give you your muffin in the morning. When you have four or six rooms, it's a different situation, I would say.

But I would say that I would like them to be tied to the establishment. I wouldn't like them to do here and then go to Somerville and then go to Everett. I shouldn't mention other cities. Go here tethering, you know, I think it's good if they belong to the places they are at.

If I might, I just wanted to say very brief, I have to walk down the street tomorrow,

so I want to support Grafton Street in the additional of outdoor seating. I want to support outdoor seating wherever it is on your agenda tonight, and, again, at the Cellar, which is around the corner from me, my neighborhood restaurant where I've never been able to sit outside yet, but I would like to and they would like to.

I would like to support -- Veggie Galaxy is coming down to where the MIT theater is, we're hopeful to have outdoor seating there to liven up that part of the square. This is a great new addition to us.

I want to support Tigers & Bears, which also doing business as Tory Row for their license extension. I think they run several establishments in the city. Middlesex, as well as the Miracle of Science as well Cambridge One and all of their establishments are run at the

highest and best level. They are exactly who we want to encourage.

So I would say both for the Church Street location and at 3 Brattle Street, and I did miss, I think, the Red Line. I think it's so good to know that the Red Line is going to be expanding into the next two bays of the businesses there. So they're going to have a bigger Red Line. They, again, are a business -- Grafton Street Restaurant and the Red Line are two establishments in the city that I have high credibility and are bringing good hospitality to the people of Cambridge and to the visitors of Cambridge.

So, that being said, I don't have anything more.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

KENNETH REEVES: Thank you.

COMMISSIONER MICHAEL GARDNER: Councillor Decker would like to come back for a moment.

MARJORIE DECKER: I will say quickly, I think you started to ask Councilor Reeves questions about the scale of things. I really feel like -- I am trusting enough of you to talk to the industry, to talk to supporters of this and be reasonable about this. Unlike councilors, I think that we are talking about smaller establishments, that's not really because they're still small enough, you know -- if you are -- if you are someone who employs less than 50 people -- even, again, I put this back to you to talk about what reasonable is. That's not who this is. That's reasonable to manage then you know who is coming in and out.

The other issue I will say that I have after having spoken to some of the GMs that I'm also feel like it's a reasonable place to have

some comprises. I know a lot of them also will have commercial cleaners come in and do sort of large common space areas. I'm not discussing that either. I'm really talking about larger scale hospitality industry where people are coming in and out of guest rooms.

So, if there needs to be some compromise around sort've some of these other areas, I welcome that, and someone who has been one of the strongest supporters of this to say that I do really trust you to try to work out something that is liveable for the most part with the most folks who are involved in this are possible going to stay here.

I do want to note my support for Grafton Street also and their ability to expand outdoor seating.

Thank you.

COMMISSIONER MICHAEL GARDNER: Thank you

very much.

Any other elected officials who would like to speak?

Please state and spell your name for the record, sir.

LELAND CHEUNG: Absolutely. Leland Cheung, L-E-L-A-N-D, C-H-E-U-N-G. I'll be brief.

I'm speaking tonight in regard to City Council Policy Order Resolutions 016 of April 5, 2010.

The reason I'm coming out here tonight is the Council voted unanimously in support of this regulatory change, and a lot of people know that through my economic development committee, who have been very supportive of local businesses in trying to support the economic engine that the community relies upon and pays two-thirds of the taxes.

I think the distinction for me on this

issue is that the community defines the types of businesses and the manner in which business is going to be done within the city and the appropriateness of how that business is conducted.

And I think you probably heard from my colleagues about how hotel housekeeping operations are a core function to the hotel, but that the City of Cambridge has no authority to regulate the hotel cleaning company if that company is outsourced.

We heard unanimously the Council from the community that the city wants as part of its licensing procedure in authorizing licenses to hotels, we want the hotels to, you know, abide by the community standards that Cambridge established.

So, all I'm asking tonight is basically that the Licensing Board abide by what the

Council passed unanimously on April 5, and I'm sure I have all confidence in your judgment, you have absolutely been -- I have had no reason to doubt the decisions in the past, and just asking you to continue the good work you guys are known to do, so thank you.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

Are there any other elected officials here this evening who would like to speak on this matter before we go to the general sign-up list?

Mrs. Lint has reminded me that we should put on the record that we did receive a number of letters or written comments on this matter. All of those have -- that have been received, no matter what their contents, have been forwarded to the members of this License Commission and are a part of the public record for this hearing.

So, Mrs. Lint, I wonder if you have the

sign-up sheet if you could just begin to call people up, and again, we would ask you to please state and spell your name for the record, and if you have any affiliation to please let us know it and keep your comments concise and to the point, please.

ELIZABETH LINT: Tolle Graham.

COMMISSIONER MICHAEL GARDNER: Tolle Graham.

Good evening.

TOLLE GRAHAM: Good evening. Thank you. My name is Tolle Graham, T-O-L-L-E, G-R-A-H-A-M.

I am the labor and environmental health coordinator from MCOSH, Massachusetts Coalition for Occupational Safety and Health. We're a non-profit membership organization working with residents, workers, community groups and environmental organizations to promote healthy and safe workplaces in communities in

Massachusetts.

I am here tonight to speak in favor of the proposed regulation that would require the hotel directly employ their housekeeping staff.

As you heard in my introduction, a primary focus of MCOSH is worker health and safety. However, in the hotel industry and other work sites that serve the public, worker health and safety is uniquely connected to public health, in this case, also protecting the health and well-being of the traveling public.

Hotel housekeepers are the first line of defense in creating safe conditions to the traveling public. Proper training for identifying hazardous and best practices for preventing those hazards is key to a safe and clean hotel.

A few examples of those hazards, cleaners and chemicals that contain hazardous ingredients

can cause asthma, burns and skin problems if they are diluted or used properly. Blood-borne pathogens and infectious diseases, needles left behind, blood and body fluids, which contaminate linens, carpets and infectious germs on hard surfaces, such as bathroom fixtures and doorknobs. Bedbugs, which according to Mr. Jacobs, Chief Public Health Officer for the City of Cambridge, this resurgence of bedbugs has impacted residents of all Cambridge neighborhoods as well many of the city's hotels.

OSHA's definition of a comprehensive health and safety program includes the four following elements: Management commitment and employee involvement, work site analysis, hazardous prevention and control and safety and health training.

We believe these elements are also essential to best health and safety and ask the

Licensing Commission to consider whether outsource housekeepers are likely to receive clear training, consistent supervision and open line of communication with the entity ultimately responsible to the guest, the hotel.

OSHA also emphasis visible top management involvement in implementing these programs, so that all employees understand that management's commitment is serious.

From our experience contractor workers often do not know who is responsible for health and safety at their work site. Is it the company you work for, such as the Cambridge Hotel or the contracting agent? Moreover, in our experience subcontracted workers are often temporary workers. One of those employers is actually called United Temps, and never receive -- those people never receive adequate on-the-job training or learn proper protocols.

Two reasons why citations are issued by the Indiana Occupational Safety and Health Administration impacting subcontracted hired hotel workers shine a light on this problem.

OSHA cited the Hyatt Regency Indianapolis as well as HSF, the subcontracting company which employs approximately 50 percent of the workers on that property.

The Hyatt was cited for allegedly failing to train HSF subcontracted workers on chemical hazardous, blood born pathogens. HSF was cited for similar reasons and also because it allegedly failed to turn over injury records and delayed in providing other injury files despite repeated requests.

These failures suggest a significant underlying problem. In situations where workers are subcontracted and there are multiple parties allegedly responsible, important things can slip

through the cracks. It appears that workers were not correctly trained. And it's not clear if anyone was even recording worker injuries.

If critical matters, such as these are missed, it calls into question what else might be missed, which could have impact on workers and the traveling public.

It's our experience outsourced workers are less likely to be trained, less likely to be protected, and less likely to have a clear line of communication with managers. They are often temporary workers with a very short duration of employment. This is not a recipe for providing high-quality guest services in hotels.

Thank you.

And I also have copies of the Indiana OSHA citations for the Hyatt and HSF.

COMMISSIONER MICHAEL GARDNER: We would ask you if you would be so kind as to submit your

remarks and back-up materials for part of the record.

Questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

(Applause.)

ELIZABETH LINT: Paul Sacco.

COMMISSIONER MICHAEL GARDNER: Good evening. Please state your name and spell it for the record.

PAUL SACCO: All right. Good evening and thank you for hearing me today. My name is Paul Sacco, S-A-C-C-O. I'm president and CEO of the Massachusetts Lodging Association.

I will, once again, submit to Executive Officer Lint a letter that we had submitted (forwarding document) and what I would plan to do

is just take some excerpts from this letter.

First of all, I would like to begin with saying, we -- there are over 1600 hotel lodging establishments, everything from a bed and breakfast up to the largest hotels in New England for that matter, the Sheraton Boston. They represent over 122,000 jobs within the state. We're the third.

COMMISSIONER MICHAEL GARDNER: I'm sorry. The 1600 refers to state-wide?

PAUL SACCO: Statewide basis, yeah.

COMMISSIONER MICHAEL GARDNER: Thank you.

PAUL SACCO: It entails, you know, jobs all over a hotel in that count. We have nothing about the upmost respect for housekeepers, for house persons of any nature, for kitchen staffs. We respect our employees.

I'm someone that has 50 years in the industry, worked as an elevator operator, a

housekeeper and many other areas in the hotel, so I know the process. I have been on the union side, non-union side. To me, it really doesn't matter. We respect the union.

But I will say this: Taking from our letter, the resolution, and as we just heard in testimony, implies that a hotel that utilizes outsourced labor in the field of housekeeping is, in effect, skirting its obligations to the standards of cleanliness and safety mandated by the city's License Commission.

In fact, any lodging establishment licensed under the parameters of MGL Chapter 140 is expected to maintain the standards of cleanliness and safety determined by the local licensing authority regardless of the employment status of the individuals charged with maintaining them.

The Cambridge lodging industry, like its

counterparts across the state, and the nation for that matter, takes this responsibility with the utmost seriousness.

I have seen no indication of this issue as being predominant within the state or within Cambridge for that matter.

The proposal refers to some hotels in the city that utilize subcontractors suggesting that the legal practice of outsourcing in some way places the safety and health of the public at risk. Again, we are unaware of any incidents in the Cambridge area in that regard.

The use of external consultants rather than full-time employees, however, unpopular among certain parties is a practice employed by virtually every industry in Cambridge, including the city government, I might add. There's no evidence that would justify the prohibition of the Cambridge hotel industry alone, while other

industries and government agencies are allowed to continue such practices.

Again, we're not looking at this as something that is anti-employee, we love hiring employees. The good councilor came up once again to mention, you know, maybe there's a matter of 50 hotel rooms. You either ban outsourcing or you don't ban it.

The truth of the matter is whether you are a 20-room bed and breakfast or a 250-room hotel, you still have the same issues within the employment arena.

Also, the councilor mentioned you have the right, Councilor Decker in this case, I don't know, I'm not a lawyer, I don't know your right whether you can or you can't do certain things, and that you would weigh sanitation in kitchens. Well, to me, sanitation in kitchens, coming from a former steward in a hotel is very important.

And I have seen no indication of any type of outsourcing in that area like night kitchen cleaners or whatever that would suggest otherwise.

I think, again, singling out is not what is appropriate in this matter. It's to look at the situation and determine what is the best course of action. And I know you don't have an easy course of action in this case, and you are hearing a lot of input from a lot of people.

But we oppose the proposal. We don't oppose the good work of the employees of hotels and housekeepers, and as we heard earlier, it's no easy job to be a housekeeper in a hotel.

It's just unfair to single out one industry that employs thousands of residents, and, again, I mention across the state as the third largest employer. And we always go first to hire within a hotel. If you look at a B&B, I

don't totally agree with the fact that you can do well somebody can come in part-time, et cetera, not always that easy. Sometimes hotels have to go to other sources as they do with other areas like security or night cleaners or whatever it may be.

We would like to be one happy family. We try to be, as we heard earlier, but occasionally you have to outsource. It's just a fact of doing business. But the first and foremost is to have your family within the hotel and take care of your existing employees. I can't speak to all hotel companies and their policy, but the general policy is to go first with your employees and do what is best.

I think this is, quite frankly, is something that is singling out the hotel industry will have ramifications across the state, you know that, and it's just unfounded and

unnecessary and what we really need to deal with is what is at the root of this issue, what caused it and deal with that unto itself and not really be trying to single out one industry in Cambridge. And we have many members here and employ, as you know, thousands of people. It's very important to us.

So I won't go on further. I just want you to know we are opposed to it. It's in your hands. And believe me, our membership is quite alarmed by the prospect. I don't care whether you have 20 rooms or 2000 rooms.

It's not against the good people that work in our hotels, it never has been. And this whole issue is not about the whole industry. I think it's ridiculous to try to carry it right through an entire city or a state, for that matter.

So I thank you very much. I know you

have other issues. Fire Chief Reardon would be the proud manager of legislation and I would be happy to talk to you about that also because I was -- were you at the committee meetings? There were a few committee meetings. So we look forward to chatting about that also.

But thank you for your attention. I know you will do the right thing and you have a good evening.

Questions?

POLICE COMMISSIONER ROBERT HAAS: I know as the association you are opposed to the proposal, but I'm just kind of curious, what are the tangible downsides to prohibiting outsourcing for certain aspects of the operations of the hotel?

PAUL SACCO: You know, it really isn't when you say a downside. Hotels generally go to outsourcing when they can't get sufficient staff.

That's generally how outsourcing bubbled up.

They generally went to security because in the case of security, they wanted to hire people with super expertise beyond what they could train, you know, but still hotels have in-house security. It's an option. I'm only suggesting don't take away that option. The first choice is always to hire in-house and to keep in-house. So, I mean, that's our position on it.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

PAUL SACCO: Thank you.

FIRE CHIEF GERALD REARDON: Are you aware of how many other locations are outsourcing in Massachusetts?

PAUL SACCO: To answer that question, no. I will tell you that if you take an example of Cape Cod in the summer that has the worse awful

time of getting employees throughout the season, they have to go to outsourcing companies. We have tried to assist them with taking people in areas where there's a high unemployment rate, like in this case in the case of the Cape, Fall River and New Bedford in trying to get people, you know, have them arrange transportation to get them in to work.

We looked at companies that could form, you know, a coalition to get people together and try to keep the -- rather than go to the H2B aspect, which is foreign employment coming in, try to hire within the state, and we have had some successes with that.

But if you look at the Cape as an example, and the islands, for that matter, there's a tremendous amount of what you might classify -- they hire locally, they'll hire as many people as they can get locally, but after

that, they have to go to companies to find employees to work. It's a pretty intense problem that they have every year, starting right now. It's picking up right now.

FIRE CHIEF GERALD REARDON: Primarily because they are a seasonal operation?

PAUL SACCO: You know, the Cape, you know, to an extent, it's seasonal, but their occupancy goes so low, there's a lot of places open, the Chatham Bars Inn, you know, the Hyannis Resort, larger properties, they're open year-round but their occupancy goes so low they don't need as much staff, so as they go into season, they have to bring up their staff, so they'll go locally first, they have job fares and everything possible, and then after that, they have to do something or they -- it's causing some innkeepers, the smaller innkeepers that the councilor mentioned to go out of business after

because they can't find employees to operate and they end up -- you know, they're doing all the work and they can't operate.

FIRE CHIEF GERALD REARDON: Thank you.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

Just wonder if there are any other elected officials that would like to speak on this matter this evening?

DENISE SIMMONS: Thank you.

COMMISSIONER MICHAEL GARDNER: I'd just ask you to state and spell your name for the record, please.

DENISE SIMMONS: Okay. D-E-N-I-S-E, S-I-M-M-O-N-S, 188 Harvard Street, Cambridge. I'm also a member of the Cambridge City Council. I am here standing with my colleagues, and most importantly, standing with the employees as these policy changes are going to effect.

Hotel housekeeping operations are the very core function of hotels, and one of the things that we have seen, and the City Council was very, very clear about, was that we did not want to see outsourcing. We didn't want to see people loss their job, and everybody makes promises about what they are going to do, but at the end of the day, we're really talking about people's jobs.

And what we want to say to you is that we stand here ready to work with and make appropriate policy changes, but changes that are going to protect the worker. It's really about trying to protect workers' rights, which is something the City Council has for a very, very long time stood very strongly on. So by making the changes -- I don't want to elaborate and say what my colleagues have already said other than to say this: We are here to work together to

make appropriate changes, if necessary, but at the end of the day, what we really want to make sure is that we protect the rights of those individuals that work for these institutions.

Thank you.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

ELIZABETH LINT: Wanda Rosario.

WANDA ROSARIO: My name is Wanda Rosario, W-A-N-D-A, R-O-S-A-R-I-O. I'm here, I have been working for the hotel for 23 years. I have been working with Hyatt Hotel where I training the outsourcing housekeeper. I let him know they don't have no training to be a good housekeeping and understand the system, because hotel industry is wanting, caring and securing, and they can give you that to when they come in for two days' training and the next day they give ten or 12 rooms to do, they don't have enough experience to

go up and down to the rooms, giving the guest (inaudible) because they don't know the guests. Another issue is they rotate in different hotels. They here today and tomorrow in another hotel. So they don't have the time to know, like I had 20 years in one floor, when my guest come to front desk, they ask for me. I know my guests, I make the guests feel like they at home because I know how they like the coffee whether they like feather pillow or they don't like feature pillow. But these people, they don't know nothing. They don't have time to go -- and they get 25 rooms. How they gonna clean 25 rooms in eight hours? It's impossible. Clean the room the right way, it's impossible. I'm 23 years housekeeping and I know. How they going to check the bed for bedbugs? They don't have time for them. They don't have time for them.

So I ask you, please, do not sign for

outside company come to the hotel industry because we need to have the guests happy when they come to Boston. Maybe the guests stay because they know me. They ask for me at the front desk. They know me for 20 years, okay? I take care of the kids when they have kids from the rooms, I take more time to clean the tub because they have kids. With 25 rooms, you can't do that. We start with giving them two. Because when you have experience, when you know what the guests want from you everyday, okay? These people have no experience. Do not know if something happen if even if you found out that (inaudible) found out. I training that person, two days, three days' training. I train in downtown Boston.

I ask you, please, do not sign for outside company to be in the hotel industry, please. Thank you very much.

(Applause.)

FIRE CHIEF GERALD REARDON: Based upon your experience, can you tell me how many rooms a day you would normally do as a housekeeper?

WANDA ROSARIO: Well, for the normal housekeeper, 15 rooms.

FIRE CHIEF GERALD REARDON: Is that considered a lot?

WANDA ROSARIO: No more than that.

FIRE CHIEF GERALD REARDON: Thank you.

WANDA ROSARIO: You're welcome.

(Applause.)

ELIZABETH LINT: Marya Axner.

COMMISSIONER MICHAEL GARDNER: The next speaker, if you come up and state your name and spell it for the record and try to stay close to the mike for purposes of picking it up.

MARYA AXNER: Hi. My name is Marya Axner, M-A-R-Y-A, A-X-N-E-R. I am the director

of the Newton New England Jewish Labor Committee. I live and I work in the Jewish community. It's my personal community. A lot of my constituency is in synagogues in Cambridge and Somerville, like Temple Beth Shalom, Eitz Chayim, Temple B'nai Brith, and they have lots of celebrations Bar and Bat Mitzvahs, weddings and other celebrations at hotels. And people attending those celebrations stay in those hotels.

As you know, when you stay in a hotel, you are putting yourself, your family, your friends, your loved ones in the safekeeping of that hotel. You want to make sure you are in good hands, you want the staff to have jobs, permanent jobs where they know the hotel well so in case there's an emergency, like a fire, you want people who work in the hotel to be able to move fast and work together. You want them to have a relationship with the management directly

and have an investment in that establishment.

You want the management to have a relationship with them. You want them to be a team together so it's not just whatever, let's get out of here.

It's an atmosphere of thoughtfulness and caring. I don't think that there is any kind of community where hotel workers come and go, where they don't have the same assignments and they don't have any direct relationship to management or each other.

So, personally, I would never send anyone that I cared about to a hotel where there was outsourcing.

The situation at the Hyatt was deplorable in terms of what happened with the workers, and it's clear to anyone reading the newspaper who knew that workers were and are being paid \$8 an hour and the attorney general did an investigation about the proper payments of these

housekeepers. So, as I said, the situation is horrendous, and it doesn't reflect well on Cambridge, and it just kinda sets a tone that shows sort've degeneration of the community when you have those kinds of jobs and working conditions.

I also just want to say that many hotels don't outsource. It's not a fact of the business, there's many hotels who do very well and don't outsource, and there -- at this point there are lots of people who need jobs and people, you know, who lost their jobs. I just don't think that there's a lack of people who need jobs that you have to go to an outsourcing company.

Thank you very much.

COMMISSIONER MICHAEL GARDNER: Thank you.

(Applause.)

ELIZABETH LINT: Jennifer Doe.

COMMISSIONER MICHAEL GARDNER: Welcome.

JENNIFER DOE: Thank you.

Hi. My name is Jennifer Doe, spelled
J-E-N-N-I-F-E-R, D-O-E.

I am with Massachusetts Jobs for Justice
and I'm actually here to read a statement into
the record from Professor Thomas Hogan. He's the
Georgia bunker professor of Management and the
co-director of the MIT Institute of work and
employment research.

The outsourcing of housekeeping jobs at
Cambridge hotels breaks a direct live of
management supervision and communications that
that increase the risk of injuries and accidents
in other industries. The effects of outsourcing
I and my co-workers found in a study of the role
contract workers in the petrochemical industry, a
study commissioned by the Occupational and Safety
Health Administration following an explosion in

Texas, a chemical plant, that killed 22 workers and injured over 200 others. Sadly this experience was replicated in the Texas City BP explosion in 2005 and again in the Gulf coast oil rig fire that took 11 lives and precipitated the subsequent environmental disaster.

Hotels are not as volatile in this environment, and so I'm not using these examples to suggest outsourcing housekeeping will lead to similar disasters. What is clear, however, is that contracting arrangements by their very nature pose increased risks of quality performance and communications to safety and perhaps emergency response malfunctions. When the higher turnover of lower wage contract workers is factored in, the risk is further increased, and the lack of experience and limited training are two of the strongest predictors of accidents and injuries.

I urge the Cambridge Licensing Commission to assert the community's interest and pass regulations so that Cambridge hotels directly employ their housekeeping staff.

Thank you for your time and I have copies of this statement for you.

COMMISSIONER MICHAEL GARDNER: Please, if you would submit them. Thank you.

(Applause.)

ELIZABETH LINT: Terry Smith.

TERRENCE SMITH: Good evening, my name is Terrence Smith, T-E-R-R-E-N-C-E, S-M-I-T-H, I'm director of the Government Relations of the Cambridge Chamber of Commerce. We have submitted a letter to you.

I just want to comment briefly. It was stated earlier that the License Commission has the right -- has the power to license and that's true. Regulatory bodies have that power. But

the power to license has to be to -- the power to regulate has to be based on a clear record, and in this case, based on the legal opinion of the city solicitor, public health, safety and welfare, and to date, there has been no finding.

There's no finding this evening. There's been no finding on the record that the public health, safety and welfare of guests to Cambridge hotels have been affected by the employment relationship of those hotels. This is not a question of what may or may not happen. It is what has happened.

And the reason it happened is because the hospitality industry in Cambridge cares about the people who stay at our hotels. There are ambassadors to the city everyday. And the responsibility of the health, safety and welfare of guests is with the license holder. It's not with the individual who is working in housekeeping, or is a valet, or the engineer, or

the contractor who is brought in to fix some electrical work, or the inspector who comes in checks the vents in the kitchen to make sure that there's not a fire or any of those things.

The responsibility is with the license holder and they take that seriously.

And this regulation, the proposal to regulate this industry, this specifically, is beyond, I think, any findings on public health, safety and welfare. It also is a concern to other licensed industries in Cambridge.

The action of a single hotel, given that many of us are very concerned about that action, as it's reflected -- you know, it brought all these people here, as Councilor Reeves said, is a concern, but businesses do have the right to operate within the framework of their license, within the framework of their regulations and the framework of their industry as they would like.

We heard a couple examples of concerns that are related to OSHA. The License Commission's regulatory functions are quite different from the regulatory functions of OSHA.

You're responsible, as I understand them, under Mass. General laws health, safety and welfare. To date the health, safety and welfare of guests have not been compromised based on who is responsible for doing services in Cambridge hotels.

Thank you.

COMMISSIONER MICHAEL GARDNER: Questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

ELIZABETH LINT: Vincent Panico.

ATTORNEY VINCENT PANICO: Good evening.

COMMISSIONER MICHAEL GARDNER: Good

evening. Please state your name and spell it for the record.

ATTORNEY VINCENT PANICO: My name is Vincent Panico, I'm an attorney and I represent the Cambridge Hotel Association.

It seems to me in some ways the goals of the various parties are the same. I think we all agree that what happened was bad and nobody would disagree with that.

But I think what we're really talking about here today are three things: We are talking about jobs. Our employees are very concerned about their jobs. We are talking about health and safety, and we're talking about an industry that is facing some kind of uneven economic times, and is very concerned about further regulations that might harm them.

I don't think as a practical matter or as a legal matter, the ordinance can be sustained.

Let me quote the city solicitor.

On November 17, 2010, he stated: "If inn holder services to the public are not negatively affected by its contracting out for housekeeping services, then the License Commission may not exercise its regulatory authority."

A few days ago I met with Ranjit Singanayagam, the Commissioner of Building, I asked him, "Ranjit, have there been any complaints about the hotels?"

He went to one of his staff and he came back and he said no. And I understand the same is true in the Licensing Department, that there have been no complaints filed.

Now, I am not a labor lawyer, but I did discuss this with a labor lawyer, and he said these hotels are chains and they operate in other states, and you may be getting into an NRAL, National Labor Relations Act issue. He said also

it might be something that the Massachusetts legislature can only discuss. I mentioned that.

The outsourcing, as it's been stated by other parties, this is practiced by every industry in the city, universities and the City of Cambridge. And singling out a single industry to be bound by the proposed ordinances, in my opinion, would be illegal from the outset, and then consider this, the hotels all lease out their restaurants to these outside people. What are we going to do about them if we have this type of ordinance.

As I said earlier, the economic climate really for the hotel is a little precarious. Further regulations are not going to help.

Now, about the employees, the hotels, they want experienced employees, they want to keep them. It's in their best interest. They call their employees, especially the

housekeepers, the face of our industry. They are the people that the public meets and they are very important. And overall, the industry has stable well functioning hotel staffs with very little turnover due to good employee benefits, including pay, healthcare and paid time off.

You already heard about the various organizations, the Cambridge Office of Tourism, the Cambridge Chamber of Commerce, the Massachusetts Lodging Association, the Harvard Square Business Association, they all join us in trying to oppose this ordinance.

It's arose from a single isolated incident in one hotel. I represent the industry. There have not been any clearly identified safety or health incidents.

They talked about protecting something in the future. I think what we're talking about here is a proposed solution in search of a

problem. And I don't think that's the way to proceed. Remember, these outsourcing people are supervised by the regular staff of the hotels. And just one cautionary note, there was some horrendous comments about the Hyatt, but that was in Indiana. I was hoping that the -- I'm sure the Commission noted it was not the local Hyatt.

Thank you very much.

COMMISSIONER MICHAEL GARDNER: Any questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

COMMISSIONER MICHAEL GARDNER: I would like, sir, if you could explain further the remark about the hotels licensing out the operation of the restaurants or contracting that out? Could you just speak of what experience you have in that area?

ATTORNEY VINCENT PANICO: I am informed

by one of my clients, a hotel operator, that is a common practice that restaurants are leased out.

COMMISSIONER MICHAEL GARDNER: But under the innkeeper's license or under a separate license to the contractor operating the restaurant?

ATTORNEY VINCENT PANICO: I can't answer that question. I don't know.

COMMISSIONER MICHAEL GARDNER: Okay. Thank you very much.

ELIZABETH LINT: Richard Carbone.

COMMISSIONER MICHAEL GARDNER: Hello. Please state and spell your name for the record.

RICHARD CARBONE: Thank you. My name is Richard Carbone. I'm currently president of the Cambridge Hotel Association. I have also been the manager, general manager of the Inn at Harvard and the Harvard Square Hotel for 20 years, and have 40 years of experience in the

hotel business and the hospitality business. I see the stickers on the people here, Cambridge is about hospitality and the Hotel Association represents about 20 hotels in the city. And, we, as has been stated, are very, very cognizant of our responsibilities to provide hospitality to the incoming visitors to Cambridge.

And we talked about the public safety in the beginning of the hearing, public safety, health and welfare to our guests and providing quality service to our guests was the only comment of the Commissioners.

The Cambridge hotel industry has an effective regulatory structure in place with high standards already established regarding guest health and safety and welfare for the guest and for our employees' health and safety.

We also submitted a letter in opposition to this further regulation of our industry.

We, as an industry, cannot find a compelling reason or argument to further regulate over and above the current standards of practice that are already established.

We do an outstanding job serving thousands of guests during the course of the year. Our employees do an outstanding job welcoming guests to Cambridge with very, very high standards.

We operate effectively and have not been able to find a written complaint to the Cambridge License Commission, to the Better Business Bureau regarding the core issue about public health, safety and hotel guest welfare.

As the hotel operator, we are responsible for the daily operation of all of the duties performed in our hotels from our employees and outside vendors.

We have vendors that come in to wash our

windows, shampoo our carpets, do work in the hotel, construction work, renovation work, capital improvement work and we got to supervise all those vendors. If something happens to a guest, with a vendor, we're going to be responsible to solve that problem and we do it on a daily basis.

We have a stable and well functioning hotel staff for the most part within the City of Cambridge with very little turnover due to great overall employee benefits, including pay, healthcare, vacation time and the way that we listen and treat our employees. We truly care about them, and my heart goes out to those employees at the Hyatt that this happened to. They are the ones that are being brought up to you, this Commission, over and over and over with this testimony, but all 20 plus hotels in Cambridge are being singled out by one single

management situation, which we feel is not the fair way to handle this situation. We care greatly about our employees. I've got over a hundred employees, I own the company, I own the business, 85 have worked for me for 15 years or more.

I am only aware of one hotel in the City of Cambridge that outsources housekeeping out of all the hotels in the city. It may be part-time employees that work in B&Bs, and they might outsource during the high season that was mentioned on the Cape Cod properties where you need additional employees for big high season business, but for the most part, we employ our employees, we provide them with excellent healthcare, we listen to them, we work with them, we are a team and we handle the customer with the utmost regard.

Thank you.

COMMISSIONER MICHAEL GARDNER: Just one second. Questions anyone?

POLICE COMMISSIONER ROBERT HAAS: No.

FIRE CHIEF GERALD REARDON: No.

COMMISSIONER MICHAEL GARDNER: You said that from your knowledge only one hotel in Cambridge outsources housekeeping, did I understand that right?

RICHARD CARBONE: To my personal knowledge.

COMMISSIONER MICHAEL GARDNER: I wonder if you could describe if you have any knowledge essentially what the experience in that circumstance is as it relates to either complaints or any other issues, which, as the president of the association, you have had to deal with, I just ask you to please tell us what you know.

RICHARD CARBONE: As a business owner,

which happens to be hotels, whether I'm the Hyatt, Hilton or my own company colegio hospitality, I'm responsible for any employee in my building whether they're washing windows, cleaning rooms, security, front desk, engineering, maintenance, they all go into guest rooms.

Let's not kid ourselves that only housekeepers go into guest rooms. There's a lot of access with a lot of people.

I'm not aware of any complaints, written complaints to the city about the supervision saying that the rooms aren't as clean as other hotels, they are not safe, they are not sanitary. We train our employees on hazardous pickup. We see it everyday. Blood born pathogens, needles, knives, all those things. We see that. Okay. People cut themselves in guest rooms and they need attention, or they may leave that behind.

I'm not aware of any complaints. I can only tell you as a commission that we're responsible, the hotel manager, day to day, is responsible for whoever is working in that hotel, whether it's an outside vendor or your own employee.

As I said, my heart goes out to those employees at the Hyatt. I understand their feeling. I'm an employer. We must treat our employees well, take care of them, give them good benefits and take care of the, that's how the customer gets outstanding hospitality which is on the buttons of all the people in this room. Cambridge Hospitality. We're actually doing it. We live and breathe it in Cambridge everyday, myself for 20 years in this city.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

FIRE CHIEF GERALD REARDON: One question, please. Do you know from your personal knowledge

of the Cambridge Hotels, and so forth, and most of them have an electronic card system. Is that something that's easily traceable to who is in a room at what time and to whom that card belongs?

RICHARD CARBONE: Yes.

FIRE CHIEF GERALD REARDON: Could you elaborate on that maybe?

RICHARD CARBONE: Yes, sir. When we make a key for a guest, the key card, we know we can make a printout of who went into that room at what time if it's our staff, when the housekeeper went in, when maintenance went, when and after a key was used to go check on a guest if there's a problem in a room, so you can tie back to the key who entered that room along with the guest that entered the room back and forth during that two-day or three-day stay that they are here. So we can trace that back, if there's something missing from a room, if there's a problem in a

room, who might have gone into that room to follow up and investigate it.

FIRE CHIEF GERALD REARDON: Thank you.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

ELIZABETH LINT: Harry Grill.

COMMISSIONER MICHAEL GARDNER: Please state your name and spell it for the record.

ATTORNEY HARRY GRILL: My name is Harry Grill, H-A-R-R-Y, G-R-I-L-L.

Good evening. My name is Harry Grill, I'm legal counsel representing Unite here Local 26, I'm testifying in support of Cambridge City Council Policy Order Resolution 0-16 regarding the outsourcing of hotel housekeepers.

As many of you know, our members work throughout Cambridge hotels and university dining halls. Hundreds of our members and their families live and vote in Cambridge. Our members

and their families have strong concerns regarding this issue and are in full support of passage of this regulation.

Hotel housekeepers are arguably the most important position in the hotel industry. They are the gatekeepers for the hotel and their guest experiences. They are the workers most responsible for the overall public health and safety of the hotel. Cleaning your room is not like cleaning a room in one's home. There are significant issues that result with new guests arriving each day. Making sure that a room is sanitary is both time-consuming and requires adequate training.

I also want to note that Cambridge is not immune to the so-called bedbug epidemic, which is crawling and infiltrating its way throughout the northeast and other parts of the country.

Bedbugs are preventable if workers adequately

trained.

At another location where our union represents workers directly employed by Hyatt, the company has recommended that workers receive training monthly for a three-month period and that a refresher course is given every three months thereafter. Some of Hyatt's training materials are attached and will be submitted with my testimony.

We question whether it's plausible that outsourced workers receive this continuity of training. What systems are in place to ensure that hotel company, even those which outsourced workers on a premises on a given day.

I'm also attaching a map of bedbug complaints logged at bedbugregistry.com. What hotels that subcontract are trying to do is to have it both ways. They argue that they have total control of the housekeeping function, but

then say that they don't have control of the housekeepers because they are not the employees. They can't have it both ways. If the hotels are truly the employers, then they owe back payroll taxes. If the hotels are not the employers, they must be seeding some elements of control. Some contracting away their authority to direct the work force operating the hotel is effectively ceasing to be engaged in the business for which such hotel is licensed as an innkeeper. The commissions concern should be that allowing subcontracting of such housekeeping services would weaken the spirit and intent of the Licensing Commission's mandate to protect the public health and safety when it issues its license.

This anti-subcontracting regulation is necessary so the Commission knows who is actually providing these essential housekeeping services

in order to effectively carry out its purposes as a commission and supervise and control the health and safety practices of its licensees, in this, case the hotel.

The Licensing Commission's regulation of hotel workers subcontracting is necessary because temporary and transitory work staff will have a negative impact on health and safety practices and those practices fall squarely within the Licensing Commission's purpose. Temporary and transitory workers generally lack the training and experience of a more seasoned and skilled housekeeping work force. As the Licensing Commission, the spirit and intent of your mission in granting licenses are to enforce and ensure the health and safety, and in turn, the quality of such guest experienced.

As a Commission, the passage of this ordinance is your responsibility and you have a

right and obligation to do so to ensure and protect the health and safety of hotel rooms in Cambridge. On behalf of Unite Local 26 and your passage of this ordinance, thank you for your consideration.

And let me just add one thing. On some of these issues here, I question how many complaints, not what the Cambridge Health Commission gets, but how many complaints are actually lodged at the actual hotels regarding the rooms and bedbugs and so forth.

Our experience is that the hotel rooms themselves are the pillar really of the industry and that their cleanliness is paramount, and that's a function that should be squarely within your purview and kept within the control of the Commission directly and not inoculated by shifting liability to third parties. That's it unless you have any other questions? I know

that --

COMMISSIONER MICHAEL GARDNER: Go ahead if you have more.

ATTORNEY HARRY GRILL: No, just on the issue of employment. One of the gentleman who is here had mentioned that out on the Cape they need to outsource. That's clearly not the question here in Cambridge. We should just look at Cambridge here.

In Cambridge there are employees at the Hyatt, for example, and that's not really the scope my testimony, but who were fired and then replaced with temporary workers. There's clearly enough of a work force here in Cambridge for these different jobs, and there's no need to replace them when they are already here.

COMMISSIONER MICHAEL GARDNER: Do you have any questions?

POLICE COMMISSIONER ROBERT HAAS: No

questions.

COMMISSIONER MICHAEL GARDNER: I wonder, sir, if you have any thoughts on the issue of beyond housekeeping whether there are other aspects of hotel operations where we should be concerned about the employment status of the persons providing services.

ATTORNEY HARRY GRILL: Well, no, not particularly for this evening. I mean, on the issues of kitchens, for example, where there's a lot of different supervisions going on, someone had mentioned the aspect of the kitchen in a restaurant would be subcontracted for cleaning. You licensed that restaurant directly. In those situations, in the kitchens, there's a lot of people they are supervising and walking around.

In this case, it's the hotel rooms, the singular aspect between the housekeeper and hotel room itself and I think it rises to a different

level.

COMMISSIONER MICHAEL GARDNER: Thank you.

ELIZABETH LINT: Karl Klare.

COMMISSIONER MICHAEL GARDNER: Good evening.

PROFESSOR KARL KLARE: Good evening. My name is Karl Klare, K-A-R-L, K-L-A-R-E. I live at 80 Inman Street. I am a professor of law at Northeastern University where I specialize in labor and employment law and have taught since 1977. I was admitted to the Massachusetts Bar in 1975.

I note for the record that my appearance this evening is in a personal capacity and not in any way on behalf of the university.

My late wife Hallie Carmen, RN, was an elder care nurse who from time to time worked in this building. She grew up in New Jersey and I grew up in New York City. I came here in 1972 as

a young man to study law at Harvard. I have stayed ever since. We made Cambridge our home for most of our adult lives and we had our professional careers here. We were married in Cambridge City Hall. When she was fighting cancer, Hallie asked specifically to be buried in Cambridge cemetery, and when my time comes, my final resting place will be beside her in Cambridge cemetery.

I say all of this to express my love for and pride in the City of Cambridge. Legal work and scholarship has steadily become more international in recent years. I have colleagues, co-workers and professional acquaintances in other countries, many of whom I have welcomed as guests. Sometimes they need to be lodged downtown near to the university, but whenever possible, I try to accommodate them in hotels in Cambridge so that they can see and

enjoy our wonderful city. And as is well-known distinguished sellers from all over the world to conduct academic or scientific business at Harvard, MIT and our cutting edge high-tech firms.

Now, my father resided in Manhattan and I went there frequently when he was still alive. One time we booked into a large hotel directly across from the premiere Lincoln Center for the Performing Arts.

You can imagine my surprise when we were shown to our room not by a bellhop, but by a security guard. We were told this was hotel policy.

When my father passed, I booked some rooms for families and guests in a hotel operated by one the famous national chains. Imagine my feelings when a New York friend familiar with the hospitality industry there told me not to stay in

that hotel because it had just recently had a bedbug outbreak.

These are not the impressions we want to leave with visitors to Cambridge. It's essential for our City's reputation and the prosperity of its hospitality industry that when visiting dignitaries, academic stars, students, parents, tourists or any guests that come to Cambridge that they enjoy a memorable stay in healthful rooms located on secure premises.

The proposed regulation would oblige innkeepers, who are city licensees, to have direct supervision over and a stable and close relationship with the men and women who enter and clean guests' rooms on a daily basis. The proposed regulation barring subcontracting of housekeeping and guest room services is a health, sanitation and security measure designed to protect our guests and assure them a comfortable

visit without incident.

The regulation would serve the best interest of the guest, the hospitality industry and the entire city.

This Commission is charged by Massachusetts General Laws Chapter 140, Section 2 with the authority and the responsibility to grant and monitor licenses and service to the public good according to your best judgment.

It's elementary that a grant of power to serve some aspect of the public good carries with it the authority to take all reasonable, proper and necessary subsidiary measures.

In the *Flynn* case, the Supreme Judicial Court stated: "An express grant of power to municipal government carries with it all unexpressed incidental powers necessary to carry it into effect."

In the *Mellow* case, the court held that a

licensing authority may exercise broad discretion in carrying out its mission, and specifically, that it may attach reasonable conditions to the grant of licenses in order to protect the public's safety, comfort and convenience.

In contemporary administrative law courts give great deference to agencies, such as licensing boards.

The proposed regulation clearly serves this Commission's core purpose, protection of the public good, and specifically, the comfort and safety of hotel guests.

It is in no way contrary to law, and with all due respect to one of the prior witnesses, the Federal Preemption Doctrine does not remotely apply to this situation. The regulation is invulnerable to legal challenge unless a reviewing court can say that it cannot think of any reasonably conceivable state of facts that

would provide a rationale basis for the rule, even a rationale that is not or articulated by this Commission.

This regulation would withstand legal challenge, even if it were motivated by no more than the Commission's reasonable worry or suspicion about the possibility of a risk to guests.

The Commission may certainly proceed without documentation of prior incidents in which the risk material lies to a guest's misfortune.

I disagree with Mr. Smith. The Commission does not have to wait until a dangerous situation such as arose in the Hyatt in Indianapolis arises in Cambridge. All that is required is that this Commission have a reasonable concern that such a risk might occur.

In point of fact, you have heard more than ample testimony this evening to justify your

exercise of discretion in enacting this provision. On the basis of the testimony submitted at this hearing, the Commission can be entirely confident that the law is valid under contemporary administrative law principles.

You may rest assure that your decision on whether to proceed may be and should be based solely on your reasonable judgments that the regulation will or even might serve the best interests of guests and the public.

For the substantive reasons put forth by the other witnesses, I respectfully commend this proposal to you as an appropriate and effective measure in the public interest.

Thank you very much.

(Applause.)

COMMISSIONER MICHAEL GARDNER: I just wonder, sir, if you could address from a legal point of view, your sense as to whether or not

the license holder in fulfilling his or her responsibilities to the general public to the License Commission and to the guests and customers that they serve, if the license holder has any less authority with respect to the relationship to this subcontractor whom I assume is serving as an agent of the license holder in this regard, whether there's any less authority there in that agency relationship than there is in a direct employer/employee relationship, if you could just elaborate on that. The basic question being in the end, isn't it the responsibility of the license holder to make sure that the functions are fulfilled?

PROFESSOR KARL KLARE: From a legal point of view ultimately the license holder would be responsible. Although, if the outsourcing company is truly an independent contractor, the license holder would have to act through the

management of that company, could not directly reprimand, discipline or supervise employees of the outsource company unless that's the arrangement made.

I don't really think it's a legal question. I think it's an industry relations question. The reality is not who at the end of the day has the authority to dismiss some employee. The real issue is the break in the chain of command the way this happens in real life as a practical, not a legal matter. It's a practical matter, as that distance develops between the proprietor and the staff of the outsourcing company. They are not trained as well. They are much more a transitory work force.

And so, again, I would urge you to think of this not in terms of the law on the books so much as exactly how this works out in real life

of employment relations.

COMMISSIONER MICHAEL GARDNER: In terms of that, would you direct us to studies, other empirical evidence, any places where we might reflect on the issue of the matter whether the employment status of the worker has an empirical impact?

PROFESSOR KARL KLARE: I would have to come back to the Commission with that kind of reference, but I would be happy to do so if it would be in your interest.

I'm quite certain there is such literature, I just can't mention it off the top of my head.

COMMISSIONER MICHAEL GARDNER: The record will remain open, so any additional information you wish to provide would be helpful.

PROFESSOR KARL KLARE: Thank you.

COMMISSIONER MICHAEL GARDNER: Thank you.

So that is the last of the speakers who have signed up.

Given the late hour, I do it with some trepidation, but it is our practice to ask if there are any other members of the public who would like to be heard on this matter and we give you that opportunity now?

Seeing none, I want to thank all the members of the public who provided testimony and information for us this evening on this matter. It is a subject which will generally stay open for the Commission's deliberations. We appreciate all of your input.

Thank you. And ask for direction from my fellow Commissioners as to whether we proceed with the agenda or do you want a break?

I am advised by Ms. Lint that in this instance a motion to take this matter under advisement would be in order.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to take the matter under advisement.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: There are having been a motion made and seconded to take this matter under advisement, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None opposed, so we will do so, and I believe the consensus of the Commission is we will proceed with the next item on the agenda.

Again, thank you all very much.

(Short recess.)

COMMISSIONER MICHAEL GARDNER: Again, I want to express the appreciation of the Commission for the patience of all of those who thought you would be ahead of the public comment

hearing. We made a choice to proceed in the manner that we did, and I understand that involves some sacrifice on your parts, but thank you.

APPEAL: ADBERAHMANE BELKASSAM, HACKNEY LICENSE
NO. 28721

ELIZABETH LINT: Appeal: Adberahmane Belkassam, hackney license #28721, is appealing the decision of Elizabeth Lint, Executive Officer, to uphold the decision of Officer Benny Szeto not to renew his hackney license.

COMMISSIONER MICHAEL GARDNER: Again, we just ask you to come up state your name and spell it for the record and your affiliation.

ADBERAHMANE BELKASSAM: Thank you. Good evening. My name is Belkassam, B-E-L-K-A-S-S-A-M Adberahmane, A-D-B-E-R-A-H-M-A-N-E.

ELIZABETH LINT: Officer Szeto regrets that he cannot be here to present this. He's

teaching taxi school tonight, but since I was involved in it, I can certainly give you the facts.

Officer Szeto denied Mr. Belkassam license renewal because he had 13 motor vehicle violations within the past seven years. The rules and regulations of the Cambridge Licensing -- the Hackney rules and regulations say that you cannot have more than four motor vehicle violations within seven years in order to be eligible to drive in Cambridge.

In addition, his license had been expired for almost a year when he came back to renew. During this time, he was cited twice for not having a transponder in his motor vehicle going through the tolls, which indicated that perhaps he was driving a cab with an expired license because otherwise, he would not have been cited for that. When Officer Szeto asked him if he had

been driving a cab after his license had expired, he admitted that he had been.

It was for those reasons that Officer Szeto decided that it was not appropriate to renew his license and I concurred with that decision.

COMMISSIONER MICHAEL GARDNER: How long had you operated a Hackney vehicle after you had no license?

ADBERAHMANE BELKASSAM: I didn't know. I didn't know that my license was expired.

COMMISSIONER MICHAEL GARDNER: When did it expire?

ADBERAHMANE BELKASSAM: I don't know exactly, like nine months or something, but I didn't know because the last time I renew it was for three years, so I lost track. I have been driving a cab for almost ten years now and I'm out of work. I have no job and I would -- I am

begging you to give me another chance to get the privilege to drive in Cambridge, and I admit I made a lot of mistakes, and I'm really ready to do the best I can to keep that privilege.

FIRE CHIEF GERALD REARDON: Sir, is your expiration date on your license?

ADBERAHMANE BELKASSAM: Yes, sir. The last time I renew it, it was for three years, so I really lost track. I made a mistake. I should have checked it, but I did not. I admit that.

Now, being out of work for two months now, I really understand and realize how important to keep this privilege to drive in Cambridge.

And I'm asking you for one chance, if I make any other mistake, take it away for good. That's my only job. That's the only job I have, and I have been doing this a long time. I hope you can give me another chance.

COMMISSIONER MICHAEL GARDNER: What do you have to say, sir, about the number motor vehicle violations that Ms. Lint cited?

ADBERAHMANE BELKASSAM: Five of them are not using the transponder, which are not rechargeable. I'm not saying it's okay to do it. I understand now, I'm supposed to use the transponder and I will.

COMMISSIONER MICHAEL GARDNER: Was there any doubt, in your mind, based on the training that you had previously that you were responsible for using the transponder?

ADBERAHMANE BELKASSAM: I didn't know I'm supposed to use it. I checked up, it's not in the law, but you have to use the transponder.

The last ticket I had, I applied for a hearing and it was dismissed because there's no law saying a cab driver is not -- is supposed to use the transponder and they dismissed the

ticket.

COMMISSIONER MICHAEL GARDNER: What were the other -- I'm sorry, go ahead.

ADBERAHMANE BELKASSAM: I'm not saying I don't want to use it. I will use it.

COMMISSIONER MICHAEL GARDNER: What were the other eight violations?

ADBERAHMANE BELKASSAM: You know, stop signs. I want to tell you one thing. My license is still. I just got -- I can show you, if you don't mind, the driving record.

FIRE CHIEF GERALD REARDON: The transponder violations, did you go through the toll and not pay the thing or did you pay in cash?

ADBERAHMANE BELKASSAM: I paid cash.

FIRE CHIEF GERALD REARDON: You understood that the transponder is required though for cabs to verify what the toll is?

ADBERAHMANE BELKASSAM: Yes. But it's not a law. I have checked this and I have chapter and section. That was written on the ticket, it doesn't say anything about using the transponder.

COMMISSIONER MICHAEL GARDNER: Okay.

FIRE CHIEF GERALD REARDON: Mr. Chair, could we maybe have Ms. Lint read the violations that are listed here?

ELIZABETH LINT: The one that he's talking about, the chapter and section that he's talking about, it was not the transponder, it was failure to stop, failure to keep right, illegal operation. The use of a transponder is absolutely a Chapter 90 offense, and that was made law, I want to say, two years ago.

He has a speeding violation, failure to stop, speeding, failure to stop, speeding, failure to stop, a lane violation, and then there

were others beyond that that were outside of --
he has been licensed in Cambridge since 2003. He
knows full well when he needs to renew his
license, it says right on the license when it
expires. His license expired on February 14,
2010. It was almost a year later that he came
back in to renew it and he has been driving the
entire time.

ADBERAHMANE BELKASSAM: Can I talk?

COMMISSIONER MICHAEL GARDNER: Yes. So
you heard what Mr. Lint had to say about what her
records show. What do you have to say in
response?

ADBERAHMANE BELKASSAM: I'm not arguing
with this. I admit my mistakes. My license is
still good. I'm asking for a chance to drive
again, and if I make any more mistakes, take it
away for good. It's like a chance you are giving
me.

COMMISSIONER MICHAEL GARDNER: I'm a little confused. I think one of the first questions I asked you was: How long you operated with an expired license and you told me you didn't know because you didn't know when it expired.

Now Ms. Lint said that it expired, I believe, in February of 2010 --

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: -- and that that is printed on your license.

ADBERAHMANE BELKASSAM: Yes.

COMMISSIONER MICHAEL GARDNER: So I guess I'm a little confused as to why you didn't say that it was 14 or 15 months ago that your license expired and you operated for how long on an expired license?

ADBERAHMANE BELKASSAM: After I knew that the license was expired, it was recently. It

wasn't all that time. I didn't know.

COMMISSIONER MICHAEL GARDNER: Why didn't you know?

ADBERAHMANE BELKASSAM: Because I didn't check the license.

COMMISSIONER MICHAEL GARDNER: You carry the license with you?

ADBERAHMANE BELKASSAM: Yeah.

COMMISSIONER MICHAEL GARDNER: The license is displayed?

ADBERAHMANE BELKASSAM: Yes, all the time. Because it was three years, I lost track. What I'm saying is, I made mistake. I'm not saying I didn't. Both are mistakes I made. I learned my lesson. My driver's license is still good. I'm asking for a temporary license for three months. I can report to Officer Lint every month if you want, just to show I am really understand the value of having the license to

drive in Cambridge.

FIRE CHIEF GERALD REARDON: Sir, was your driver's license, regular driver's license suspended by the Registry for any period of time because the number of surcharges?

ADBERAHMANE BELKASSAM: No. No.

DEPUTY FIRE CHIEF LESTER BOKUNIEWICZ: So you have never lost your regular license?

ADBERAHMANE BELKASSAM: No. When I drive, no. How can I drive if my license is expired?

ELIZABETH LINT: Yes, he was suspended.

ADBERAHMANE BELKASSAM: But didn't drive then. I went to school.

ELIZABETH LINT: He wants to know if his license was ever suspended for surcharges. Yes, it was.

ADBERAHMANE BELKASSAM: But I didn't drive.

FIRE CHIEF GERALD REARDON: That wasn't the question I asked you. I asked you whether or not your regular license was ever suspended because with the number of incidents that you have, it's generally an automatic, 60-day or 30-day suspension.

ADBERAHMANE BELKASSAM: Yes, I did. It was suspended for 60 days I went to school, and...

FIRE CHIEF GERALD REARDON: I empathize with you. I understand this is your job and so forth. But you are not really helping yourself with me because you are not really forthcoming to the questions. We are trying to find out what the bottom line is.

ADBERAHMANE BELKASSAM: Maybe I didn't understand, I'm sorry. What I'm telling you now is I really understand what I'm doing. It's a big privilege and I want to keep it. It's my

job, it's my only income. I'm asking for one last chance.

COMMISSIONER MICHAEL GARDNER: When was your Massachusetts motor vehicle license suspended? You said for 60 days, when was that, if you know?

ADBERAHMANE BELKASSAM: A year or so. I can't give you the exact date. I don't have them now. I can get them for you.

ELIZABETH LINT: It would appear that he was suspended on at least three occasions, and it looks like most recently was reinstated in July of 2009. He then was stopped several times and some of them he was found not responsible, and after that, was found responsible for speeding in Cambridge. Then there were several events that were incomplete at the time. I know at least one of them was dismissed. I don't know the results of the others. So there's been a pattern.

ADBERAHMANE BELKASSAM: Can I talk?

COMMISSIONER MICHAEL GARDNER: Go ahead.

ADBERAHMANE BELKASSAM: I dispute some tickets and I win sometimes. What I'm saying is my driver's license is still valid now. I just checked with the RMV this morning. It's good. I can drive. What I'm asking you is for another chance to keep my job. I really understand how important it is. I'm ready to fulfill all the responsibilities I have towards customers, city. I love doing this. I have been doing it a long time. I just love it.

POLICE COMMISSIONER ROBERT HAAS: So just for clarification purposes -- the regulation says how many violations you can't exceed?

ELIZABETH LINT: No more than four in seven years.

POLICE COMMISSIONER ROBERT HAAS: And the duration of these 13 violations was?

ELIZABETH LINT: Within seven years.

POLICE COMMISSIONER ROBERT HAAS: The other thing I'm not quite clear on is you're saying that you don't need a transponder, but yet you got cited five times for that violation. It would seem to me after the first violation, I think it would've dawned on you that you needed your transponder.

ADBERAHMANE BELKASSAM: Sometimes -- it's a mistake. Sometimes, I'm not sure, I have own transponder, I pay cash and this is how it happened.

POLICE COMMISSIONER ROBERT HAAS: Do you own your own cab?

ADBERAHMANE BELKASSAM: No, I drive for Checker. You can check with them, they know me there.

COMMISSIONER MICHAEL GARDNER: So you told us that you never drove while your Mass

license was suspended.

ADBERAHMANE BELKASSAM: No.

COMMISSIONER MICHAEL GARDNER: I assume those records are verifiable from the company?

ADBERAHMANE BELKASSAM: Yes, yes.

COMMISSIONER MICHAEL GARDNER: So you were cognizant or you were aware that your license was suspended and you knew not to drive. I guess I'm a little confused or perplexed as to why you didn't pay the same attention to the issue of your Hackney license.

ADBERAHMANE BELKASSAM: They notify you, they tell you. The RMV send you something if there's any issue with your license. I didn't -- maybe you guys sent me a letter or something. I didn't see it. I didn't -- maybe I lost it. I don't know, but I wasn't aware. I would have done it if I knew.

COMMISSIONER MICHAEL GARDNER: All right.

Thanks.

Do you have anything else that you think is important for us to know?

ADBERAHMANE BELKASSAM: Yeah, I'm out of work and I need this, I'm begging you for another chance.

COMMISSIONER MICHAEL GARDNER: Motion to take the matter under advisement to consider it at our decision hearing, I think, would be in order.

FIRE CHIEF GERALD REARDON: I make a motion to take it under advisement.

POLICE COMMISSIONER ROBERT HAAS: Second.

COMMISSIONER MICHAEL GARDNER: Motion has been made and seconded to take this matter under advisement for our -- until our decision hearing which, I believe, is the first Thursday in May?

ELIZABETH LINT: Yes, the 5th.

COMMISSIONER MICHAEL GARDNER: May the

5th.

All those in favor signify by saying
"aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None
opposed. We will consider this on May the 5th.

ADBERAHMANE BELKASSAM: I have to wait
until May 5th? It will be on for May 5th?

COMMISSIONER MICHAEL GARDNER: May the
5th, we will take this matter up again.

ELIZABETH LINT: You don't have to come.

COMMISSIONER MICHAEL GARDNER: Until then
the license is suspended, right?

ELIZABETH LINT: Suspended.

COMMISSIONER MICHAEL GARDNER: The
license is suspended now. We will review the
records and make a decision on this matter on
May the 5th. That's a week from this Thursday.

ADBERAHMANE BELKASSAM: Okay.

COMMISSIONER MICHAEL GARDNER: Thank you.

ADBERAHMANE BELKASSAM: Thank you.

APPLICATION: GRAFTON, INC.

ELIZABETH LINT: Application:

Grafton, Inc., d/b/a Red Line Bar & Grill, Patrick Lee, Manager, holder of an all alcoholic beverages as a restaurant license at 59 JFK Street has applied for an alteration of premises to expand the bar area. Applicant is also applying to increase the capacity from 175 (145 seats inside, 16 patio seats taken from the inside capacity, and 30 standing) to (206 seats inside, 16 patio seats taken from the inside capacity, and 30 standing).

COMMISSIONER MICHAEL GARDNER: Thank you.

It would be helpful for each of your to please identify yourselves and state and spell your name for the record.

ATTORNEY JAMES RAFFERTY: Good evening,

Mr. Chairman, Commissioners. My name for the record is James Rafferty, R-A-F-F-E-R-T-Y, I'm an attorney with the law firm of Adams and Rafferty, located at 130 Bishop Allen Drive in Cambridge.

Seated to my immediate left is Patrick Lee, L-E-E. Is Mr. Lee is the manager of record, and seated to Mr. Lee's left is his brother Peter Lee, same spelling, the Lees and he is a principal and a shareholder an officer of the corporation.

Mr. Chairman and Commissioners, the Commission might recall we were before you a few months ago with a similar request, the Lees have operated the Red Line at this location on the ground floor of a parking garage in Harvard Square at the corner of Eliot Street and JFK Street for better part of a decade would be my recollection.

A few months ago, an opportunity

presented itself when the retail yarn store vacated its premises, and the landlord offered the spaces to the Lees. The Lees came in with a plan to expand into that area. The Commission might recall the question was -- came up concerning handicapped accessibility. We were also asked by the Fire Chief to verify that the egress into the space would be adequate for the expanded space.

We satisfied those requests, I believe, because the Commission saw fit to approve a change of premises. So the application for change of premises is now at the ABCC awaiting ratification for the approval here.

In the meantime, the landlord, yet again, has approached the licensee, and said there's a small dress store next to the yarn store and they are leaving June 1st. It's only 400 square feet and there aren't other tenants, and this would

complete the ground floor, and there would be two establishments on the ground floor, the Dunkin' Donuts, the well-known Eliot Street Cafe, which has limitations, you can't call it Dunkin' Donuts. You can only call it the Eliot Street Cafe. But they are on the corner with the outside patio, and then this opportunity the Lees had not yet begun the construction because they hadn't yet had the approval, and they had an opportunity that presented itself yet again, so we're back to the Commission with a second iteration of an expansion.

This plan, however, does provide an additional entry into the space. You recall the last time they were moving, they still had the two means of egress. If you had opportunity to see the plan, this actually would put a third means of egress. I have taken the liberty of roughly dividing the space into three sections

and we can see with this finely drawn visual, if I may approach, you can see the existing is on the far left, you see the initial proposal is the entrance space and now the second proposal expands it further all the way.

Because of the limited size and it's limited appeal to retail tenants, the landlord thought it might be an attractive opportunity for the licensee. It doesn't change much. I think the capacity numbers are based on the prior approval. And this is 20 or 30 to my math, I think we were at 178 last time and this is 202.

ELIZABETH LINT: 206 and it was 175.

ATTORNEY JAMES RAFFERTY: 31, so not a significant capacity increase, 31 patrons, an additional 400 square feet and added means of egress, I would respectfully suggest a rather logical extension of the premises and an opportunity that was timely and came along before

the prior expansion was executed. So we're back asking for a further change in the premises description as set forth in the plan.

COMMISSIONER MICHAEL GARDNER: Can you remind us what the change in the seating and licensing capacity was the first time you were here.

The 175 is that based on what we granted the last time, and how much was that ramped up from the original license?

ATTORNEY JAMES RAFFERTY: My memory is not much.

It was -- it looks like according to my prior plan, it was 169 previously, under this plan (*indicating*). No, that's the new plan, I apologize.

I'm not sure I have that number in front of me.

COMMISSIONER MICHAEL GARDNER: Well, it's

part of the record.

ELIZABETH LINT: It is.

POLICE COMMISSIONER ROBERT HAAS: I
thought it was around 40 seats.

ATTORNEY JAMES RAFFERTY: My memory was
-- do you recall what the capacity was?

FIRE CHIEF GERALD REARDON: I think you
were at 170-something sounds like something I
remember.

ATTORNEY JAMES RAFFERTY: This is a
further expansion of the footprint with an
increase in capacity.

COMMISSIONER MICHAEL GARDNER: Would
these be no value, no transfer seats or no?

ELIZABETH LINT: It would.

COMMISSIONER MICHAEL GARDNER: Do you
hold any value -- for value license seats now?

ATTORNEY JAMES RAFFERTY: Oh, yes. This
was a highly paid for license. And the reason I

would think I would need to review the record because my memory is this is the former Crimson Sports Grill. My memory is that they bought a license with a significantly greater capacity than they ever used.

FIRE CHIEF GERALD REARDON: I'd go out on a limb at 205.

ATTORNEY JAMES RAFFERTY: On the Crimson? Would that be the 21 plus patrons or less than 21?

FIRE CHIEF GERALD REARDON: I would check with the attorney of record maybe. He might enlighten us.

COMMISSIONER MICHAEL GARDNER: So if you could just clarify what the application is for tonight. Are those for no value, no transfer seats or not?

ATTORNEY JAMES RAFFERTY: Well, I'm not certain that under the current status of the cap

policy that the concept of no value -- how the no value seats is being applied. There was a period of time where people could sell seats off a license. There was a bank seat policy.

My experience has been that when the modification to the cap policy occurred a few years ago, that made an increase in capacity, a noncap issue, meaning an applicant didn't need to demonstrate overwhelming criteria associated with the cap in order to get an increase in capacity. I don't recall then having dealt with the question of value versus nonvalue seats only because the issue seemed to become rather moot as the cap policy was amended.

COMMISSIONER MICHAEL GARDNER: Well, isn't the issue relevant with respect to what the license holder could potentially sell as licensed seats?

ATTORNEY JAMES RAFFERTY: Well, it's less

relevant because the License Commission now makes a determination based upon the location of the license. So one could petition to move this into a venue some day that could or could not possibly accommodate 206 or what are we today, 20 -- I apologize.

COMMISSIONER MICHAEL GARDNER: It looks like the request is for 206 inside, 16 patio and 30 standing.

FIRE CHIEF GERALD REARDON: That's taken from the inside total, so.

ATTORNEY JAMES RAFFERTY: The policy is -- to me is, I'm not sure where the Commission stands at the moment on it.

They were two notable changes to the cap policy a few years ago, one was that applicants could seek to transfer licenses from other cap districts without having to break the cap as the term was used then, and the second change was

increases in capacity would not be viewed as cap issues. So there have been a number of transactions that I'm aware of in very close proximity to this. I recall the Wagamama transfers where that license came from the Roca license in Cap District 2 into this cap district. I believe there's been a subsequent transfer of that license. I know on Winthrop Street around the corner from here, The Red House license and the Charlie's license was combined, there was a significant cap increase under that license which allowed for the sale of another license.

I don't recall any conversations or discussions at the Commission about where those seats fell in the context of no value. So no value seats is not a term that I found the Commission focused on in the last few years. Certainly no value licenses have come up when the applicant seeks the issuance of a new license,

but no value seats is not something that I can recollect we've dealt with since the modification to the cap policy. It was my understanding that as a result of that, the issue became somewhat moot.

COMMISSIONER MICHAEL GARDNER: And matters of handicap access to the new space?

ATTORNEY JAMES RAFFERTY: We learned a valuable lesson the last time around, so the architect was particularly tentative to those issues here. So the plans as proposed has been prepared by the architect with an understanding of the changes. So the initial floor plan, you recall, was modified, the initial floor plan in the prior change of permascape was modified to reflect some low seating in certain locations, that continues on in this point, and the architect was instructed by me, as well the licensee, to be attentive to that issue to avoid

any problems or concerns that surfaced in the last hearing.

FIRE CHIEF GERALD REARDON: Counsel, there doesn't appear to be anything in the way of kitchen obviously in the expansion area, it's simply seating and dining?

ATTORNEY JAMES RAFFERTY: Right. This is just 400 square feet to accommodate and take advantage of that space and it's a combination of tables, chairs. I think there might be a booth or two in that area as well.

FIRE CHIEF GERALD REARDON: Again, the total space will be under one sprinkler system, one alarm system in totality, there will be one panel for everything involved?

ATTORNEY JAMES RAFFERTY: Yes. If this had come up a few months ago, we would have incorporated it obviously into a single application, but, as I said, the opportunity

didn't present itself until after we had submitted the earlier application.

POLICE COMMISSIONER ROBERT HAAS: So I understand you correctly, you are still not using the first space yet, that's still under construction?

ATTORNEY JAMES RAFFERTY: The construction hasn't commenced. The prior tenant only recently vacated. And we haven't got the approval back yet from the ABCC on that transfer. So the construction hasn't commenced yet. So this will be a single construction project now, so instead of building out one and then building another, they will pull a single building permit, and we will ask the ABCC, if instructed by the ABCC, to request that the prior application come back as withdrawal and this would go over -- subject to your approval this evening, and this would go over as a substitute petition.

COMMISSIONER MICHAEL GARDNER: I guess myself I would like to know more about what the status of the original license was in terms of its size and purpose and also to -- I don't feel sufficiently informed on the issue of what additional seating is in terms of whether it's -- in fact, you're asking us to grant an increase in the license that would make for transferable seats or additions to the license that could be sold, so I would, myself, appreciate the opportunity to take this under advisement and consider it at our decision hearing on May 5th.

ATTORNEY JAMES RAFFERTY: Can I be heard on that, Mr. Chairman.

CHAIRMAN MICHAEL GARDNER: Yes.

ATTORNEY JAMES RAFFERTY: We're here for the second time on the same question. That issue in the prior application I don't recall a conversation around that. That doesn't suggest

that it's not a point of inquiry, but I can produce the numbers, but the numbers, I think, will reflect the fact that there was a recent increase in the 40-seat range and now there's this increase in the 24-seat range.

I don't understand what the -- what additional information you would be looking for to provide here.

CHAIRMAN MICHAEL GARDNER: How are you harmed by our delaying this until May 5?

ATTORNEY JAMES RAFFERTY: Well, Mr. Chairman, I'm not sure that's the standard. I'm not arguing harm here. I'm trying to argue efficiency. We have a pending application, we're trying to move the matter along and I'm trying to understand what additional information I could provide the Commission with in order to make a determination in this case.

COMMISSIONER MICHAEL GARDNER: I think I

asked how many seats there were on the original license, and I don't think you gave us an answer. I asked you whether you were asking for -- an increase in for value seats on this license or not, and I'm actually not sure of the answer other than you said you didn't think it was particularly relevant, or the issue was sort of moot. I don't understand the issue myself to be particularly moot, would, I guess, given the length of this evening and the remaining items on the agenda, I believe we would be served by having the opportunity both to research the issue of the number of seats on the original license and also at least, for me, to understand the implications of adding seats on the license.

ATTORNEY JAMES RAFFERTY: If I may be just permitted to correct the record. You were provided an answer to the question, what was the prior seating, there was colloquy between the

fire chief and myself, and the client, the licensee who indicated that he believed that the prior capacity was approximately 135 with some additional standing.

The question as to whether or not the issue around the for value seats, I think I am asking the question of the Commission, that's a term I'm not familiar with, in terms of a for value seat. I don't know how the Commission applies that.

I'm not dismissing the relevance of it. I'm just saying it's not a term I'm familiar with as the current policy the License Commission applies.

But, obviously, the Commission can do as it seems appropriate. If the type of information that the chairman wants is needed by the other members of the Commission, I suspect we find ourselves having to return on this.

COMMISSIONER MICHAEL GARDNER: Pleasure of the Commission?

POLICE COMMISSIONER ROBERT HAAS: I'm not sure it's going require another hearing. I just think if there's some additional information you can provide that we can act accordingly under in our decision hearing.

ATTORNEY JAMES RAFFERTY: I would -- I'll defer to the Commission. The question is: What is the current capacity on the license, and I would imagine the file shows that. And we could produce that number right away. So I have been doing this awhile, so I'll gladly defer it, but the current capacity of the license is what it's stated now. It hasn't changed in the ten years that's it operated.

The recent change of premises permitted an increase in that capacity to the 175. I don't recall an evaluation at that time about the prior

capacity, but I think we have a sense of what it was. I also don't recall an inquiry at that time about value versus no value seats.

COMMISSIONER MICHAEL GARDNER: Unlike you, Mr. Rafferty, I have not been doing this for a long time and I would appreciate the opportunity to study the record.

In terms of anything else that you or your clients have to say?

ATTORNEY JAMES RAFFERTY: Not at this moment.

COMMISSIONER MICHAEL GARDNER: In terms of moving the agenda along, the pleasure of the Commissioners?

FIRE CHIEF GERALD REARDON: Move to take it under advisement to May 5th.

POLICE COMMISSIONER ROBERT HAAS: Second.

COMMISSIONER MICHAEL GARDNER: A motion having been made and seconded to take this under

advisement for the May 5th decision hearing, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None opposed. Thank you very much. We will deal with this matter in, I think, about eight days.

ATTORNEY JAMES RAFFERTY: Thank you.

APPLICATION: PEMBERTON MARKET, INC.

ELIZABETH LINT: Application: Pemberton, Market, Incorporated Thomas Saidnawey, manager, holder of all alcohol beverages as a package store license at 2245 Massachusetts Avenue has applied to transfer said license to Pemberton Fruit Orchard, Inc., d/b/a Pemberton Farms. Thomas Saidnawey, manager, at 2225 Massachusetts Avenue.

ATTORNEY JAMES RAFFERTY: Mr. Chairman,

Members of the Commission for the record, James Rafferty again, on behalf of the applicant.

Seated to my immediate left is Thomas Saidnawey, S-A-I-D-N-A-W-a-Y -- I spelled it wrong, I apologize, S-A-I-D-N-A-W-E-Y.

Mr. Saidnawey is the manager of the Pemberton Marketing, the current holder of the package store license.

To Mr. Saidnawey's left is his brother, Mark Saidnawey, and to Mark Saidnawey's left is Denna Saidnawey. She is the wife of Thomas Saidnawey. And it may be obvious from the last names here, this is a family-run business, it has operated in North Cambridge since 1930.

A business begun by Mr. Saidnawey's grandfather at the corner of Rindge Avenue and Mass Ave. About ten years ago, 1999, 2000, the Saidnawey family opened a second business in North Cambridge call Pemberton Gardens, it's a

very successful independent family-owned nursery, garden center, high-end gourmet food store, a wonderful neighborhood resource that has thrived at that location.

About four or five years ago -- approximately three years ago, so for many years the Saidnawey family operated a convenience store at the corner of Rindge Ave, the original home of Pemberton Fruit and then they had the Pemberton Gardens on Mass Ave, just a block or two up the street.

About three years ago, they lost the lease at the location at Rindge and Mass Ave, so they were able to relocate their convenience store business from the corner of Rindge and Mass two blocks up the street to the corner of Mass and Day Street. There had been a convenience store, White Hen Pantry, and a few other things. They've operated there for three years, they

transferred their package store license to that location. The lease at that location is going to expire at the end of May. And they are seeking now to transfer that license from one corner of Mass and Day to the other corner of Mass and Day and into what is called Pemberton Farms. It actually is a transfer application, because one entity operates the current Pemberton Farms Market. That entity is called Pemberton Fruit Orchard, Inc., and Pemberton Market, Inc. has operated a convenience store. Both entities are controlled by the Saidnawey family.

So the application is a transfer of all alcoholic package store license from the convenience store in its current location into the store.

The area devoted to the sale of product will be nearly identical because it's the intention to simple take the very racks, the

specialized racks that are in one store now that hold the beer and wine and relocate them into the new store. We submitted a floor plan to the License Commission depicting the area within the Pemberton Farms stand where this would be located.

That's the extent. So a new entity will control the license, but the same family, the same business. What is happening essentially two businesses are merging into a single venue from their two separate locations.

COMMISSIONER MICHAEL GARDNER: Questions?

POLICE COMMISSIONER ROBERT HAAS: It's a beer and wine?

ATTORNEY JAMES RAFFERTY: No, I'm sorry. It's all alcohol.

POLICE COMMISSIONER ROBERT HAAS: You mentioned the beer and wine.

ATTORNEY JAMES RAFFERTY: It was

originally a beer and wine license and I think about ten years ago -- or 20 years ago, they purchased an all alcohol.

POLICE COMMISSIONER ROBERT HAAS: It's going into a space that's already used to sell food.

ATTORNEY JAMES RAFFERTY: It's a retail food space now, yes. The current Pemberton Farms operation sells fruits and vegetables. It's high-end grocery, is that a fair description?

THOMAS LEE: Yes.

POLICE COMMISSIONER ROBERT HAAS: So where are you getting this extra space now? I assuming you are using all the space you currently have.

ATTORNEY JAMES RAFFERTY: They are going to change some product and separate from this, they are contemplating an expansion of the building, but that would come down the road and

that would require Building Department and Zoning approval.

POLICE COMMISSIONER ROBERT HAAS: For now they are going into the existing space?

ATTORNEY JAMES RAFFERTY: They will display product in a current location and put the beer and wine there.

FIRE CHIEF GERALD REARDON: Staying with the same footprint, just rearranging?

ATTORNEY JAMES RAFFERTY: Exactly. The footprint of the retail store would remain unchanged.

COMMISSIONER MICHAEL GARDNER: You said it would stay under the same family control, but will it be the same manager of record?

ATTORNEY JAMES RAFFERTY: I believe Thomas Saidnawey is the manager of both entities. That's correct.

The current food store has a CV license

because they do sell foods. It's consumed there. That's why we didn't -- that's why it's transfer to a different entity because there's a CV license for Pemberton Fruit Orchard, Inc., and they are the operator of Pemberton Farms. Pemberton Market, Inc. operates the convenience store next door.

So Pemberton Market, Inc. will transfer it, but to the issue of value, you will see the financial data on the application reveals a nominal price, I think \$10 because it's an interfamily interbusiness transfer. So the corporations will need to walk the ABCC through the final transaction. There's no money being paid from one pocket to the other pocket.

COMMISSIONER MICHAEL GARDNER: Any other changes in business operations that we should know about?

ATTORNEY JAMES RAFFERTY: Not that I can

think of.

COMMISSIONER MICHAEL GARDNER: Do you have any further information to add on this?

ATTORNEY JAMES RAFFERTY: This is a time sensitive application given the impending closure at the end of May. We would ask if the Commission saw fit to act upon it this evening that would allow us to process the application through the ABCC.

CHAIRMAN MICHAEL GARDNER: Any there members of the audience who like to be heard on it this issue before we take a vote?

I do have a couple people, I think. Please step forward and state your names for the record and spell it.

DENISE JILLSON: Good evening. Denise Jillson, J-I-L-L-S-O-N. I'm a neighbor at 2203 Massachusetts Avenue, and here to speak on behalf of my good neighbors and friends and we are

excited about this. It just makes perfect sense. And I think that the family has been suffering an incredible hardship by not being able to do this years ago because of whatever reasons, but nonetheless, I think those reasons have gone away and we are delighted with this opportunity. And I just personally think that I'll have less of a walk to go get my great bottle of wine from Pemberton Markets, so I'm in full support of this, and I would like to add one more thing, if I may. The last piece of business you didn't ask for any public comment.

COMMISSIONER MICHAEL GARDNER: I know, I felt bad about it afterwards because I could've...

DENISE JILLSON: When it's appropriate, I would like to make a quick -- if it's okay.

COMMISSIONER MICHAEL GARDNER: All right. Well, you have the chair, so why don't you do

that now and we will ask for anybody else on this item.

DENISE JILLSON: Great. Thank you.

CHAIRMAN MICHAEL GARDNER: I apologize for not giving the audience an opportunity before.

DENISE JILLSON: You were determined just to move along, I think, quickly, but, you know, Dennis Jillson with the Harvard Square Business Association and just want to speak in favor of the Lees' proposal.

One thing that wasn't brought up and I think it's important is, you know, that 400 square feet of space has been a bit of conundrum for that area just in terms of retail space because it's sort've hidden away. So it's just great use to just combine that with the existing Red Line, and I just wanted to make sure that when you're thinking about that, we have had a

retail tenant there for a while, and it's just been just challenging for her to get people to go into that area because Red Line is such a big presence there that people don't really think about retail shopping in that area.

So I think -- and once -- your questions get answered relative to the two other issues that it makes perfect sense for them to just combine Red Line into that space and just be done with it. Because I can't imagine us trying rent that space to another retailer and then, you know, that retailer is then subjected to all the challenges of the existing retailer.

So I thank you for that.

COMMISSIONER MICHAEL GARDNER: Thank you.

Any other who would like to be heard on the Pemberton issue?

Again, your name for the record, please?

HONG LIU: Yeah, my name is Hong Liu,

resident at 1673 Cambridge Street and tonight --

COMMISSIONER MICHAEL GARDNER: Could you just spell your name for the record for purposes of the stenographer?

HONG LIU: Hone, H-O-N-G. Liu, L-I-U.

COMMISSIONER MICHAEL GARDNER: Thank you.

HONG LIU: Tonight I'm very happy to be here tonight to support my neighbor Pemberton Farms, the brothers and sisters and managers, and I have a business, Cambridge House Inn, 2218 right across from Pemberton Farms. We are the direct abutter and benefactors of their business. My husband loves their turkey breast sandwich and myself go shopping almost every other day. And the combination of the liquor and the business would really be beneficial, not only to me, to other people who do not just want to go for a liquor license to buy a bottle of wine, we also want to buy fruit and vegetables and good

chocolate and flowers.

Thank you very much.

COMMISSIONER MICHAEL GARDNER: Thank you.

Any other members of the public that would like to be heard on this matter?

ELIZABETH LINT: I have a letter in support. It's from a butter at 2211, and he says to Tom that he and his brother have been extremely accommodating and great neighbor in general and they support the application.

COMMISSIONER MICHAEL GARDNER: Pleasure of the Commissioners?

POLICE COMMISSIONER ROBERT HAAS: I just have one question for Ms. Lint. So there's no issue with the package store co-existing?

ELIZABETH LINT: No.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to approve the application.

FIRE CHIEF GERALD REARDON: Seconded.

COMMISSIONER MICHAEL GARDNER: A motion having been made and seconded to approve the application, all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None opposed, so the ayes have it.

So thank you very much.

ATTORNEY JAMES RAFFERTY: Thank you.

COMMISSIONER MICHAEL GARDNER: And without objection, I just would like to correct my omission in the last matter to give other members of the public the opportunity to speak on the Grafton issue.

So, without objection are there any members of the public who would like to be heard on the matter of the application of Grafton with respect to the expansion of seats?

Seeing none. Thank you.

APPLICATION: JCSK, INC.

ELIZABETH LINT: Application: JCSK, Inc., d/b/a The Cellar, Marilyn A. Carter, Manager, holder of an all alcoholic beverages as a restaurant license at 991 Massachusetts Avenue has applied for a change of premises to add a seasonal outdoor patio on the public sidewalk for 8 tables and 17 seats to be taken from the inside capacity.

ATTORNEY SEAN HOPE: Members of the Commission, for the record, Attorney Shawn Hope, Hope law offices. I'm here tonight on behalf of the petitioner.

COMMISSIONER MICHAEL GARDNER: Could you just spell your name for the record, please?

ATTORNEY SEAN HOPE: Sure. S-E-A-N, proper spelling, H-O-P-E. And I'm here tonight on behalf of the petitioners JCSK, Incorporated.

I'm here tonight with Marilyn Carter, the manager. JCSK, Incorporated is also known as The Cellar at 991 Mass Ave, and also here with co-owner, Steven Capsulas (phonetic), so we are here for a request to change the premises description to add outdoor seating. We are seeking to add 8 tables and 17 chairs to the front patio. It's nonexistent now. We have since -- we have actually received a sidewalk permit from the City Council. We have -- this is not going to be additional seats. There are certainly 84 seats on CV, and we're going to just be moving 17 of those chairs, eight tables out into the sidewalk so there's not going to be an increase.

ELIZABETH LINT: That would be correct if it fits within zoning. Certain areas tend to have to take the seats from inside and certain areas are seasonal outdoor seats.

ATTORNEY SEAN HOPE: Excuse me. I was incorrect. So the seats we are going to be adding are additional, so it's the same amount of tables, eight tables and 17 seats, although we are seeking an increase in the total amount of seating by 17 seats. Those will be on the sidewalk.

I was incorrect in saying that they would be coming from inside the establishment.

COMMISSIONER MICHAEL GARDNER: So it looks like the --

ATTORNEY SEAN HOPE: These are seasonal seats being used from March to November. They would be additional seats, but they don't count against the overall seating in the establishment.

COMMISSIONER MICHAEL GARDNER: So is the matter as is stated in the agenda need to be adjusted Ms. Lint or...?

ELIZABETH LINT: It could be amended.

You could amend it on record. I'm looking at the zoning sign-off. They have 79 seats on the ISD records, but they are granting them 101. That would be sufficient, and they are calling it outdoor seasonal patio seating, obviously they don't have a problem with it.

COMMISSIONER MICHAEL GARDNER: Do I understand there will be eight tables outside which will seat 17 people?

ATTORNEY SEAN HOPE: Yes.

COMMISSIONER MICHAEL GARDNER: Is it as simple as that?

ATTORNEY SEAN HOPE: It's as simple as that. There's a sketch. I brought a copy of it here today (forwarding document).

COMMISSIONER MICHAEL GARDNER: These would be 17 seasonal seats?

ATTORNEY SEAN HOPE: Yes.

POLICE COMMISSIONER ROBERT HAAS: Does

the application say they are taking them from inside or...

FIRE CHIEF GERALD REARDON: So we can amend those to say seasonal seats?

ELIZABETH LINT: You can. I think actually it's redundant.

COMMISSIONER MICHAEL GARDNER: I think the question is whether in terms of the item on the agenda we would amend it to drop the phrase "to be taken from the inside capacity."

ELIZABETH LINT: Yes, because the application did say "taken from inside to the patio." That would need to be resubmitted.

ATTORNEY SEAN HOPE: Okay.

COMMISSIONER MICHAEL GARDNER: I just ask Ms. Lint's guidance, is there any reason we can't take action on this?

ELIZABETH LINT: You can take action, absolutely.

FIRE CHIEF GERALD REARDON: Has the Public Works permit been received in hand?

ELIZABETH LINT: We do not have a Public Works permit.

ATTORNEY SEAN HOPE: We sent the sketch over, but this time of year they are extremely busy. They approved it based on doing a drive-by. But we need to go with the inspector of the Department of Public Works on Thursday morning, so they're going to come by and we're going to walk the site to be able to see the premises. But they did a measurement and we actually did the drawing consistent with what they want on that stretch of Mass Ave.

COMMISSIONER MICHAEL GARDNER: So I assume any action we would take tonight would have to be.

ELIZABETH LINT: Subject to.

COMMISSIONER MICHAEL GARDNER: -- subject

to the approval of the Public Works Department,
is that how the process works?

ELIZABETH LINT: Yes. It's my
understanding because Public Works is so busy
this time of year that they won't actually go out
to the establishment until there's a vote from
the Commission. So that if Public Works denies
it, then we don't send it on and it just dies.

POLICE COMMISSIONER ROBERT HAAS: Do we
want to make --

CHAIRMAN MICHAEL GARDNER: I want to do
the other things I'm supposed to do.

Do the license holders have any prior
experience with operating outdoor seasonal
serves?

MARILYN CARTER: No.

COMMISSIONER MICHAEL GARDNER: What do
you anticipate to be the challenges or
difficulties with expanding or changing your

business in this way, if any?

MARILYN CARTER: Well, we are going to really look at it operationally what we need to do to make sure people aren't making noise, probably the biggest issue, and, you know, just no glass outside. Some common sense approaches. Obviously we don't want people to have things and then go way and not pay for them that would be a consideration.

COMMISSIONER MICHAEL GARDNER: In matters of litter and general cleanliness, how would you address those?

MARILYN CARTER: They don't come back and clean it like they do in Central Square. We always do. We also -- we have a couple contracts with private companies to take away cardboard and recyclables so we're always -- I mean, seven days a week, we are looking at litter matters.

COMMISSIONER MICHAEL GARDNER: Any problems, complaints with this premises?

ELIZABETH LINT: None.

COMMISSIONER MICHAEL GARDNER: None on record.

ELIZABETH LINT: None.

COMMISSIONER MICHAEL GARDNER: Are there any -- anything else would you like to say before we open this to the general public?

Are there any members of the general public who like to be heard on this issue?

Seeing none, pleasure of the Commissioners?

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approval the application as amended.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: A motion has been made and seconded to approve the application with the amendment of striking "to be

taken from inside capacity" from the application.

POLICE COMMISSIONER ROBERT HAAS: Subject to the approval of the Department of Public Works.

COMMISSIONER MICHAEL GARDNER: And subject to the approval of Department of Public Works.

All those in favor signify by saying "aye"?

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed, so it passes. Good luck. We wish you well.

MARILYN CARTER: Thank you.

APPLICATION: BERTUCCI'S RESTAURANT CORPORATION

ELIZABETH LINT: Application: Bertucci's Restaurant Corporation, d/b/a Bertucci's Brick Oven Ristorante at 21 Brattle Street, 5 Cambridge Park Drive, and 799 Main Street has applied for a

change of officers/directors in a licensed corporation.

ATTORNEY THOMAS DEMAKIS: Mr. Chairman, Commissioners, this is --

COMMISSIONER MICHAEL GARDNER: Could you just state your name for the record?

ATTORNEY THOMAS DEMAKIS: My name is Thomas, T-H-O-M-A-S, Demakis, D-E-M-A-K-I-S. I'm a lawyer. I represent Bertucci's. This is a simple change of officers and directors. It's happening throughout the entire Bertucci's chain which is spread over 12 states, plus the District of Columbia and incorporates about 130 or 140 restaurants. There are 40 of those restaurants in Massachusetts and three here in Cambridge.

And the changes are simply as follows: The president and CEO and director was Steven Clark, it's becoming David Lloyd. The treasurer and secretary and CFO was David Lloyd and that

officer is now getting promoted and is falling to Brian Cornell, and Carl Axelrod is out as assistant secretary being replaced by Brian Sweeney.

Because my office, my law firm, is representing Bertucci's on all 40 of these transfers in Massachusetts, we went through the inverted process, where we went to the ABCC first before we went to the local city and towns.

The ABCC had done a thorough investigation, including investigating the backgrounds of two gentlemen who will be new as officers of the corporation. One of them has worked at Bertucci's since October of 2004, which is about six and a half years, the other one since May of 2004, which is seven years. I'm sure there's a letter in the file from the ABCC --

ELIZABETH LINT: Yes.

ATTORNEY THOMAS DEMAKIS: -- indicating it was investigated thoroughly and approves this transaction. And now we need gratification from all the local cities and towns in which these stores are located that's why I am here tonight.

COMMISSIONER MICHAEL GARDNER: Any questions from the Commissioners?

POLICE COMMISSIONER ROBERT HAAS: No questions.

FIRE CHIEF GERALD REARDON: So there's no change at the store levels in terms of their operations, it's simply the corporate --

ATTORNEY THOMAS DEMAKIS: The corporate hierarchy.

COMMISSIONER MICHAEL GARDNER: Any members of the public that would like to be heard on this matter before the Commission acts on it? Seeing none, pleasure of Commissioners?

POLICE COMMISSIONER ROBERT HAAS: Make a

motion to approve the transfer for the three restaurants in Cambridge.

FIRE CHIEF GERALD REARDON: Seconded.

COMMISSIONER MICHAEL GARDNER: There's been a motion made and seconded to approve this transfer for the three restaurants in Cambridge. All those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None opposed. The actions approved here, and again, we appreciate your patience.

ATTORNEY THOMAS DEMAKIS: Well, I have to say that I appeared at public hearings probably in 75 to 100 cities and towns across the State of Massachusetts, normally bored to tears waiting for my case to be called, but I've never heard a higher level of discourse at a public hearing than I've heard tonight, or at all the hearings

really, than I've heard from the City of Cambridge, and it kind of renews my belief in democracy. It was actually enlightening and entertaining. You guys ought to charge admission.

Thank you.

COMMISSIONER MICHAEL GARDNER: Thank you.

APPLICATION: HI-RISE BREAD COMPANY, INC.

ELIZABETH LINT: Application: Hi-Rise Bread Company, Inc., Rene Becker, Manager, has applied for a common victualer license to be exercised at 1663 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 59 seats inside and 16 outside patio seats on private property. The hours of operation will be 7:00 a.m. to 11:00 p.m. seven days per week. Applicant is also applying for an entertainment

license to include background music.

COMMISSIONER MICHAEL GARDNER: If you have been here for any length of time, you probably know we'd like to know your names and ask you to spell them for the record.

ATTORNEY ROBERT DUNKLESS: My name is Robert Dunkless, D-U-N-K-L-E-S-S. I'm an attorney with the law firm of Ottenberg, O-T-T-E-N-B-E-R-G and Dunkless, we're at 101 Arch Street, Boston, Massachusetts.

I'm sitting here tonight with Rene Becker who is the president and principal officer and stockholder of Hi-Rise Bread Company. We're here tonight to seek a common victualers license to be operated at 1663 Massachusetts Avenue, which is a site which was developed a few years ago by Lesley University. Hi-Rise Bread Company operates two other locations in Cambridge, their primary location is at 208 Concord Avenue and

they operate a cafe at 56 Brattle Street. This operation would be very similar to the operation that Hi-Rise Bread Company operates at 56 Brattle Street.

I would like to correct one item in the agenda which was -- I pointed it out earlier to the License Commission, it was in the advertisement was not entirely consistent with the application. Hi-Rise Bread Company is seeking a total of 59 seats, 43 seats inside and 16 patio seats which would be seasonal seats, so they are not actually seeking 59 inside seats. It's 43 inside and 16 seasonal patio seats for a total of 59.

COMMISSIONER MICHAEL GARDNER: Just ask Ms. Lint whether or not we can make that amendment this evening given the advertising. Is there any issue with that?

ELIZABETH LINT: Absolutely, because it's

a decrease actually.

COMMISSIONER MICHAEL GARDNER: You're saying there is no -- you said absolutely, but I'm not sure if that meant absolutely, no problem or absolutely --

ELIZABETH LINT: Absolutely no problem because instead of 59 plus 16, you are going to 59 minus 16.

COMMISSIONER MICHAEL GARDNER: Thank you.

ATTORNEY ROBERT DUNKLESS: Or 43 plus -- yeah.

ELIZABETH LINT: Or 43 plus 16.

ATTORNEY ROBERT DUNKLESS: Right. Thank you. There's been quite a bit of support for this location of this restaurant in this neighborhood. And actually this site was originally developed by Lesley by making retail space on the first floor to meet the requests of the neighborhood. Mr. Becker has met with the

Agassiz Neighborhood Commission, and I believe they sent a letter in support of the application.

The only entertainment being sought is the below-voice level background music.

The hours of operations would be 7:00 to 11:00. They are seeking -- planning on serving a breakfast lunch and dinner at the location at the cafe.

COMMISSIONER MICHAEL GARDNER: Could we please have a description of the experience of the license holder?

RENE BECKER: I opened the Hi-Rise Bread Company 15 years this June actually, June 1, and I opened the store on Brattle Street one year later, so that would be also on June 1. So that would be 14 years. And it's been a successful business and has a lot of faithful customers.

COMMISSIONER MICHAEL GARDNER: How will you handle the expansion with respect to staff,

staff training?

RENE BECKER: Well, some of the staff that I have now will be -- the manager at the Brattle Street store actually will be moving over to the new store to be the manager, and that will allow one of my good employees to move up to be manager at the Brattle Street store.

And so, we are also training some of the new people already at the Brattle Street store, and they will be going over to the new place.

COMMISSIONER MICHAEL GARDNER: Okay.

FIRE CHIEF GERALD REARDON: Will you have kitchen facilities, baking facilities at the new location?

RENE BECKER: No. We will do all the baking at the original location on Concord Avenue. And then those things will be brought over. We will be -- just as we do it on Brattle Street, we basically assemble the sandwiches and

put them in a sandwich press, heat them and we have salads that are already apportioned, and then just shipped over there along with the baked goods.

ATTORNEY ROBERT DUNKLESS: I would point out the plan, as you depict it, a kitchen in process, is for purposes of food assembly for reheating, but the baking will actually take place in the Concord Avenue location.

FIRE CHIEF GERALD REARDON: This will be food prep and heating?

ATTORNEY ROBERT DUNKLESS: Yes, that's correct.

FIRE CHIEF GERALD REARDON: No fryolators, no.

ATTORNEY ROBERT DUNKLESS: No.

FIRE CHIEF GERALD REARDON: No stoves?

ATTORNEY ROBERT DUNKLESS: No.

COMMISSIONER MICHAEL GARDNER: How will

supplies be delivered and how will trash be handled?

RENE BECKER: Supplies will be delivered through the front door, all supplies. That's not unusual for me because everything at the Hi-Rise Bread Company on Concord Avenue comes through the front door, including about 2000, maybe 2500 pounds of flour every week, so we're quite accustomed to that.

This is going to be probably the greenest operation that I've done and we hope to have -- we will have China and silver for one, we also have try to have only recyclable trash. So we will have trash pickup everyday. There are three wheeled trash bins, but I hope that those wouldn't even be that necessary.

ATTORNEY ROBERT DUNKLESS: I would point out that under Hi-Rise lease with Lesley University, there is available a parking space so

that he can actually pull in and unload in a parking area, and in addition, there's an area where the dumpsters are actually stored in, I believe it's an adjacent facility owned by Lesley which will be used for bringing the rubbish back and forth out the back and then to be taken away from there.

(Ms. Lint reads letter into the record in support.)

COMMISSIONER MICHAEL GARDNER: Two questions. First, the issue of the permitting for the outside seats, are you still awaiting Public Works?

ATTORNEY ROBERT DUNKLESS: It's all located on Lesley property, so, as we understand it, we did not need any Public Works because there's no sidewalk being used.

COMMISSIONER MICHAEL GARDNER: Is that your understanding?

ELIZABETH LINT: Yes, absolutely.

COMMISSIONER MICHAEL GARDNER: Thank you.

And in the record complaints about the --
any complaints about Hi-Rise Bread in the other
locations?

ELIZABETH LINT: Never.

FIRE CHIEF GERALD REARDON: You also will
be the first in this build-out space?

RENE BECKER: Correct.

COMMISSIONER MICHAEL GARDNER: Any other
questions from the Commissioners?

FIRE CHIEF GERALD REARDON: No.

COMMISSIONER MICHAEL GARDNER: Any
members of the public who would like to be heard
on this matter?

Please step forward.

DENISE JILLSON: Just two, Denise Jillson
with the Harvard Square Business Association, to
express our support. Mr. Becker is a member of

the Harvard Business Association and Hi-Rise Bakery is a member and a valued member of our community, and the product is wonderful. It's a great bakery. People love it. They walk around specifically looking for it. And while this new operation is not exactly Harvard Square, we like to think of it as Harvard Square west. But it's a great location, it's going to be wonderful, and as a community person, we are delighted to support it. So there you go. Good luck with it.

COMMISSIONER MICHAEL GARDNER: Thank you very much.

Any other members of the public who would like to be heard on this matter?

Seeing none, pleasure of the Commissioners?

POLICE COMMISSIONER ROBERT HAAS: I'd like to make a motion to approve the application.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: A motion has been made and seconded to approve the application.

All those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

COMMISSIONER MICHAEL GARDNER: Opposed?
Good luck in your new location.

RENE BECKER: Thank you very much.

APPLICATION: TIGERS & BEARS

ELIZABETH LINT: Application: Tigers & Bears, LLC d/b/a Tory Row, Matthew Curtis, Manager, holder of a wine & malt beverages as a restaurant license at 3 Brattle Street has applied to extend their opening hour on May 22, 2011 from 11:00 a.m. to 10:00 a.m. Applicant is also applying to extend their current Sunday opening hour from 11:00 a.m. to 9:00 a.m. with

alcohol service starting after 10:00 a.m.

And we could actually probably take a second one at the same time because they're all related.

APPLICATION: 242, INC.

Application: 242 Inc., d/b/a Cambridge I, Matthew Curtis, Manager, holder of a wine and malt beverages as a restaurant license at 27-29 Church Street has applied to extend their opening hour on May 22, 2011 from 12:00 p.m. to 10:00 a.m.

COMMISSIONER MICHAEL GARDNER: If you would, please, state your names for the record and spell them.

MATTHEW SMITH: Matthew Curtis,
M-A-T-T-H-E-W, C-U-R-T-I-S.

RACHEL COLLINS: Rachel Collins,
R-A-C-H-E-L, C-O-L-L-I-N-S:

COMMISSIONER MICHAEL GARDNER: And would

you describe your plan, please?

MATTHEW CURTIS: The Cambridge I extension is for a one-day extension in connection with a 5K road race that we are actually hosting through Tory Row on May 22. And we wanted to be able to serve beers after the race, and that is why we wanted to make sure we were licensed for that one day. I think there was a little bit of confusion with respect to the application for Tigers & Bears doing business as Tory Row where we weren't sure whether or not we were going to be applying for going forward license or not, but as long as it has been advertised, we are interested in getting an earlier start time for the beer and wine at Tory Row on Sundays also.

COMMISSIONER MICHAEL GARDNER: And the one day for May 22 is that also related to the road race?

MATTHEW CURTIS: That's correct. Both locations we are looking for the one day for May 22, but also for Tory Row we want to have a permanent change for Sundays because we open for business Saturdays and Sundays at Tory Row at 9:00. We wanted to actually get the beer and wine for 9:00, but it was our understanding that we can't even though Henrietta's Table has it.

ELIZABETH LINT: They do?

MATTHEW CURTIS: Well, they told me they did.

ELIZABETH LINT: Well, that's not legal.

MATTHEW CURTIS: Sorry.

COMMISSIONER MICHAEL GARDNER: Do we have other licensed premises in the city selling alcohol at 10:00 a.m. on Sundays?

ELIZABETH LINT: Yes, that was an amendment to the law that passed, I believe, in August and it gave the cities and towns local

option.

COMMISSIONER MICHAEL GARDNER: August of 2010?

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: Has Cambridge exercised that option in any circumstances?

ELIZABETH LINT: Yes, we have. I can think of two off the top of my head, SNS and Ryles, but I believe there were --

COMMISSIONER MICHAEL GARDNER: Four.

ELIZABETH LINT: Four. And I believe there were several others, I just can't think of the names right now.

COMMISSIONER MICHAEL GARDNER: How, if at all, do you envision that changing your business or the nature of your business.

RACHEL COLLINS: Only insofar as on May 22 our concern is that registrants from the race when they come back are able to get a drink

of their choosing when they return.

But going forward permanently at Tory Row, it would just enable guests to be able to order a Mimosa or beer earlier in the day and it wouldn't drastically change. We are already busy for brunch, but it would just enable people to have whatever experience they want.

COMMISSIONER MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

FIRE CHIEF GERALD REARDON: No.

COMMISSIONER MICHAEL GARDNER: Any members of the public who would like to be heard on this matter?

DENISE JILLSON: For the record, Denise Jillson, Executor Director of the Harvard Business Association.

In terms of the road race, we really are

excited about this. This is the first time we have had a road race in Harvard Square for quite some time. Matt has worked hard on this and it's established at Tory Row. We are very pleased to support that endeavor and hope it might become an annual event. I believe it's supporting local Cambridge charities and, you know, very pleased about that.

So in terms of the other, I wasn't familiar with it until just now, but we would be supportive of that, too, as long as the City of Cambridge allows it as an option for our restaurateurs if they choose to exercise that option and make it available, so that particularly, I think, on Sunday mornings for brunch people come in and like to have a nice breakfast and have a Mimosa, but I can't imagine having a cold beer, but I suppose some people do, but that's something that we would be in favor

of.

Thank you very much.

COMMISSIONER MICHAEL GARDNER: Thank you.

Any other members of the public who would like to be heard on this matter?

I guess I'll state on the record my preference is that we deal the matters of the one-day license for both locations now and that we defer until the decision hearing the issue of the permanent extension to 10:00 hour just simply to give us a chance to study it more and understand the history. That would be what I would hope the Commission would do, but I will now ask the Commission its pleasure. And I think we have three issues to deal with actually.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to approve the one-day license for Tory Row for the road race.

FIRE CHIEF GERALD REARDON: And also 242,

Inc.?

COMMISSIONER MICHAEL GARDNER: We will try to do three different things.

FIRE CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: So there's a motion for the one-day approval for Tory Row?

POLICE COMMISSIONER ROBERT HAAS: Tory Row.

COMMISSIONER MICHAEL GARDNER: Made and seconded.

All those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed, so we have that.

A second motion would be in order with respect to the other one-day application.

POLICE COMMISSIONER ROBERT HAAS: I make

an a motion to approve the one-day license for
May 22 for the Cambridge I for the road race.

FIRE CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: A motion has
been made and seconded to approve the one-day
license -- I'm sorry, which one is this --

ELIZABETH LINT: Cambridge I.

COMMISSIONER MICHAEL GARDNER: Thanks.

All those in favor signify by saying
"aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None
opposed, so that is approved.

And with respect to the application to
permanently extend the Sunday opening from
11:00 a.m. to 9:00 a.m. without alcohol service
starting at 10:00 a.m., is there a motion?

POLICE COMMISSIONER ROBERT HAAS: I make

a motion to approve the application for extending the hours of alcohol service to 10:00 a.m. on Sundays.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Motion has been made and seconded to approve the -- is this also -- I take it the hours of operation start at 11:00 now; is that right?

MATTHEW CURTIS: 9:00 a.m.

COMMISSIONER MICHAEL GARDNER: They start at 9:00.

A motion has been made and seconded -- currently you can serve at 11:00 p.m. but you are open at 9:00 a.m. Application's been made and seconded to approve the 10:00 change. I will be opposing that because I believe it should be studied further.

All those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Those
opposed?

No.

So the motion carries two to one.

Good luck.

APPLICATION: BEARFACE FOOD

ELIZABETH LINT: Bearface Food, LLC d/b/a
the Bearded Pig, Michael Schmidt, Manager, has
applied for a new wine and malt beverages as a
restaurant license at 1164A Cambridge Street with
an occupancy of 50, 42 seats and 8 standing. The
hours of operation would be Sunday through
Wednesday from 11:00 a.m. to 9:00 p.m. and
Thursday through Saturday from 11:00 to
10:00 p.m. This is in Cap Area No. 7.

MICHAEL SCHMIDT: My name is Michael
Schmidt, M-I-C-H-A-E-L, S-C-H-M-I-D-T.

I want to first start out that I spoke with Chris O'Neil. The advertising was wrong. It was actually 42 seats total, 33 seated and nine in stools, not standing. There's barstools so -- I don't know that -- it's going down in number. It will be 42 total, not 50.

COMMISSIONER MICHAEL GARDNER: Sir, you have 42 total and no standing?

MICHAEL SCHMIDT: That's correct.

ELIZABETH LINT: It does say occupancy, it's 50 on the application.

MICHAEL SCHMIDT: I changed that with right Chris. And I'm not sure if that was the one that was -- there were two -- two there? I went through it, and the one I gave Chris in his office, he was like, "Oh, I understand, I see it. Talk to them when you come to the hearing." He showed me the number, it says 42. I can amend it and resubmit it?

ELIZABETH LINT: We can take care of it.

MICHAEL SCHMIDT: Also, I spoke with Chris to submit over-the-counter application for background music, it's below conversation level as well. I have that with me and I can submit that to Ms. Lint.

The restaurant will be a barbecue restaurant, it will be casual dining, you will enter the space, order your food at the counter and go through and then be given your food if it's made right then or some things will be made and brought to you. You can take a seat and eat in the establishment. Hoping to a beer and wine license mainly for the enjoyment of our guests, if the guest would like to order or a glass of wine that would be available to them. I know it's in a cap area. I'm looking for a nontransfer, nonvalue license. I know adjacent to the building -- in the same building, but

adjacent to 1164, recently they were granted a similar license for beer and wine as well, Vospers Restaurant, and other than that, it's a simple restaurant application that I'm going to be operating lunch and dinner and providing take-away if people call and order to take home to their house or to their office or cater-type situations.

COMMISSIONER MICHAEL GARDNER: Could you describe your experience with this kind of business, both restauranting and with the sale of beer and wine?

MICHAEL SCHMIDT: Yes. I grew up in the restaurant industry. My father's owned a restaurant since I was seven or eight years old. I grew up spending time in them and working summers, odd jobs, whatever he had me do. At the same time when I was home from college in the summers, I worked as assistant manager of a

restaurant, a pizza restaurant in Jacksonville, Florida.

I then after college was working in Washington, D.C. for a barbecue restaurant called Rockland's Barbecue by an owner named John Snit in two locations, he had one in the District of Columbia and then he opened a new one in Arlington, Virginia. Actually, Fairfax is on the border. It was the food outlet that allowed the place to have a liquor license. It was a separate -- two entities under the same roof. There a bar that needed food for their liquor license same as Cambridge. And so we operated -- I was a manager there and operated running the food, but also working with that bar to serve alcohol and to facilitate the administration of food back and forth to the patrons. I'm also part owner in Hardy's Restaurant in North Carolina, which is a southern fast food chain. I

own Papa John restaurants in Rochester, New York, eight of those and I own six casual dining restaurants in Rochester as well and I'm part owner in all of these.

The casual dining does serve alcohol, it has a full bar. The larger restaurant, 5 or 6,000 square feet, they have a full bar separate from the dining room area. And at the time -- and I have worked in several restaurants serving alcohol, serving food, cooking, whatever the restaurant requires.

CHAIRMAN MICHAEL GARDNER: What will be your presence at this location?

MICHAEL SCHMIDT: I will be there full-time. These other restaurants that I'm part owner, I'm exactly just part owner. I am a ten percent shareholder in these companies and mainly the only interaction I have besides visiting them occasionally and going over the financials with

my partners, I'm an architect by trade, and as we expand or build -- we just recently opened a new one outside of Rochester, I went over some of the designs, decisions. We are in the course of revamping the menus. Here in Cambridge, I live here, my wife and I moved here three years ago for her to attend to MIT, and so, I will be there -- we decided to make Cambridge our home, so I will be there ever day open to close.

FIRE CHIEF GERALD REARDON: Is this going to be to retro space?

MICHAEL SCHMIDT: Sorry, sir?

FIRE CHIEF GERALD REARDON: Is this going to be retro space you're going into, renovate space?

MICHAEL SCHMIDT: Yes, we are going to renovate it. It's empty now. The owner of the property put a wall and kinda two-thirds to the third of space there's three bays. I don't know

if you are familiar with the building, it's a one-story white building. It has a basement, but I don't get to use the basement. So I've been retrofitting that. Currently there's just a back part, there's a rear entry into the alley for fire and then it also has an egress in the front.

FIRE CHIEF GERALD REARDON: So will you be installing all equipment new?

MICHAEL SCHMIDT: Yes, there is a wet pipe, fire system fire suppression system. There's -- he has installed HVAC and some fluorescent lighting, but I will be going in installing two WCs that are ADA compliance, there will be a small enclosed office but just with metal stud walls, nothing just a small office for the manager, and then the rest of the space, the line between the kitchen and the front of the house is separated by the WCs and a small wall, but it will all be retrofitted.

FIRE CHIEF GERALD REARDON: In your kitchen area, are you going to be doing deep frying?

MICHAEL SCHMIDT: No deep frying. For equipment, there's a -- we're looking at a ten-burner range, gas range and also a smoker, the smoker is built by a company called Southern Pride. There are several in the Boston area. I know in Allston there's one. There's one in Somerville. There's some -- Arlington has one also. Also Besbyeah (phonetic) has one. They use a smaller one.

FIRE CHIEF GERALD REARDON: Who's Arlington, is that Blue Ribbon?

MICHAEL SCHMIDT: Blue Ribbon. I'm not sure they have a Southern Pride, but they have -- I have been told they do by one of the people work there, but you never know what people who work in the restaurants -- I know they use a

similar style either if it's Old Hickory, Southern Pride. These are units that are gas or electric powered, they have a smoke box that is a contained unit, it holds two or three pieces of wood. The fire box is a lock-down system, it has dampers. If there's an issue with the temperature getting too hot, it shuts itself down, locks itself down. It has a smoke dampering system that ties into the hood system which has an Ansil as well, and so it's registered and most restaurants have used them with fire extinguishers.

FIRE CHIEF GERALD REARDON: You probably should be aware of the new ordinances and so forth, so your kitchen hood and stuff is probably going to be a solid fuel device. There's a different code for a gas device, different for fryolators, so just as you are going through that be cognizant of that.

MICHAEL SCHMIDT: Yes, sir.

FIRE CHIEF GERALD REARDON: Don't go down the wrong road and wind up doing.

MICHAEL SCHMIDT: So far the hood is over the range and over an alter sham just for safety reasons, and then the actual smoker, as you open the door, there's a hood that is produced by the manufacturer, by the company that builds it that is tied into the system so it's a separate hood system. A lot of states are taking that into consideration.

COMMISSIONER MICHAEL GARDNER: Ms. Lint, requirements for training on serving beer?

ELIZABETH LINT: It would be 21 Proof training, but the other issues is the cap criteria where they're asking for a new no value, nontransferable license. I do have a few letters of support, but I notice only one of them is from someone in Cambridge other than Councilor Toomey.

So I will pass those along. Councillor Toomey lends his support to the application. He said he has not heard any opposition from the residents and he thinks it will be complement the dining experience. I do also have a letter opposed to the application. That's from one of the abutters.

(Forwarding letters.)

COMMISSIONER MICHAEL GARDNER: You understand the requirements to take the 21 Proof training.

MICHAEL SCHMIDT: Yes, sir.

CHAIRMAN MICHAEL GARDNER: You have not done that yet?

MICHAEL SCHMIDT: No. I'm in the process of that as well as my food handling license in the State of Massachusetts.

COMMISSIONER MICHAEL GARDNER: What will the staff size be here?

MICHAEL SCHMIDT: On a daily basis, I will have two prep people in the kitchen in the morning. I will have during each shift I will have three people working the server area and busing, et cetera, in the kitchen and then one manager. At any one time at the most there will be six people, three up front, two in the back. In the evenings it will probably be just four, three up front -- four up front or three and the server and one person who is the manager.

COMMISSIONER MICHAEL GARDNER: Questions?

The letter in opposition raises the issue of stress on parking in the area. Do you have any comments on that?

MICHAEL SCHMIDT: I spoke with Roger and he signed on off this. We discussed the building, the zoning for that building, there's a certain number and it was given to the entire building. I will be using a third of the

building. The parking I don't see there being --
I see that the majority of the traffic will be
foot traffic. A lot of the businesses in the
area, friends of mine do work in the area.
Acquaintances, a lot of them for lunch would be
people would be walking, taking the T and walking
to Central Square, Union Square, bicycling. The
area is a fairly dense area as with most of
Cambridge with housing. I don't see there being
any real strain on the parking due the fact that
we are only seating 42 total as opposed to some
of the restaurants in the area that seat many,
many more.

COMMISSIONER MICHAEL GARDNER: And
supplies and trash, how will that be handled?

MICHAEL SCHMIDT: Supplies will be
brought in through the front door. There's a
variance on the building that when the
gentleman who owns the building now purchased the

building, so one of the abutters, there's an issue of noise when it had previously been, I believe the Santo Christy Men's Club, Mens' Home, there had been noise in the back. So there was a variance attached to the sale that there can be no music except (inaudible) and also during construction for certain piecing and access to the roof is to the back, et cetera, but nothing can be used for trash. All deliveries will be brought through the front, there's a loading zone in front of the package store on the corner of Norfolk and Cambridge Street and that loading zone will allow for deliveries to be made through the front door. Trash also will be stored -- will be brought up to the front door. I'm working with a hauler now. I am planning on using a company that can compost almost all of my food. I will probably have three trash bins, one will be for recycling and the other two will be

for compostable. I am using nondisposable silverware and plating, but everything else will be disposal. So when a patron does throw away their trash all this can be put into these bins that will hopefully lead to zero waste, zero landfill. We will have some trash, small bags, probably two pickups a week. I'm talking with the hauler mainly due to food handling, precautions of plastic gloves, other things that cannot be recycled and/or composted. This will be once weekly or twice weekly pickup.

COMMISSIONER MICHAEL GARDNER: Any further questions from the Commissioners?

FIRE CHIEF GERALD REARDON: All set.

COMMISSIONER MICHAEL GARDNER: Any members of the public who would like to be heard on this matter, please come forward? We'd ask you to state your names and spell them for the record.

MICHELLE GENOVA: Michelle,
M-I-C-H-E-L-L-E, Genova, G-E-N-O-V-A.

I live at 84 Tremont, it's a condo, which abuts the rear of the building. I have been a pretty active neighbor since Santo Christo left that building.

COMMISSIONER MICHAEL GARDNER: We've got a request that you speak up so other members of the audience can hear.

MICHELLE GENOVA: A lot of people request that. I will give it a shot.

So over the years we have a lot of issues with the building, and especially with Santo Christo just being obnoxiously loud and late hours and drunken patrons, things like that. This is a totally separate application obviously, but it's kinda catching us at the last minute because we just heard about it. We didn't know any details. No one talked to us. We live right

next door. So I'm kinda going off the cuff here.

I do have a couple things I brought. One was the minutes for your history because I know you weren't involved in the previous application.

This is the minutes from the Zoning Commissioners Hearing where it's very clearly spelled out that the backdoor for that building is only to be used for nonrecurring emergency egress. So I think we are covered by zoning and -- the Vospers license that was granted here for Vospers, they continued that sentiment that that backdoor because of its proximity to us abutting neighbors and our necessity for egress in that alley that's there, that that only be used in emergency situations. I hope you understand that.

MICHAEL SCHMIDT: Absolutely, yes. The only thing I will be using in order to approve that, that that's the only roof access. There's a ladder on the back of the building that I was

told by zoning in order -- and also for safety precautions that is where the design of the building -- that the roof accesses made there and so that is where there's -- there are areas where you need to say, for safety reasons, to walk on the roof, so that's why there will only be roof access for whatever reason. So just whatever roof access might be necessary. That's the access from what I understand according to Rogers' office. It's not a daily occurrence. Whenever the fire department comes they can inspect to.

FIRE CHIEF GERALD REARDON: It depends on the amount of the use of the hood. You're talking probably maybe five or six times a year total.

MICHELLE GENOVA: This is a letter that we drafted back -- about a year ago April of 2010, there's -- it's signed by more than a

dozen, I think, neighbors and this was concerning issues for the Vospers Restaurant going into the same building in the space next door and because we didn't have time to really -- we didn't really have the knowledge of what was going in there, I'm bringing this to add to the record because most of the concerns that we had regarding Vospers it carried to another restaurant going into that building. There's a lot of photographs so if you are not familiar with that space -- the reason there was a zoning meeting for that building is because the rear 100 feet of it are in a residentially zoned district, so the building is odd is that way. It's a long skinny one-story building with the back 100 feet in a residential neighborhood and it's completely surrounded by residences. The building on either side of it it's pretty much directly against residences, and then there's an egress alley

behind it that we abut and where that second egress door is.

So hearing about the smoker, that raises some concerns because it's one story and the residences that surround it are two or three stories. I don't know how you are going to deal with the fumes coming off a smoker.

MICHAEL SCHMIDT: The construction of smoker is it has about nine to ten layers of filtration. Generally, they are -- you can kinda chose your poison which some places it doesn't matter you have a filtration system or not, depending on where your neighbors are, but it can be the point where you almost don't smell anything at all. It all depends on that filtration system. No more than say a normal restaurant's oven hood system would have any of that. Unlike -- it's -- it's more or less an oven that has one piece of wood in it a day.

It's not like a traditional old Texas style open pit that's producing a lot of fire. Actually they put up more fire in East Coast Grill, the big grill on an open fire, so that raises probably more smoke as opposed to this particular unit.

MICHELLE GENOVA: And how high would it? I know with Vospers they actually -- they had an architect who took into consideration the fact that the Commission had denied a couple applicants that really hadn't put a lot of thought into their use of the space considering the residences surrounding. So Vospers had this architect that so far things are holding up okay, have done a reasonable job in making sure that the venting from that restaurant wasn't too noisy and wasn't going to cause any problems through people's windows, so my leaning in all of this is we really need a little more information before

we, as neighbors, can even imagine what impact that would have.

I think the mistake that we made with Vospers in getting caught up in concerns about noise and smoke and exhaust and other things was that we didn't really focus on the (inaudible) and despite the fact that you have almost everyone surrounding that place opposing, the Commission voted to approve that license and that's still baffling to me.

So I guess the point here is that we may be opposed to this. Inman Square has so many options for places where you can go for food, have a beer, have some wine, there's lots of places that serve cocktails. You don't see an overwhelming need here for another restaurant and especially of a take-out nature which is going to bring people in, double park, and go grab their food. But, again, I need to come back to the

fact that this is a beer and wine request, and as an abutter and a member of the neighborhood, I honestly don't really see the need for another restaurant with beer and wine.

COMMISSIONER MICHAEL GARDNER: Thank you. Any other members of the public who would like to be heard on this matter?

MICHAEL SCHMIDT: May I just clear one thing just regarding that she mentioned it was a take-out. We are going to offer take-out, but we are look at predominantly having people dine in the restaurant. We are not looking to have it being a fast food order establishment. We are offering the ability to, just like every other restaurant, in Inman Square and Kendall Square and Central that if you do call in you can almost get take-away from every establishment, if you so choose.

COMMISSIONER MICHAEL GARDNER: Thank you,

ma'am.

State your name and spell it for the record.

STEPHEN MICHALES: First name is Stephen, S-T-E-P-H-E-N, last name Michales, M-I-C-H-A-L-E-S. I live at 82 Tremont, Unit 2, same building as Ms. Genova lives in. I'm on the other side of the building, so also our properties, as Michelle said, is an abutter to the building in which the applicant's premises would be on the backside sharing the alley between us.

Michelle has done a good job of covering and providing material on the issues that we raised during last year's licensing hearings around the Vospers Restaurant. I just wanted to add a couple of concerns. We have a considerable trash problem in the neighborhood, and I am always picking trash out of the front garden and

along the sidewalk and the street and down the driveway to the garage that we share with the building next door as a consequence of both the -- the trash management of the businesses down the corner, also the fact that people who come and go from the neighborhood are not good about taking their trash with them. So we do have a concern if there's going to be any significant amount of take-out or disposal be taken out that they be adequately controlled.

The second issue is on the parking.

Contrary to the applicant's assertion, parking is at a very scarce level, especially during most business hours in the neighborhood. Our street is a permit zone. Cambridge Street is metered, there's double parking on Cambridge Street all the time. Especially, due to the two package stores within a block, and the presence of some take-out business may add to that double parking

burden which does cause problems both for the traffic and endangers pedestrians on Cambridge Street. So those are our concerns.

I was not aware that there was a loading zone in front of the property in question. I believe that's currently metered parking there. So I think, as I recall, from the Vospers application, the intent was primarily to have the deliveries be done early in the morning to address the issue of scarcity of parking.

I want to say one of the concerns I have just to reiterate about the venting of odors or gases to the roof, again, we are concerned about odor control because of the residents that surround on three sides, and also about the noise of the system. The Vospers system, I believe, is within the noise ordinance so that might be a good model for it. But we do hear it over on my side of the building. It's not immensely

intrusive, but noticeable.

So, I'm concerned that whatever goes in there not be any noisier than that. If there was lounge for music below conversation level that probably would be satisfactory as long as it's towards the front of the building which is what your design said. Those are the concerns that I have. Thank you.

COMMISSIONER MICHAEL GARDNER: Anyone else who like would be heard?

State your name for the record and spell it.

FREEMAN DEUTSCH: My name is Freeman Deutsch, F-R-E-E-M-A-N, D-E-U-T-S-C-H.

I'm a neighbor, I live right above Steve. The restaurant sounds nice, but I do have concerns about odor, trash, smoke, grease coming from their venting system. Those things concerns me. I would like to make sure that we have a

good neighbor who doesn't smoke up the neighborhood and grease up the neighborhood and add to the trash problems. I'm just looking for a good neighbor who respects his neighbors.

COMMISSIONER MICHAEL GARDNER: Thank you.

If we could ask the applicant and then we will give you another chance, but on the issues of the smoke and grease and noise, can you advise us on -- in Cambridge, I think you mentioned before places that have a smoker similar to the one that you're proposing, but can you advise us in Cambridge of any operations which you believe are substantially similar to yours with respect to the kind of food that's prepared and the equipment that you would be using?

MICHAEL SCHMIDT: Food prepared there are restaurants that do offer similar. I know that even down the street at East Coast Grill they offer two or three items on the menu that are

barbecue, but related, but it's a full grill.

And then Mitch's which is the food service provided for Ryles, but that is technically a barbecue as well and they use a smoker. I know it's -- the difference would be that that is -- being a jazz club, you would go and sit there for quite awhile and the food is predominately -- and they have a license for alcohol. So other than that there's none in Cambridge that is barbecue.

There's people that would say, yes, there's a Brazilian barbecue down the street, but that is a Brazilian-style restaurant and there's also Koriana which is a Korean style barbecue. So it's just in the name barbecue. This is a southern-style barbecue. I grew up in the South.

But other than that, the offerings in restaurant, there are a lot of restaurants that offer ribs and pulled pork or steak sandwiches occasionally, but other than that there's non that I know of

that offer a similar menu. A smoker, Mitch's does have one. Other restaurants do have smaller units. I don't know of any in Cambridge that have that same size unit. Somerville has some and Arlington, but I could find out for your guys from the distributors.

COMMISSIONER MICHAEL GARDNER: Thank you. Other members of the public that would like to be heard. Please step forward.

Please state your name for the record and spell it.

AHSLEY SEROTTA: My name is Ashley,
A-S-H-L-E-Y, Serotta, S-E-R-O-T-T-A.

BRANDON HOCKLE: I'm her husband,
Brandon, B-R-A-N-D-O-N, Hockle, H-O-C-K-L-E.

AHSLEY SEROTTA: We live at A4 Tremont,
No. 2. Our windows will be facing the
ventilation system. When we try to open them in
the summertime and enjoy the breezes, there are

also a set of windows at 8890 which actually could would walk out those windows onto the roof of this to show the impact of the ventilation system. As Michelle stated we were given notice last week that a restaurant with the name of Bearded Pig was interested in the space with no additional information. When Vospers was interested last year, they reached out to the community with very open ears, and worked with us to come up with a solution that appeared to be amenable to you guys and (inaudible) and appear to be off to a good start as well. So we would hope that something similar could happen before the approval of a license like this to show the corporation with the community and the immediate abutters such as ourselves. It's a very densely populated residential area around this building, and in addition to a densely restaurant area in Inman Square already with many beer and wine

licenses.

We have concerns about yet another beer and wine license, as Michelle indicated in the area. It really isn't meeting an unmet need especially in a cap area.

I would encourage this Licensing Committee as well before approving to this to look at the proportion of the seats that Michael had indicated. One-third of this space for the restaurant he was proposing, it was two-thirds for Vospers, I believe this is more than one-third of the seating that Vospers had proportionally. And I would suggest that we look at those proportions also before it's determined the appropriate restaurant size for this location.

In addition to the street litter that Steve indicated, we are constantly battling a rodent problem in our area being adjacent on the

other side of area in to the Department of Public Works and recycling center. With the addition of more restaurants in this area, especially with this alley on the back way brings fears that we will continue to battle this in a more aggressive way and may not win as it's an ongoing challenge with so many restaurants in Inman Square.

Finally, I would suggest the Licensing committee investigate a situation that happened in Brookline where a restaurant called the Smoke House was on Beacon Street and now that you indicated that as we are learning tonight this is a barbecue and smoke place that the ventilation system was so inadequate and so focused on barbecue that actually the Town of Brookline deemed it was a front to the residential area to the point that the restaurant had to close down their smoke house because they closed down the restaurant. That was not fully prepared in

advance, and I'm not sure why Brookline approved that. It's frightening to me to think that the place I own and love in Cambridge is going to be adjacent to that as well. And I don't know the specifics of the situation in Brookline, but I think it's worth investigating before we decide to bring that into our highly residential area.

BRANDON HOCKLE: I back everything that Michelle said. The ventilation is absolutely -- if you look down at the property -- basically our bedroom window looks down onto the ventilation system as well our next door neighbors. The noise so far has not been a huge issue mainly because we worked out with Vospers, them turning off their ventilation system when their business was closed at the end of the night. Now with gas, I, mean that's pretty easy to shut off a gas stove and stop the cooking process, then you can shut off the ventilation system. I'm not sure

with a smoker if you can stop the combustion of wood as quickly or easily as you could with a gas stove. But the noise from that it's right outside of our bedroom. Thankfully it shuts off right when we go to bed. But if it didn't, it definitely would be a noise problem for us.

Again, the rodent problem and trash problem, I'm out there every day with Steve cleaning take-aways from KFC and Taco Bell and Dunkin' Donuts. The DPW, which my wife mentioned is right there, can barely keep up with the trash on their own property. We ended up have to police their property as well for trash.

The beer and wine issue, our area has a big problem with people drinking on the street, there's an alcohol issue with transients in our area. So any additional alcohol in the area would just exacerbate an already bad problem we have.

COMMISSIONER MICHAEL GARDNER: Any other members of the public that would like to be heard?

MAURA KILCOKOMMONS: I'm Maura Kilcokommons, M-A-U-R-A, K-I-L-K-O-M-M-O-N-S. I live at 342 Norfolk Street. And I think most of what my concerns have already been voiced except that I was concerned as I think there would be more people here in opposition if we got notified earlier. I think I got my notice on this past Wednesday. I know of several people who couldn't come because they already made other commitments. So the only thing I want to reiterate is the issue with alcohol in the neighborhood. I live a little bit further down Norfolk Street. I really don't have like dead on. I don't live there and see it everyday, but on the corner of Tremont Spice and Rice, then I think it's the Vospers Santo Christo Club, there's a little retail

business and Martin's Liquors. You know Martin's Liquor. I think we will have more problems with double parking. There's always problems with Martin's Liquor. There's always problems with kids at Martin's Liquor, there's always problems with people hanging out Martin's Liquor, you're going to basically have one city block, that's all restaurants and a liquor store except for this little business so that's an issue. I also don't think there's a loading dock in front of that building. I think it's metered parking. Other than that, I wish you well, if a lot of these -- if these issues are addressed -- the smoke and fume thing is huge. I think you can tell by the pictures in the document that Michelle had that there are -- the buildings look over, the one-story building, and the buildings next to it are above it. So that any fumes at all, you know, impact the people that live around

there. So that's it. Thank you.

COMMISSIONER MICHAEL GARDNER: Any other members of the public who would like to be heard on this matter?

Anything additional you would like to say, sir?

MICHAEL SCHMIDT: To clarify, the loading zoning is in front of Martin's Liquors, but on the corner and down. You know, by all means, I want to be a good neighbor. I apologize for not meeting with the people in the neighborhood sooner. I will do so. I lived in cities, DC, I lived here, and I was in Virginia and when similar things happened where I lived, I met with the people who were getting ready to open restaurants, bars, et cetera. I sent out -- I did send out the hearing notice as per requested. I had not set up a meeting with the neighborhood mainly because I was in the process of getting a

lot of this stuff in order and also working with the landlord who was having some issues whether or not even if he was going to go through -- I wanted to make sure all of my ducks were in a row. But I would be more than happy to meet with all the people that have spoken tonight and other people in the area to discuss. I also am an architect, my wife's an architect and my contractor is an architect. I fully -- I hoping to design a system that doesn't have a problem with sound and/or doesn't have an issue with smell or smoke. Same with trash. All the restaurants I have run, one of the first things I do, I always did, I had people who work for me and myself go out and police the grounds. You sweep in front of you, you walk down the block, you pick things up. The way the street looks is just important as the way your space looks. You need to make sure you're not just one entity,

you're the whole area. It's important to do that. With any establishment that's in a commercial area, you should pick up trash. I'm a big believer in that as well.

COMMISSIONER MICHAEL GARDNER: We had a request for a response. Just, please, briefly.

MAURA KILCOKOMMONS: If a loading zone is in front of Martin's Liquors, forget about it. There's always a vehicle in front of -- not only in front of Martin's Liquors, but caddy-corner to the corner, around the corner and down the street from the time they are open until the time they close there's a vehicle in front of Martin's Liquor, that I can tell you for sure.

COMMISSIONER MICHAEL GARDNER: Thank you.

In terms of your business plan, are you terribly inconvenienced by the License Commission delaying and deferring action on this to give you the opportunity for meeting with the neighbors?

MICHAEL SCHMIDT: No, not at all.

Absolutely not at all. We will determine a time now when I can get -- that's perfectly fine.

POLICE COMMISSIONER ROBERT HAAS: I agree with Mr. Chair. I think you need some time to work with the neighbors. You are not going to meet a threshold with respect to the license for alcohol because you are not getting overwhelming support, so I think it's in your best interest to work with the neighbors and you can address and allay some of the concerns. Maybe it we will give you an opportunity to come back and see if you are in a different place.

I would make a motion to delay the matter.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: There's been a motion made and seconded to continue the matter generally, and you can work on your

arrangements for scheduling.

MICHAEL SCHMIDT: Okay.

COMMISSIONER MICHAEL GARDNER: All those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None opposed.

Good luck in working out your issues.

APPLICATION: VEGGIE GALAXY, LLC

ELIZABETH LINT: Veggie Galaxy, LLC, Adam Penn, manager, has applied for a new wine and malt beverages as a restaurant license at 450 Massachusetts Avenue with a seating capacity of 88. The hours of operation would be 7:00 a.m. to 1:00 a.m. seven days per week. This is Cap Area No. 3.

COMMISSIONER MICHAEL GARDNER: Please, if you would, sir.

ADAM PENN: Adam Penn, last name spelled P-E-N-N.

COMMISSIONER MICHAEL GARDNER: Could you just describe your plans?

ADAM PENN: Yeah, i currently operate and have been operating -- I own and operated a restaurant in Harvard Square called Veggie Planet. My current plans are to open a second restaurant. Also, they are both vegetarian restaurants. This will be a different concept. It's basically a vegetarian diner concept. When I say diner, I'm really trying to create that whole classic diner feel. A real neighborhood diner with the counter and stools and booth, breakfast all day. The beer and wine is really not the focus at all of the business, it's just a nice amenity to offer customers. I also have been getting excitement and support about this new restaurant appearing in Central Square and

hoping beer and wine can be part of the plan.

COMMISSIONER MICHAEL GARDNER: How long have you operated the Veggie Planet?

ADAM PENN: It's been open for almost ten years now. There has been beer and wine at Veggie Planet for the last two and a half or so years. We share the space with Club Passim. They own that license, but Veggie Planet serves beer and wine. We really have the day-to-day responsibility of dealing with all the issues that come along with it.

FIRE CHIEF GERALD REARDON: Can you explain what kind of enhancement that has since you added the beer and wine in terms of your business model?

ADAM PENN: I just think a lot of the customers who come in, again, it's not a bar-type atmosphere, but I think just being able to have a glass of beer or a glass of wine with your meal

will certainly appeal to a lot of people.

FIRE CHIEF GERALD REARDON: Is this MIT property.

ADAM PENN: Yes.

FIRE CHIEF GERALD REARDON: And this is going to be another retrofit for your particular operation or just in your space right now?

ADAM PENN: It's the -- the interior is brand-new construction being created fresh.

FIRE CHIEF GERALD REARDON: Are you doing cooking in this place as well in terms of hoods or fryolators?

ADAM PENN: Yes.

FIRE CHIEF GERALD REARDON: You are aware also of the hood regulations that have transpired in the past?

ADAM PENN: Yes, we are going through that whole permit process as well. I do have some letters in support.

ELIZABETH LINT: I have two. One from the Cambridge Chamber of Commerce who strongly support the application. They say that Veggie Planet will bring a new and exciting dining choice to Central Square and enliven an area that is emerging, providing the opportunity for diners to have a glass of wine with meal will serve -- benefit both customers and the establishment. Adam Penn, the manager has successfully operated Veggie Planet in Harvard Square and at Club Passim in 2001.

I also have a letter from Councilor Reeves supporting the application. He says it will improve the streets scape of Central Square occupying the previously vacant storefronts and will serve to promote the goals that my colleagues and I have established and encouraging through the recently formed regular decommission under the lights and concerns of Central Square.

ADAM PENN: I also have another letter of support from the Central Square Business Association.

(Forwarding letter.)

COMMISSIONER MICHAEL GARDNER: Any history of complaints, Ms. Lint?

ELIZABETH LINT: None at all.

COMMISSIONER MICHAEL GARDNER: What is your sense of the necessity for initial success of this operation to having the beer and wine license?

ADAM PENN: I don't think it entirely depends on it by any stretch. Again, I think it would be a very nice addition for customers as well honestly from a business perspective.

COMMISSIONER MICHAEL GARDNER: And this being a cap area, could you just remind us of the standard, Ms. Lint.

ELIZABETH LINT: Proof of need, lack of

harm and overwhelming neighborhood support.

COMMISSIONER MICHAEL GARDNER: So the petition or the register of names here, these are of customers of Veggie Planet?

ADAM PENN: They are primarily customers of Veggie Planet who are excited to have a new restaurant.

COMMISSIONER MICHAEL GARDNER: Questions from the other Commissioners?

POLICE COMMISSIONER ROBERT HAAS: So you don't need to demonstrate need for the square, I mean, people support that. I mean, that it's good that you have it from Harvard Square, but --

ADAM PENN: Well, they're actually from all over the place. I do think this will be a real attraction to Central Square. I don't think it would be isolated to people in Central Square. I think it will be a draw for people all over the city.

COMMISSIONER MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter? Please step forward.

DENNIS JILLSON: First name Dennis, D-E-N-N-I-S, last name Jillson, J-I-L-L-S-O-N, no relation to Denise. I'm an owner representative for MIT, and we are very excited to have Adam come into our building at 450. We think it's going to be a good addition. I don't know if you know the building, it has the theater in the building, second floor. With Adam in there it will be a great amenity to the whole neighborhood.

COMMISSIONER MICHAEL GARDNER: What was the last use of the space?

ADAM PENN: It was -- brand-new building, first floor is vacant, retail space.

COMMISSIONER MICHAEL GARDNER: I guess I would express my concern about acting on final

approval this evening without the opportunity to study the cap issue a little bit more. I take it the license would be no value, no transfer?

ELIZABETH LINT: Correct. I would add that it is in keeping with what the -- when we had our Cap Policy Committee made several years ago in trying to enhance Central Square in bringing more businesses in and alleviate the empty storefronts.

COMMISSIONER MICHAEL GARDNER: I guess I forgot to ask if there were any other members of the public who wanted to be heard, I apologize.

Please state your name for the record.

JESSIE BAERKAHN: Jessie Baerkahn, last name is B-A-E-R-K-A-H-N. We have been working with Adam from a real estate perspective on this deal. I think one of the things we found and working close with MIT as well is that through -- I think the Red Ribbon Commission in Central

Square is one that has to activate (inaudible) and create more uses that have synergy with theater and the new construction there. I think George's letter from the Business Association, I think George felt the same way as well the folks from Cambridge Chamber of Commerce. I think there was a similar license in the fall granted to Life Alive also in the exact same situation, and I think from -- where I sit, Adam has gone and gathered consensus and I think part of our process was making sure that something the community wanted and supported and we believe there's not just support, but a lot of synergy with the uses and making Central Square a better place.

COMMISSIONER MICHAEL GARDNER: Any other members of the public that would like to be heard on this matter? Anything else to add, sir?

ADAM PENN: I don't think so.

COMMISSIONER MICHAEL GARDNER: Pleasure of the Commission?

FIRE CHIEF GERALD REARDON: I'm not sure if I need to study this too much longer in terms of numbers. It's been consistent with the policy we made several years ago. I'm inclined to be in favor based upon the preponderance of the evidence that's been put forward in terms of the Central Square business and the chamber and the other people involved. I haven't heard anything negative at this point.

COMMISSIONER MICHAEL GARDNER: I have a question as to in terms of the hours of operation, when would beer and wine be sold?

ADAM PENN: I think that's honestly open to the decision. I mean, I will say my intention -- we are applying for to be open to 1:00 a.m. Honestly we probably won't be open that late at least to start. Was that a bad

thing to say?

ELIZABETH LINT: Yes. The hours that you apply for that if you were approved for that are the hours you need to be open.

ADAM PENN: Understood.

COMMISSIONER MICHAEL GARDNER: I was also interested in the start time of sale of beer and wine, does that need to be specified in the application? I just don't see it here.

ELIZABETH LINT: His intention should be made clear.

ADAM PENN: What time are we allowed to start serving beer and wine?

POLICE COMMISSIONER ROBERT HAAS: My guess is probably you want to serve beer and wine with lunch and dinner, right, as opposed to breakfast?

COMMISSIONER MICHAEL GARDNER: It's breakfast all day, right?

ADAM PENN: Correct. I mean, along with the beer and wine, at least on weekends, we may have Mimosas and that type of thing.

POLICE COMMISSIONER ROBERT HAAS: What time would you propose selling beer and wine?

ADAM PENN: This is a final answer?

POLICE COMMISSIONER ROBERT HAAS: It's gonna be important for the Commission to understand what you want to do.

ADAM PENN: 10:00 a.m.

POLICE COMMISSIONER ROBERT HAAS: All week long?

COMMISSIONER MICHAEL GARDNER: I'm not comfortable with a decision-making process like this at this hour of the night with all due respect. The opinion my Commissioner to the left, I really would appreciate a motion to take this matter under advisement until the May 5 decision hearing, and give you the opportunity to

clarify the issue with respect to the hours you actually want to be open and the hours which you are prepared to be -- want to be selling the beer and wine, and I am hopeful that does not cause you substantial hardship.

ADAM PENN: No. If there's any clarification that can be made about what times are considered more --

POLICE COMMISSIONER ROBERT HAAS: We will ask you to be thoughtful about it. We ask you to be very thoughtful about that.

COMMISSIONER MICHAEL GARDNER: And discuss it with the staff.

FIRE CHIEF GERALD REARDON: You feel as though this is something that complements lunch and dinner, then you may want to consider your hours to complement lunch or dinner and not have any consternation over someone being able to go in there at 9:00 and do this or 8:00. I think it

would be helpful for you to clear it. There's vagueness right now, and I tend to agree with the Chairman, we should probably postpone this until May 5 and give you time to hammer that stuff out.

COMMISSIONER MICHAEL GARDNER: Let's get a motion first.

POLICE COMMISSIONER ROBERT HAAS: I make a motion to continue until the May 5 hearing.

POLICE COMMISSIONER ROBERT HAAS:
Continue or take under advisement?

FIRE CHIEF GERALD REARDON: Take under advisement, excuse me.

COMMISSIONER MICHAEL GARDNER: Is there a second to that motion?

POLICE COMMISSIONER ROBERT HAAS: Second.

COMMISSIONER MICHAEL GARDNER: There's been a motion made and seconded to take this matter under advisement until the May 5 hearing. We have had a colloquy which during that time the

applicant will have the opportunity to clarify some of the questions that have been raised in the application, and all those in favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Unopposed.

We wish you will in your plan.

APPLICATION: PANERA, LLC

ELIZABETH LINT: Application:

Panera, LLC d/b/a Panera Bread, Gregg Godfrey, Manager, has applied for a common victualer license to be exercised at 5 White 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 106 seats inside and 18 outdoor patio seats on private property. The hours of operation will be 6:00 a.m. to 9:00 p.m., seven days per week.

POLICE COMMISSIONER ROBERT HAAS: I thought Panera Bread was being continued to May 17th.

ELIZABETH LINT: Not Panera. I mean, Upper Crest, I'm sorry.

COMMISSIONER MICHAEL GARDNER: It appears at this late hour that Panera Bread representatives have not been able to last, I guess, I make a motion to defer till -- -

ELIZABETH LINT: We will call them and find out what happened and we will get them on an appropriate agenda.

COMMISSIONER MICHAEL GARDNER: Is that acceptable to the Commissioners without objection?

POLICE COMMISSIONER ROBERT HAAS: Yes.

COMMISSIONER MICHAEL GARDNER: Other matters?

RATIFICATIONS

ELIZABETH LINT: Yes. Ratifications.
Medallion 136, 204, 125, 244, 104, 207, 201 and
157.

CHAIRMAN MICHAEL GARDNER: These all
refinancings?

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: Any
issues?

ELIZABETH LINT: No.

COMMISSIONER MICHAEL GARDNER: Ms. Lint
having indicated no, I make a motion to accept.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Motion has
been made and seconded to approve the
ratifications as read by Ms. Lint. All those in
favor signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Those

opposed? None. The ayes have it and they are approved.

ELIZABETH LINT: One minor issue. If you could all indulge me. Could we move the decision making hearing up to 9:00 a.m. on the 5th because we have quite a lot to decide, and I'm not leaving the office at 11:30 to catch a plane, so certainly someone could fill in for part of it.

COMMISSIONER MICHAEL GARDNER: We didn't know that. Are there any notice issues with that or do you have enough time to make the change.

ELIZABETH LINT: That's enough time. We haven't really been telling people 10:00 a.m. I can get that out. It's not problem.

POLICE COMMISSIONER ROBERT HAAS: 9:00 is fine with me.

COMMISSIONER MICHAEL GARDNER: Without objection, 9:00 a.m. on the 5th.

ELIZABETH LINT: Thank you.

COMMISSIONER MICHAEL GARDNER: Motion to
adjourn is always in order.

(Meeting was adjourned.)

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, ss.

I, Jill Kourafas, Certified Shorthand Reporter and Notary Public duly commissioned and qualified in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing record, Pages 1 through 262, is a complete, accurate and true transcription of my stenographic notes taken in the aforementioned matter to the best of my skills and ability.

In Witness Whereof, I have hereunto set my hand and affixed my seal this 2nd day of May 2011.

Jill Kourafas
Certified Shorthand Reporter
Notary Public
My Commission Expires:
February 2, 2017

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