

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARING

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

STAFF:

ELIZABETH LINT, Executive Director

-- Held At --

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts

Tuesday, April 17, 2012

6:10 p.m.

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PROCEEDINGS

ELIZABETH LINT: This is the License Commission General Hearing on Tuesday, April 17, 2012, at 6:07 p.m.

We are in the Michael J. Lombardi Building, 831 Massachusetts Avenue, Cambridge, Massachusetts, Basement Conference Room.

Before you are the Commissioners, Chairman Michael Gardner, Chief Gerald Reardon and Commissioner Robert Haas.

MICHAEL GARDNER: In addition to the regular agenda, we have an addendum to the agenda. And I believe, although I said this at the last hearing, that we would take that first. I think it's complicated enough that I'd be better to put it on at the end.

ELIZABETH LINT: Okay.

MICHAEL GARDNER: So unless either of the other two Commissioners are concerned about that --

ROBERT HAAS: I didn't get the

addendum, can I take a look at that.

(Discussion off the record.)

* * * *

ELIZABETH LINT: Okay.

MICHAEL GARDNER: Application Sonesta Acquisition Corp., doing business as Royal Sonesta Hotel, Michael Medeiros, Manager, holder of an all alcoholic beverages as a hotel license at 40 Edwin Land Boulevard has applied for corporate name from Sonesta Acquisition Corp. to Sonesta International Hotels Corp. Applicant is also applying for a change of officer/director to add William J. Sheehan as Chairman, Chief Executive officer and Director.

ATTORNEY HOPE: Good evening, Mr. Chairman, Members of the Commission. For the record, I'm Attorney Sean Hope, Legal Law Offices in Cambridge. I'm here tonight in place of Mr. Rafferty. He was caught at Logan Airport and couldn't make it and so I'm

filling in.

MICHAEL GARDNER: And it's Hope,
H-O-P-E.

ATTORNEY HOPE: Yes.

So this is an application to change the corporate name. I believe last month the Sonesta Acquisition Corp. was before the Commission to transfer its all alcohol license from Sonesta Massachusetts to Sonesta Acquisition Corp. And now that the transfer has been approved, they are now changing the d/b/a, and the new d/b/a will be Sonesta International Hotels Corporation.

Also part of this application, as Ms. Lint said, to change William Sheehan, who is currently a director, to be the executive director of the corporation.

It's a pretty straightforward application. There is really no change beside the corporation d/b/a name.

MICHAEL GARDNER: So this hotel

operates as part of a larger now international corporation? It's not a franchise? It's separate from --

ATTORNEY HOPE: I know that their corporate documents have been incorporated in Maryland, so I can't actually speak to all it's other holdings, but they are incorporated there, and this was part of the license, the all alcohol transfer that was approved by this Commission and they are ready to change the name to reflect the new ownership.

MICHAEL GARDNER: And, Mr. Sheehan, are we to assume that he is the chair of a corporation much larger than just the Cambridge Sonesta?

ATTORNEY HOPE: Yes, that would be the assumption.

MICHAEL GARDNER: He is the head of it all?

ATTORNEY HOPE: Well, he was the director of this corporation, now he is the

executive director of the new corporation specifically for the Cambridge location.

MICHAEL GARDNER: Any questions?

ROBERT HAAS: So no other changes except for the two name changes?

ATTORNEY HOPE: There's no other changes.

MICHAEL GARDNER: So he has been in charge locally until now?

ATTORNEY HOPE: Well, this was a license transfer from the corporation. I don't know if -- yes, he was. So he is staying as -- he was the director of the previous one and now he's the executive director.

ROBERT HAAS: I don't recall this being at the last meeting --

ELIZABETH LINT: It wasn't the last one. It was a few back.

ATTORNEY HOPE: The letter is dated March 14, but the hearing was previous to

that.

ROBERT HAAS: Okay.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: No other questions.

MICHAEL GARDNER: I make a motion to approve the change in corporate name and the change of the officer/director, outgoing in the agenda.

ROBERT HAAS: Second.

MICHAEL GARDNER: I've made the motion and it was seconded, but before we take a vote, we'll give the public an opportunity to speak on this matter if there is anybody here that would like to be heard.

Seeing none. Motion having been made and seconded, all those in favor signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed.

Thank you very much.

* * * *

ELIZABETH LINT: Application
Massachusetts Institute of Technology doing
business as MIT Faculty Club, Richard Berlin,
Manager, holder of an all alcoholic beverages
as a club license as 50 Memorial Drive has
applied for a change of manager from Richard
Berlin to Michael Scott Myers. Applicant is
also applying for a change of manager from
Richard Berlin to Michael Scott Myers for the
wine and malt beverages as an educational
institute licenses at 142 Memorial Drive, 235
Albany Street, and 32 Vassar Street.

MICHAEL GARDNER: If you could,
please state and spell your name for the
record and identify yourself.

MICHAEL MYERS: Good evening. My
name is Michael Myers, M-I-C-H-A-E-L,
M-Y-E-R-S.

MICHAEL GARDNER: And you're going to

be the new manager for these four locations;
is that right?

MICHAEL MYERS: Correct.

MICHAEL GARDNER: Are you in de facto
functioning in that job now?

MICHAEL MYERS: Yes.

MICHAEL GARDNER: How long have you
been doing that job?

MICHAEL MYERS: Since mid-August.

MICHAEL GARDNER: Any reason that you
are coming to us so late?

MICHAEL MYERS: It took us a while to
get the process figured out within the
institute. So once we got that all mapped out
and the approval of the corporation's board,
then we got all the paperwork together and
submitted it.

MICHAEL GARDNER: Could you briefly
describe your experience as a manager in this
business prior to August of 2011?

MICHAEL MYERS: Prior to my

experience at MIT, I also worked at Tufts University for five years. The last two years that I was in that position we actually had an area that had a malt and wine liquor license as well. So we served bottled beer and wine.

Previous to that, it had been several years ago, mid '90s, when I was working at Valentino's in Lincoln, Nebraska, where we just had malt beverages.

MICHAEL GARDNER: So this is your first experience as manager of an all alcohol license?

MICHAEL MYERS: Correct.

MICHAEL GARDNER: Any issues so far?

MICHAEL MYERS: No.

MICHAEL GARDNER: Surprises?

MICHAEL MYERS: No.

MICHAEL GARDNER: Things you didn't anticipate?

MICHAEL MYERS: No.

MICHAEL GARDNER: It's all gone

according to plan?

MICHAEL MYERS: As much as possible, yes.

ROBERT HAAS: When you were at Tufts, were you holding the -- was the liquor license in your name as well?

MICHAEL MYERS: No, it was not.

ROBERT HAAS: So this will be the first time you are actually holding a liquor license in your name?

MICHAEL MYERS: This will be the first time, yes.

ROBERT HAAS: What training have you taken so far?

MICHAEL MYERS: I have been Serve Safe Alcohol Certified, and that's really it.

GERALD REARDON: How long have you been working for MIT?

MICHAEL MYERS: I've been there one year; it will be one year next Monday.

GERALD REARDON: And where are you

primarily stationed? Are you covering all four areas?

MICHAEL MYERS: The faculty club location is contracted out to CareMark. So then we oversee the areas, the events when they do have alcohol available there. Then we also have a full-time manager who manages the pubs. (Inaudible)

GERALD REARDON: And the faculty club isn't open on a regular basis?

MICHAEL MYERS: No, absolutely not. Catering only. Very minimal.

MICHAEL GARDNER: Did Richard Berlin move on out of the corporation?

MICHAEL MYERS: Correct. He left the institute in mid-August.

ELIZABETH LINT: Mr. Chair, I did receive a call from Sara Gallup this morning, she apologized that she was not able to be here, but MIT is fully behind this change to have Mr. Myers appointed as the manager.

GERALD REARDON: So Mr. Myers has to take a 21 Proof training?

ELIZABETH LINT: Yes.

MICHAEL GARDNER: Cambridge has its own training --

MICHAEL MYERS: Okay.

MICHAEL GARDNER: -- which, hopefully -- I guess what I would have hoped is, both, you would have been here sooner and that you would have, before coming here, know about the special Cambridge requirements.

So the 21 Proof -- and you can contact the office to make sure you get that. And any approval would be conditional upon your meeting that requirement, as well as any other standard requirements.

MICHAEL MYERS: Sure, okay.

MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none.

Any other questions from the Commission?

GERALD REARDON: No, further questions.

ROBERT HAAS: No.

MICHAEL GARDNER: I make a motion to approve the change of manager from Mr. Berlin to Mr. Myers for the locations as stated in the application; subject to his completing the 21 Proof Training and any other standard conditions of the License Commission.

GERALD REARDON: Seconded.

MICHAEL GARDNER: Motion having been made and seconded, all the those in favor signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed. Good look with it. And I guess just go back and encourage your organization to be timely in their filings.

MICHAEL MYERS: Absolutely. Thank you very much.

ELIZABETH LINT: I can tell you we were in constant touch over this. There were so many changes going on, they had to figure out their process. So I was well aware of the circumstances.

MICHAEL MYERS: Thank you.

* * * *

ELIZABETH LINT: Application Marriott Hotel Services, Inc., doing business as Cambridge Center Marriott, James Kappel, Manager, holder of an all alcoholic beverages as a hotel license at 2 Cambridge Center has applied for a change of premises description to include a seasonal outdoor patio on private property with 54 seats for service of food and alcohol.

MICHAEL GARDNER: For both of you, would you please state and spell your names for the record.

JAMES KAPPEL: K-A-P-P-E-L.

KENNETH LAVIGNE: L-A-V-I-G-N-E.

JAMES KAPPEL: Good evening. We are here with an application to alter our premises to include outdoor seating outside of our Champion's restaurant. The goal here is to provide an enlivened street-scape on the plaza adjacent to the hotel with 54 seats.

I have two market style umbrellas initially, 10-by-14 feet. We also have a really great street-scape and a great looking spot.

GERALD REARDON: Is this on the Main Street side?

JAMES KAPPEL: It is, adjacent to the restaurant.

MICHAEL GARDNER: So that plaza underwent some renovation within the last couple of years anyway?

JAMES KAPPEL: Last year, right.

MICHAEL GARDNER: And it's owned by

the Marriott?

JAMES KAPPEL: It is owned by Boston Properties.

MICHAEL GARDNER: What is the nature of the liquor license that you have now? Do you know if it's a "for-value" license or if it's a --

ELIZABETH LINT: It's a hotel license.

MICHAEL GARDNER: A hotel license. Okay. I apologize for my ignorance.

JAMES KAPPEL: Okay.

MICHAEL GARDNER: How many seats is it for?

JAMES KAPPEL: It's 54.

MICHAEL GARDNER: No, I know the current application is for an additional 54, but I'm asking what the number of seats is?

JAMES KAPPEL: The seats -- 160 is the current seating capacity in the restaurant.

MICHAEL GARDNER: And that's all indoors?

JAMES KAPPEL: Yes, it is.

MICHAEL GARDNER: Have you opened up outdoors yet?

JAMES KAPPEL: No. We didn't expect the weather to change this quickly.

MICHAEL GARDNER: Are there reviews that need to be done in terms of egress from the building?

Chief, do you have anything to add to that?

GERALD REARDON: Do you happen to have a diagram of the proposed layout?

KENNETH LAVIGNE: I do, yes.

GERALD REARDON: Does it indicate what you are using for a line of demarcation or delineation between the --

JAMES KAPPEL: There will be planters that will be consistent with the planters on the other side of the plaza as Boston

Properties continues to dress up that area. These are 30 inches high, varying in length planters, with flowers and shrubs.

GERALD REARDON: So these are rectangular type planters as opposed to --

JAMES KAPPEL: Right.

GERALD REARDON: So they make a continuous barrier --

JAMES KAPPEL: They do.

GERALD REARDON: I've seen on some of these the ability to walk between the planters and walk out and so forth.

Do you know what that spacing is, roughly, across there? Obviously, it's larger than the door where it's at so --

(Inaudible discussions)

KENNETH LAVIGNE: It's to scale.

JAMES KAPPEL: About eight feet, something like that.

MICHAEL GARDNER: Did you say, Mr. Lavigne, that it is to scale?

KENNETH LAVIGNE: Yes, it is.

MICHAEL GARDNER: And, in general, what would your plans be for operating outdoors, just all depending on weather or what?

JAMES KAPPEL: It's seasonal, weather dependent. And as the weather and the seasons are good, we'll be open from 11:30 to midnight, 11:30 a.m. to midnight, seven days a week.

MICHAEL GARDNER: Are those the hours of Champion's now?

JAMES KAPPEL: Yes, they are.

MICHAEL GARDNER: Full food service outdoors as well?

JAMES KAPPEL: Yes, full food service; we'll serve food until midnight.

MICHAEL GARDNER: What's the space being used for now?

JAMES KAPPEL: It's an open space.

MICHAEL GARDNER: I noticed a number

of events seem to be occurring, being scheduled there, maybe Wednesday afternoons, how will those kinds of events be affected?

JAMES KAPPEL: We hope they continue. I've just been talking with Boston Properties about having (name is inaudible) back again this year. Last year when the plaza was under construction, we weren't able to carry that off, so it's been two years. But that's a great activity for the plaza.

So, as you may know, the grassy area there is kind of ramped up, it's kind of mounded uphill, and the goal would be to put the acoustic musicians on the grassy spot and to project back to the hotel, you know, Wednesday afternoons, 12:00 to about 1:30.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: No other questions.

MICHAEL GARDNER: Are there any members of the public who would like to be

heard on this matter?

Seeing none.

ROBERT HAAS: Motion to approve the application as stated.

GERALD REARDON: Second.

MICHAEL GARDNER: Motion having been made and seconded to approve the application; again, under a hotel license, there is no issue with respect to seats other than general capacity.

ELIZABETH LINT: Correct.

MICHAEL GARDNER: All those in favor, signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed. So good luck with your venture.

* * * *

ELIZABETH LINT: Application Unusual Suspects, LLC, doing business as Think Tank, Vincent Conte, Manager, holder of an all

alcoholic beverages as a restaurant license at One Kendall Square, Building 300, has applied for a change of manager from Vincent Conte to Patrick Thomas Lynch.

MICHAEL GARDNER: Good evening.

MITCHELL MUROFF: Good evening. I'm Mitchell Muroff, representing Unusual Suspects.

MICHAEL GARDNER: Please, again, state and spell your name for the record for purposes of the transcriber.

MITCHELL MUROFF: I'm Mitchell Muroff, M-U-R-O-F-F.

And more unfortunately, Mr. Lynch's daughter's grandmother was stabbed last night and he can't be here. So I would ask for a short continuance.

MICHAEL GARDNER: Without objection, we can continue the matter to the next hearing, which is May 1st, I believe. Is that right?

ELIZABETH LINT: Yes.

MICHAEL GARDNER: Is that all right with you?

MITCHELL MUROFF: Yes. Thank you very much.

MICHAEL GARDNER: So without objection, we'll continue the matter. And our best to Mr. Lynch.

* * * *

ELIZABETH LINT: Application Kun Myung, Incorporated, d/b/a Takemura Japanese Restaurant, Myung Ja Kim, Manager, holder of an all alcoholic beverages as a restaurant license at 18 Eliot Street has applied for an increase of seating capacity from 60 to 75.

MICHAEL GARDNER: Good evening. Again, all of you might speak, so please state your name and spell it for the record and also identify yourselves.

ATTORNEY DEVINE: Good evening. My name is Attorney Charles Devine,

D-E-V-I-N-E, and I represent Kun Myung, Inc.
And that's spelled K-U-N, M-Y-U-N-G.

With me is the owner, Myung Ja Kim,
M-Y-U-N-G, middle name is J-A, last name is
K-I-M.

And then to my far left is Mrs. Kim's
son --

CHANG YEOL YOO: Chang Yeol Yoo,
C-H-A-N-G, Y-E-O-L, Y-O-O.

MICHAEL GARDNER: So tell us a little
bit about the restaurant as it currently
exists and the proposed plans.

ATTORNEY DEVINE: Our restaurant is a
-- it presently exists as a 60 seat restaurant
at 18 Eliot Street, Cambridge, a Japanese
restaurant.

The plan is to -- they are operating
under a liquor license of 64 bank seats. And
the idea is to increase the capacity to 75
seats from 60. There is plenty of room left
over on the premises. We submitted our plans.

Mrs. Kim is the owner. She is from Korea. And she has attained her U.S. citizenship several years ago and has owned and operated the premises since 2003. She's a citizen in Cambridge and has not had any violations as far I as understand.

That's about all I have right now. If you have any questions?

MICHAEL GARDNER: So what is the general occupancy of the space?

ATTORNEY DEVINE: The general occupancy of the space is, it consists of tables and a counter and a sushi bar presently. And an increase in the occupancy is, there is really no change in the interior space; no build-out. It's essentially just moving a couple of tables around. There is certainly empty space in the floor presently with only a 60 seat capacity. And I think the new plan just shows that they have added some chairs to some tables, and added one or two

other tables have been added to make -- to increase the capacity by 15.

GERALD REARDON: Do you have a copy of the floor plan?

ELIZABETH LINT: I have it.

ATTORNEY DEVINE: I also do have an amendment to one of the -- I saw it yesterday when I sat down, the tax certification form did not have the federal tax ID number, and I'd like to submit that to you.

ELIZABETH LINT: Thank you.

ROBERT HAAS: How long has the restaurant been open?

ATTORNEY DEVINE: Since 2003.

ROBERT HAAS: Since you have bank seats, why didn't you increase them when you first came in, why are you increasing them now?

ATTORNEY DEVINE: I wasn't involved in it at that stage. (Discussion with Mrs. Kim.)

Mrs. Kim is only partially conversational in English, and her son will help translate. So maybe you can ask her why she didn't --

CHANG YEOL YOO: (Now, Chang Yeol Yoo is now translating for his mother into the record.)

So in the beginning when she opened the restaurant, we didn't have a liquor license at that time.

THE STENOGRAPHER: I cannot hear what he is saying. Can you please keep your voices up so I can hear.

CHANG YEOL YOO: So we didn't know how many seats we were having. So she had 60 seats on the space for that period of time. But the past few years a later, she is running it, and then we are getting more customers in and the more customers want to have good food with us, so she decided to have more space for the customers. That's why we decided to

increase it.

ATTORNEY DEVINE: Did the license come with the property originally?

CHANG YEOL YOO: No.

ATTORNEY DEVINE: Did she buy it later?

CHANG YEOL YOO: Yes, she bought it late.

ATTORNEY DEVINE: So apparently she opened it without the liquor license and then bought it later.

ROBERT HAAS: For-value license?

ELIZABETH LINT: Yes.

ROBERT HAAS: So you purchased the license, you have X number of seats, you bank some of those seats, right?

CHANG YEOL YOO: Yes.

ROBERT HAAS: When did you purchase the license?

CHANG YEOL YOO: 2006.

ROBERT HAAS: 2006?

CHANG YEOL YOO: Yes.

ROBERT HAAS: What was the capacity of the license when you went for the license?

CHANGE YEOL YOO: 124.

ATTORNEY DEVINE: 124.

MICHAEL GARDNER: So your application here is to convert 15 of the banked seats into actual used seats?

ATTORNEY DEVINE: That's correct.

MICHAEL GARDNER: And what is the theoretical maximum capacity of the space in terms of occupancy, do you know that?

ATTORNEY DEVINE: I do not. I do know that -- I do know that it's used a lot by zoning -- total number of occupants has been designated as 75 according to the zoning specialist that signed off in 2012.

(Inaudible conversation)

MICHAEL GARDNER: So you applied to zoning for 75 and you received approval for 75?

ATTORNEY HOPE: That's correct, yes.

MICHAEL GARDNER: That wasn't a theoretical ceiling?

ATTORNEY DEVINE: I wasn't involved at that stage of the game, but I don't understand it to be.

MICHAEL GARDNER: Any complaints or issues?

ELIZABETH LINT: No, none.

GERALD REARDON: As I was looking at this now, where are the extra seats being added?

ATTORNEY DEVINE: Could you help us with that, point out where the extra seats are, if you could (indicating to Mr. Yoo).

(Whereupon, Mr. Yoo is indicating on the plan.)

ATTORNEY DEVINE: What he was done is he has circled 15 seats on individual tables.

So, accordingly -- are any new tables added or is it just seats?

CHANG YEOL YOO: Just the chairs.

ATTORNEY DEVINE: If you look up here, apparently this used to be three seats at the table, one seat is added; and we can see two seats added below, here; and two seats are added to the various other tables in the unit, and then one seat for these two tables (indicating). So there really is actually no additional tables, just chairs added.
(Indicating on floor plan.)

ROBERT HAAS: So nothing added to the counter?

ATTORNEY DEVINE: Nothing added to the counter?

CHANG YEOL YOO: No, nothing.

ATTORNEY DEVINE: If you'd like, I can submit this.

MICHAEL GARDNER: The document we have isn't very clear, to me at least. If you have a clearer --

ATTORNEY HOPE: It's the same

document, but it's just with Mr. Yoo's notations on it.

MICHAEL GARDNER: Any questions?

ROBERT HAAS: No, no questions.

MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none. Pleasure of the Commissioners?

GERALD REARDON: So you are not adding anything to the kitchen or any other place?

ATTORNEY DEVINE: No, all the other facilities are the same.

GERALD REARDON: And you are up-to-date on your hood inspections and things of that nature?

CHANG YEOL YOO: Yes, sir.

GERALD REARDON: Thank you.

ROBERT HAAS: I make a motion to approve the application for 15 additional

seats.

GERALD REARDON: Second.

MICHAEL GARDNER: Motion having been made and seconded to approve the increase in the seating capacity from 60 to 75 by drawing down on the bank seats, all those in favor, please signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed.

So good luck with your expanded operation.

ATTORNEY DEVINE: Thank you.

MRS. KIM: Thank you.

* * * *

ELIZABETH LINT: Application for Shuhel Ahmed doing business as Airport Car Service has applied for a livery license for two vehicles at 140 Harvard Street, No. 10.

MICHAEL GARDNER: Good evening.
Would you please state and spell your name for

the record and then describe your plan.

SHUHEL AHMAD: Good evening. My name is Shuhel Ahmed, S-H-U-H-E-L, A-H-M-A-D. And I've applied for a livery license for 140 Harvard Street, Cambridge. And I'm a resident of Cambridge for the last 21 years. I drove a cab in Cambridge for about seven years.

MICHAEL GARDNER: Where will these vehicles be parked?

SHUHEL AHMAD: On the street. They have a permit on them (inaudible).

MICHAEL GARDNER: What's your business plan? I see you are called Airport Car Services, but what business do you plan to obtain?

SHUHEL AHMAD: What do you mean?

MICHAEL GARDNER: Is it primarily the airport runs?

SHUHEL AHMAD: Well, we do city runs, too. Depending on the people's needs. But, you know, the plan will be with the rules and

regulations involved in it with the City of Cambridge.

MICHAEL GARDNER: What portion of your business do you anticipate being run to and from the airport?

SHUHEL AHMAD: Most of it.

MICHAEL GARDNER: What arrangements, if any, have you made with Logan Airport to be able to operate there?

SHUHEL AHMAD: From Logan?

MICHAEL GARDNER: With Logan. What arrangements with the airport have you made, if any?

SHUHEL AHMAD: I haven't. I haven't made anything with them, but I know there is a procedure to do that. I intend to do that.

MICHAEL GARDNER: What kind of additional insurance, if any, is necessary for a business like this?

SHUHEL AHMAD: Yes, sir. We do that. It depends on the Massport, what the

requirement is.

MICHAEL GARDNER: What about personally, what additional insurance, if any, do you need to operate a livery service using these vehicles, insurance on the vehicles?

SHUHEL AHMAD: Yes, livery insurance. Livery insurance that you need to purchase.

MICHAEL GARDNER: Have you costed that out?

SHUHEL AHMAD: Yes.

MICHAEL GARDNER: What's your understanding of the limitations or the rules and regulations that apply to a livery service in Cambridge? What you can do and what you can't do?

SHUHEL AHMAD: The minimum of \$40 and eight hours prior to the pick-up in Cambridge. So that's the main thing that I know of about the regulation.

MICHAEL GARDNER: And how will you advertise the service?

SHUHEL AHMAD: I'm sorry?

MICHAEL GARDNER: How will you advertise the service?

SHUHEL AHMAD: I will do that through either Goggle or the Yellow Pages; that's how I think the best way to do it.

MICHAEL GARDNER: When did you have the Hackney license, or when did you drive a cab?

SHUHEL AHMAD: I got my license back in 2004, I believe it was in January or February, and I still have it.

MICHAEL GARDNER: You still have an active Hackney license?

SHUHEL AHMAD: Yes.

MICHAEL GARDNER: Any citations? Complaints?

SHUHEL AHMAD: Well, not in the taxi. But in the past six years, I have seven years, no citations anyway.

ELIZABETH LINT: Mr. Chair, I don't

have the background check.

MICHAEL GARDNER: What hours of operation do you plan for the two vehicles?

SHUHEL AHMAD: I will be doing that from 3:00 in the morning until 8:00 in the evening. That's what the plan is going to be.

MICHAEL GARDNER: What's the business that you can generate at 3:00 a.m.?

SHUHEL AHMAD: The call that came in like the night before to go to the airport, (inaudible) but not a taxi, but start about 3:30, 4:00.

MICHAEL GARDNER: So for early morning flights?

SHUHEL AHMAD: Early morning flights, yes.

MICHAEL GARDNER: Is this business dependent on your getting the approval of Logan to operate there?

SHUHEL AHMAD: First, definitely from the City of Cambridge, and then the Massport,

if I wanted to pick up from the airport.

MICHAEL GARDNER: Do you need permission from Massport to drop off?

SHUHEL AHMAD: No, I don't think so. Not that I have heard. Only when you pick up from the airport, you definitely need it.

MICHAEL GARDNER: You understand that you can't cruise and pick up fares or --

SHUHEL AHMAD: Yes, I do.

MICHAEL GARDNER: And who will your other drivers be?

SHUHEL AHMAD: I put three drivers' names in there, three or four, and those are the drivers for now that I have selected.

MICHAEL GARDNER: Do drivers need any particular special licensing from us?

ELIZABETH LINT: No, they don't. But I need all the background checks.

ROBERT HAAS: So you submitted the applications for the other drivers for background checks?

SHUHEL AHMAD: Yes.

ELIZABETH LINT: I have that.

ROBERT HAAS: Are you planning on doing any business at the hotels?

SHUHEL AHMAD: Not as of right now. And I don't think I want to do it.

THE STENOGRAPHER: Excuse me. I cannot hear what you are saying. Can you please keep your voice up so I can hear it. You're trailing off as you go along.

SHUHEL AHMAD: It will be not from the hotel.

ROBERT HAAS: You all your business is going to be exclusively through advertisement?

SHUHEL AHMAD: That's right.

MICHAEL GARDNER: Any other questions? Are there any members of the public who would like to be heard on this matter?

This will be your first time

operating a livery service?

SHUHEL AHMAD: Yes.

MICHAEL GARDNER: So I suppose among the things we could do is delay the vote until the background checks are in?

Do we have approval subject to the background checks coming back without issue?

ELIZABETH LINT: You can do that.

MICHAEL GARDNER: Pleasure of the Commission?

GERALD REARDON: Make a motion to approve subject to all the background checks and regulations being met.

MICHAEL GARDNER: I guess I'll second the motion.

But I would like to put the condition on it that we do a review after six months with you -- six months after, in fact, you begin operating, not from today. Just so we can better understand how it's going with you, and you can better understand some of the

challenges and opportunities of the livery industry in the city.

SHUHEL AHMAD: Okay.

MICHAEL GARDNER: Is that okay, Commissioner, with you?

GERALD REARDON: Fine.

SHUHEL AHMAD: Now, am I going to hear from you after six months, or do I have to contact you?

ELIZABETH LINT: We'll notify you.

MICHAEL GARDNER: You just have to let us know when you start, essentially, so we can start the time.

SHUHEL AHMAD: Okay.

MICHAEL GARDNER: Motion having been made and seconded -- and I think I asked for public comment and nobody answered -- yes, and then I seconded the motion.

ROBERT HAAS: Are you calling for a vote?

MICHAEL GARDNER: I am calling for a

vote. All those in favor, please signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed. Good luck with your plan. Please stay in touch with Ms. Lint.

Well, you will be in touch with him, assuming that the background checks are okay?

ELIZABETH LINT: Yes.

MICHAEL GARDNER: Which was, of course, one of the conditions of the vote's approval. And you will be in touch with us if there are any problems with the backgrounds for us to reconsider.

ELIZABETH LINT: Correct.

SHUHEL AHMAD: Okay. Thank you very much.

* * * *

ELIZABETH LINT: Application Tatte

Cambridge, LLC doing business as Tatte Bakery & Cafe, Tzurit Or, Manager, has applied for a common victualer license to be exercised at 318 Third 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 32 inside seats during the day, 40 inside seats during the night, and 12 outdoor patio seats on private property. The hours of operation will be 7:00 a.m. to 10:00 p.m. seven days per week.

MICHAEL GARDNER: Would you state and spell your name for the record.

TZURIT OR: My name is Tzurit, T-Z-U-R-I-T, last name is Or, O-R.

MICHAEL GARDNER: And it says here that you will be the manager?

TZURIT OR: I have a general manager.

MICHAEL GARDNER: Are you the owner?

TZURIT OR: Yes, sir.

MICHAEL GARDNER: Tell us about the plan.

TZURIT OR: The first location is in Brookline; we opened in 2008. And the plan is to expand and be able to bring some more food and other options than we have in Brookline, because the space in Brookline is very small, we can serve only pastries there.

MICHAEL GARDNER: So could you just describe the menu or the contemplated menu, please.

TZURIT OR: In Cambridge it will be breakfast, lunch and dinner; full service of breakfast, and from 11:30 to 2:00 p.m. it will be sandwiches, and then around 4:00 a switch to dinner. We have full bakery service, a bread department.

MICHAEL GARDNER: Do you have a contemplated menu to share with us?

TZURIT OR: Yes.

(Menu handed to Ms. Lint.)

MICHAEL GARDNER: What's the space being used for now?

TZURIT OR: It's not. It's been empty for ten years.

GERALD REARDON: It's not a stand alone building, is it?

TZURIT OR: It is. It's the Vertex Building owned by BioMed (ph.sp.).

MICHAEL GARDNER: And the abutter notices, do you have --

ELIZABETH LINT: Actually, there is no abutters.

TZURIT OR: Right.

MICHAEL GARDNER: I see you are applying for a CV license only. Do you have any plans -- do you want to expand into alcohol all?

TZURIT OR: We thought about it, but it's not my thing, so I'm out.

MICHAEL GARDNER: And would you describe your experience in managing a full

scale restaurant? It sounds like in Brookline it's pastries only.

TZURIT OR: Brookline is pastries, quiches and soups. My managing skills start from being a film producer for 12 years, and managing a gigantic production all over the world.

And being in Brookline for almost four and a half years, managing this, and managing very large wholesale accounts.

MICHAEL GARDNER: Who will be doing the cooking?

TZURIT OR: Myself and eight other bakers are going to do the pastries; six other cooks are going to do the savory menu.

MICHAEL GARDNER: Will the pastries be made on-site?

TZURIT OR: Yes.

GERALD REARDON: So this is going to be a new build-out of that area, that space?

TZURIT OR: Yes. We have been

building it -- (inaudible) we have a construction company -- and we started on January 16th, so we are almost there.

GERALD REARDON: So you are not using fryolators at all, right?

TZURIT OR: Using what?

GERALD REARDON: Fryolators, grease, frying food.

TZURIT OR: No.

GERALD REARDON: So you've put a hood system in and so forth, and you are aware of the codes and such?

TZURIT OR: Yes.

MICHAEL GARDNER: Are there any particular challenges in the space with respect to receiving supplies or the handling of refuse?

TZURIT OR: We do have a few challenges, but we work with BioMed and Vertex, and we opened a side door that's going into their building, and we can get receiving

and take the trash out and not have to go through the space.

MICHAEL GARDNER: What's your expectation with how frequently trash will be picked up?

TZURIT OR: Daily. We have a daily pickup.

MICHAEL GARDNER: Do you have closed dumpsters?

TZURIT OR: Yes. We have actually a trash room with air-conditioning.

MICHAEL GARDNER: So the trash doesn't go on the street, it stays in the room and the haulers come in and take it away?

TZURIT OR: Yes. We can't use their loading dock or anything like that.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: What's the reasoning for the change of seating between the day and the evening? Why are you increasing it just

by eight seats as opposed to keeping it --

TZURIT OR: Because we have -- for me, putting together a place is -- a customer needs to come in and have a different experience. They need to experience Tatte, because we do things very different in with our pastries and food.

So during the day, you have a long display table. You can come in and see our product, for display only. And during the night, 5:00 p.m., we fold it up and we put tables.

ROBERT HAAS: Okay. I just didn't understand why you differentiated between day and night. Okay, I understand now.

No other questions.

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

ELIZABETH LINT: I do have a letter from counsel in support of the application.

It says, "As Kendall Square continues to grow" -- (reading from letter).

MICHAEL GARDNER: And you say the space has been empty for ten years?

TZURIT OR: Yes. They've been waiting for us.

MICHAEL GARDNER: Tell us a little bit about the outdoor patio seating, where will that be?

TZURIT OR: We have private property around the building, surrounding it, so this is where it's going to be.

MICHAEL GARDNER: Is it like a courtyard or is it on the street?

TZURIT OR: No. Mostly the tables are going to be attached to the -- actually to the -- it's not even close to the public sidewalk. We have our own area.

MICHAEL GARDNER: I guess I was going to make a motion to approve the application for the common victualer license as described

in the agenda. Is there a second?

ROBERT HAAS: Second.

MICHAEL GARDNER: Motion having been made and seconded, all those in favor please signify by saying aye.

GERALD REARDON: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed.

So welcome to Cambridge, good luck.

TZURIT OR: Thank you.

* * * *

ELIZABETH LINT: Application for Yoki of Cambridge, LLC, doing business as Yoki Japanese Restaurant and Sushi Bar, Henry Vu Nguyen, Manager, has applied for a common victualer license to be exercised at 485 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises with an occupancy of 116 (106 seats inside and 10 standing) and 6 seats on a

seasonal outdoor patio on the public sidewalk. The hours of operation will be 11:00 a.m. to 1:00 a.m. seven days per week. Applicant is also applying for an entertainment license for 3 TVs, radio, and background music below conversation level.

MICHAEL GARDNER: Good evening. Could you please state your full name and spell it for the record and your affiliation.

ATTORNEY GALLUCCIO: Good evening, Mr. Chair and Honorable Members of the License Commission. My name is Anthony Galluccio, A-N-T-H-O-N-Y, G-A-L-L-U-C-C-I-O, and I'm with the law firm of Galluccio and Watson at 1498 Cambridge Street in Cambridge, Massachusetts.

MICHAEL GARDNER: And present with you this evening are?

DERRICK CHOI: I'm the architect of record, my name is Derrick Choi, C-H-O-I, Exchange Architects in Brookline.

HARRY VU NGUYEN: Harry Nguyen,

N-G-U-Y-E-N. I'm the manager and owner of Yoki.

MICHAEL GARDNER: So, Mr. Galluccio, do you want to tell us about the plans?

ATTORNEY GALLUCCIO: Sure. This is a Japanese sushi restaurant that is -- it was actually issued a building permit today to begin construction. It's at the location of the -- formerly known as the Floating Rock Restaurant.

DERRICK CHOI: It's at the intersection of Mass. Avenue and Douglas Street across from McDonald's. And this is a proposed elevation of the unit on Mass. Avenue (indicating).

ATTORNEY GALLUCCIO: Mr. Nguyen is an experienced restaurant operator. I came to know the restaurant out in Medford; they are located in Medford and they've been operating for the last five years. They operate a restaurant with about almost 150 seats there

with alcohol. They have a flawless record in Medford, operating there.

This is a similar concept. It will be a pure Japanese sushi restaurant; a little less seating, but the same operational concept.

Again, Mr. Chairman, they are also requesting an entertainment license. And they are currently going through the process to be approved for, I believe, six outdoor seats to compliment the business outside, that hasn't been approved yet but they are in the process of doing so.

MICHAEL GARDNER: Is that through Public Works?

ATTORNEY GALLUCCIO: It is. Mr. Dwyer has been out to look at it and we expect no issues with that. The interior -- and I'll let the architect describe the concept for the renovation. It's about \$250,000 worth of work, which is significant,

but it's about the same concept.

DERRICK CHOI: Very quickly, this is a modification of an existing restaurant space. Floating Rock was completed about two and a half years ago, a little bit less. We are retaining all of the existing HVAC systems. What we are changing extensively would be finishes.

So in terms of major modifications, the occupant load remains the same; it's 106 seated, and that's a previously approved number, basically because we only have that much space to work with.

There is also -- the full occupant load is 116 seats, as per the existing plan. So we are not making any changes other than major interior finishes and ceiling work, as well as some lighting modifications. That is essentially the architectural changes.

The minor changes with sprinkler heads, based on some ceiling height

modification, but the existing MEP remains the same.

ROBERT HAAS: MEP is?

DERRICK CHOI: MEP is mechanical, electrical, and plumbing is essentially the same with some modifications with the interior finishes.

ATTORNEY GALLUCCIO: Mr. Chair, I forgot the name of the location, but it's Stations Landing, which is over in Medford which is where Regina Pizza and some of the new restaurants with the new housing there. Cambridge Health Alliance has their corporate office there as well. And it's been extremely successful there and well operated.

I do, for you, Mr. Chair, have a résumé for Mr. Nguyen. And also just a couple of housekeeping items, the insurance certificate. And also all the abutters have been notified and I have registered receipts for the abutter notifications as well.

And we do have a menu from the Station Landing location, if you are interested. The plan is for it to be a similar menu.

MICHAEL GARDNER: And how long has Mr. Nguyen managed the Station Landing site?

HARRY VU NGUYEN: For the past five years, since we opened it.

MICHAEL GARDNER: So it opened five years ago and you have been managing it for the whole time?

HARRY VU NGUYEN: Yes, sir.

MICHAEL GARDNER: And will it stay open, and how will you manager your time back and forth?

HARRY VU NGUYEN: Currently, there will be a general manager set in that location to run it. And then my primary task will be responsible for the Cambridge location, Mr. Chairman.

MICHAEL GARDNER: So that the

existing space, as I recall, had a fairly prominent bar area. I've seen on here what looks like seating around what one might imagine is a bar. But I notice you are not asking for an alcohol license.

Could you tell us anything about whether that is in your plan or are you planning on pursuing this?

ATTORNEY GALLUCCIO: Thank you, Mr. Chair. And thanks for the question. And also, you know, there had been, I believe, a no-value license there. So that has been turned back into the city.

I have encouraged the applicant, although they are an experienced operator with respect to alcohol service, I encouraged the operator to apply for the common victualer to get the business open, and then come back to the Board at such time where we have some -- they have some experience dealing with the public in Cambridge.

I can't guarantee that won't be in the near future. We are in the market for a beer and wine license, so we are actually pursuing any leads with respect to beer and wine. And if there aren't any beer and wine licenses out on the market, then we may be back to you to ask to get this restaurant started with a no-value beer and wine.

But right now their focus is getting the common victualer license and getting the restaurant up and running and building confidence with the License Commission and the public here in Cambridge.

MICHAEL GARDNER: The prior occupants also had some challenges that were relatively short-lived in the space. What's your sense about that and your plan to invest all this money.

ATTORNEY GALLUCCIO: I'll give it a shot and then I'll let Harry speak for himself and the investors.

This is -- it's a pure Japanese sushi model. I've been to the restaurant in Medford several times. They do a great job dealing with a young, professional crowd that seems to be really excited about the concept and the way they operate.

But I'll let Harry speak to the competitive environment and why you think your investors are confident here in Cambridge.

HARRY VU NGUYEN: Mr. Chairman, our concept has been proven successful for the past five years at our Medford location.

Our concept is modern and trendy. It's to provide a relaxing atmosphere for the young professionals after their work hours. We offer brown rice to go with the healthy trend now.

Other than that, the modern -- the design of the restaurant will be some lighting affect which will attract the young professionals between 25 and 35. I'm in that

category, so I know, and that concept is catering to the young professionals in the area.

And I do understand we have a competitor across the street, Thelonious Monkfish, I believe. But their concept is Fusion (ph.sp.), Thai and somewhat sushi. Our concept is purely Japanese (inaudible) sushi and teriyaki steak, salmon, chicken, stir fried noodles.

MICHAEL GARDNER: What sort of business is done at 11:00 a.m.?

HARRY VU NGUYEN: Mostly food.

MICHAEL GARDNER: So there is a market for people and this is essentially lunch?

HARRY VU NGUYEN: Yes. Because I observed the whole Central Square area for the past few weeks and I can see a lot of a potential lunch crowd. Especially the people from MIT and those surroundings there coming

in.

That's why we have a sushi bar right in the middle of the restaurant that will cater to mostly individuals during the lunch time.

MICHAEL GARDNER: Is there any take-out contemplated?

HARRY VU NGUYEN: Yes, take-out, yes.

GERALD REARDON: So all the present systems in the place are being brought back up to code again?

DERRICK CHOI: Right.

GERALD REARDON: You are aware that you need a crowd manager, whenever you go over a hundred you need to have a crowd manager on the premises at all times.

MICHAEL GARDNER: And there's the indication that the architect nodded his head. The record can't reflect it when you gesture like that.

DERRICK CHOI: Duly noted, yes.

MICHAEL GARDNER: And the outdoor seating, would that also run from 11:00 a.m. to 1:00 a.m. seasonally?

HARRY VU NGUYEN: Yes, sir.

MICHAEL GARDNER: Any other questions? Are there any members of the public who would like to be heard on this matter?

Seeing none.

I'll make the motion to approve the application as is stated on our agenda.

GERALD REARDON: Yes.

MICHAEL GARDNER: Approving the outdoor seating, if it's approved by the Public Works. And does that need city council action, too?

ELIZABETH LINT: It does.

MICHAEL GARDNER: Our approval would be contingent upon all the other approvals.

All those in favor, please signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: Welcome to
Cambridge. Good luck.

ATTORNEY GALLUCCIO: Thank you.

HARRY VU NGUYEN: Thank you.

* * * *

ELIZABETH LINT: The next matter,
Boston Tea Shop, has complied.

* * * *

Disciplinary matter of Verna's, 2344
Massachusetts Avenue, holder of a common
victualer license for failure to submit their
Certificate of Liability Insurance showing
workers' compensation coverage.

No one is here.

MICHAEL GARDNER: So we still don't
have evidence of workers' comp?

ELIZABETH LINT: No.

MICHAEL GARDNER: What are our
options?

ELIZABETH LINT: We can notify them that if they don't supply it within a certain amount of time, we'll close them.

MICHAEL GARDNER: So I take it he's gotten the notice already?

ELIZABETH LINT: Yes. I've even had a conversation with him. Mrs. Watson has had several conversations with him.

ROBERT HAAS: What is the nature of the conversation?

ELIZABETH LINT: That he has to get us the insurance binder. He submitted something, it was just incorrect, and we explained what he needed. And he said to me, two hearings ago, that he would have it to me that day, and we still don't have it.

MICHAEL GARDNER: Do we have it in our authority to suspend the license pending submission?

ELIZABETH LINT: Sure.

MICHAEL GARDNER: I guess in terms of

a notice, I'm not sure what sending our investigator out there to essentially say, "Hey, this time we really mean it," you know, what the value of that is.

I'm happy to hear prior experience of the Commission with respect to noncompliance after representation that the compliance would be eminent.

ROBERT HAAS: Mr. Chair, I believe there has been a number of conversations between the License Commission and the applicant and he still hasn't complied. I think it would be totally appropriate to suspend his license until he furnishes the appropriate documentation.

MICHAEL GARDNER: Is that in the form of a motion?

ROBERT HAAS: I'm agreeing with you. I'll put it in the form, if you'd like.

MICHAEL GARDNER: We haven't heard from the public yet. Any thoughts before

before we --

GERALD REARDON: I would almost consider giving him the deadline of when the license would be suspended if we don't have the paperwork. I mean, just give a time and a date, you know, "As of a certain day, if it's next week or whatever, if it's not completed then they are closed," type of thing.

MICHAEL GARDNER: That sounds like it is within our power to do.

ELIZABETH LINT: Absolutely.

MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter?

Seeing none. Well, I'll make the motion, subject to either seconding or an amendment or failure to carry, that a notice be sent in person and by certified mail, that the failure to submit evidence of appropriate workers' compensation coverage by April 23rd, which is next Monday, 2012, would result in

suspension of the license until compliance is provided, effective April 24, 2012.

ROBERT HAAS: Seconded.

MICHAEL GARDNER: Motion having been made and seconded to send the notice of a contemplated suspension as of April 24, 2012, absent satisfactory proof of compliance with workers' comp. certification of liability, all those in favor, please signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed.

And you'll make sure that the appropriate notice is forwarded, Mrs. Lint?

ELIZABETH LINT: Yes, I will.

* * * *

MICHAEL GARDNER: Before we take up the ratifications and minutes, we do have the addendum of the continuation from March 20th and April 3rd of Diciples, LLC, doing business as Bull, B.B.Q.

And this, again, states that they've applied for a new all alcohol beverage as a restaurant license. This matter was continued from April 3rd. And will the representatives please come forward now.

(Audience members coming forward)

MICHAEL GARDNER: And, again, if you all could, would you state and spell your names for the record and also and also indicate your affiliations.

ATTORNEY MILLER: Good Evening, Mr. Chairman, Commissioner, Chief, I'm Attorney Stephen Miller, S-T-E-P-H-E-N, M-I-L-L-E-R, from the law firm of McDermott, Quilty & Miller.

I have with me tonight Daniel Shin, S-H-I-N.

DANIEL SHIN: Daniel Shin, S-H-I-N, and I'm the manager on record.

JIN KYUNG KIM: I'm Jin, J-I-N, Kyung, K-Y-U-N-G, and my last name is Kim,

K-I-M. I'm the owner of the restaurant.

MICHAEL GARDNER: I'm sorry, could you spell your first name again for me, please.

JIN KYUNG KIM: J-I-N.

MICHAEL GARDNER: And was there a middle name?

JIN KYUNG KIM: K Y U N G.

MICHAEL GARDNER: Mr. Miller?

ATTORNEY MILLER: Mr. Chairman, I'm filling in for Attorney Simao, who did the last hearing. But she informed me that an issue came up that a member of the public stated that not only was the property listed for sale, but also the restaurant was listed for sale at different times, and that the purpose of having this license reinstated was so that the owners of this restaurant could sell the license.

I have prepared two affidavits to give to the Board. I have one from Mr. Kim

stating that they have been renovating the premises for over a year, that they have invested \$380,000, and if this Board grants them the license, subject to approval by the ABCC, they are prepared to, obviously, optimistically, open within two weeks, which would be very optimistic concerning the approval of the state liquor commission. So I have an affidavit from Mr. Kim, which I'll present to you.

I have also an affidavit from Mr. Dhanda, who is the owner of the property, that this property has not been listed for sale, and he has not listed the space for lease during the time that this tenant has been in renovating the premises.

So those are both notarized by me. And we added at the end, at the bottom, that should these statements made in the affidavit be proven false, then the Alcohol Beverage Control Commission shall institute proceedings

which may bring about suspension or revocation of the license.

And they understand that if any statements made in the affidavit be proven false, the ABCC may take action and, obviously, this Commission may take action as to providing false statements under oath to the Commission. (Reading from document)

ROBERT HAAS: Mr. Miller, you mentioned "the property," does that also include the sale of the liquor license as well?

ATTORNEY MILLER: I don't know -- it just listed the business for sale, but, I mean, if you want to swear them in, they'll testify under oath that the liquor license has not been for sale.

We'll put in writing to you that we fully intend to open and operate and that we put that under pains and penalties that the license has not been for sale, is not for

sale, and we intend to make a go of this restaurant.

MICHAEL GARDNER: Would you address, Mr. Miller, in looking at some of the old records, I understand that the applicant had different counsel, but that a representative from your firm was here apparently representing the landlord.

And I'm not clear if your firm continues to represent the landlord or the extent to which there is an arm's length relationship here between the applicant and the landlord, and if you are, in fact, representing both.

ATTORNEY MILLER: In this case, there is not a conflict at this time. Clearly, the landlord recommended our firm to this license holder, or former license holder, hopefully, soon to be a license holder. There is no conflict. They signed a conflict waiver. They've hired our firm because of our

experience in this particular area and in hopes that they will be able to open and operate this business soon.

MICHAEL GARDNER: The affidavit says, "The landlord has not listed the unit to be occupied by the applicant for at least during the time the applicant has been a tenant and conducting renovations of the premises."

Is there any particular reason that it was worded that way?

ATTORNEY MILLER: To be clear, I don't think there is any -- I'm not trying to trick anybody. I did not hear the testimony. I know that the prior testimony was rumors, with nothing in writing.

But, to be clear, that while they are a tenant, while they are under renovation, if there is some rumor out there that the landlord was looking for another tenant and they are concerned about this, that is absolutely not correct.

MICHAEL GARDNER: Well, the reason I asked the question was because I believe that there is at least some evidence in the record that there was a substantial period when there were no renovations underway.

And I'm wondering if the way this was phrased is, in fact, a limitation or a condition on the statement.

Did I make myself clear?

ATTORNEY MILLER: Yes, I understand now. And there was no intent on that. It's the way our office worded it. There is no intent to be cute, Mr. Chairman.

MICHAEL GARDNER: Could I hear from Mr. Kim about giving us a time line on when renovations began, whether there was ever a hiatus or a suspension of renovations, and, if so, when they began again, and the status of the work as of December 31, 2011.

JIN KYUNG KIM: December 31, 2011?

MICHAEL GARDNER: This past December.

So I'm asking when renovations started, if there was a time when renovations were suspended or in hiatus, nothing happening; and if that is the case, when they started again, and what was the status of renovations on the last day of last year?

JIN KYUNG KIM: Actually, last year --

ATTORNEY MILLER: When did renovations start? Can I help, Mr. Chairman?

MICHAEL GARDNER: Yes.

JIN KYUNG KIM: Almost the beginning of March.

ATTORNEY MILLER: A year ago March?

JIN KYUNG KIM: No, this year.

MICHAEL GARDNER: March of 2012?

JIN KYUNG KIM: Yes.

ATTORNEY MILLER: And the status as of the end of December 31, 2011, what was the status as of December 31, 2011? No renovations going on?

JIN KYUNG KIM: No, nothing. I'm sorry, my English sometimes -- I don't know. I try to do my best.

MICHAEL GARDNER: Sure. And, please, ask, either through Counsel or directly, if you are unclear.

So if I understand it, there really wasn't anything going on in December of 2011?

JIN KYUNG KIM: Yes.

MICHAEL GARDNER: That's correct? There was nothing going on?

JIN KYUNG KIM: Yes, that's correct. We start renovating almost in the beginning of March of this year.

MICHAEL GARDNER: So I've taken a look at some of the minutes of the prior hearings. And, as I understand it, I believe, Mr. Miller, your firm was not representing the applicant at the time.

So this is an excerpt from some minutes from September 2, 2010. This was the

matter on the agenda, the minutes begin on page 4. It appears that an Attorney Yeon Kim, Y-E-O-N, K-I-M, was here.

Is that someone who represented you in the past, Mr. Kim?

JIN KYUNG KIM: Yes, back then.

MICHAEL GARDNER: And then was there or is there another party here whose name is either H-Y-U-K, Hyuk Kim, or -- yes, H-Y-U-K, Kim. And if there is such a person, who is that?

JIN KYUNG KIM: That is one of our members.

MICHAEL GARDNER: One of the partners?

JIN KYUNG KIM: Yes. But he is not here.

MICHAEL GARDNER: Is he still an active partner?

JIN KYUNG KIM: Yes.

MICHAEL GARDNER: So at the time the

issue before the Commission had to do, I think, with consideration of an approval of the sale of the license from the Bombay Club to you all.

And on page 16 of those minutes, Mr. Kim says, "And, again, another point I want to make, we've been working on this project for the last one year. And finance-wise, we are like right here (indicating)."

Now, one might say that that is what he means, but it says "We are right here (indicating)." And "Construction-wise we are ready. We are almost done."

Richard Scali, the then Chair of the Commission, says, "Yes." And Mr. Kim said, "We've got our CV license. Construction almost over. And the last thing we are waiting for is our liquor license."

And Mr. Scali says, "When are you ready to open? When will you be ready?"

And Mr. Kim said, "September 2, 2010. A couple of weeks, two weeks or so."

Mr. Scali said, "So you are really ready to go?" And Mr. Kim said, "We are ready to go. All the kitchen is done, the floor is done."

So when you were here two weeks ago, we also heard that you were ready, just ready, and we've also heard tonight that you are ready.

However, we have had some inspectors take a look, and, at least in the opinion of some of the people who have looked at it -- and I'll leave the comment with the Chief, if you've got anything to say about the status of the renovations.

GERALD REARDON: The fire prevention said you are still a ways off. You haven't done a lot of your hood work; that has to be certified.

JIN KYUNG KIM: Oh, the past two

weeks we finish it all. We finished. I met the day that -- after the hearing I met Mike Grover --

GERALD REARDON: Mike Grover from Inspectional Services.

JIN KYUNG KIM: And Andrea. And we met that day after the hearing.

GERALD REARDON: And Captain McHale from the fire prevention came as well.

JIN KYUNG KIM: I don't -- I think we started doing the (inaudible) about the fire protection and --

GERALD REARDON: The point we are making is that those people look at these things all the time, and they didn't think you were two weeks from being ready at the time that you told us that at the last hearing.

So it would appear here that maybe there is an over anticipation of where you think you're going to be versus reality here.

Because we are reading from the

testimony, which is a year ago, last September, so a year and a half. So this has been going on for quite a while. So one would have to consider what the reality is versus what your hopeful anticipation is.

And right now it looks like the reality is that we've seen this drag on for quite, quite some time, quite some time.

JIN KYUNG KIM: The answer is that was our major issue, but we finished last weekend, all the kitchen and all the tables. So construction-wise, I (inaudible) -- because I'm going to New York --

THE STENOGRAPHER: I can't hear you.

ATTORNEY MILLER: I didn't understand you either. What did you say?

JIN KYUNG KIM: I told our project manager that I'm going to do that, tonight I'm going to New York City. (Inaudible) I have to know what the time line. I know sometimes it's more than what they say to me.

But from now on, I can see, this weekend, next week, construction-wise, I think we are almost done. So we have our final inspection. That's all our project manager today. (Inaudible)

GERALD REARDON: So your project manager says how long before you are ready for the final inspection?

JIN KYUNG KIM: This week and next week, construction-wise, we'll be all set.

GERALD REARDON: So in two weeks.

ATTORNEY MILLER: I was just going to ask who the project manager is.

JIN KYUNG KIM: Construction manager.

ATTORNEY MILLER: Who is the construction manager?

JIN KYUNG KIM: His name is Steve. He is there all the time.

ATTORNEY MILLER: Do you know his last name?

JIN KYUNG KIM: I don't remember his

last name. I call him Steve.

MICHAEL GARDNER: Do you remember back in September of 2010 when one of your partners said you were two weeks from opening?

JIN KYUNG KIM: Actually, at that time --

MICHAEL GARDNER: What happened?

JIN KYUNG KIM: I didn't like get involved that much. Usually like Hyuk Kim, usually he did all those construction things. I was like a silent investor type. He just called me.

MICHAEL GARDNER: So you were a silent investor back in 2010?

JIN HYUNG KIM: Yes.

MICHAEL GARDNER: And the Mr. Kim Hyuk, H-Y-U-K, I think, was the one who was involved in the construction?

JIN KYUNG KIM: Yes. Hyuk Kim, yes.

MICHAEL GARDNER: But as a partner, you must have had some sense about, over time,

how the project was going? Why didn't you open in September of 2010?

JIN KYUNG KIM: The same answer, that we lose the license because we didn't renew, that is why we are here.

I'm still learning. At the time, I didn't know what was going on. I just, you know -- then I realize, oh, what I have to do. And also my English is not as good as Hyuk Kim, so usually he did all those things. But now, you know, so I'm here.

And at the last meeting, I say to all of you guys, like, "I made mistake. I'm still learning. But I'm here. So I don't want to make the same mistake again."

MICHAEL GARDNER: So in terms of what I think we learned tonight that the renovations didn't really begin until March of 2012, right?

JIN KYUNG KIM: Yes.

MICHAEL GARDNER: I am perplexed.

When we asked why it was that our written notice of a letter dated, I think, December 5th of 2011 to Daniel Shin at 57 JFK Street was returned to the Commission on December 9th of 2011, with a "Return to sender. Disciples moved. Left no address. Unable to forward, return to sender," the answer that we got from counsel from Mr. Miller's firm who was representing you that evening said, "I can't explain why the post office would have, or anybody, would have marked that return to sender, because Mr. Kim at the time was there building out the property."

So the representation was made to us that in early December of 2011, renovations were actively going on, and that Mr. Kim -- I'm not sure if that Mr. Kim was you or another Mr. Kim -- was at the time there, building out the property. And I believe that, in fact, the generalized representations made to us through counsel at the time were

that all through the fall of 2011 the renovations were going on.

(Inaudible discussion between Attorney Miller and Mr. Kim.)

JIN KYUNG KIM: I didn't involve back then, so I don't know.

ATTORNEY MILLER: Speak up. Are you saying that you didn't know because you weren't involved that the work was going on?

Is there someone else that is here with you that would know?

MICHAEL GARDNER: Well, Mr. Shin should know. You are the managing director, right?

ATTORNEY MILLER: General manager of record.

MICHAEL GARDNER: General manager of record.

DANIEL SHIN: But all, like, the ownership kind of development stuff, that was -- I wasn't central to that either. Like for

me, I saw my role as, once it's opened, that's when like I'm, you know, in the forefront like making sure everything is okay.

So I'm just waiting for it to be, like, mainly built out, but also making sure there are no, you know, delays and things like that.

MICHAEL GARDNER: So let me just ask a general, hypothetical question. Am I to assume that you don't really get paid or you don't get your full salary until it's open?

DANIEL SHIN: Mmm, yes.

MICHAEL GARDNER: So I'd like to know, if your essential employment or income was dependent on when it was open, are you telling us that you, in fact, didn't monitor the progress on its moving to be opened during the fall and winter of 2011?

DANIEL SHIN: Well, yes. I mean, I wasn't there like every single day and things like that. I left that responsibility to the

people who I guess are the owners.

MICHAEL GARDNER: Well, what's your best memory of what was going on in December of 2011 with respect to renovations?

DANIEL SHIN: I guess like I was told that things were going to be open soon. I mean, I wasn't given a definite time line because the license had fallen through, and I didn't know about that until I guess the rest of my group knew.

GERALD REARDON: Could we ask how many times have you been to the location?

DANIEL SHIN: Well, starting like once March came, I've been there.

GERALD REARDON: So prior to March, how many times have you been there?

MR. SHIN: Not that often.

GERALD REARDON: What's that? Once? None?

ATTORNEY MILLER: Once a week? Once every couple of months?

DANIEL SHIN: No, no. Maybe like a couple times in the past year before.

MICHAEL GARDNER: So, Mr. Miller, one of the things we are concerned about here is that this license, in fact, was more than that, that there wasn't any activity, Diciples had, in fact, left the premises just like the post office said. And no activity was going on and the license expired. There wasn't any effort being put into renovating the space or getting it ready. And that -- I don't know where the investors or the proposed general manager were, but they weren't on-site getting it ready. That's a concern. Which appears to be counter to the representations made by the representative of your firm at the last hearing.

That having been said, what at least a worry is, is that all of this new activity comes about as an effort to try to restore some economic value to a license which, in its

due course, simply was not renewed. And I think prior counsel, last week or last time we met, indicated that, you know, this had been an egregious error on the part of the applicants, and they were -- and you weren't really here and I don't want to misquote -- but I think it was they "we're here on bended knee" or something similar.

And, I guess, I will take that at face value, but I'm wondering if, in fact, we've been dealt with fully credibly and honestly here.

If we are to believe Mr. Kim this evening, if renovations started in March of 2012, then the affidavit which says that the license or the premises weren't listed while renovations were going on, doesn't necessarily answer the question.

ATTORNEY MILLER: Well, there is a lot to respond to, and we can only give you the information that's provided to us.

But all that being said, in speaking to them and speaking to the landlord, they made it clear before they signed these -- and once again, nobody is being cute -- you know, Was this restaurant listed for sale at any time? And they said no. Was their license listed for sale? No. Was the landlord listing the space for rent? No. Was the property for sale? No. And they signed affidavits to that effect.

They would have to be, and appear to be, talking about not following through and making egregious errors, even if they decided that they weren't going to go forward with the project, then it appears that some of the owners and investors had to rescue the project. But even if it appears that they weren't going to go forward with the project, to just walk away from a license that they paid in excess of \$230,000 for just doesn't make any sense.

So it appears that there was some shakeup in how this restaurant was going to open and who was going to be in charge or whatever.

And if this Board was so inclined to allow them to go forward, you know, you can put a 90-day review period to bring them in to see how their place is operating and restrict them as to representations they made to this Board, whether they are qualified to hold a license in your city.

MICHAEL GARDNER: On page 127 of the transcript of April 3, 2012, Ms. Simao said to us, page 127, "But Mr. Shin can certainly speak to the work that has been done at the premises and that has been going on since the fall, and that they are ready to open."

And then Mr. Shin spoke and he said, "My name is Daniel Shin, and I just wanted to respond to the previous speaker" -- which I think a member of public had said that nothing

had been going on -- "that for me personally, I have seen it and we are ready to open. So I don't see where the idea of us not being ready or not wanting to open a restaurant down there, that doesn't really align with, I guess, us as business people wanting to open this restaurant right now."

So Mr. Shin did not, in fact, confirm what Ms. Simao said, that Mr. Shin could confirm that work had been done on the premises, and that the work had been going on since the fall. But that was the representation that Ms. Simao made to us.

And in terms of, I guess, the sort of managerial shakeup or the ownership shakeup, I suppose, at least circumstantially, it looks like all this activity happened after the landlord learned that the license hadn't been renewed; and that it was the landlord who contacted the applicant; and that it was the landlord who perhaps contacted your office.

And it at least raises the question in our minds as to whether or not, in fact, this ownership group had seriously been planning to open the restaurant in that location or not.

And, you know, whether they understood or realized that they at least needed to renew the license, I'm not sure. But I really have to wonder, again, as to whether the License Commission is being -- that the representations made to the License Commission are fair and accurate.

ATTORNEY MILLER: Rather than me making any representations, I think, Mr. Kim, it would be appropriate for you to tell the Commission, share with the Commissioner and the Chief what you've done to get this place open as far as staff and anything else to give them the comfort. Because right now, as you can tell, they are not very comfortable as to this ownership.

So it would be really appropriate,

not coming from your attorney coming, coming from you, to tell them what you had done, what you've done as far as staff, and maybe have your project manager prepare something of a checklist of what still needs to be done to get this place open. But it would be better coming from you than from me. I don't want to make any representations at this point.

DANIEL SHIN: Well, just for staff-wise --

ATTORNEY MILLER: Mr. Kim, first, he is one of the owners.

JIN KYUNG KIM: To be honest with you, I want to open the restaurant. We got a lot of issues about construction and the liquor license. But I am ready. I have to open the restaurant and I have to work hard.

And also a lot of people being, like, kitchen chef or like the server or those people are still waiting.

THE STENOGRAPHER: Can you please

keep your voice up so I can hear you.

ATTORNEY MILLER: Yes, she has to type it for the record.

So you've hired people?

JIN KYUNG KIM: No, we talked, we talked. You know, we are going to open -- if you want to open the restaurant, you need manpower, like kitchen staff or dining room staff.

So I have been working in the restaurant more than ten years, so I got a lot of connections. So we already talk when it's going to open. But I cannot give them, like, the day, because it all depends on, like, as I say to Chairman or the Commissioner, like the city hearing and the construction.

But when I talk with our project manager, he say to me, "This week and next week, we can finish it up. Job done construction-wise."

Then we have to prepare a final

inspection, as you know, electrical or plumbing or fire, building has inspector.

You know, now I'm realizing we make big mistake back then. But I don't want to blame Hyuk Kim, my partner. It doesn't mean anything to me. I just want to focus from now until the future. I need to work, you know. I want to open the restaurant. And, like, I want to be part -- however it's done, I want to be part of Cambridge. I'm still learning. My wife is pregnant.

ATTORNEY MILLER: Mr. Shin, do you want to tell the Commissioner --

DANIEL SHIN: Well, what he actually said is that we have people like waiting for this place to be open. We have at least ten servers waiting. We have kitchen staff and stuff like that.

GERALD REARDON: What about a chef?

DANIEL SHIN: Yes, kitchen staff, like six or seven.

JIN KYUNG KIM: I'd say eight or nine.

GERALD REARDON: And those are people who are probably working in other locations now?

JIN KYUNG KIM: Yes.

MICHAEL GARDNER: Thank you.

Mr. Miller, I have some other questions about the interim status of things. And I'd like to just beg everyone's indulgence if I review some of the transcript from the last hearing which was April 3rd.

Ms. Simao did say that "We are really here on bended knee before your Commission." That was the analogy she used on page 82.

On page 83, she says, "And that is, as the Board can imagine, and clearly through no fault of the Commission, your office was wonderful. They placed calls to all these folks, to people who were working in this space building-out, and those messages never

got to the owners here. And that is a problem that falls directly on the owners. We are very apologetic for even taking up any of the Board's time on this today."

And then during a public comment period at least it appeared that there was some implied criticism of the Commission from the landlord in terms of not notifying the landlord of the expiring of the license.

And Ms. Simao, on page 144 of the transcript said, "And, again, I appreciate the Commission taking the time with us. And I appreciate Ms. Watson's comments." Ellen Watson was here that evening in Ms. Lint's place. "I've done a lot of work with your office, they are very good. I don't want there to be any implication on your office or on your staff that" -- then the Chair, me, interrupted and said, "Well, there was testimony that it was sort of our fault that we didn't contact the landlord."

And Ms. Simao said, "Well, the landlord was made clear when he contacted my office that he wasn't the licensee. There was some concern initially that there was some case law that there is an obligation of the licensing board and the ABCC before cancelling to notice the lienholder, which he was. And I'm not making that argument here before you today, that's not the direction I'd like to take this in at all. I would really like to see it amicably resolved and taken care of. I'd like to have it not happen again. And understanding the need for penalties and things of that nature."

So that's a long windup, Mr. Miller, to my question to you, as the Board considers this, is there, in fact, case law and, if you could cite it, let us know. And is there some contemplation that we may be facing litigation from a lienholder should we decline to revive an expired license?

ATTORNEY MILLER: The specific case that I'm aware of was in a non-use situation, it was not a license expiring by operation of statute. And in that specific case, it went to the State Commission on Appeal. It was a Boston case. And it was deemed to be an obligation to notify the lienholder for a revocation due to non-use. I think that's a different fact pattern that is before you today. The expiration of this license is clearly subject to Massachusetts General Laws, Chapter 138, which states that "Renewals shall be filed in the month of November. And if you do not file in the month of November, you lose the automatic renewal rights."

Now, I can't speak for what the landlord might do down road, but it's our opinion that once -- and it's not the obligation of the Board come November 28th to notify the lienholders if a licensee has not renewed. I think it's -- in my opinion --

it's totally a different fact pattern.

MICHAEL GARDNER: Thank you. And I appreciate the fullness of your response.

ATTORNEY MILLER: And we are on bended knee, if I can say that again.

MICHAEL GARDNER: Ms. Lint, I believe that at the prior hearing there was a representation that either the license or the premises, or both, had been listed on Craigslist through a broker, as I understand it. And the broker, as I understand it, was the Diamond Group?

ELIZABETH LINT: That's correct.

MICHAEL GARDNER: And can you summarize for the Commission -- and we'll indicate this is hearsay -- what you learned in those inquiries?

ELIZABETH LINT: Mr. O'Neill first called Steve Kelly at the Diamond Group and inquired whether or not there had been a Craigslist listing for 57 JFK Street with the

liquor license.

And he, in fact, said, "Yes. That Mr. Dhanda had listed -- had him list that license. "

I called to confirm that.

MICHAEL GARDNER: Let's be clear, Mr. O'Neill is an employee of the License Commission.

ELIZABETH LINT: Yes, he is my assistant. I spoke to Mr. Kelly last Friday and he said that, in fact, he had been instructed by the landlord to list the license with the agreement of the owners of Bull Barbecue, B.B.Q. And that when he found out that the license had lapsed, he pulled the listing.

MICHAEL GARDNER: Mr. Kim or Mr. Miller, through you, can you clarify for us when you received the funds to pay for the license, which I believe was a transfer of funds to the Bombay Club or the corporate unit

that was the Bombay Club, when you actually transferred the funds to pay for that license, and how you secured the funds? \$232,500 I believe is the purchase price.

(Discussion between Attorney Miller and Mr. Kim.)

ATTORNEY MILLER: Mr. Dhanda loaned them the money.

MICHAEL GARDNER: He loaned them the money?

ATTORNEY MILLER: To purchase the license.

MICHAEL GARDNER: To purchase the license. And then you received the money and then you paid the money to the owner of the Bombay Club or the corporate group?

JIN KYUNG KIM: Back then, I didn't get involved in that transaction. Hyuk Kim, my partner --

ATTORNEY MILLER: I can get you that information.

MICHAEL GARDNER: Do you know how it was paid? You know, cancelled check? Certified check? Do you have evidence of the sale, evidence of the transfer of funds?

ATTORNEY MILLER: Do you have a closing statement? Did your attorney give you a closing statement?

(Discussion off the record.)

MICHAEL GARDNER: Did money get deposited in the bank account after you received it from the landlord, and then you took the money out of the bank account to pay the prior license holder?

JIN KYUNG KIM: As I say, sir, I didn't (inaudible) --

THE STENOGRAPHER: I don't know what he's saying.

ATTORNEY MILLER: The answer is you don't know?

MICHAEL GARDNER: All right. So what I would suggest, Mr. Miller, given what both

of us or all of us have learned this evening -- and we might take a five-minute recess for you to consult with your clients and whomever else you might want to talk to, and then you can come back and let us know the status of things from your point of view.

ATTORNEY MILLER: Okay. Thank you very much. I appreciate your indulgence.

MICHAEL GARDNER: We'll take a five-minute recess.

(Brief recess.)

MICHAEL GARDNER: We're back on the record at approximately 8:04 after a brief recess.

Mr. Miller, continue.

ATTORNEY MILLER: I will need to contact Attorney Camille Sarrouf. His purchase of the license was through a bankruptcy. And how the funding actually took place, she has all the records. And I certainly can make all those records

available.

There was a settlement as part of money owed to the landlord and money paid by the landlord. But it was Mr. Kapoor (ph.sp.), who was the principal license holder. It was done through a bankruptcy and Mr. Sarrouf was the bankruptcy attorney. And I don't want to make any representations without seeing what the documents are. I had nothing to do with it at that point. And so I will contact Mr. Sarrouf to get the documents and provide those to the Commission.

MICHAEL GARDNER: I think you can just do that directly to Ms. Lint.

ATTORNEY MILLER: Yes.

And as far as the work happening, you know, I just talked to the other Kim, and the work -- the representations made as to the work in September of 2010, and then the work -- it was totally a funding issue, they ran out of funds, and they've now solved that

funding issue. And I hate to make a representation, but the representation was clearly made to me that they have -- and we'll provide you cancelled checks if you so desire -- that the investment, exclusive of the license, is \$380,000 in the premises, in hard dollars.

MICHAEL GARDNER: I did ask Ms. Simao at the last meeting whether there was any viability to the restaurant should the Commission decide not to revive, renew, ignore the expiration of the for-value license and grant a not for-value license to assist with the operation of the facility.

And she seemed to, as I understood her answer, she said that would not be viable. And I was asking her, Well, if the management group was competent enough and the business plan was sound enough to open and run a thriving restaurant, shouldn't there be enough cash stream to pay whatever the terms of the

note are. And she seemed to indicate no.

And I'll just ask you the question as to whether or not you think that's at all a viable alternative?

ATTORNEY MILLER: I think at that point my conflict waiver would cause me to not be further involved.

MICHAEL GARDNER: Good answer. I take your point.

Well, we are very concerned that somebody from the Diamond Group said that the landlord attempted to put the license on the market. And I'm certainly, from the way I read the affidavit, the affidavit could be literally true, and if renovations didn't start until this funding problem was sort of mysteriously solved in March of this year, it may be literally true but still highly misleading with respect to the circumstances as to why the management let the license lapse in the first place.

ATTORNEY MILLER: If I could address that, Mr. Chairman.

I specifically spoke with Mr. Dhanda about the issues of any brokers and he mentioned a broker whose first name was Steve, I believe, that approached him. He had no listing, he had no right to list it. It's a broker that he has dealt with. He is obviously familiar to this Commission as someone who is very active in the city in real estate.

But, you know, we would stand by the affidavits of both that were presented to you. This person did not have a listing on the restaurant given by Mr. Dhanda. Mr. Dhanda didn't own the license and he could not list it therefor.

Mr. Kim is here and he said the same thing. He confirms that it wasn't for sale and it was not listed. And we can't stop a broker from trying to make a commission and

drum up business, but he did not have a listing from either Mr. Dhanda or from Diciples.

MICHAEL GARDNER: Well, on April 3rd we certainly didn't learn from Ms. Simao or the landlord that a broker had approached the landlord about a listing. What we got was a story that --

ATTORNEY MILLER: We certainly weren't aware of it at that time.

MICHAEL GARDNER: And, again, an issue for us is, you know, fair and honest and full faith dealing. So I appreciate your clarification.

Is there anything else you want to say about that? I'm going to open it to comment from the public. Is there anything else you want to say?

ATTORNEY MILLER: No, Mr. Chairman.

MICHAEL GARDNER: Any questions Commissioners?

Are there any members of the public who would like to be heard on this matter?

Seeing none. I guess I would entertain a motion to take the matter under further advisement pending submission by counsel for the applicant of any clarifying financial documents with respect to the transfer of the license from Bombay to Diciples.

GERALD REARDON: Ms. Lint wasn't here last year. In my tenure here, we have never reacted with any license. I don't know if you remember anything ---

ELIZABETH LINT: Not in my tenure. And Mrs. Watson has been here for 25 years and she said she had never had this either.

GERALD REARDON: So this is not a rudimentary procedure that -- it's a first. We have never done this before. So I want that on the record that this is not simply a routine action that comes up because someone

was lazy (inaudible). This has never, to the best of my knowledge in the 12 or 13 years that I've been here, happened before.

There has been a lot of people who have lost their licenses and lost other licenses over the years for the same charge. So I just want to make sure everyone understands this.

ATTORNEY MILLER: If I could -- two things. As far as providing you the financial documents, I would also offer, if you would accept, a statement from the project manager.

MICHAEL GARDNER: Any additional materials that you think would be helpful to our deliberations are welcome.

ATTORNEY MILLER: And to you, Chief, it's certainly not routine. I would just say it's not precedent setting. You have the right to do this. You have the authority to do this.

For whatever reason, this particular

year, I don't know what happened, with the moon or whatever, but our office had 40 of these this year all over the state of people that just did not renew their licenses timely. I've never seen anything like it.

And if you -- off the record, I can mention a couple to you that would, like, you would just say, it's impossible.

GERALD REARDON: A lot of places, yes.

ATTORNEY MILLER: And places that would just blow your mind that they didn't renew.

So you have the authority to do this, it doesn't set precedence because it's a case-by-case basis.

And, you know, we just ask that you take into account the significant funds that have been expended and the possibility to get this place open and operating.

MICHAEL GARDNER: One other

housekeeping matter, Mr. Miller -- well, two.

Our call of the meeting says an application for a new license. We sort of went through that with Ms. Simao, Counsel Simao, the last time because we had that question: Is this, in fact, a new license or is this a request to revive the prior license?

And I think the answer from her was that the ABCC thinks of it as a new license and so that's how the application came in.

Is there any clarification that you have on that?

And the other is, it wasn't clear to me, the CV license was renewed either. And that seems to me that -- I don't see that a CV license has even been applied for.

ELIZABETH LINT: There is a CV application. It doesn't have days and hours of operation on there. There are a few other housekeeping things also.

ATTORNEY MILLER: Ms. Simao will be

back tomorrow and she'll be in touch with you.

MICHAEL GARDNER: So I would make a motion that we continue the matter generally for the supplementation of the record, and that the matter be heard during the evening of May 1st.

Will both of you be here for that?

ROBERT HAAS: No.

GERALD REARDON: No. I'm not sure if I can get here in time.

MICHAEL GARDNER: Well, I would really prefer not to do it with just the two of us.

How about the 15th? Okay. So that's my motion.

ROBERT HAAS: I'll second it.

MICHAEL GARDNER: Motion having been made and seconded to continue the matter generally until May 15th to provide the applicant the opportunity to supplement the record and for the Commission to conduct any

such additional investigations as it deems necessary. This is something I just added. Time will pass and we'll do what we need to do.

Without objection, is that amendment okay?

ROBERT HAAS: Yes.

GERALD REARDON, yes.

MICHAEL GARDNER: All those in favor, please signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed. I'm sorry that it's proceeding as slowly as it is, but it's complicated and we want to do the right thing.

ATTORNEY MILLER: And we really appreciate the time you've spent.

GERALD REARDON: My assumption would be, seeing the date involved, that we won't be back here talking about that we should have

had a final inspection by then, predicated on what I've heard here tonight?

ATTORNEY MILLER: Chief, from your lips to hopefully their ears, we are all here listening.

GERALD REARDON: We are talking about 28 days potentially from tonight.

ATTORNEY MILLER: To be totally complete.

GERARD REARDON: I'll just tell you for one, I'd be very disappointed if at that time, based on what we hear tonight --

ATTORNEY MILLER: That it would not be complete? I understand.

And, once again, I thank you for the time you've spent on this. We certainly do appreciate it.

* * * *

MICHAEL GARDNER: Do we have any other business before us, Ms. Lint?

ELIZABETH LINT: Yes, we do.

Ratifications. Medallions 210 and 196, both refi's. Paperwork is in order.

MICHAEL GARDNER: Motion made and seconded to accept the ratifications as approved by the Executive Director, all those in favor, signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: Motion carries.

None opposed.

ELIZABETH LINT: Then the minutes of January 10th, we were all here; and April 3rd, which just came today so I don't know if everybody has seen it.

So all three of you can only do January 10th.

MICHAEL GARDNER: I move to approve the minutes of January 10th.

ROBERT HAAS: Second.

GERALD REARDON: Second. All those in favor, signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

And if someone else has read the April 3rd one, I can go along with it.

MICHAEL GARDNER: I only read the section about this.

ELIZABETH LINT: I read it.

So then March 20th, February 21st -- and you were not here but both of you were (indicating).

ROBERT HAAS: On those two dates?

ELIZABETH LINT: Yes.

ROBERT HAAS: There was only two of us here?

ELIZABETH LINT: Well, you only need two to --

MICHAEL GARDNER: Those were the two vacations I was on.

ELIZABETH LINT: Right, nobody subbed for you.

ROBERT HAAS: I make a motion to

approve the minutes from February 21st.

GERALD REARDON: Second.

ROBERT HAAS: None opposed. All those in favor?

GERALD REARDON: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: Please indicate Mr. Gardner did not vote.

ROBERT HAAS: I make a motion to approve the minutes from March 20th.

GERALD REARDON: Second.

ROBERT HAAS: All those in favor, signify by saying aye.

GERALD REARDON: A*ye.

ROBERT HAAS: Aye.

ELIZABETH LINT: And January 24th, I think you came late, so it was Jerry Mahoney and Bob, so we really need him here to be able to do the whole thing.

MICHAEL GARDNER: Okay.

ELIZABETH LINT: Then February 7th

and March 1st, were you two (indicating).

MICHAEL GARDNER: The Fire Chief and I?

ROBERT HAAS: And Chris Burke?

ELIZABETH LINT: Yes, I think Chris was here.

ROBERT HAAS: March 7th -- what was the other date?

ELIZABETH LINT: February 7th and March 1st.

ROBERT HAAS: So could we have Chris come to that meeting --

GERALD REARDON: There is two here.

MICHAEL GARDNER: I'll move to approve the minutes for March 1st and February 7th. Motion having been made and seconded, all those in favor, signify by saying aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: Aye. Please note that Mr. Haas did not vote.

ELIZABETH LINT: And then March 6th,

it was Mike and Bob.

MICHAEL GARDNER: Do you remember that night, March 6th.

ROBERT HAAS: We had one that soon after March 1st?

ELIZABETH LINT: Yes. Because the March 1st was for Veolia.

ROBERT HAAS: I make a motion to approve the minutes from March 6th.

MICHAEL GARDNER: Second. All those in favor, please signify by saying aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed. So the March 6th minutes are approved.

ELIZABETH LINT: And that's it.

MICHAEL GARDNER: Fire Chief, you are not voting?

GERALD REARDON: Sustained.

MICHAEL GARDNER: So it's only the February the 6th when I was late from the school committee meeting -- February 7th.

ELIZABETH LINT: Right.

MICHAEL GARDNER: Any other business?

ELIZABETH LINT: No, I do not.

MICHAEL GARDNER: Motion to adjourn
is always in order.

GERALD REARDON: Motion to adjourn.

ROBERT HAAS: Second.

MICHAEL GARDNER: Motion having been
made and seconded to adjourn at approximately
8:23 on the evening of April 17th, all those
favor signify by saying aye.

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed. We
are adjourned.

(Whereupon, the Hearing was adjourned
at 8:23 p.m.)

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS.

I, Evelyn M. Slicius, a Certified Shorthand Reporter and Registered Professional Reporter, the undersigned Notary Public, certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skills and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of May, 2012.

Evelyn M. Slicius
Notary Public
Certified Shorthand Reporter
License No. 127193
My Commission Expires:
May 15, 2013

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