

CAMBRIDGE LICENSE COMMISSION

License Commission General Hearing

in the

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

Tuesday, February 26, 2013

6:06 p.m.

Michael P. Gardner, Chairman  
Assistant Chief Gerard E. Mahoney, Fire Department  
Commissioner Robert C. Haas, Police Department

Andrea Boyer, Chief Licensing Investigator  
Corey Pilz, Consumer Information Specialist

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## P R O C E E D I N G S

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ANDREA BOYER: Hello and welcome to the Cambridge License Commission general hearing for February 26, 2013. As the clock says, it is 6:09 p.m. We are located in the Michael J. Lombardi Building, basement conference room, located at 831 Mass. Ave., Cambridge, Mass.

Please turn off all your cell phones. And please note that the fire exits are located at the front and the rear of the room. Also, we must leave the back rear door open at all times.

The License Commission Board this evening is as follows: Chairman Michael Gardner, Police Commissioner Robert Haas, and Assistant Fire Chief Gerard Mahoney.

If you are here for the two following items on the agenda, they have been continued and until March 5, 2013. That would be Hotel Marlowe and Prospect Liquors.

The first item on the agenda this evening is disciplinary; Libby's Market, Inc., d/b/a Libby's Liquor Market. Amrik Pabla is the manager, holder of an all-alcoholic beverage package store license at 545 Massachusetts Avenue, due to a police report received by the Cambridge License Commission alleging the sale of alcohol to minor using an out-of-state fake ID.

MICHAEL GARDNER: Good evening.

Why don't we just ask everyone who is up at the table to please state your name, spell your last name, and just briefly identify your affiliation to this matter.

ATTORNEY GOLDBERG: William Goldberg, 620 Massachusetts Avenue, Cambridge, representing Libby's Market.

YONESH SUWAL: Yonesh Suwal, 7 Bristol Street, employed in Libby's Market. S-U-W-A-L.

ARJUN KUNWAR: Arjun Kunwar, manager of Libby's Market, residing at 35 Bradley Street,

Somerville.

MICHAEL GARDNER: And Officer?

OFFICER O'HEARN: Brendan O'Hearn,  
O-H-E-A-R-N, Cambridge Police patrolman.

MICHAEL GARDNER: Officer O'Hearn, I  
think we would like to hear from you first.  
Would you describe the events that led to this  
hearing this evening?

OFFICER O'HEARN: Would it be all right  
to read the report?

MICHAEL GARDNER: Yes.

OFFICER O'HEARN: On December 2, 2012,  
approximately somewhere between 10:30 and 10:55  
while assigned to Central Square as the walking  
unit, I was monitoring the commercial block of  
Massachusetts Avenue in Central Square. My  
attention was drawn to a group of three males  
standing in front of Libby's Liquors at 575  
Massachusetts Avenue. I observed all three males  
huddled together in front of the liquor store and

it appears they were making plans to purchase liquor from the establishment. I did not believe any of the males were older than 18 years of age.

I observed one male, later identified as 18-year-old Zachary Nelson, enter Libby's alone while his two companions, later identified as 18-year-old Guilio Gueltrini and 18-year-old Adam Caplanbricker, waited by the door, peering in from time to time. This behavior appeared sufficient and I continued to monitor.

A short time later, Zachary exited Libby's with the large amount of liquor that he could barely carry. It struck me as odd that, if his two friends were of age, why they would not have accompanied Zachary into the store and assisted him in carrying such a large amount of liquor. Once outside, Zachary distributed the liquor amongst himself and his friends, and they began to walk rapidly away from Libby's towards MIT on Massachusetts Avenue.

I approached the trio in the area of 501 Mass. Ave. and introduced myself. I watched as all their faces turn to a look of panic and shock. I asked how old they were, and they informed me that they were all 18 years old and they are freshman at MIT. I asked Zachary how he had purchased the liquor, and he informed me that he had the fake ID. I asked Zachary if I could see the ID, and he very willingly handed me a fake New York state driver's license with his actual name on it. The license was an obvious fake, based on the feel of it, and the fact that the corner of the ID was peeling, and the fact that there were no holograms on the ID. I asked Zachary if the clerk had checked the ID and he stated they scanned it, but did not ask for a second form of ID.

I asked Zachary where he had acquired the ID, and he stated that his friend, Dylan Hallman, a sophomore at MIT, had assisted him in acquiring

the ID from a third party Zachary claimed never to have met.

I contacted dispatch and MIT police responded. I advised them of the situation, and we responded back to Libby's in an attempt to speak to the clerk. By the time we returned to Libby's, it had closed. I requested dispatch to summons the clerk to the station for further conversation.

A short time later, I spoke to the cashier, Mr. Suwal, who has worked at Libby's for over two years, and the store manager, Arjun Kunwar. Yonesh informed me that he had sold Zachary the liquor. I asked Yonesh if he had thought the ID was fake and he stated that he did, in fact, think the ID may be a fake, but stated that he scanned it and it showed a valid status. I asked Yonesh if he realized that there was no holograms on the ID or that the corner of it was peeling. And he stated that he was aware,

but, again, stated that the ID scanned.

I asked Yonesh if he had asked for a second form of ID, asked any probing questions, or had checked the ID using the ID book, which shows the characteristics of each state's ID. Yonesh answered no to these questions.

The liquor was confiscated as well as the New York driver's license. I forwarded this report over to the MIT detectives for them to follow up to try to determine who was producing a fake ID. I didn't seek any criminal charges against the gentlemen.

MICHAEL GARDNER: What happened to the physical possession of the fake ID itself?

OFFICER O'HEARN: I brought it with me today.

MICHAEL GARDNER: Do you have it with you for our inspection?

OFFICER O'HEARN: I do.

(Office O'Hearn handing document to the

Board.)

OFFICER O'HEARN: It is on the bottom left corner of the ID that peels up.

MICHAEL GARDNER: At the bottom left, it is clearly separated from the plastic cover.

ROBERT HAAS: And no hologram.

MICHAEL GARDNER: If you know, Officer, where does the hologram appear on such an ID?

OFFICER O'HEARN: It should be behind the state seal. My friend is from New York, and he said there is some type of hologram under the state seal. He said there was one by the state seal. There should be some type of hologram.

MICHAEL GARDNER: Do you have an opinion, Officer, as to the clarity with which it is apparent that this is a fake ID?

OFFICER O'HEARN: Minus the corner that is pretty well pulled up, it is a pretty good fake ID, especially that it scans. But I am not really an expert. I see driver's licenses on a

regular basis, but no ID should be peeling up like that in the front.

GERALD MAHONEY: I just happened to notice, the expiration date is eight -- more than eight years.

OFFICER O'HEARN: I am not sure, exactly, state-to-state. I am not sure exactly how far in advance it could be.

GERALD MAHONEY: That doesn't make sense to me if the license would be valid for almost nine years.

MICHAEL GARDNER: What does it say, sir?

GERALD MAHONEY: It is valid as of, I think it is, January 5, 2012, and it is good until 12-29-2020.

ARJUN KUNWAR: Some states, they do have valid ID for more than 20 or 30 years, and we have seen that. And it has been written in the ID checking guidebook, too.

(Mr. Kunwar handing document to the

Board.)

GERALD MAHONEY: A driver's license that is valid for more than 20 or 30 years?

ARJUN KUNWAR: Yes. I don't remember the state, but I am sure.

MICHAEL GARDNER: So just for the record, are you the owner or the manager?

ARJUN KUNWAR: Manger.

MICHAEL GARDNER: The manager of Libby's has provided to Police Commissioner Haas a book, which is labeled ID Checking Guide 2012.

Do you have anything else to add, Officer O'Hearn?

OFFICER O'HEARN: No. The students were very cooperative, and they were very cooperative as well.

MICHAEL GARDNER: What was the basis on which you made the determination that, at least in your view, they looked to be obviously underage?

OFFICER O'HEARN: They are very young looking. So I just went up to them and just did a fresh inquiry to see if I was correct in my assumption, and they were all 18. They looked very young.

MICHAEL GARDNER: And you made these observations in the normal course of your foot patrol work in Central Square?

OFFICER O'HEARN: Correct.

MICHAEL GARDNER: Okay.

Mr. Goldberg, do you have anything you would like to add?

ATTORNEY GOLDBERG: Yes, please.

ANDREA BOYER: It is 8 years in New York.

ATTORNEY GOLDBERG: Your responsibility in Central Square, you weren't particularly looking for a violators of the license law. What were your duties in Central Square on that particular evening?

OFFICER O'HEARN: Patrol.

ATTORNEY GOLDBERG: And your attention was directed just to these young persons because they were standing outside the liquor store; is that right?

OFFICER O'HEARN: I just observed them through the course of my patrol.

ATTORNEY GOLDBERG: That didn't strike you, at all, when you first observed them?

OFFICER O'HEARN: It did when they went into the liquor store.

ATTORNEY GOLDBERG: Did all three of them go in?

OFFICER O'HEARN: No. The one person went into the liquor store and the other two waited out front.

ATTORNEY GOLDBERG: And you made your observations of this young person?

OFFICER O'HEARN: Correct.

ATTORNEY GOLDBERG: You didn't stop him as he was going in?

OFFICER O'HEARN: No.

ATTORNEY GOLDBERG: If I am correct, and I am trying to understand, in the hearing, what you said is that you are not an expert with regard to licenses.

OFFICER O'HEARN: No.

ATTORNEY GOLDBERG: And the first instance after the arrest was the fact that the license, the corner of it was turned up?

OFFICER O'HEARN: There was no arrest. You said "arrest."

ATTORNEY GOLDBERG: No. When you took the license.

OFFICER O'HEARN: He admitted to me, prior to even handing me the license, that it was fake.

ATTORNEY GOLDBERG: Who did?

OFFICER O'HEARN: Zachary.

ATTORNEY GOLDBERG: Oh, the offenders; right?

OFFICER O'HEARN: One of them.

ATTORNEY GOLDBERG: I am talking about when you took the license. You got the license from Zachary. You noticed that the corner was turned up?

OFFICER O'HEARN: Correct.

ATTORNEY GOLDBERG: And it was on the basis of that fact that you made a determination that it was a fake license?

OFFICER O'HEARN: No. Like I said, Zachary had already said that the license was fake, to me, prior to handing it to me.

ATTORNEY GOLDBERG: But I am asking you whether that confirmed in your mind, the turning up on the license, that it was a fake license.

OFFICER O'HEARN: When somebody tells me that it is a fake license, I take that pretty well to heart, plus the fact that it is peeled up in the corner.

ATTORNEY GOLDBERG: Okay. So the fact

that it was peeled up in the corner confirmed what Zachary had already told you?

OFFICER O'HEARN: Correct.

MICHAEL GARDNER: I think his testimony was also the lack of a hologram played a roll.

ATTORNEY GOLDBERG: And the lack of a hologram. I understand that.

But the license itself didn't -- the texture of the license didn't strike you as being fake; correct?

OFFICER O'HEARN: No. The texture of it was a regular New York state. The front skin would never peel off. The way that they make them, just from seeing them over the years, it didn't peel up like that. So the texture was wrong in that sense.

ATTORNEY GOLDBERG: What makes you an expert on that particular matter?

OFFICER O'HEARN: Because I pull over people all the time and see New York licenses and

none have ever peeled up. None of them have ever peeled up before. I am not an expert. I am just going off of my experience.

ATTORNEY GOLDBERG: How often do you make that determination? Although you are not an expert, how many times did you see a New York license that was not curled?

OFFICER O'HEARN: I have never experienced where the front peels off of a New York license.

ATTORNEY GOLDBERG: So that made, in your mind, when you saw it turned up, you determined it was a fake license?

OFFICER O'HEARN: Based on what Zachary told me and some of these other factors, yes.

ATTORNEY GOLDBERG: I not worried about Zachary. I know what he was saying.

What I am getting at is whether the determination that the license was turned up was sufficient for you to determine that it was a

fake license, independent of what Zachary told you.

OFFICER O'HEARN: Along with what Zachary told me, yes.

ATTORNEY GOLDBERG: Independent of what Zachary told you.

OFFICER O'HEARN: Independent, that would strike me that that would be a fake, based on the fact it is peeling up, yes.

ATTORNEY GOLDBERG: Okay. And then when you talked with the person at the store, you asked him about the turn-up of the license?

OFFICER O'HEARN: I did.

ATTORNEY GOLDBERG: And his comment or remark was what.

OFFICER O'HEARN: He mentioned that he thought the license may be a fake as well.

ATTORNEY GOLDBERG: As a result of which, he did something, did he not?

OFFICER O'HEARN: He scanned it, he said.

ATTORNEY GOLDBERG: He scanned it?

OFFICER O'HEARN: Correct.

ATTORNEY GOLDBERG: What did he tell you after the license was scanned?

OFFICER O'HEARN: He said it scanned.

ATTORNEY GOLDBERG: It scanned?

OFFICER O'HEARN: It did.

ATTORNEY GOLDBERG: So he acknowledged or observed that the license was turned up. And as a consequence of that fact, he had some question as to the validity of that license?

OFFICER O'HEARN: Correct.

ATTORNEY GOLDBERG: And then what he did was to scan it, and it scanned okay; is that correct?

OFFICER O'HEARN: He said it scanned valid.

ATTORNEY GOLDBERG: Did you see the validity of the scan, at all?

OFFICER O'HEARN: I never saw the

scanning.

ATTORNEY GOLDBERG: So you took his word for it?

OFFICER O'HEARN: He told me that.

ATTORNEY GOLDBERG: I just want to offer to you, this is a copy of the scanning of the license. And you will note that at the bottom that indicates that it says "Okay," which to my mind would mean that it is a valid license or, at least, liquor can be sold or purchased on that license.

MICHAEL GARDNER: How do you know that?

ATTORNEY GOLDBERG: This machine here, what was testified to was that the corner was turned up. As the consequence of the doubt in the mind of the store employee, he ran it through the scanner, and the scanner shows that it was a valid New York license.

GERALD MAHONEY: When was the last time --

MICHAEL GARDNER: Hold on. Sorry.

I don't see this -- unless, perhaps, Mr. Goldberg, you can point it out to me -- where does any of this information show the date of birth?

ARJUN KUNWAR: It is on here, 1990-12-29. It says at the top part.

MICHAEL GARDNER: I see it. All right.

ARJUN KUNWAR: First name, last name, address, city, state. And on the last line, it says "okay" and the date it was scanned, December 22, 2012, 10:48 p.m., the time.

I can pass this.

MICHAEL GARDNER: Is this a copy for our record?

GERALD MAHONEY: I would ask two questions. Are these devices periodically certified and/or calibrated?

ARJUN KUNWAR: That's correct. If you search online, this is the latest software or

machine available for checking IDs. It is called  
Token Words ID Advisor.

GERALD MAHONEY: My second question is,  
on the ABCC guidelines, what are the acceptable  
forms of identification allowed in the  
Commonwealth of Massachusetts?

ARJUN KUNWAR: Besides the Mass. ID,  
passport, and it says that we can accept  
out-of-state ID on our own risk.

MICHAEL GARDNER: On your own risk?

ARJUN KUNWAR: Yes.

MICHAEL GARDNER: So as we understand,  
Mr. Goldberg, the clerk said that he thought it  
might, in fact, be a fake ID, but it scanned, so  
he sold the liquor.

ATTORNEY GOLDBERG: No. You are missing  
something. What I said was that the fact that  
the license at the corner was turned up.

MICHAEL GARDNER: I am not asking what  
you said. I am asking what the officer said the

clerk said.

Didn't the clerk say he had had doubts that the ID was valid?

ATTORNEY GOLDBERG: I am just trying to --

MICHAEL GARDNER: Why don't we ask the clerk that?

ATTORNEY GOLDBERG: Feel free to do so.

YONESH SUWAL: Okay. So it was like 10:50 in the night, so we are trying to close the store. And then I said I was trying to close the counter and I saw the guy coming. He was trying to purchase, like, just the normal way. He was not trying to act. He was not kind of scared or nothing. He was straight up.

So I just put the thing right there and then I took the ID, because it was time to close the store, and I took the ID. And then, since the corner side was peeling and I looked at his face, too, and he was not scared or nothing.

Because like before, when I used to get like fake IDs, like, people try to hide their face, they try to talk on the phone. And then I scanned it, too. It showed valid to sell alcohol and cigarettes.

MICHAEL GARDNER: Did you think the ID might be fake?

YONESH SUWAL: Since the peeling on the side, I just had to little suspect. And then I scanned it. Because before, when you scan the fake IDs, it does not read through. But that ID did scan.

MICHAEL GARDNER: Did you pay attention that it didn't have a hologram?

YONESH SUWAL: I didn't see the hologram.

MICHAEL GARDNER: Well, you didn't see a hologram. Did it register with you that you didn't see a hologram?

YONESH SUWAL: At that moment, I did not see it.

MICHAEL GARDNER: I know you didn't see it, because it is not there. But did you notice that there was no hologram?

YONESH SUWAL: Not at that point.

MICHAEL GARDNER: Did you ever notice it?

YONESH SUWAL: Yes.

MICHAEL GARDNER: When?

YONESH SUWAL: Like in the new New York IDs.

MICHAEL GARDNER: You are familiar with the fact that New York IDs have a hologram?

YONESH SUWAL: I know Mass. has a hologram in the front.

MICHAEL GARDNER: Do you know if New York IDs have a hologram?

YONESH SUWAL: They do.

MICHAEL GARDNER: Did the fellow who bought the liquor look old enough to you?

YONESH SUWAL: Yes. Because, to be honest, he looks more older than me. Because,

like, for that ID, since it was peeling at the corner, so -- I am not lying right here. I have seen, like, 35 years old, 28 years old, they still have their New York IDs with the peeled thing, too.

MICHAEL GARDNER: So you have seen New York IDs that peeled before?

YONESH SUWAL: Um-hmm. Because I don't know, when it is too old, it started to get torn up.

MICHAEL GARDNER: So you didn't have any reason to doubt the validity of that ID?

YONESH SUWAL: Like at that point?

MICHAEL GARDNER: That point of sale, did you have any reason to doubt the validity of the ID?

YONESH SUWAL: Since it was kind of peeling, then I scanned it, too. Because that is what I do for my second form of ID. Because like before, I used to ask for, like, college ID, too,

but most of the college ID, they don't have the date of birth. And if they can get the state IDs fake, it is easier for them to get the college ID fake, too.

MICHAEL GARDNER: So you had the option of asking for a second form of identification, but you didn't do that?

YONESH SUWAL: Because before, when I used to do that, when I scanned it, it does not. So, like, if it is fake, it showed a different date of birth saying it is fake.

MICHAEL GARDNER: So was the reason you didn't inquire any more carefully because you were trying to close?

YONESH SUWAL: It is not that. Because since I scanned it, because I used this as, like, second form of ID. And because since before, I know, like, a lot of IDs, they don't -- if it is fake, they don't even scan, too. But this ID, the date of birth was right and the face looked

the same. And then when I scanned it, it even scanned in correct.

MICHAEL GARDNER: Have you had any experience where the scanner said it was valid and turned out not to be? Have you ever had that experience?

YONESH SUWAL: No.

MICHAEL GARDNER: So the scanner has always been infallible, in your experience?

YONESH SUWAL: Yes.

MICHAEL GARDNER: What did you tell the officer about your view of the ID?

YONESH SUWAL: I told him that when he gave me, since it was peeling on the side, I had a little suspect. And then I went to scan it, because that is what I do for the second form of ID. And then when it scanned in correct, I could tell it was a correct ID.

MICHAEL GARDNER: Well, it is either a correct ID or a very good fake; right?

YONESH SUWAL: Um-hmm.

MICHAEL GARDNER: So I still don't understand why you didn't ask for a second form of identification.

SUWAL YONESH: Because before, we had asked for a second form of IDs. As I told you, they come up with these college IDs and even that does not have a date of birth in it. And even if they come with the date of birth, they can, like, easily make a fake one. When they can make a fake state ID, it is easier for them to make a college ID, too.

MICHAEL GARDNER: So what was the harm in asking? I take it, what you are saying is, I didn't ask for it because those are easy to fake?

SUWAL YONESH: Before when I scanned it, too, if that is a fake ID, it never came out saying okay, it is okay it sell it.

MICHAEL GARDNER: So what we have learned tonight, if nothing else, is that the machinery

you rely upon is unreliable? Or it is, at least, not perfectly reliable? It can be fooled; right?

YONESH SUWAL: Right.

MICHAEL GARDNER: And you never knew that that machinery could be fooled, before this sale; right?

SUWAL YONESH: Before? Because this is the first time when I had this. Because before, I used to ask -- as I told you, if there is a fake ID, it does not scan at all. It showed like different date of birth. And in that it shows everything correct, whatever is in the ID, and everything was scanned and everything was correct.

MICHAEL GARDNER: So what is that scan supposed to -- where does it check the validity of the information?

SUWAL YONESH: You mean, right here?

MICHAEL GARDNER: Yes. The machine itself. What is its database?

SUWAL YONESH: We have this when I started working over here.

MICHAEL GARDNER: So I am just asking, how does that machine know that what it is looking at is correct? What is the data that it matches against what it scans?

SUWAL YONESH: Since this is made to check whether the IDs are fake or true.

MICHAEL GARDNER: Based on what database, if you know?

ARJUN KUNWAR: Can I answer the question?

MICHAEL GARDNER: Sure.

ARJUN KUNWAR: The barcode on the back of the ID, that is the place where the information on the front of the ID is stored. Like when you scan the ID, the machine is basically pulling out the information that is decoded on the barcode on the back of the ID.

So in talking with that individual, Zachary, when he scanned his ID, the information

decoded on the bar code of his ID shows up on the screen. And that exactly matched the information that was on the front of the ID, the date of birth, the license number, his name, first name, last name, you know, state, everything.

MICHAEL GARDNER: So the source for the validity of the ID was the back of the ID; right? It is the barcode code on the back matched the information on the front. So you didn't do a check by the State of New York by some sort of Internet connection to find this out. This was simply telling you that the information on the back matched it information on the front?

ARJUN KUNWAR: Correct.

MICHAEL GARDNER: So to the extent it is possible to fake the front, we have, at least, now learned it is possible to fake the front? There is no independent verification that the ID is correct by checking a database with the State of New York, for example; right?

ARJUN KUNWAR: I cannot specify for the New York state ID. But a few things happen. Sometimes, as explained here, when you scan the ID, sometimes the date of birth on the front is different than the one that shows up on the screen. That means whoever is making that fake ID didn't do it right.

MICHAEL GARDNER: They didn't fix the back as well as the front?

ARJUN KUNWAR: Exactly.

So what we try to do is -- the purpose of scanning the ID on the machine is to match the information that is on the front, date of birth, expiration, the city, state, everything. So sometimes we scan the ID and the expiration is 2014, and it comes, like, dash or 0-0 or something, or it comes, like, a random date, and sometimes even the name comes different.

And then we question them, what is your address? And the guy has no idea what is the

address. Most of the time, how we confirm that ID the guy posing is valid. That is the first thing we ask is the address.

So three things. First, check the information on the front, using the ID checking guidebook. And, if we have doubts, then we use the machine. If that bar code on that ID reflects the information on the front of the ID, that shows up on the screen. You can see it instantly. And if that comes different, then we ask the date of birth or address or anything. Then if that information is not matching, obviously, we think that it is a fake ID and we never serve.

MICHAEL GARDNER: And the guidebook references an optical variable device. It appears as a wavy line across the large coat of arms in the center, visible under UV light, and a smaller coat of arms at the top of the photo.

You don't have a UV light to check?

ARJUN KUNWAR: We don't.

MICHAEL GARDNER: Do you agree, Mr. Goldberg, with the manager's statement that, if you accept an out-of-state ID, you do it at your own risk?

ATTORNEY GOLDBERG: I would have to accept it without knowing differently. But the machine that we referenced is one that is sold for the purposes of checking an ID. And you asked the question whether he did rely on the item that caused the officer to sense that it was a fake ID. And he sensed the same thing and put it through the machine that confirmed that it was okay. The machine is purchased for the purpose of determining whether the person before the proprietor is a minor or not.

MICHAEL GARDNER: So if I understand it, you wouldn't have even scanned it if it hadn't been peeling?

ATTORNEY GOLDBERG: No, I am not saying.

MICHAEL GARDNER: Then what you said isn't right; right? Did you scan it because it was an out-of-state ID, or did you scan it because it was peeling?

ATTORNEY GOLDBERG: If I was mistaken, I will repeat it.

But what I am saying is, the fact that the police officer heard from the young man that it was a fake, that confirmed in his mind that it was a fake. When it got to the point of determining, well, what else did you observe? He said the license was bent at the corner. That was the clue that gave him confirmation that the license was fake.

This was the same clue that the proprietor's employee acted upon as well, and he sought a confirmation from the machine, which is uniformly used throughout the sale of alcohol.

MICHAEL GARDNER: And we find it can be fooled, don't we?

ATTORNEY GOLDBERG: But having been fooled is one question. The first question is, did the employee act in accordance with what he should have done in order to verify whether the license was good or not? The fact that he was fooled was not his concern -- sorry -- not his problem. He wanted to see whether it was a good license by using a machine that is being used throughout Massachusetts.

MICHAEL GARDNER: There is two problems. You keep forgetting about the hologram. And yet, the license is, from the officer's point of view, obviously a fake because it is peeling and it doesn't have a hologram. I take it that the claim here is, no matter how shoddy the license may have looked, it scanned okay, so that is enough. Our obligation is done. We don't have to ask any questions. We don't have to ask for a second form of ID. We put all of our faith in that machine, which turns out doesn't sound like

a very sound practice if the fake is good enough.

Right?

ATTORNEY GOLDBERG: Well, it is a matter that the License Commission can address. It is a matter that instructional input can be given to owners of package stores on the premise that the machine itself may not be perfect. The machine is one that we rely on. But the perfectness of it is something that we question.

MICHAEL GARDNER: Is it your view that that is enough? You don't have to rely on anything else? You don't have to do any questioning? You don't have to ask for a second form of ID? You just put all of your faith in that machine, no matter how shoddy the license may look?

Is that sort of Libby's position here?

ATTORNEY GOLDBERG: No, no. What I am saying is that the machine verified that it was okay. I am not saying that this young man could

have asked for more proof before the sale. He didn't. But what he did do was follow the instructions and the practice that is going on in liquor stores. The issue of seeking other alternatives to verify may be something that would have to be directed by the License Commission in its instruction to stores that sell liquor.

MICHAEL GARDNER: I take it you have got a fair amount of experience here, sir. Is it your view that it is not a commonly accepted practice or recommendation, from either the ABCC or the Cambridge License Commission, that when there is a question, we expect the staff to make inquiries, including asking for a second form of ID?

ATTORNEY GOLDBERG: That may be an alternative, but I am not certain it is the direction, at this point in time.

ANDREA BOYER: I need to interject, if I

may.

First of all, at the License Commission mandatory liquor meetings, what we have been very clear from the License Commission is that the ABCC, along with the Cambridge License Commission, allows you to accept those five forms of ID. We do not say that you can take an out-of-state ID at your own risk. Neither does the ABCC.

What we do say is that, if you do accept an out-of-state ID and an illegality takes place, if somebody procures alcohol, then you lose your fight. You lose your argument because you accepted an out-of-state ID to procure alcohol, and it is illegal.

So we don't say that you can have an out-of-state ID and you should check a second ID or use a scanner. What we say is that we follow the ABCC and you use those six forms of IDs only, or you lose your fight. If you came forward and

you had an illegal Massachusetts ID, you have a fight if, to the best of your ability, you scanned it, you looked at it, it was peeled back.

But there are no out-of-state IDs at your own risk allowed by the ABCC or the Cambridge License Commission. And you know that. We have stated it every year at our mandatory liquor meetings.

Thank you.

MICHAEL GARDNER: Thank you, Ms. Boyer.

Does that sound familiar?

ARJUN KUNWAR: Yes.

MICHAEL GARDNER: And that is what you meant when you said if you accept an out-of-state ID, you do it at your own risk?

ARJUN KUNWAR: My impression is when I -- I went to the ABCC website, and we get the correspondence from the ABCC and the mailings and stuff and the big banners. That is what is written on the corner. I don't remember when it

was. But we got a poster from the ABCC, and it say on the bottom, the establishment can take an out-of-state ID at their own risk. That is what the line says on this. That is what I was recalling the information from.

MICHAEL GARDNER: Thank you.

Mr. Goldberg, we interrupted you with a lot of questions. So I will turn it back over to you, if there is more you want to present.

ATTORNEY GOLDBERG: What I have said is the premise of why I feel that the young man acted properly. He relied on an instrument that is accepted by the City and the License Commission and the ABCC. By reason of their endorsement of this machine, it is giving the proprietor a safety net in the event he suspects that there is a falsehood in the person whose appearance -- and his license. So that when you use the machine as a validation of what you have a doubt about, it gives some welcome that what

you are doing is proper and that you are not in violation.

So you either have a machine or you don't have a machine. I don't accept the fact that the machine lies. If there was anything wrong with the license, it would have shown on the machine. They don't sell these machines and give you a warranty about the effectiveness of it. But I think it is sold on that premise.

So my conclusion would be that the young man acted properly, that his failure to seek other means of support, if you will, which has become an issue here, is something that can be overcome, because of a reliance on the machine.

MICHAEL GARDNER: Thank you.

Any questions?

ROBERT HAAS: Just a statement. We don't endorse any machine. We recommended that they get it, but we don't endorse any machine.

ANDREA BOYER: That's correct.

ROBERT HAAS: I will concede a couple things. One, I appreciate and I compliment you on your honesty. I don't think you can take the human factor out of the equation. That is the reason why you are there. So you can't simply rely upon a machine. And it seemed to me that that machine -- and I have seen a lot of different kinds of machines -- is very rudimentary on its face. So if somebody is sophisticated enough, as I guess this gentleman was, he created the license and he made sure the bar code on the back matches the information on the front of the card. It is not testing or checking the validity of that card like I have seen other cards able to do. You can't simply rely upon the machine and just dismiss your own independent judgement.

And the other thing I would submit to you is that -- well, let me ask you another question. How much alcohol did he buy that night? Do you

remember?

SUWAL YONESH: It was, like, three boxes, like, small kind of box.

ROBERT HAAS: Of?

ARJUN KUNWAR: Wine.

And then I think one whiskey or something like that. He had three and one.

OFFICER O'HEARN: Three five-liter boxes of wine; one, I think it was, a 750 or one liter bottle of Jim Bean; and a 750 or one liter bottle of coconut vodka.

ROBERT HAAS: So that didn't strike you as being odd that he purchased that much alcohol?

SUWAL YONESH: Because, as I told you, he wasn't just trying to hide his face or anything. He was just trying to act like a regular person to.

ROBERT HAAS: He was confident in the ID that he was going to be able to get past you, I guess.

The other thing I would submit to you, I think it is not at your risk; it is at your peril. If you accept an ID from outside the state, you are accepting it at your own peril. As Ms. Boyer indicated, you really are on your own in that misjudgement, in its entirety, because there is five or six recommended IDs that are acceptable in Massachusetts. Out-of-state licenses are not one of those.

So by making that decision, you have made a decision that you are going to expose yourself to a certain degree of peril. And in this situation, coupled with everything that happened, it is one of those perfect storms. Everything that could have gone wrong went wrong that night. Right?

ARJUN KUNWAR: Yes.

GERALD MAHONEY: You brought this ID checking guidebook with you this evening; correct?

ARJUN KUNWAR: Yes.

GERALD MAHONEY: Do you keep this in your establishment?

ARJUN KUNWAR: Yes.

GERALD MAHONEY: Where do you keep it?

ARJUN KUNWAR: On the side by the counter, cash register.

GERALD MAHONEY: Did you consult this book during this transaction?

SUWAL YONESH: Not at this transaction.

MICHAEL GARDNER: In terms of just keeping the record complete, Mr. Goldberg, I would turn this back to you. But we would like to get a copy of the New York page to add to the record.

Do you object to that?

ATTORNEY GOLDBERG: Yes. I would like to see a copy of the license, if I may, as well.

ARJUN KUNWAR: I would like to respond to Mr. Mahoney's question, did he check the ID book?

For example, we get a lot of Mass ID and New York state ID, Rhode Island, Connecticut, New Hampshire. It is like a few states our staff was very familiar with the ID that they don't need to check the ID every single time. Like for example, New York state and Massachusetts, Rhode Island, Connecticut. We get a lot of IDs like this. But if somebody has an ID from Georgia or Minnesota, then I don't recall any picture or how it looks like, an ID from Minnesota, then at that time, then it very easy. It is alphabetic. You just go right to the page and see if it is an old or new. Then we match it.

But for New York and Mass. and, like, neighboring states, we usually don't, if we think we are very familiar with that ID.

GERALD MAHONEY: Now after what you heard here this evening, particularly Ms. Boyer's comments, will that policy change?

ARJUN KUNWAR: Of course, yes. The first

thing we are going to do is ask for more backup ID. And even if it is verified from the machine, we are going to ask for more backup IDs.

GERALD MAHONEY: Okay.

ARJUN KUNWAR: And to add more, like he said, backup ID, we have done that. It is not that we have skipped that. We always ask for a backup ID. So when we ask for a backup ID, most of the times, college kids come up with a college ID. And as was mentioned, the college ID, they could just make it just like that. And we have heard from the students themselves. So if somebody comes with a date of birth matching the same on the ID and the college ID, we don't take that. So if somebody asks for the passport, then we will, obviously, not show the Mass. ID.

So the first step towards the hearing, we are focusing more on asking for backup IDs of the person.

ROBERT HAAS: So I the guess the crux of

the Assistant Chief's question is that, knowing that there is really no defense for accepting an out-of-state ID that turns out to be a bad ID, that it seems to me you are going to continue this practice and you may find yourself in the situation again. I think that is what we are trying to get at.

ARJUN KUNWAR: I got that that is what he was trying to say, what are the risks on taking the out-of-state ID?

GERALD MAHONEY: I had a roundabout way of saying: Have you learned a lesson?

ARJUN KUNWAR: Yes, sir.

GERALD MAHONEY: Okay.

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

(No voices heard.)

OFFICER O'HEARN: Does it matter? The alcohol is in our evidence room.

ROBERT HAAS: I think it is safe to destroy it at this point.

Just for clarification purposes, there is an appeal process. How long does that run for?

ANDREA BOYER: It will be 30 days.

ROBERT HAAS: So you need to maintain the evidence for the expiration of the appeal process.

ANDREA BOYER: That is true. So you should just hold on to it for now.

Would you like a copy of it, or just wait?

MICHAEL GARDNER: The ID?

ANDREA BOYER: Yes.

MICHAEL GARDNER: I don't want it, particularly. You may want a copy for the record.

ROBERT HAAS: Let us keep the original in evidence.

MICHAEL GARDNER: Ms. Boyer, can you give

us the disciplinary history of this establishment?

ANDREA BOYER: Yes. A three-day license suspension for a police report stating that they sold alcohol to an intoxicated person in 2008. A four-day license suspension, suspended for six months, in 2007 for selling to a minor. And a one-day suspension for selling alcohol to an intoxicated person in 2006.

That is it.

MICHAEL GARDNER: And do we have a decision hearing scheduled for March 7th? That is the next Thursday. Sorry. Did you say? I don't have it in my records.

ANDREA BOYER: I don't have that date, either.

MICHAEL GARDNER: Preference of the Commission? Would you prefer to dispose of this matter this evening, or put it over for the decision hearing?

ROBERT HAAS: There is a decision hearing on the 7th of March.

GERALD MAHONEY: In the daytime?

ROBERT HAAS: 10:00 a.m. to 12:00 p.m.

MICHAEL GARDNER: I think my preference is to put it over to that day and rely on representations made with respect to ABCC standards and promulgations. I am getting that information myself for the first time this evening. So I think I, myself, would be more comfortable in having the opportunity to look that over before we take a look. I am stating my preference, giving you the option.

ROBERT HAAS: I make a motion to take the matter under advisement and defer it to a decision hearing on March 7th.

GERALD MAHONEY: Second.

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

(Voices heard.)

MICHAEL GARDNER: We will defer the matter to March 7th. Thank you very much for disposing of my decision.

ANDREA BOYER: The next item on the agenda is disciplinary, all common victualer license holders that have failed to complete the 2013 renewal process.

MICHAEL GARDNER: Could you just give us a background, Ms. Boyer, as to what kind of notices these establishments have had to date, how many are involved, what, if any, sort of common problems there are?

ANDREA BOYER: Yes. For this specific situation, it is workers' compensation that has not been renewed. The common victualer have been. So the licenses are supposed to be renewed by January 1st. But also, there has been calls made to all of the establishments that had not completed their process. And the ones that are

left are Qdoba Mexican Grill, Pinkberry, The Bagel Tree, Inc., Oxford Spa Cafe, The Cambridge Coffee Shop, Peet's Coffee and Tea, Epicurean Feast, Cafe Zing, Cafe Barada, Mariposa Bakery, Wellburn Japonaise Bakery and Cafe.

MICHAEL GARDNER: There is approximately 13 establishments?

ANDREA BOYER: Yes.

MICHAEL GARDNER: And the basic problem is a failure to provide proof of workers' compensation insurance?

ANDREA BOYER: Correct, sir.

MICHAEL GARDNER: So is the appropriate motion to authorize you to send a notice to them that the licenses will be revoked if they don't supply the information by a particular time?

ANDREA BOYER: Yes. What we would do is hand deliver a cease and desist letter.

MICHAEL GARDNER: A cease and desist to operate until they submit?

ANDREA BOYER: Yes.

MICHAEL GARDNER: Are there any of the establishments present this evening, who are subject to this order? Or are there any other members of the public who would like to be heard in this matter?

(No voices heard.)

MICHAEL GARDNER: Any questions?

MEMBER OF THE PUBLIC: Was one of the companies you named Tuscan Coffee Shop?

ANDREA BOYER: No.

MEMBER OF THE PUBLIC: Okay. Sorry.

MICHAEL GARDNER: So I will make the motion that the Commission staff be instructed to issue cease and desist notices via hand delivery to the establishments who have not yet completed the process, and that that would be done forthwith.

ROBERT HAAS: Second the motion.

MICHAEL GARDNER: Motion having been made

and seconded, signify by saying "Aye."

(Voices heard.)

MICHAEL GARDNER: Unopposed.

Thank you for that.

ANDREA BOYER: The next item on the agenda is: "Application: Basha Cafe, LLC, d/b/a Basha Cafe, Sarah Shabana, manager, has applied for a new all alcoholic beverages as a restaurant license and entertainment license at 26 New Street with a seating capacity of 140 (90 inside and 50 outdoor patio). The proposed hours of operation are 8:00 a.m. to 1:00 a.m. Sunday through Wednesday, and 8:00 a.m. to 2:00 a.m. Thursday through Saturday. Applicant is also applying for an entertainment license to include live musical instruments and/or vocalists with amplification; music below, at, or above conversation level, and three TVs."

(No representatives present for this matter.)

MICHAEL GARDNER: Why don't we just defer the matter and come back to it.

ANDREA BOYER: Okay.

MICHAEL GARDNER: The next two items are off the agenda, the Hotel Marlowe and Prospect?

ANDREA BOYER: Yes.

MICHAEL GARDNER: U.S. Foods?

ANDREA BOYER: "Application: U.S. Foods, Inc., One Technology Drive, Peabody, has applied for a disposal/waste hauler license for the City of Cambridge."

MICHAEL GARDNER: Good evening, sir.

CHRIS GALLAGHER: Good evening.

MICHAEL GARDNER: I would ask you to state and spell your name for the record and identify your role here.

CHRIS GALLAGHER: Chris Gallagher,  
G-A-L-L-A-G-H-E-R. I am a business development manager for U.S. Foods. I am representing them in this matter.

MICHAEL GARDNER: Tell us about U.S. Foods and about their plans in Cambridge.

CHRIS GALLAGHER: U.S. Foods is a broad line distributor. It already functions as a grocery distributor here in Cambridge with his Cambridge customers. We have a new service which we'd like to offer them, which is to give them a safer, cleaner, greener way, a simpler way of getting rid of their waste vegetable oil that they use in their fryolaters and deep fries.

MICHAEL GARDNER: So the service you are proposing is limited to waste vegetable oil.

CHRIS GALLAGHER: I want to be clear. Any vegetable-based oil, canola oil, sesame, peanut. But waste oil generated in the kitchen, not any kind a mechanical oil or any hazardous material.

MICHAEL GARDNER: And not picking up trash or other kinds of garbage?

CHRIS GALLAGHER: No, sir.

MICHAEL GARDNER: Just simply the oils?

CHRIS GALLAGHER: Yes.

MICHAEL GARDNER: Tell us a little bit about that line of business. Is that what restaurants or food establishments typically do, they have a specialized hauler for that kind of waste product?

CHRIS GALLAGHER: In many cases, they do. We hope they do. Because otherwise, they are throwing it in their dusters or places it doesn't belong.

And it is very competitive. There are dumpsters. We try to eliminate that dumpster. It seems to be a nuisance. We have a can and rack system we use that contains it in small quantities. We pick up those cans. I think we are the only one, other than some competition, that has very high capital investment containing systems where they are fully contained. They bring great safety for the operator because they

just sort of suck up the old and pump in the new. We offer a kind of middle of the road for the person who can't really afford something like that, but wants to bring an element of safety and cleanliness to the operation.

MICHAEL GARDNER: How much experience does U.S. Foods have in this kind of business line to date?

CHRIS GALLAGHER: Sure. Three years ago, we started in the southeast region as kind of the pilot region. And we had great success with 1,800 customers down there, producing millions of gallons of biodeisel for us. We use this in our fleet.

South Carolina has given us an Earth Day award. We were nominated up here in the Massachusetts EPA this year for an award. We seem to bring great value to the environment. We are actually -- I forget the name of the program, but I think it is Smart Wise with EPA -- because

we create so much biodeisel with it.

And our company has decided to launch this nationally. We have been doing this for about six months here in the Northeast, with the exception of Cambridge.

MICHAEL GARDNER: So you take the waste oil you collect and turn it into biodeisel for the operation of diesel motors?

CHRIS GALLAGHER: For our 2,800 vehicles, and the refill units on the more than 2,800 trailers we have.

MICHAEL GARDNER: Where is the conversion done?

CHRIS GALLAGHER: We take it to a tipping station. Actually, we take this back to Peabody. It stays on the trailer until the trailer is full. The trailer is then taken to South Carolina, where it goes through what is called a tipping station, where the barrels are all opened up, tipped, cleaned out, strained, evaporated,

and it yields a yellow grease that is then pumped into a tanker truck that is brought another place in South Carolina -- actually, out by the shore. I am not exactly sure the city it is in. And they then create B10 and B20 biodeisel.

We control the whole process, whether it be ourselves or through contractors. And then it is pumped back into a tanker as biodeisel and is brought back to our divisions that are operating at that time on it, and fuels our trucks on a daily basis.

MICHAEL GARDNER: How many customers, approximately, do you have in Massachusetts?

CHRIS GALLAGHER: We have a division in Norwich that also services Massachusetts. So combined, we have about 2,300, I think, customers, not on this program, but grocery customers in the state of Massachusetts that we would hope that they would all, as well as anyone else, participate in the program.

MICHAEL GARDNER: So are you just launching this in Massachusetts and don't really have customers for this service yet?

CHRIS GALLAGHER: No. We have numerous customers. We have, actually, over a 120 on it in Massachusetts, just none in Cambridge.

MICHAEL GARDNER: All right. That was my question.

GERALD MAHONEY: Who is your closest? In what communities close to Cambridge are you operating?

CHRIS GALLAGHER: Every one of them. Actually, I rode the truck, and it takes great finesse to loop around Cambridge, so we are not hauling through Cambridge.

But yes, we are operating in all of Boston, Somerville, Waltham, Watertown. I just signed 10 accounts in Newton. So we are operating all around.

ROBERT HAAS: How frequently is the oil

changed out of the cooking appliance?

CHRIS GALLAGHER: Depending on the user. We have high volume and very low volume. Some generate two cans; some generate 30 cans a week. So we have folks that change their fryer daily. One gentleman I was speaking with today, he changes it daily, despite whether anything touches it. It is just a policy they have.

ROBERT HAAS: Will the customer fill these five-gallon containers, or will a representative from your company do it?

CHRIS GALLAGHER: The customer, typically. And going back to the processes that, historically, have taken place, before this program, they would either have that contained system and made that investment, or they would have a stock pot or a pickle bucket or some vehicle that they would put under there and strain into it.

By bringing this sealable lid to the

market, we have made it safe. We have had issues in the past with restaurants -- I have worked in restaurants and had them myself -- where it splashes around if you move it. And the stock pot, you walk it to the back of the parking lot and it gets all over the parking lot or, when they dump it, all around the dumpster.

So we tried to eliminate that issue and bring some safety to it. So they put this can, instead of that stock pot or pickle bucket, under there, seal it right on the spot, create a safer vehicle, and then bring it over the rack system that we provide for them, and store it on the rack.

ROBERT HAAS: This is all.

GERALD MAHONEY: Is it space dependent? How many five-gallon containers can be stored on the rack in the facility?

CHRIS GALLAGHER: Again, going back to volume. Some customers, if they are very low

volume, we might see them every other week and we pick up maybe four cans. What we would do is -- can I offer this?

GERALD MAHONEY: Sure.

(Handing document to the Board.)

CHRIS GALLAGHER: Our standard setup is this four-foot metro rack. When I say "metro rack," it is a typical food and beverage rack that you would see in a dry storage room in a restaurant. And we offer them that. We assemble that. We give them 18 cans, three rows of six. That is standard. We offer that, but there is variance on that, depending on the customer, depending on space, depending on the footprint. We offer different things.

MICHAEL GARDNER: Any questions?

ROBERT HAAS: So I guess what my question would be is, if you get this license, then you just start approaching customers within the city to see if they would be interested in using the

service?

CHRIS GALLAGHER: We would start with our customer base, which we have 50-some-odd customers in Cambridge that we deliver groceries to. So we would start directly with them. And of course, we would offer it to absolutely anybody, anyone who is interested in reducing our footprint.

ROBERT HAAS: And the pickup varies depending on the quantity of barrels that they leave? So you don't do it necessarily every day, you do it based upon what their need is?

CHRIS GALLAGHER: What their need is. Right.

Well, the truck will function every day, based on volume in that area. We would love to have a truck in every town every day, based on volume. So it really will be according to the volume.

ROBERT HAAS: So you don't break the seal

on those containers when you pick them up? You pick them up full and replace them with containers?

CHRIS GALLAGHER: Pick them up full and replace them with new, clean containers.

ROBERT HAAS: And the truck size?

CHRIS GALLAGHER: It is a 26-foot box truck.

ROBERT HAAS: You are aware of the restrictions in terms of pickup hours?

CHRIS GALLAGHER: I would need know that.

ANDREA BOYER: Right here.

(Handing document to Mr. Gallagher.)

ANDREA BOYER: It is noise control. It is based on the civil noise ordinance, the allowable hours for loading and unloading. It is not necessarily just disposal.

GERALD MAHONEY: I would imagine that your grocery delivery trucks are already adhering to those rules.

CHRIS GALLAGHER: I would imagine that as well. I would hope so.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: No.

MICHAEL GARDNER: Anything else you would like to add before we open it up to public comment?

CHRIS GALLAGHER: No, sir.

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

Seeing none, I will make the motion to approve the disposal waste hauler license for U.S. Foods for the City of Cambridge to conduct the business as has been described here this evening.

ROBERT HAAS: Second the motion.

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

(Voices heard.)

Attorney: Unopposed.

So welcome to this business in Cambridge.

Good luck.

CHRIS GALLAGHER: Thank you.

(Discussion off the record.)

ANDREA BOYER: Recalling Basha.

MICHAEL GARDNER: We have already called out them on the agenda. You weren't here, so we went forward.

Again, if you would be so kind as to state and spell your names for the record and identify your roles in this matter.

ATTORNEY RAFFERTY: Thank you.

Good evening, Mr. Chairman and members of the Commission. My name is James Rafferty, R-A-F-F-E-R-T-Y. I am an attorney with offices at 130 Bishop Allen Drive in Cambridge.

And seated to my right is Sarah,

S-A-R-A-H, Shabana.

SARAH SHABANA: S-H-A-B-A-N-A. 200

Swanton Street, #721, Winchester, Mass. and I am the new owner of Basha Cafe.

MICHAEL GARDNER: So tell us about the plans.

ATTORNEY RAFFERTY: So it is the location of 26 New Street, which has had two licenses, actually. It originally opened a few years ago as Basha Cafe, and the operator sold the business to the Casbah, Alewife Cafe, LLC. And they had a nonvalue license. So that license, the initial license, was surrendered and a new license was issued. Casbah was probably there for six months, I would estimate. Unfortunately, it did not succeed, ceased operations.

So now Ms. Shabana, who had some involvement with both of the restaurants, but was actually formally employed at the most recent one, at the Casbah, has entered into an agreement to acquire the LLC. She is now the sole member

of the LLC and she is looking to reopen it under the Basha name.

She acquired the access to the kitchen. It is fully equipped with furniture and all. So the floor plan and premises are essentially unchanged. It is, I believe, a 90-seat restaurant inside, with outdoor patio seating for 75. Ms. Shabana worked as an operations manager for Casbah and is looking to essentially bring Basha back with some new energy, if you will. The focus would be a Mediterranean food restaurant, which had been the focus of Basha. There also is entertainment.

There are not many residential uses in the neighborhood. And in fact, when this use was introduced on New Street, New Street, I think, was best known as the back way into the Fresh Pond Shopping Center and a series of automotive repair facilities.

There has since been a residential

building introduced there. And in fact, the whole nature of the neighborhood is changing and becoming a little more mixed use than has historically been the case. It was formally zoned light industrial, and has recently been rezoned to accommodate residential and more retail-oriented uses.

So it is the hope here that Ms. Shabana can succeed and pick up from where Basha was, notwithstanding the challenges that Casbah faced.

MICHAEL GARDNER: So in your presentation, Mr. Rafferty, I think you said 75 outdoor seats. Our notice says 50.

ATTORNEY RAFFERTY: Okay. Then I stand corrected.

MICHAEL GARDNER: And you also said she was the operations manager for Casbah. I am not sure if that was right or if it is was Basha or both. A little bit more resume background would be helpful.

GERALD MAHONEY: Right.

She was not the manager of record. I will let Sarah speak. She was not the manager of record at Casbah, but she worked at Casbah, the most recent operation. And she was there for approximately six months in 2012. And she was involved in all aspects of the operation of the restaurant.

And it was that experience that has led Ms. Shabana to explore this new opportunity. But her prior restaurant experience is based on her involvement at Casbah.

MICHAEL GARDNER: So you didn't have any prior involvement with the Basha operation?

SARAH SHABANA: (Shaking her head.)

MICHAEL GARDNER: And no other restaurant experience or experience with a licensed premise?

SARAH SHABANA: Actually, this is the letter he wrote.

ATTORNEY RAFFERTY: That speaks to the

Casbah experience.

MICHAEL GARDNER: We are happy to take that into the record.

ATTORNEY RAFFERTY: The question was, do you have other experience, beyond your experience in Casbah?

SARAH SHABANA: Not in the restaurant business. I have worked for Herb Chambers for eight years. I have worked for Digital Marketing for a year now. So I do have a lot of experience as far as client service and business growth and business development. That is my background.

MICHAEL GARDNER: So in the proposal is that you would be the manager of record on the license and responsible for all of the alcohol proceedings.

SARAH SHABANA: That's correct.

MICHAEL GARDNER: Could you tell us a little bit about your staffing plan, that is, the kinds of people who you will get to help you and

give you guidance, based on relatively thin experience to date?

SARAH SHABANA: Absolutely. So the plan is to start with between five to seven employees, providing that everyone has a great experience that they bring into the party. The way I can envision my business is going to succeed is by allowing people to do to what they do best. Bringing in the best chef in the kitchen, bringing in experienced staff to handle the bar and fully handle all the procedures that they have going on, as well as a good, friendly, knowledgeable wait staff.

So the idea is, I have a lot of support from good friends who actually own restaurants, and I am learning a lot about it. I want to constantly improve and I really want to have the best restaurant possible. It is a career opportunity that comes once in a lifetime, and I do want to do whatever it takes to assure its

success.

MICHAEL GARDNER: And how ready are you to open?

SARAH SHABANA: I am.

MICHAEL GARDNER: You are open?

SARAH SHABANA: Yes.

MICHAEL GARDNER: So tell us a little bit about that experience so far.

SARAH SHABANA: The experience so far, it has been very successful. We are open one day or two days a week. And the food has been great. People are really excited to see this kind of restaurant coming back to the neighborhood.

As far as entertainment, everything will close, everybody leaves by two o'clock, just to make sure there hasn't been issues in that time I have been open. There has been a lot of great feedback so far.

MICHAEL GARDNER: So Ms. Boyer, I understand there has been one-day licenses issued

to date?

ANDREA BOYER: Yes.

MICHAEL GARDNER: And approximately how many and for how long?

ANDREA BOYER: For the last two months, pretty much on the weekends, that they have been having the one-day licenses. And either myself or Anderson have checked the one-day licences. And just recently, Saturday, I was there and the atmosphere seems to be different than the previous business that was there. There was a band, more of a sit-down kind of situation. People more enjoying the music and having the food.

MICHAEL GARDNER: So approximately eight one-day licenses so far?

ANDREA BOYER: More than that, actually. A couple times a week.

SARAH SHABANA: Fridays and Saturdays.

And it has been a great success so far.

And I really hope I can continue to have a great success and actually build Basha and be able to hire more employees, not just to help myself, but also help the people that are going to be around me.

MICHAEL GARDNER: On the one-day licenses, what were the hours of operation?

ANDREA BOYER: They were allowed to be open until two o'clock.

MICHAEL GARDNER: Is that typical?

ANDREA BOYER: It is for a full liquor license establishment.

MICHAEL GARDNER: Anybody who knows, Mr. Rafferty or Ms. Boyer, my understanding was that Basha had a 1:00 a.m. license and at one point had applied to get a 2:00 a.m. license. We approved it. We then moved to back to 1:00 a.m. after an incident of concern.

I don't know what the time on the Casbah license was.

ATTORNEY RAFFERTY: I didn't represent either of those licensees. I know Casbah was 2 a.m. and I have an understanding, just from my appearances here, of the history similar to the one that she had recited, but I don't know the details.

MICHAEL GARDNER: How important is 2:00 a.m. for you on the weekends?

SARAH SHABANA: Very important. Because that kind of culture, they tend show up between 10:00 to 10:30 to actually show up for dinner. If you come in anytime, and I am sure they have, 10 o'clock, I have no customers. And between 10:00 and 11:00, the place is fully booked, fully sold out.

MICHAEL GARDNER: I am uninformed and do not know what you mean by "that culture."

SARAH SHABANA: Mediterranean culture, Lebanese.

ATTORNEY RAFFERTY: Mediterranean, things

get going -- she is correct. I have frequented. The kitchen stays open late. There is no early bird special. Early is 10 o'clock at night. But people tend to get dressed up, they tend to come out late. I have been to the restaurant since it has had these one-day licenses, and it is kind of like the way people used to get dressed up go out, men in jackets and woman in classy attire. But there is no one there at 6:00 at night, I can attest to that.

ANDREA BOYER: I can concur.

MICHAEL GARDNER: Because you were alone, or?

ATTORNEY RAFFERTY: No. Because I have been there in the early hours, and, frankly, there was nothing going on. I had to come back. I am not even sure the kitchen was open when I first went.

SARAH SHABANA: I always say hopefully down the line, I can be able to build that dinner

crowd, like six, seven, eight, nine o'clock. And that will be extra.

ATTORNEY RAFFERTY: And Casbah did operate without incident with the 2:00 a.m. license. As I said, the location, itself, does not have very proximate residential uses.

MICHAEL GARDNER: So this says the proposed hours of operation are 8:00 a.m. to 1:00 a.m. Sunday to Wednesday, and 8:00 a.m. to 2:00 a.m. Thursday through Saturday.

Are you really open at 8:00 a.m. and serving breakfast and lunch?

SARAH SHABANA: Not yet.

MICHAEL GARDNER: What is the plan?

SARAH SHABANA: The plan is to resign my current job and give this all the dedication that it needs to actually, really succeed.

MICHAEL GARDNER: But are you planning, actually, to serve breakfast in the morning.

SARAH SHABANA: Yes. There is lot of

companies around. They need a good marketing plan. This area is full of opportunity that is untapped.

MICHAEL GARDNER: Other questions?

ROBERT HAAS: Are you going to remain open during a period of time? Or are you going to close during parts of the day because your business is going to drop off?

I am just trying to figure out how you are going to support a staff if your dinner business doesn't really start until 10:00. I am just trying to get an idea. Are you going to stay open from 8:00 to 1:00 and then 8:00 to 2:00? Is that what you are proposing to do? Or are you closing parts of the day?

SARAH SHABANA: No. I am going to be open all the time when customers are around. I am a little bit aggressive as far as that is concerned. If there is a customer available, we are available.

ROBERT HAAS: If I heard Mr. Rafferty correctly, Casbah was struggling for a period of time. You had an opportunity to work with them for about six months. What did you learn from that experience that is going to make your experience different than what you saw at Casbah?

SARAH SHABANA: We are, no matter what you are selling, you are in the people business. It is all about delivering the experience, whether you are selling a \$20 plate or whether you are selling a \$100,000 car or a \$10,000 car. People come out because they want to relax and they want to feel good about their investment.

So it is delivering over-the-top service. I mean, average doesn't do any good in a very competitive market. There is a lot of competition. Why you? I think the biggest thing was really trying to go the extra mile to make it a success.

ROBERT HAAS: So in your opinion, was

Casbah more mediocre in terms of its service, or inconsistent?

SARAH SHABANA: I can't say. I mean, I will never say something bad about anyone.

ROBERT HAAS: I am trying to find out what you learned from that experience so you don't replicate it again.

SARAH SHABANA: Really taking excellent care of the customers. It is consistency as far as food goes, consistency as far as drinks go. Just making it really as close to perfect as it can be, every single time.

ROBERT HAAS: So you have already identified your chef?

SARAH SHABANA: Yes.

ROBERT HAAS: And he or she is going to be able to work these hours?

SARAH SHABANA: Yes. We have a chef and we have a chef helper, too. So both of them are -- actually, one isn't better than the other.

So I can't even tell the difference.

ROBERT HAAS: But it seems to me the number of hours you are advocating for, with a staff of five to seven, it is kind of on the light side. I am just going to try to figure it out. You are talking about seven days a week? You are not closing for any period of time?

MICHAEL GARDNER: And the context of this is we don't like to issue a license for hours that, in fact, you are not open. Understand there is tension there, because you are not exactly sure what the business plan is going to support.

ATTORNEY RAFFERTY: You could come back for a change in hours. I don't think you anticipate a breakfast business in the first phase, do you?

SARAH SHABANA: It is going to take a couple months to get that breakfast and lunch business really going, especially the breakfast.

ROBERT HAAS: So I guess what we are trying to figure out is, are you focusing on the dinner business first, and then thinking about developing your breakfast and lunch business later? Or are you going to try to do the whole thing right from the start?

SARAH SHABANA: As far as the first three months timeframe, I think I would focus on the night business, which is seven days a week, and with entertainment, and then build in the lunch from there. And then breakfast, that will come down from the summertime, fall.

ROBERT HAAS: So the first three months, what is your proposed hours of operations?

SARAH SHABANA: It would be 4:00 p.m. to 2:00 a.m.

But again, this is something that I am really excited about the opportunity, because it is my first business. I know that I have worked similar hours in the automotive retail side of

things. It does not bother me to work from 8:00 to 8:00 or 8:00 to 9:00.

ROBERT HAAS: I just want to make sure that, given your limited amount of experience in the restaurant business, which I think there is a lot of good skills that you have learned in the other business that is transferrable, but yet, it is somewhat of a unique industry, that you don't overextend yourself and then find yourself struggling.

So we are trying to figure out what makes the most sense in terms of your business plan. And if, in fact, your intent is to establish a dinner business before you move into the other facets of your organization, that is perfectly okay. But what I think the Chairman is saying that what you need to do is reflect the hours you are actually going to be open and not get a license that, parts of the day, especially for the first three months, you are not going to be

operating.

SARAH SHABANA: Fair enough. It does make sense.

ATTORNEY RAFFERTY: So I had suggested to Ms. Shabana that perhaps we could modify the request to start at 11:00 a.m. Because I think the lunch business is more near term than the breakfast business. And she could always come back. The CV license, alcohol, there isn't much alcohol service called for at breakfast. So I would think if she wanted to come back, it would be a rather straightforward application.

ROBERT HAAS: I don't think that is the kind of business you would want anyway.

ATTORNEY RAFFERTY: And I said, understanding the importance and the significance of having the hours of operation statutorily required to be open, and these licenses serve the public, so we have an expectation that the public can access the premises at the licensed hours.

So I would think, given your plan, that we would seek to orally amend the application, with the Commission's permission, to have the opening time start at 11:00 a.m.

MICHAEL GARDNER: Any questions?

GERALD MAHONEY: Just curious, who was first, Basha or Casbah?

ATTORNEY RAFFERTY: Basha.

GERALD MAHONEY: And Casbah closed when?

SARAH SHABANA: And couple months ago.

GERALD MAHONEY: When did you start?

SARAH SHABANA: From day one I started, from the very beginning.

GERALD MAHONEY: No. Since you were open with the one-day licenses. Was it a pretty smooth transition? Or was the place locked up for a month or two?

SARAH SHABANA: It was locked up for about four or five months.

GERALD MAHONEY: It was. Okay.

Who owns the building.

SARAH SHABANA: Jack McCarry [phonetic].

ATTORNEY RAFFERTY: The landlord owns a fair bit of property in the area and operates an auto body repair across the street.

MICHAEL GARDNER: And at one point when we agreed to the 2:00 a.m. license for Basha, part of the argument was that there just were no residential units around, so it was kind of industrial and didn't have much impact on neighbors.

I am just wondering, Mr. Rafferty, if you have any sense of how many residential units there are now and how close they are.

ATTORNEY RAFFERTY: At the former JNC Adams site, there are some residential units. But I am informed by Sarah, that some of their most loyal customers come from that residential building. But there is not a lot there, but on that side. So in her experience when Casbah was

operated for the six months, there was no complaints. In fact, it was a very enthusiastic reaction. There are some additional units now, as you take the bend around New Street onto Garden Street. I think there is a few more. But I would say the compatibility -- the distances, it is not the level of adjacent to or proximity that we see on Mass. Ave. between Porter Square and North Cambridge and Harvard Square. I believe there is quite a separation. It hasn't proved to be a conflict, as I understand the history.

MICHAEL GARDNER: And there is ample on-street parking or a parking lot?

ATTORNEY RAFFERTY: There is both. Because the landlord controls a number of properties, there is quite a bit of off-street parking available. And then there are on-street parking opportunities.

And in the evening, the other uses, with

the exception of the gym next door, which is a compatible use, in which customers from that facility often go to the restaurant. But other than the gym, there is a variety of office and repair style uses that are simply not active in the evening. So the peak hours are very different between the dominant land use and this restaurant.

GERALD MAHONEY: Did you just say, is Adams closed?

ATTORNEY RAFFERTY: No. It is next door to JNC Adams. But they own that site and they sold it to -- that was part of the Adams property.

GERALD MAHONEY: Okay.

MICHAEL GARDNER: Any other questions?

ROBERT HAAS: No questions.

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

(No voices heard.)

MICHAEL GARDNER: Seeing none, anything else you have to add, Ms. Boyer?

ANDREA BOYER: There are two letters that we should read into the record. And also there is a request for a letter that states that he is the abutter.

ATTORNEY RAFFERTY: Yes, I asked him to.

ANDREA BOYER: There is a letter from City Counselor Timothy Toomey in support.

"Dear License Commission Board, I am writing in support of Basha Cafe's application for a new all alcoholic beverage as a restaurant license and entertainment license at 26 New Street with the seating capacity of 140, 90 inside and 50 patio.

"Approving this application will help enliven the area and reactivate a popular Cambridge restaurant. Thank you for taking this under consideration. I hope your decision is favorable to the applicant."

The other letter is from John Clifford on behalf of Counselor Reeves.

"This application has the full support of Counselor Reeves. We believe that Basha Cafe is an asset to the community and a much needed restaurant/entertainment establishment. As the area continues to add housing, shopping, and increased activity, the cafe is an important destination for the area.

"Please notify the executive director of the License Commission of Counselor Reeve's support."

MICHAEL GARDNER: Thank you. Pleasure of the Commission?

GERALD MAHONEY: I make a motion to approve the license application, as amended, with hours which will be 11:00 a.m. to 1:00 a.m. Sunday through Friday, and 11:00 a.m. the 2:00 a.m. Thursday through Saturday.

SARAH SHABANA: Thank you.

MICHAEL GARDNER: Would you accept an amendment to that motion to have this matter subject to a three-month review, three months after opening?

GERALD MAHONEY: Surely.

MICHAEL GARDNER: My concern is we haven't had too many applications for a 2:00 a.m. license with as limited a set of experience here as you have. And also am interested in hearing how it is going.

ATTORNEY RAFFERTY: We could do that in addition, perhaps, to the breakfast hours.

MICHAEL GARDNER: Yes. Right.

So I will second the motion as amended.

GERALD MAHONEY: So you understand, you have to be operational from 11:00 to 1:00 non-weekend hours, and then 11:00 to 2:00 during the weekend hours? You have to be operational all that time. You can't pick and choose days; you can't pick and choose times.

SARAH SHABANA: Right.

ATTORNEY RAFFERTY: Right. But I mean, I think the 1:00 a.m. license -- I mean, the truth of the matter is that there are many 1:00 a.m. licenses.

ROBERT HAAS: I get that part.

ATTORNEY RAFFERTY: If there is no one there at 10:00 on a Tuesday, you are not required to remain there until 1:00.

ROBERT HAAS: I just want to make sure that you have lunch hours.

ATTORNEY RAFFERTY: Right. You have to be open consistently, every day.

(Discussion off the record.)

MICHAEL GARDNER: I am going to ask for a point of order here, to move this along.

We have filed a motion and a second.

ATTORNEY RAFFERTY: I think we need a vote, don't we?

MICHAEL GARDNER: All those in favor,

signify by saying "Aye."

(Voices heard.)

MICHAEL GARDNER: Unopposed.

So welcome back to Cambridge.

ANDREA BOYER: Congratulations and good luck.

SARAH SHABANA: Thank you very much.

ANDREA BOYER: Application, Pedro Dombele d/b/a Tisan Coffee Express has applied for a common victualer license to be exercised at 766A Cambridge 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 11. The proposed hours of operation are 6:00 a.m. to 8:00 p.m. seven days per week.

MICHAEL GARDNER: Good evening. If you would please state and spell your last name for the record and tell us about who you represent and the plans.

PEDRO DOMBELE: Yes. My name is  
Pedro Dombele. P-E-D-R-O, D-O-M-B-E-L-E.

And I am applying for the license to open  
a coffee shop in 766A Cambridge Street,  
Cambridge, Massachusetts.

MICHAEL GARDNER: You are more than  
welcome to sit. But if you feel more comfortable  
standing, that is also fine.

PEDRO DOMBELE: Thank you.

MICHAEL GARDNER: Tell us about your  
plans for the coffee shop and tell us about any  
experience you have had in this area in the past.

PEDRO DOMBELE: My experience: 2006, I  
was working at Bread & Circus. Now that is  
called is Whole Foods Market. In the beginning,  
I didn't know about kitchen, and they hired me to  
work in the dishes. An after a year, basically,  
nine months, I got moved into the kitchen to prep  
and prepare food. And I worked for them for  
about four years and got a lot of experience

working with the food and working with the people.

MICHAEL GARDNER: Did I understand you to say Whole Foods? Sorry. I missed it.

PEDRO DOMBELE: Yes, Whole Foods Market. Before, it was called Bread & Circus. Today they call it Whole Foods Market.

MICHAEL GARDNER: And this was a place where they, in addition to selling groceries, they sold food in a sit-down manner?

PEDRO DOMBELE: Yes.

So I like to learn a lot of things in my life. And after many years working in Bread & Circus, I moved to a different position. The kitchen manager for about two years. And I changed my field to programming. So basically, the economy, the way it is moving, I am back to the food market again. I opened a food truck to sell sandwich, beverages in Framingham. And it took me one year. After one year, I moved back

to a different field, to design granite countertops, and it has taken me about five years. So everything is based on the economy, where we live in now. So now I decide to open a coffee shop, based on the experience that I have.

MICHAEL GARDNER: So if I understand right, you started in dishwashing, you moved into food prep or kitchen prep, you became a manager of the kitchen?

PEDRO DOMBELE: Yes.

MICHAEL GARDNER: Then you went into programming?

PEDRO DOMBELE: Yes.

MICHAEL GARDNER: Computer programming, I take it?

PEDRO DOMBELE: Yes.

MICHAEL GARDNER: Then you operated a food truck in Framingham?

PEDRO DOMBELE: Yes.

MICHAEL GARDNER: Then you were back to

designing countertops. Have I got that right?

PEDRO DOMBELE: Yes.

MICHAEL GARDNER: And now you want to open a coffee shop?

PEDRO DOMBELE: Yes.

MICHAEL GARDNER: So the closest experience you had to running a coffee shop has been when you were the kitchen manager, I take it? And then you had had your own business experience, as operating the food truck?

PEDRO DOMBELE: Yes, sir.

MICHAEL GARDNER: What will be the nature of the food available, and what kind of cooking, if any, will be done on site at 766A Cambridge Street?

PEDRO DOMBELE: Basically, just I am going to sell -- I am going to be cold cart sandwich. I don't want to cook it, because I know it is a lot of work. And just to sell coffee and cappuccino, tea, and pastry. That is

basically how I want to start.

MICHAEL GARDNER: So will there be any cooking on premises?

PEDRO DOMBELE: No.

MICHAEL GARDNER: No fryolater?

PEDRO DOMBELE: No.

MICHAEL GARDNER: No grill?

PEDRO DOMBELE: No.

MICHAEL GARDNER: Is this license such that, should the business evolve, this could just change and they could put in a grill without coming back to us?

JEFFREY MILLER: Pardon me. If I may speak, sir. I am the landlord, and it is in the lease he cannot do that.

MICHAEL GARDNER: Thanks. We will actually give you a chance to come up and talk in a minute.

So we just heard from someone in the back that there is a some restrictions on your lease.

Do you understand those restrictions to prevent you from using a fryolater or a grill to prepare food on site?

PEDRO DOMBELE: Yes, sir.

MICHAEL GARDNER: Other questions?

ROBERT HAAS: So you talked about a lunch business, cold cut sandwiches. What are you going to do in the morning, as far as food service?

PEDRO DOMBELE: Basically in the morning, I am going to, like I said, like cold sandwich.

ROBERT HAAS: Cold?

PEDRO DOMBELE: Cold sandwich, like prep turkey, chicken, they sell it at Restaurant Depot. It is ready. It is prepped.

ROBERT HAAS: So is that for takeout or consumption on the property?

PEDRO DOMBELE: No. I have 11 seats, people that can sit. And if they don't want to take, they can take. It is up to the customer.

ROBERT HAAS: So you think people have sandwiches at six in the morning.

PEDRO DOMBELE: No. I think at six in the morning, it is going to be coffee, people going to work.

ROBERT HAAS: Are you going to be serving anything else besides coffee at six o'clock in the morning, breakfast hours?

PEDRO DOMBELE: It is going to be cake.

ROBERT HAAS: Are where are you getting the cake and the items you are selling in the morning?

PEDRO DOMBELE: I am going to buy from them.

ROBERT HAAS: So you have a supplier?

PEDRO DOMBELE: Supplier, yes.

ROBERT HAAS: What business was there before?

PEDRO DOMBELE: Before, it was a coffee shop and it closed. And then a hair salon. And

now I am opening a coffee shop again.

ROBERT HAAS: So prior to you opening the business, is there a coffee shop there now, or is it closed?

MICHAEL GARDNER: It is a hair salon.

PEDRO DOMBELE: Hair salon, but it is closed.

ROBERT HAAS: In terms of delivery and trash pickup, what is the arrangement for that?

PEDRO DOMBELE: Trash pickup is in the back of the building, and we have a container for trash.

MICHAEL GARDNER: Is it common containers that you will be using with others, or will you have your own?

PEDRO DOMBELE: I think I am going to have my own for -- specifically, we need like butter and pepper and dessert. So I need to have specific, both my stuff.

ROBERT HAAS: How many employees?

PEDRO DOMBELE: It is just going to be floor business. In the future, if I am going to be busy, I can hire somebody to help.

ROBERT HAAS: So you are talking about operating for 14 hours a day, 7 days a week. Somebody is going to be working in the shop?

PEDRO DOMBELE: Yes.

ROBERT HAAS: You and who else?

PEDRO DOMBELE: Me and my girlfriend.

ROBERT HAAS: So there is two of you?

PEDRO DOMBELE: Me and my girlfriend, yes.

MICHAEL GARDNER: Other questions?

GERALD MAHONEY: So you will be doing no -- the only preparation you will be doing is coffee, tea, et cetera? You won't be preparing any food products? Any food products you will bring in pre-packaged from a vendor, or maybe coffee cake that you will cut into pieces?

PEDRO DOMBELE: Yes.

GERALD MAHONEY: No baking.

PEDRO DOMBELE: No baking.

GERALD MAHONEY: Microwave for warming?

PEDRO DOMBELE: I am going to have a microwave. And some people having me to warm bread. I have a toaster. That is it.

MICHAEL GARDNER: So you can toast bagels?

PEDRO DOMBELE: Yes, I can toast bagels.

MICHAEL GARDNER: Can we hear from the landlord?

JEFFREY MILLER: Sure.

MICHAEL GARDNER: If you just come forward, state and spell your name for the record.

JEFFREY MILLER: Jeffrey Miller,  
M-I-L-L-E-R.

MICHAEL GARDNER: So if you wouldn't mind, Mr. Miller, you had spoken earlier from the back of the room with reference to a lease. I

just wonder if you could clarify your understanding of the restrictions that the applicant would be under with respect to food prep.

JEFFREY MILLER: He has to have his own trash pickup daily. He can use recycling in back of the building, but he doesn't really have any access to the trash. I agreed that once he gets on his feet and more productive, he could put in a 20-inch electric stove to do some breakfast things like that. But pretty limited.

He has a unique coffee machine and unique coffee. It is African coffee and Caribbean coffee and really exotic coffee. And lots of different teas from all over the world. It is mostly going to be a coffee shop.

MICHAEL GARDNER: So we received an e-mail communication from a -- perhaps -- I am not sure if is a tenant of the building or somebody who is close, by who expressed concerns

about cooking odors and concerns about making sure that trash, recycling, waste oil, and composting were satisfactorily done.

This person also represented that she had cut and pasted relevant language from the master deed as it relates to the two commercial units in the first floor. And, as I understand it, the deed says, among other things, that the persons in the unit may not cause any offensive odors or loud noise, including but without limitation, use of loud speakers or constitute a nuisance or menace to any other occupant of the building, in no event shall any noises nor offensive odors be emitted from units 770 or 776, which unreasonably interfere with the quiet enjoyment of the owners or tenants of the other units in the building, excepting therefrom from unoffensive odors ordinarily and customarily emitted from a restaurant or food takeout-type facility.

Your understanding is that --

ROBERT HAAS: The reason why he can't have a fryolaters. The reason why they are not allowed any offensive cooking. So I anticipated that. That is why I said he could have a stove and maybe make some breakfast sandwiches. But other than that, his main focus, 80 percent of his business, is going to be selling his coffee.

MICHAEL GARDNER: Were you involved, sir, as an owner or otherwise?

JEFFREY MILLER: I was the developer of the property.

MICHAEL GARDNER: So in the prior iteration, as the applicant has represented, as previously the coffee shop and then a hair salon, are you familiar with those operations?

JEFFREY MILLER: Yes. I also wrote the master deed.

MICHAEL GARDNER: And we have had some indication that there may be some zoning issue with respect to takeout.

Do you know if the prior coffee shop did takeout?

JEFFREY MILLER: Yes, they did.

MICHAEL GARDNER: And Ms. Boyer, could you just summarize your understanding?

ANDREA BOYER: I was told by Chris O'Neill from the Cambridge License Commission that this is to be a sit-down, not a take-out restaurant or establishment. It would require a BZA hearing.

MICHAEL GARDNER: In order to have take out?

ANDREA BOYER: Correct.

MICHAEL GARDNER: So presumably, that relates to issues like parking. So we are going to be acting, tonight, consistent with our understanding of the zoning restrictions for a sit-down operation?

ANDREA BOYER: Correct. For the 11 seats that they have.

MICHAEL GARDNER: So from our point of view, based on the information we have, if there is any take-out business, you sort of really need to -- if you wish to pursue a take-out business, you need to investigate a possible zoning change to allow that. And I have no idea how complicated or difficult that would be.

PEDRO DOMBELE: Basically, I have been submitting the application and I talked to one of the managers, Chris. And they explained to me what is the difference, take out. And take out is not going to be even 10 percent, because I have space enough in there, people can sit and eat, eat their breakfast. So it is going to be depending if customers go to the bars. They can't just come, get a cup of coffee, and go. But I don't want to be, like, outside, no.

MICHAEL GARDNER: If you are selling to somebody, you should offer them a seat.

PEDRO DOMBELE: I have enough seats.

JEFFREY MILLER: I will explain it to him. You can't do take out. You have to apply for another license.

When people come in for a cup of coffee, have them sit down. Pour them a cup of coffee. If they want a to-go cup to leave, is that permissible?

MICHAEL GARDNER: I don't think we care the container you sell the coffee in.

GERALD MAHONEY: You don't have to serve in China.

JEFFREY MILLER: Do you understand that?

PEDRO DOMBELE: I understand.

ROBERT HAAS: But if it looks like your business is becoming more -- starting to look like a take-out business, then you really need to go through the proper channels or you will find yourself in violation of the zoning issues. So if you find there is more people coming in, getting a coffee, and going out, if that is what

your experience is, then you need to go back to the zoning board.

PEDRO DOMBELE: By explanation, when I do the application, they explained to me, clearly. And they say, if take out, I need to apply for a special license. Basically, like I said, I am going to be less than 20 percent. It is depending on the people, but I have enough seats for people to be seated. I am going to tell my customer they can take a seat.

ROBERT HAAS: What I am saying to you, if you start to experience people coming in and taking coffee on the go, you really need to watch that. And if you find, yourself, that that is where your business is headed, then you need to make some adjustments.

JEFFREY MILLER: My advice? Start off without any take out, and apply next week for a take-out license. Right now you are doing double secret probation.

ANDREA BOYER: And that is through Inspectional Services, not through our department. So I think that is why Chris was explaining to you about take out, that would be a separate department for the BZA. So it is something that you should apply for.

I think what you are saying is that you are going to have some take-out. So apply for that.

PEDRO DOMBELE: I am going to see the way -- we are going to start, see the take out. If the people want to take out, I am going to apply for it. But I don't have to do that.

MICHAEL GARDNER: If we act to approve this, we are going to be approving a sit-down arrangement. You just need to understand that.

PEDRO DOMBELE: Yes, I understand.

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

RONALD PONTE: I am his insurance agent.

I am across the street. I have been looking forward to him opening his business.

MICHAEL GARDNER: I am going to ask you. Sorry. I know you are back there in the background. But if you speak, then we need it on the record. So you can just state and spell your last name for the record, and then you can say whatever you would like to say.

RONALD PONTE: I am Ronald Ponte. It is P-O-N-T-E. First name Ronald, R-O-N-A-L-D.

I have a family insurance at 819 Cambridge Street. I have known Pedro, I think, about nine years. And he is a very nice person. I know he works very hard. I know people have been very satisfied. He is really -- I mean, I talk to him all the time. He really, really wants to have, like, a special coffee. And I just know he would be a great business owner for that area, and I wish him the best of luck.

MICHAEL GARDNER: Thank you.

How soon would you be ready to open after we approve this, assuming we do?

PEDRO DOMBELE: I think I am planning to open, like, the end of the month I want to open.

MICHAEL GARDNER: End of March?

PEDRO DOMBELE: Yes.

MICHAEL GARDNER: Sorry. I interrupted, you, Chief.

GERALD MAHONEY: So this building, I am assuming, is condominiums?

JEFFREY MILLER: Yes. Corner of Berkshire and Cambridge Street.

GERALD MAHONEY: Okay. So how many residential units?

JEFFREY MILLER: There are 29 residential units.

GERALD MAHONEY: Are those condominiums as well?

JEFFREY MILLER: Yes.

GERALD MAHONEY: The whole building is

condo?

JEFFREY MILLER: Yes.

GERALD MAHONEY: How many commercial units?

JEFFREY MILLER: Two.

GERALD MAHONEY: What is the other one?

JEFFREY MILLER: A barber shop.

MICHAEL GARDNER: Is that 770?

JEFFREY MILLER: It is 776B.

GERALD MAHONEY: Designated as 770 and 776. But his application says 766.

JEFFREY MILLER: That is how the tax bill does it.

ANDREA BOYER: It actually says 766 on the building, the door.

GERALD MAHONEY: I would just echo what the Chairman and the Commissioner said, that, especially in light of the fact that there is condominiums owners in the building that appear to be paying close attention, that you want to

make sure that do this properly.

PEDRO DOMBELE: Yes, sir.

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

(No voices heard.)

MICHAEL GARDNER: Any other questions?

No questions.

ANDREA BOYER: There is a letter also from Christa Smith.

"Dear Commissioners, As a resident of 150 Berkshire Street in Cambridge, while excited at the prospect of a new coffee shop opening right next door to me, I am writing to ask that the owners reconsider their proposed hours of operation. At present, the store is proposed to run from 6:00 a.m. to 8:00 p.m., seven days per week. At present, our building has a restriction on laundry and machinery use before 8:00 a.m. due to foot traffic and noise. While I am open to an exception to this rule during regular working

hours Monday through Friday for the store to open at 6:00 a.m., I do ask that they limit their schedule on weekends.

The walls are extremely thin in the building, and this addition has the potential of impacting the quality of life of those living in this building due to the impact their current proposed operating hours are likely to have on our ability to sleep in, when our schedule permits on weekends. I would greatly appreciate if they would consider opening after noon, preferably, or after 10:00 a.m., minimally, on Saturday and Sunday, to limit the accumulation sounds due to increased conversation, foot traffic, door usage, music, running water, dishes, the coffee grinders, and machines.

"I appreciate your consideration of my concerns. I regret that I am unable to attend the hearing due to other commitments. Best, Christa."

JEFFREY MILLER: The store on the right is the barber shop. It is a corner location. So there is no issues from noise. The laundry machine is a rule I put in because the machines were directly below a unit owner, and the driers vibrated. So that is why we put that rule in.

I don't think you need to open up at six o'clock on Saturday and Sunday. But what would you consider? 7:30, Saturday and Sunday?

PEDRO DOMBELE: Yes. Saturday and Sunday, I think 10:00 to 3:00 Saturday and Sunday.

ROBERT HAAS: So you are saying 10:00 a.m. to 3:00 p.m. Saturday and Sunday? You realize have you to live by that, once you say that.

MICHAEL GARDNER: If it is coffee, I guess I am wondering about the business plan in terms of how late on the weekend you start and whether you are doing yourself a favor by

restricting a weekend start of a place whose primary function is to sell coffee as late as 10:00 a.m.

JEFFREY MILLER: You should go 8:00 a.m. Saturdays and Sundays.

PEDRO DOMBELE: Okay. I can do that.

GERALD MAHONEY: If I may, what, if any, tenant space fit-out is going to be done for this?

JEFFREY MILLER: None. It is just 330 square feet.

GERALD MAHONEY: It is a vacant storefront right now?

JEFFREY MILLER: Yes.

GERALD MAHONEY: Okay. That is fine. I just was wondering, but I think you may have already answered it, I am getting the sense that this particular resident is on the Berkshire Street side. So do they abut, or are they above the barber shop?

JEFFREY MILLER: They are on the Berkshire Street side, so they are on -- they are here and he is there.

(Gesturing.)

GERALD MAHONEY: But they are on the same floor as the barber shop? This tenant, is she on the first floor?

JEFFREY MILLER: No, she is not on the first floor.

ANDREA BOYER: According to the abutters sheet that I looked at last week, 150 is not a direct abutter. But 142 Berkshire is the direct abutter. So 150 must be down.

JEFFREY MILLER: It is 146, 148 and 150, and then 764.

GERALD MAHONEY: How long ago did you take the building over?

JEFFREY MILLER: 1985.

GERALD MAHONEY: When did it go condo?

JEFFREY MILLER: 1995.

MICHAEL GARDNER: I think, sir, you were present for the prior conversation when we talked about hours of operation and how what is on the license are the hours we expect you to be open?

PEDRO DOMBELE: Yes, sir.

MICHAEL GARDNER: And then I just heard you amend -- I understood you amended your application for the weekends to close at 4:00 p.m.

ROBERT HAAS: 3:00.

MICHAEL GARDNER: Sorry. 3:00 p.m. as opposed to 8:00.

Is that what you want? And I am also asking, is an 8:00 p.m. close really what you want, Monday through Friday?

PEDRO DOMBELE: Yes.

MICHAEL GARDNER: So the way I understand the requested hours of operation, they are 6:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 3:00 p.m. Saturday and Sunday?

PEDRO DOMBELE: Yes.

ANDREA BOYER: I apologize. I didn't catch it.

Are you going to be picking up your items the night before? Or will you be having deliveries before 7:00 a.m. to have a 6:00 a.m. opening?

PEDRO DOMBELE: In this case, delivery will be the day before because, according to the people that live in the building. So I don't want to come at 6:00 a.m. to deliver product. So better for me if you going to come, like, about 11 in the day, like Monday through Friday. I am supposed to talk to my provider for a good time to deliver the products for my stop.

ANDREA BOYER: Okay. Here is a copy of the noise ordinance pertaining to loading and unloading. You may not accept deliveries before 7:00 a.m. I just wanted to make sure that your 6:00 a.m. opening was not going to cause you any

conflict.

(Handing document to Mr. Dombelle.)

MICHAEL GARDNER: Any other members of the public that would like to be heard?

Seeing none, I will make the motion to approve the application with the revised hours as stated, being very clear this is sit-down service only, from 6:00 a.m. to 8:00 Monday through Friday and 8:00 a.m. to 3:00 p.m. Saturdays and Sundays.

ROBERT HAAS: Mr. Chair, do you accept a friendly amendment?

MICHAEL GARDNER: I will hear it.

ROBERT HAAS: For a three-month review.

MICHAEL GARDNER: Yes. And I think that the Commissioner's idea of a three-month review is a good one. And the reason for that is this is actually a new operation for you. It is one where, at least, there are is some tenant concerns or resident concerns. And it will be

reassuring for us to get back with you three months after you actually open, to just check and see how things are going.

GERALD MAHONEY: If I may, is it in order, I have one quick question for Mr. Miller? You stated, if I am not mistaken, that he would be able to utilize the recycling containers?

JEFFREY MILLER: Yes.

GERALD MAHONEY: The e-mail that we got from the occupant -- did he say where she lives?

JEFFREY MILLER: She is head of the recycling department.

GERALD MAHONEY: Yes.

"I want to be sure -- they cannot use any of the trash recycling barrels in the back courtyard which are for use by the residents only."

JEFFREY MILLER: The condo docs state otherwise. But I thought she -- he has no problem paying for trash. I thought she would

like that, since she is head of recycling and a big advocate for recycling, I thought she would want to see him recycle. That is why I said that. That is only reason why I brought it up.

MICHAEL GARDNER: So basically, sir, there will be some resident relationship issues for you to work through. There will be people for you to talk to to make sure that they perceive you as a good neighbor and you regard them as good neighbors.

PEDRO DOMBELE: Yes, sir.

MICHAEL GARDNER: The motion as been made and received a friendly amendment, but I am not sure it has been seconded.

GERALD MAHONEY: Seconded.

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

Unopposed. So the application is approved. Welcome to this new business in

Cambridge, and we look forward to your presence in the neighborhood.

PEDRO DOMBELE: Thank you for giving me the opportunity.

ANDREA BOYER: Application: Delta Kappa Epsilon, an MIT fraternity, Zachary Thomas, Resident Manager, holder of a lodging house license at 403 Memorial Drive, has applied for a change of resident manager to Kevin Vogelsang.

They are not here.

MICHAEL GARDNER: So we will just put this over or notify them of their nonappearance?

ANDREA BOYER: I will just write "no show" and let Chris deal with it.

Policy: The Board of License Commissioners will discuss potential additions and amendments to the Pedicab Rules and Regulations.

MICHAEL GARDNER: So I think it would be helpful if we could get a summary of the proposed

changes.

COREY PILZ: Corey Pilz, P-I-L-Z,  
consumer information specialist for the License  
Commission.

Mr. Chair, as you know, this Board  
adopted proposed pedicab rules and regulations on  
November 20, 2012, in anticipation of receiving  
applications for the Cambridge pedicab pilot  
program. As we have progressed with the pilot  
program, we have met with the two companies that  
have been granted pedicab business operating  
permits to hear if they have any concerns with  
the rules and regulations that may impede their  
operation as they prepare to launch in the city.  
We have also had additional meetings with  
representatives from both the Cambridge Police  
Department and the Traffic, Parking and  
Transportation Department to address additional  
concerns.

And as a result, we have proposed the

following additions and amendments that are before you in the red-line version that has been distributed and is available to the public. For procedural purposes, a copy of this red-line version was posted to the License Commission's website for approximately two weeks. We also directly distributed it to the companies and the city departments involved with the pilot program for their comments.

And now, I will just go ahead and provide a brief summary of the major changes. There were a few minor grammatical and clarifying changes that were made, generally just verifying the prices for things, in terms of permits, inspections.

The first major change we have is we have proposed to remove the restriction on alcohol and tobacco advertising, as in meetings with the companies, they have informed us that alcohol advertising is genally one of their biggest

sources of revenue. Specifically, they were concerned with the establishments the we do have in Cambridge, in terms of them advertising any local or seasonable drinks they may have, specifically the brewing companies, Cambridge Brewing Company and also John Harvard's.

In terms of tobacco, I know there was some concern about removing the restriction on this. But as you know, per the regulation that we have written, which is Rule 11 of Article 3, all advertising must be approved by the executive director. And in this case, both companies participating in the pilot program have both admitted they will not be pursue anything type of tobacco advertising.

ROBERT HAAS: Corey, if I could. Wouldn't this be an opportunity to make sure you incorporate that into the rules and regulations for future operations, as opposed to leading up to an informal arrangement.

COREY PILZ: I would agree.

If you wanted to keep the restriction on tobacco, that is something --

ROBERT HAAS: Well, it seems to me there is a concern with the director. And now you have two of the people who have been awarded the bids that have indicated to us that they don't intend to do tobacco ads. I mean, we can probably amend it later on. But I think right now, if you don't intend to do it and we do have some apprehension about advertising tobacco, and it looks like, from the things I have been seeing, there is some movement afoot to eliminate tobacco products from other retail establishments, maybe you can keep it in the regulations.

COREY PILZ: We can make that adjustment if that is the Board's position.

Additionally, we have added a medallion number identification sticker. As you know, all of the pedicabs will be identified by a medallion

that will be attached to the back of the actual vehicle, but we are going to put a sticker into the vehicle, visible to the passenger, that includes all of the License Commission's contact information and also indicates the web address for the consumer feedback survey for the pilot program, which the License Commission is in the process of creating.

And once again, the purpose of this was, as it is a pilot program, consumer feedback is critical. And we wanted to make sure that anyone who did take a ride in the pedicab could easily contact us with any questions or concerns.

GERALD MAHONEY: Sorry. Where are you?  
Article?

COREY PILZ: That is Article 3, Rule 12.

Next I will turn your attention to Article 4, Rule 2. When meeting with the pedicab companies, they informed us that the general source for their drivers is college students.

And the License Commission has originally adopted a rule where the potential applicant had to have a Massachusetts driver's license for at least one year when applying for a pedicab operator's license.

Based upon our meetings and the feeling that it may be an undue burden to these companies as they have to quickly launch the pilot program, we have proposed to reducing the regulation where the applicant would still have to have a driver's license for one year, but we could accept an out-of-state driver's license, as long as they could provide a certified copy of the driving record and also a criminal background check information, which would satisfy our concerns of preserving public safety.

MICHAEL GARDNER: Okay.

ROBERT HAAS: You are never going to use one of the ID machines; right?

GERALD MAHONEY: You stole my thunder.

COREY PILZ: We can talk about accepted forms of identification after.

ROBERT HAAS: It seems to me, if they are going to provide you with an abstract of the driver's license, then that should be enough. Right?

COREY PILZ: Yes.

ROBERT HAAS: So it is up to the applicants for the license to provide you with the abstract and a copy of the criminal history; right?

COREY PILZ: Yes.

ROBERT HAAS: From their home state?

COREY PILZ: Correct.

ROBERT HAAS: Okay.

COREY PILZ: And finally, turning your attention to Article 5, the vehicle operations standards. We generally clarify Rules 1, 2, and 6, which dictate how pedicabs can operate, where they can park, and also applicable traffic laws

for the driver and the business.

And this was directly from our meeting with both the traffic transportation department and the police department, generally, just so we can ensure that the rules of the road are followed, tickets that are issued are issued properly, and we know how to collect any unpaid citations, from the businesses or the drivers.

MICHAEL GARDNER: It actually might have been helpful if the pages were numbered, in the future.

COREY PILZ: My apologies.

MICHAEL GARDNER: But on the third page, which is Rule 3, application requirements, it looks like there have been some deletions about requiring travel routes and amendments to the travel routes. And I think I understand that, but I just ask you to comment briefly on that elimination.

COREY PILZ: Yes.

In our conversation with both the companies and the director of Traffic, Parking and Transportation, Sue Clippinger, we did not believe it was necessary to dictate a route, especially since the true nature of the pedicab business is, number 1, a for-hire transportation business to deliver people from places to their home. And also, many of these pedicabs would be conducting tours.

So it would be very difficult for us to compile one route to accommodate all of their needs. And we don't believe there is going to be any issues in terms of them entering neighborhoods, creating noise, so on and so forth, because of other vehicles that operate in the city right now, similar to the pedicabs, pedi delivery vehicles, other bicyclists.

MICHAEL GARDNER: With respect to Article 4, the license requirements and operator standards, Rule 9 has operator dress code. And

you have put in the requirement that all pedicab operators shall wear company-issued attire while having charge of the pedicab vehicle. That is something that both these companies say there will be?

COREY PILZ: Yes.

MICHAEL GARDNER: And what? People have to buy it for the operators -- the people who rent or license the pedicab on a daily basis will be expected to buy clothing from the supplier, from the license holder?

COREY PILZ: Correct. The clothing actually serves many purposes. One, the clothing -- the t-shirts, generally they have just T-shirts -- have a safety color so that they are visible in the evening. That is genally the safety yellow or the safety orange. They also serve to identify the company. And in some cases, they serve as special advertising where they may actually advertise a company on the

t-shirt for a certain duration.

MICHAEL GARDNER: So I did have the question about -- in terms of your standards for clothing. I just raise the question about whether there should be any reference to reflective clothing or any kind of safety concern.

I see that, basically, you appear to have addressed that by the intention of the operators to, in fact, have a safety yellow or safety orange. But I would just ask my fellow Commissioners whether or not they think there is any advantage to our requiring some sort of night visibility or reflective material? I don't know if there are things that can be done.

ROBERT HAAS: My preference would be to see them having some kind of reflective vest after dusk. Because those t-shirts don't reflect, necessarily. They might be bright and clear. But for safety purposes, I think, because

they are going to be in and out of the cab and things like that, they should really be wearing reflective vests after dark hours.

ANDREA BOYER: Making sure it was breathable.

ROBERT HAAS: They have mesh and things like that, that they make.

GERALD MAHONEY: Yes, that would be nice have.

ROBERT HAAS: Corey, can I just go back to your criminal history piece? I think what I suggest to you is that, if somebody is going to present you with out-of-state criminal history check, that they also be required to do one for Massachusetts as well. Because they are here in college doesn't necessarily mean they haven't gotten themselves in trouble here.

So I think what you are probably going to require them to do is their home state, where they are presenting their driver's license from,

you want a criminal history check. And then you would also want them to obtain a criminal history check from Massachusetts.

COREY PILZ: Yes. That was the original intention. We didn't hash it out, perhaps, as well as we should have. But we will make sure that the final version of the rules makes that clear.

MICHAEL GARDNER: So I would make the motion to approve the rules and regulations as amended, with the further proviso that tobacco advertising be specifically prohibited; that at nighttime or after dusk, some sort of reflective clothing be included in the attire; and that the criminal record check be both for the state of licensure and the Commonwealth of Massachusetts.

GERALD MAHONEY: I would -- you can't discuss it until have you a second, can you?

MICHAEL GARDNER: I will let you discuss it all you want.

GERALD MAHONEY: So I go along with the gist of your motion. However, going back to the Commissioner's point, I really think we have to be a little more specific with the reflective issue. When you say "reflective clothing," that could be broadly interpreted.

ROBERT HAAS: So you would probably want it to say something like an ANSI-approved traffic vest.

GERALD MAHONEY: Exactly. Because they could say, oh, my sneakers have the -- all that is reflective clothing.

ROBERT HAAS: And they make them in all shapes and sizes and they are vented.

COREY PILZ: I am just thinking on the cost impact for the businesses.

GERALD MAHONEY: They are negligible.

ROBERT HAAS: Ours cost \$77 a piece.

GERALD MAHONEY: Are you serious?

COREY PILZ: That is one of the issues.

MICHAEL GARDNER: Well, my wife bought me one to ride my bike with, and I know she didn't spend \$75.

In fact, my suggested language was a little less restrictive than that. But I was really thinking that it meant something --

GERALD MAHONEY: I know what you meant. But I am just saying that I think this holds them to a bit of a -- you know.

MICHAEL GARDNER: I am prepared to have my motion made more specific in that manner.

ROBERT HAAS: So I don't necessarily say it has to be a vest, because they could be wearing a jacket on a cool night. So ANSI-approved reflectorized torso clothing.

GERALD MAHONEY: Reflectorized torso clothing.

ANDREA BOYER: So not a vest?

ROBERT HAAS: They may have bicycle jackets that have the ANSI reflectorized things

on it. They have the vest that they make for bicyclists and stuff like that, which are not as expensive as our stuff.

ANDREA BOYER: So would you like to say traffic vest or jacket? Reflectorized torso clothing?

GERALD MAHONEY: DPW has them, and I am sure they are not paying \$75 a pop.

ROBERT HAAS: But I can also envision, it is a cool night, they may want a jacket or something which has the reflectorized strapping on it.

COREY PILZ: And one thing before you finalize your motion, is just an effective date.

MICHAEL GARDNER: Of the changes?

COREY PILZ: Yes.

ROBERT HAAS: So when are they starting?

COREY PILZ: As of right now, they are actually -- both companies ran into a little bit of a snag because all the pedicab -- there is two

companies in the U.S. that produce pedicabs.

MICHAEL GARDNER: I asked that question.

GERALD MAHONEY: They said there was going to be no problem.

COREY PILZ: Both of them are severely backordered. So one company is still putting four pedicabs on the road for Saint Patrick's Day. The other company, now, is looking more towards April.

GERALD MAHONEY: I would say make it effective March 1st.

COREY PILZ: So I would suggest we still make it effective for March 1st, which is the date of the licenses that we issued for operation, to keep everything in order.

MICHAEL GARDNER: Yes, that is what I meant.

Motion having been made, is there a second, or are there any further amendments, or are there any other things that anybody thinks

need to be addressed? Or we can vote on these, if you are in agreement with these, and then if there is others you want to add.

ROBERT HAAS: I mean, we always have had the intent that this is a pilot project and we are going to go back and look at it again at some time in the future and make modifications that may be needed. So I think it is a good start. I am curious to see how they are going to -- because the criminal history checks are going to take some time. So if this outfit is going to start March 17th, they should start now.

GERALD MAHONEY: Do they have you people? Do they have to go to a private source?

ROBERT HAAS: They have to fill out the applications and get it from the various forms and different states they are coming from. We are not going to do the checks.

ANDREA BOYER: I was going to say that Corey did an excellent job on this.

GERALD MAHONEY: Yes.

MICHAEL GARDNER: Motion having been made and seconded, is there any further discussion?

Hearing none, all those in favor signify by saying "Aye."

(Voices heard.)

MICHAEL GARDNER: So the motion for the amendments passed.

And I would like to second the comments from Ms. Boyer and the other members of the Commission. It seemed like a very, very good piece of staff work, as usual. Thank you for your help.

So we have a number of ratifications which have been approved by the executive director that we now have to accept. Why don't we leave Ms. Boyer to do that?

ANDREA BOYER: All of them are in order for following refinancing: Medallion number 119, medallion number 96, medallion number 86,

medallion number 32, medallion 162, medallion number 25, medallion number 205, medallion number 34, medallion number 231, and medallion number 187.

MICHAEL GARDNER: Is the refinancing essentially a reflection of interest rates, or does anybody with more insight into the industry have a sense about what all this activity is?

ANDREA BOYER: Not a thing.

ROBERT HAAS: Interest rates.

MICHAEL GARDNER: So people are refinancing because they can get a better rate on the loan?

ANDREA BOYER: I think so. It has been so brutal. I hope so. It is amazingly high.

MICHAEL GARDNER: And are all these in order?

ANDREA BOYER: It was stated to me by Elizabeth, before she left, that it was all in order.

ROBERT HAAS: I make motion to accept.

GERALD MAHONEY: Second.

MICHAEL GARDNER: Motion having been made and seconded to approve the ratifications approved by the executive director and read by Ms. Boyer, all those in favor please signify by saying "Aye."

(Voices heard.)

MICHAEL GARDNER: Unopposed. The ratifications are accepted.

GERALD MAHONEY: Motion to adjourn.

MICHAEL GARDNER: Is there any other business before the Commission? Seeing none, a motion to adjourn is always in order.

GERALD MAHONEY: Not subject to debate.

MICHAEL GARDNER: Motion having been made, is there a second?

ROBERT HAAS: Second.

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

saying "Aye."

(Voices heard.)

MICHAEL GARDNER: So we are adjourned  
at -- although that clock is a little  
fast -- 8:24 in the evening of February the 26th.

Ms. Boyer, thank you very much for  
filling in.

ANDREA BOYER: Thank you.

(Whereupon, at 8:24 p.m., the hearing was  
adjourned.)

## COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

I, Megan M. Castro, a Notary Public in  
and for the Commonwealth of Massachusetts, do  
hereby certify:

That the hearing that is hereinbefore set  
forth is a true record of the testimony given by  
all persons involved.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 19th day of March, 2013.

---

Megan M. Castro  
Shorthand Reporter

My Commission expires:

August 23, 2013

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