

CAMBRIDGE LICENSE COMMISSION

License Commission General Hearing

in the

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

Thursday, March 7, 2013

10:19 a.m.

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

Elizabeth Y. Lint, Executive Director

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ELIZABETH LINT: It is the License Commission decision making hearing Thursday, March 7, 2013. It is 10:19. We are at the Michael J. Lombardi Building, 831 Mass Ave., basement conference room.

Before you are the Commissioners: Chairman Michael Gardner, Commissioner Robert Haas, and Assistant Chief Gerard Mahoney.

The only matter left from last week's hearing was Libby's Liquor Mart.

MICHAEL GARDNER: So I had asked that this matter be held over to the decision hearing in order to just be able to consider it a little more, and also to review the specific legislation and guidelines issued by the Alcoholic Beverage Control Commission.

I do take note of a circular issued by them as of September 4, 2012, which is an

acknowledgement of some legislation that had recently passed. I am going to put into the record the material from the beginning of this bulletin.

It is an Alcohol Beverage Control Commission, ABCC, advisory regarding Massachusetts identification card as acceptable proof of age for alcoholic beverage purchase. And it says that on September 30, 2012, the Governor approved Chapter 170 of the Act of 2012 that amended Mass. General Laws Chapter 138, Section 34B. As a result, beginning October 29, 2012, alcoholic beverages licensees may reasonably rely on the following forms of identification for proof of age: One, a Massachusetts driver's license; two, a Massachusetts liquor ID card; three, a Massachusetts identification card; four, a passport issued by the United States or a government that is officially recognized by the

United States; five, a passport card for a passport issued by the United States; and six, a military ID card. I believe that statute in question added number 5, the passport card.

I think this makes very clear that the ABCC has been both specific and expansive with respect to the kinds of identifications that licensees may reasonably rely on for proof of age. As we discussed at some length at the hearing, reliance on an out-of-state driver's license is not deemed particularly reasonable or a rebuttable presumption of validity. So that if a licensee relies on an out-of-state driver's license, they, in essence, do so at their own risk.

In this instance, I am persuaded that the license itself was very poorly constructed with plastic peeling off of at the edge, clearly no hologram within the license itself, and I think that it was near the end of the business hours

for the establishment, that is, near the end of the work shift for the employee who was there.

And in my view, the employee did not take reasonable care to ensure that the license he had was, in fact, valid, notwithstanding the fact that he used a machine which seemed to compare the front of the ID with the back of the ID and merely confirmed that they matched, but did not in any way provide any verification from the State of New York that it was, in fact, a valid ID card, when on its face it was clearly suspicious.

Any other thoughts or comments from other Commissioners before we vote?

ROBERT HAAS: Mr. Chair, the other thing I found troubling was that, A, they demonstrated some awareness and knowledge of what were acceptable forms of ID. Despite that, even though they had some questions with respect to the ID, as I think they clerk indicated that he

had some concerns, but then relied on the machine to overrule or override his concerns.

And I think, as you pointed out, the machine, all it did was read the magnetic strip on the back and verified that the information on the magnetic strip and the front of the card matched. And that is the only verification they did on the license.

Coupled with the fact that they had a reference book that basically talked about what the acceptable security features on the various different state licenses are. And again, they didn't take the time to look at that or verify that against what they were looking at, even when they had questions.

And the other thing I find troubling is that I got no indication, whatsoever, during the course of the testimony that they plan on changing that practice. At least I would have expect them to say, "We understand what the six

reasonable forms of ID are, and we are now going in that direction."

My sense is they will continue to accept other forms of identification, as they claim, at their risk. But I think they exposed themselves by doing that and were aware of the fact that there is a risk associated with it. But as I pointed out at the hearing, I think it is at their peril. And I think that they can't use that as a defense, if they are going to accept the license that then turns out to be faulty or flawed.

MICHAEL GARDNER: Anything to add, Commissioner?

GERARD MAHONEY: Commissioner Haas echoed my sentiments and my previous concerns, that they had the reference book available and the clerk admitted they did not utilize it. And I think, considering we reviewed the book, I think there was sufficient information in that book that

would have indicated to them that there were troubles with those -- there was some difficulties, if you will, with the license that was presented.

MICHAEL GARDNER: There was also the matter that, when we asked them if they attempted to check a second form of ID, essentially they said, well, that is not helpful because it is so easy to fake a college ID, this being a student at MIT, which didn't sound to me like a reason not to at least examine or ask for a college ID or ask for another form of identification.

And there have been at least two instances of discipline similar to this, Ms. Lint?

ELIZABETH LINT: Yes. So a three-day suspension in 2008 for selling to an intoxicated person. And a four-day suspension, which was suspended for six months, in 2007 for selling to a minor. A one-day suspension for selling to an

intoxicated person in 2006.

So nothing since 2008.

MICHAEL GARDNER: I will ask the pleasure of the Commissioners, if you have a sense about this.

GERARD MAHONEY: I would make a motion that the suspension be five days; three to be served, two held in abeyance for six months.

MICHAEL GARDNER: To be served under what circumstances, in terms of the abeyance? I know we sometimes deal with this in other contexts, but could you just expand on what you mean by "held in abeyance," and if it ever would be served?

GERARD MAHONEY: That the two days held in abeyance would be served if there is another violation found at the establishment and then could be added to, separate.

MICHAEL GARDNER: Additional charge?

GERARD MAHONEY: Additional charge,

additional punishment, yes.

MICHAEL GARDNER: I have been going back and forth about whether it would make any sense to hold any of this in abeyance, myself. But I wonder, if we do that, would you be willing to amend your motion to -- or change it to have it held in abeyance for two years?

GERARD MAHONEY: Certainly.

MICHAEL GARDNER: I don't feel there is any need to be so short with respect to that.

GERARD MAHONEY: All right.

MICHAEL GARDNER: And particularly given the history.

GERARD MAHONEY: I see your point and I would concur with that. Good point.

MICHAEL GARDNER: So the motion is impose a suspension of five business days, three of which are to be served immediately, presumably after an appeal period has passed, two of which to be held in abeyance for two years from today.

Those two days are to be served if there is any additional violation, without fettering the Commission's authority to impose additional violations for a new incident, should the Commission determine that that was appropriate.

ELIZABETH LINT: Mr. Chair, do you want them to be served consecutively?

MICHAEL GARDNER: I would. In general, my sense is that that makes the most sense, but I would be happy to hear from both your own experience, Ms. Lint, or from other Commissioners who have had more experience in this area.

ELIZABETH LINT: It has been done either way, depending on the severity of the situation.

ROBERT HAAS: I also think we looked at the periods of business of the establishment. So for a pouring establishment, you always try to do the weekends. But I imagine for a package store, it probably to me makes more sense just to do three consecutive days.

MICHAEL GARDNER: I think that is both simple and cleaner.

So that is the motion. Is there a second?

ROBERT HAAS: Second.

MICHAEL GARDNER: Motion having been made and seconded, all those in favor of the five-day suspension, two in abeyance and three to be served consecutively, conditions of the abeyance as outlined in the motion, all those in favor signify by saying "Aye."

(Voices heard.)

MICHAEL GARDNER: None opposed.

So Ms. Lint, will you prepare a notice to them?

ELIZABETH LINT: Absolutely.

MICHAEL GARDNER: Will you also include in the notice reference that you are enclosing a copy of the September 4, 2012 circular?

ELIZABETH LINT: Okay.

MICHAEL GARDNER: Thank you.

So that concludes the business of the decision hearing, I think. And Commissioner Haas, I understand, you have to leave.

ROBERT HAAS: I have to leave for another meeting. Sorry.

MICHAEL GARDNER: Thank you for your participation and patience this morning.

(Mr. Haas leaving room.)

MICHAEL GARDNER: We do have other business before us this morning, don't we, Ms. Lint?

ELIZABETH LINT: Yes, we do.

So on the general hearing agenda, the first matter is the application, BMR-Rogers, LLC, 320 Bent Street, holder of a flammables license for 910 gallons of class IA, IB, and IC; 1,000 gallons of class II; 1,000 gallons of class III; 100 pounds of solids and 750 cubic feet of

gasses, to amend the license to add an additional 1,000 gallons of class IA, IB, and IC; 50 gallons of class II, 50 gallons of class III, and 20 pounds of solids and 100 cubic feet of gasses.

MICHAEL GARDNER: Anybody who is here for this, please step forward. I ask you to state your name and spell your last name for the record and identify your relationship to the license applicant.

CAITLIN GAMACHE: Caitlin Gamache, G-A-M-A-C-H-E. I am the applicant representing BioMed. I work for Cosentini Associates as a fire protection engineer.

ASHLEY MYSLINSKI: Ashley Myslinski, M-Y-S-L-I-N-S-K-I, representing BioMed.

MICHAEL GARDNER: Could you tell us briefly something about the BioMed operation now and why you need this additional capacity?

ASHLEY MYSLINSKI: We have a tenant moving into our space with an additional

flammables license. They are moving to the vacant floor, the fourth floor. We just wanted to amend our license to accommodate their requirements.

MICHAEL GARDNER: Who is the tenant?

ASHLEY MYSLINSKI: Idenix Pharmaceuticals.

MICHAEL GARDNER: Is Idenix moving from another location?

ASHLEY MYSLINSKI: Yes. They are currently at 60 Hampshire Street.

MICHAEL GARDNER: Do you have a question?

GERARD MAHONEY: I have none.

MICHAEL GARDNER: So just very briefly, give us some understanding of the safety controls that you have in place for this increase, I take it, on the fourth floor.

ASHLEY MYSLINSKI: Correct.

MICHAEL GARDNER: It will be stored on the fourth floor?

ASHLEY MYSLINSKI: Most of it will be stored on the fourth floor. We had a code report done by the architect, and they have designated all of the lab areas as H3.

CAITLIN GAMACHE: So they will have control rooms on the third floor.

GERARD MAHONEY: It has been cleared by fire prevention, so.

MICHAEL GARDNER: Are there any members of the public who would like to be heard on this matter? Seeing none, a motion is in order.

GERARD MAHONEY: Motion to amend the license as applied for in the application.

MICHAEL GARDNER: So I will second that. All those in favor signify by saying, "Aye."

(Voices heard.)

MICHAEL GARDNER: None opposed. So we amend the license. Good luck with your new tenant and please extend to them our welcome.

ASHLEY MYSLINSKI: Thank you.

ELIZABETH LINT: Application, DEVB, LLC, 61 Bolton Street, for a garage license for eight parking spaces and 800 gallons of gasoline in tanks of cars only and two outside parking spaces.

MICHAEL GARDNER: Please come forward and state and spell your last name for the record, if you would be so kind, and just identify your relation to the applicant.

VINCENT BEAUDET: Sure. Good morning. Vincent Beaudet, B-E-A-U-D-E-T. DEVB, LLC, one of the owners of the project.

MICHAEL GARDNER: Tell us about this project. Tell us about the location.

VINCENT BEAUDET: Sure. This is the second building of two that we built, 10-unit condos, on the project. On the ground floor, we have eight enclosed parking spaces, and two in the driveway outside.

MICHAEL GARDNER: So the 800 gallons of

gasoline, that is in the tanks of the vehicles.

VINCENT BEAUDET: Of the vehicles. I guess 10 gallons per car, eight cars.

GERARD MAHONEY: It should be 80, not 800 gallons.

ELIZABETH LINT: Should be 80, yes.

MICHAEL GARDNER: Is 10 enough? You asked for 10?

ELIZABETH LINT: That is what the standard is.

GERARD MAHONEY: The regulation is 10 gallons of gasoline per automobile. So that would be 80. There is only eight parking spaces, not 80?

VINCENT BEAUDET: Correct, sir.

MICHAEL GARDNER: So do you have any objection to our amending the application to specify the 80?

VINCENT BEAUDET: Of course not.

MICHAEL GARDNER: And when will the

spaces first go into use?

VINCENT BEAUDET: Folks are moving in next week.

MICHAEL GARDNER: So the condos are opening up next week?

VINCENT BEAUDET: Yes.

GERARD MAHONEY: Is the parking area sprinklered?

VINCENT BEAUDET: Yes.

Lieutenant Marinelli came out and he amended the added fire sprinkler.

GERARD MAHONEY: Okay.

MICHAEL GARDNER: Anything else you would like to add?

VINCENT BEAUDET: I have a brochure.

(Handing document to the Board.)

MICHAEL GARDNER: You can give one to Ms. Lint. And do you have your notice cards, the abutter cards?

(Handing document to the Board.)

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 application for a garage license for eight parking spaces and 80 gallons of gasoline in tanks of cars only, and with two outside parking spaces, with the expectation to be used beginning next week.

GERARD MAHONEY: I second the motion.

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

(Voices heard.)

MICHAEL GARDNER: None opposed.

So good luck. Welcome, not to Cambridge, but to your new residence.

VINCENT BEAUDET: Thank you, Mr. Chairman. Thank you, Chief.

ELIZABETH LINT: Application: Le Cordon Bleu College of Culinary Arts, Inc., a private

two-year college, d/b/a Technique,
Andrew Abelman, manager, holder of a wine and
malt beverages as a restaurant license at 215
First Street, for a change of manager to
Stephen Villett.

MICHAEL GARDNER: Please come forward if
you would, sir, and be so kind to state and spell
your last name for the record and identify your
relationship to the application.

STEPHEN VILLETT: Sure. Stephen Villett,
V-I-L-L-E-T-T. I am the current business
operations manager at Le Cordon Bleu.

MICHAEL GARDNER: And very briefly, tell
us a little bit about the operation, how long you
have been operating in Cambridge, just briefly
what it does.

STEPHEN VILLETT: Le Cordon Bleu is a
culinary arts college. We have been there since
2008. It is training kids or adults in the
culinary field. And part of their training is an

externship and a six-week class in our Technique restaurant, where we serve lunch and dinner to the public and anyone else that wishes to attend.

MICHAEL GARDNER: So Technique is affiliated with the college?

STEPHEN VILLETT: Is it part of the training facility of the college, yes.

MICHAEL GARDNER: And as part of their training, are they involved in the serving or advising about wine and malts? Or just tell me, how do the students interact to the actual? Alcohol.

STEPHEN VILLETT: There is a student that is supervised by an instructor, of serving the beer and wine that we have. And again, it is lunch and dinner. It is not a -- it is a casual environment. It is not an everyday open bar. So it is just during the lunch and dinner hours for events that are going on during the period of time. The public rents the restaurant for space.

MICHAEL GARDNER: And the students serve a six-week externship?

STEPHEN VILLETT: It is not an externship. The externship is beyond the Technique restaurant. So it is just part of their curriculum in the classroom.

MICHAEL GARDNER: A practical experience?

STEPHEN VILLETT: Three weeks in the front of the house, and three weeks in the back of the restaurant, where they can actually get exposure.

MICHAEL GARDNER: And Andrew Abelman has been the manager of record?

STEPHEN VILLETT: Andrew left in 2011, in August of 2011. And then we were in the process of making a change to our current president, and then he recently left the organization in December. And then they had requested that I be, since I have been there the longest. I have been with the company for five years.

MICHAEL GARDNER: So Andrew was the manager of record, and you haven't updated the records since 2011 when he left?

STEPHEN VILLETT: Correct. They were in the process of doing it, and he had left before.

MICHAEL GARDNER: So could you give us a little bit of a summary of your experience in ever managing or being the manager of record for a institution that serves alcohol?

STEPHEN VILLETT: I have been a TIPS certified bartender since 1998, I believe. I also I belong to an Elks organization, where I was the manager of record for the bar and managed it overall. Other than that, that is it.

MICHAEL GARDNER: For how long was that?

STEPHEN VILLETT: That was for a period of, probably, about a year and a half.

MICHAEL GARDNER: Did you say Elks?

STEPHEN VILLETT: Elks.

MICHAEL GARDNER: And how long have you

de facto been doing the job at Technique now?

STEPHEN VILLETT: How long have I been?

MICHAEL GARDNER: I take it you are managing the place right now?

STEPHEN VILLETT: Yes, I oversee.

MICHAEL GARDNER: So I am saying -- when I say "de facto," that is, how long have you actually been doing the work?

STEPHEN VILLETT: For the past 2 years.

MICHAEL GARDNER: Other questions?

GERARD MAHONEY: I have none.

MICHAEL GARDNER: So in general, we come up to this from time to time. We know there are lag times. I am not sure I ever seen a lag time of two years. And I understand, from the point of view of the establishment, maybe it just a matter of getting the paperwork straight. But for us, it is a matter of knowing who is responsible and wanting to be clear about who is responsible.

So we will dispose of this in a minute. But however we dispose of it, I would appreciate if you would take the lesson to heart and take the message back that, if there are changes in the future, they need to be dealt with in an expeditious way.

STEPHEN VILLETT: I agree. I think what happened is the restaurant was a closed down, because our associate problem had stopped. I think they just --- the restaurant wasn't being utilized for a period of time. And in my personal opinion, I think it just got lost in the transition.

MICHAEL GARDNER: Anything else you would like to add about your experience?

STEPHEN VILLETT: No.

MICHAEL GARDNER: How frequently is the restaurant open?

STEPHEN VILLETT: Right now, it is not open. Our students --- we have reinitiated the

associates program, and it will start in August. But there are events down there. But we haven't served any alcohol or anything like that, and that won't start until the restaurant reopens again.

MICHAEL GARDNER: Which is August?

STEPHEN VILLETT: I believe August is the first class time that it is going to.

GERARD MAHONEY: So Le Cordon Bleu on First Street, is that a standalone institution, or is it affiliated with others around the country?

STEPHEN VILLETT: It is in a building with a bunch of other businesses.

GERARD MAHONEY: No. I understand that.

But the culinary college itself --

STEPHEN VILLETT: Oh, we have other businesses throughout the country.

GERARD MAHONEY: That is what I thought. It is a chain, basically?

STEPHEN VILLETT: Yes. There are 17 other schools in the United States.

MICHAEL GARDNER: If in fact, you haven't been opening and serving alcohol, then my comments about the tardiness and getting the record changed is mooted somewhat.

When the associates program is going, then the restaurant opens?

STEPHEN VILLETT: Right. The associates program, it is going now. And then when they are at the end of their associates program is when we would do their six-week tenure at the restaurant, and then six weeks at an externship, offsite.

MICHAEL GARDNER: I see. And that six weeks at the restaurant includes preparing food?

STEPHEN VILLETT: Correct.

MICHAEL GARDNER: Okay. I understand it a little better.

Are there any members of the public who

would like to be heard on this matter? Seeing none, I will make motion to approve the change of manager to Stephen Villett.

GERARD MAHONEY: Second.

MICHAEL GARDNER: Subject to, is there any alcohol training that he needs?

ELIZABETH LINT: 21 Proof.

MICHAEL GARDNER: So Cambridge has its own program of 21 Proof, and you will need to comply with that and any other administrative condition imposed by the License Commission.

STEPHEN VILLETT: Okay.

ELIZABETH LINT: We will send that information.

STEPHEN VILLETT: Perfect.

MICHAEL GARDNER: A motion having been made and seconded, all those in favor please respond by saying "Aye."

(Voices heard.)

MICHAEL GARDNER: None opposed.

So good luck with the renewed initiative.

STEPHEN VILLET: Appreciate it. Thank you.

GERARD MAHONEY: Point of order. Would it be prudent to take the rest of these as --

ELIZABETH LINT: They have been continued until March 19th.

GERARD MAHONEY: So they are not here anyway?

ELIZABETH LINT: No. Because Corey was going to make a presentation, and he is in meetings all morning.

MICHAEL GARDNER: So the byplay between Commissioner Mahoney and Executive Director Lint, there are a number of matters which are published on the agenda, all applications for Hackney dispatch, which are being put over to March 19th.

ELIZABETH LINT: Correct.

MICHAEL GARDNER: And that is based on the unavailability of staff?

ELIZABETH LINT: Correct.

MICHAEL GARDNER: So do we have anything else, Ms. Lint?

ELIZABETH LINT: We do not.

MICHAEL GARDNER: Do we have any new business?

ELIZABETH LINT: None.

MICHAEL GARDNER: So other matters before the Commission? Did you have something?

MEMBER OF THE PUBLIC: No. I am just sitting in to see what was happening.

MICHAEL GARDNER: A motion to adjourn is always in order.

GERARD MAHONEY: Motion to adjourn.

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

(Voices heard.)

MICHAEL GARDNER: None opposed.

So we will adjourn at approximately

10:50.

(Whereupon, at 10:47 a.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 21st day of March, 2013.

Megan M. Castro
Registered Professional Reporter

My Commission expires:

August 23, 2013

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