

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION
DECISIONMAKING HEARING

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman
Robert C. Haas, Police Commissioner
Daniel Turner, Deputy Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Cambridge, Massachusetts 02139
Tuesday, December 23, 2008
10:00 a.m.

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P R O C E E D I N G S

MS. LINT: License Commission
Decisionmaking Hearing, December 23, 2008, 10:00
a.m. We're in the Michael J. Lombardi Municipal
Building, 831 Mass. Ave. Before you the
Commissioners: Chairman Richard Scali, Deputy
Chief Dan Turner, and Commissioner Robert Haas.

We have a few things left over from
November 25.

MR. SCALI: If we could make a motion
first to accept the record from our last hearing.
Moved.

MR. TURNER: Second.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: So from November 25?

MS. LINT: Yes. We had the Application of Riverside Limited d/b/a New England School of English - Riverside Limited, Alysha Nguyen, Resident Manager applied for a Lodging House license at 2222 Mass. Ave. The reason that was continued --

MR. SCALI: That was that lodging for the school?

MS. LINT: The New England School of English. It was already opened.

MR. HAAS: The fire --

MS. LINT: Dan wanted to inspect it, and they didn't have all of their sign-offs, but she brought me all the sign-offs yesterday.

MR. SCALI: Any comments Deputy Chief?

MR. TURNER: Other than the Fire Department did inspect it. There were no Fire Department issues, just ISD had some egressing issues that were to be taken care of. I have not followed up on it but I'm assuming with all the sign-offs they would have been corrected.

MR. SCALI: Do you have any

objections?

MR. TURNER: I have no objections.

MR. HAAS: Can we just check back with
ISD and make it conditional?

MS. LINT: They signed off.

MR. SCALI: What is it called,
Riverside?

MS. LINT: Ranji signed off.

MR. SCALI: Riverside Limited d/b/a
New England School of English.

MS. LINT: And the Fire Department
signed off as well. Fire, building, wiring.

MR. SCALI: Any objections or
comments, discussion?

MR. HAAS: No discussion.

MR. TURNER: No.

MR. SCALI: Motion to approve.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Any other previous issues?

MS. LINT: 2578 Mass. Ave., Alewife Motors, they have withdrawn their application.

MR. SCALI: Do you know what happened?

MS. LINT: They couldn't come to an agreement and what the neighborhood wanted them to do was just going to be too expensive.

MR. SCALI: That's too bad because that was going to be a great improvement to that corner.

MS. LINT: So they may try again in the spring, but for now, they're down.

MR. SCALI: Anything else?

MS. LINT: That's it for that agenda.

MR. SCALI: Going to the Agenda of December 16.

MS. LINT: Polish American.

MR. HAAS: Are you going in the order of the Agenda?

MR. SCALI: Do you want to skip to that?

You're all here for the Jitneys? Anybody else here for anything else? Just the Jitneys? Everybody here just for those Jitneys?

UNIDENTIFIED SPEAKER: Yes, for the cab.

MR. SCALI: We'll go down to the Jitneys then. Let's skip down then to --

MS. LINT: The middle of Page 3, H/M Transportation.

MR. SCALI: We've got Copley Coach, too.

MS. LINT: I'm sorry.

MR. SCALI: Discussion? I know the Commissioner has prepared some pros and cons here. I don't know whether you want to go into the pros

and cons, Commissioner.

MR. HAAS: I was just trying to outline I guess in my mind just to kind of think about the application and some of the issues that were raised during the hearing. Clearly, there's some advantages. I think for the public and things like that, but also I think it has a negative and adverse impact to the taxicab community.

Among the greatest concerns I have quite honestly is the whole enforcement piece around the solicitation and being able to verify that reservations are being made as opposed to any other kinds of arrangements. We don't have the ability to do those kinds of checks, if you will, or to do those kinds of things.

The other biggest thing, and I think where it's a disadvantage for the taxicab community is that you can gauge the volume of taxicabs in the city by the price of the medallions. So if people are still paying a high enough price for a medallion, then that suggests that the market is still there. You don't have the same gauge for the

Jitney licenses. You don't know if you are reaching a saturation point and how to gauge that. I think what happens is it almost becomes too late when you realize that possibly it's impinging to a point where it's having a detrimental effect to the taxicab community.

I think it's very difficult to kind of balance that from an economic sense back and forth. Clearly, I think the one thing that is the most compelling argument for me is giving customers an alternative mode of transportation at a discounted rate because they can travel in a larger quantity than what the taxicab community can offer.

So those are the key issues for me in terms of trying to go back and forth and thinking about it.

And the other thing I think is important, and I think it was kind of impressed upon us with the people who testified was that clearly, the longer runs are what the taxicab community depends upon in terms of making a livelihood; that the short trips, they do service a

number of people going on short trips that the jitneys don't do that aren't profitable for them, but yet they still need those longer trips to balance out that service they provide to a community that's in need of that kind of transportation in the city. So that's the other issue that's kind of kicking around in my mind.

MR. SCALI: I would agree with everything you said. My biggest concern is that what usually happens is we recommend denial on these jitneys to the City Council, the City Council either upholds the denial or may not take action in time, and then the jitneys appeal to the DPU, and the DPU usually grants these applications. So I weigh whether we should hear it and grant them with conditions, that way we have control over them, or just give it to the DPU, and the DPU decides, and then we have no control over it.

I'm not saying that I think we need more jitneys, I guess I'm just saying that the DPU doesn't take concern about whether we need them or not. They just automatically have granted them in

the past.

So it's kind of a balancing act, and I do agree with you that there is a need for a balance of transportation for the customers, but the taxicab industry does have a huge expense in these medallions, and huge expenses in terms of maintenance and insurance and all these things too. So they do need those trips to the airport to keep going.

Comments?

MR. TURNER: The comments that I would make, and this of course when we review every Jitney application is I look at it as to what service these jitneys provide to the citizens of Cambridge, and in the cases in these two applications, it's strictly for the hotels and their own profit margin. I don't see any benefit to the citizens of Cambridge. I would support the arguments presented by the taxicab community.

Another key issue that I look at is the services that the taxicab community provides. For example, the First Night free rides program.

MR. SCALI: Safe Ride.

MR. TURNER: The Safe Ride Program that the taxicab community -- do the jitneys contribute to anything like that? So I think in this case, I would be supportive of the taxicab community's concerns.

UNIDENTIFIED SPEAKER: Are we allowed to speak?

MR. SCALI: You're only allowed to speak if it's a point of clarification, not testimony, not additional testimony.

You have to just tell us your name.

MR. GERVAIS: My name is Michael Gervais.

MR. SCALI: You have to come up. It's not additional testimony. This is a point of clarification.

MR. GERVAIS: You let me know if this is different than a point of clarification. Two medallions have just been put on. There wasn't any big research about them put on, but there's two additional things on.

In reference to clarifying, as you had said Commissioner, cabs have the ability to take groups of people. We have vans and more vans can be put on. The cab industry is very underutilized. Also, the cab industry lost the work that they used to do for the Harvard Business School, so it lost over a half-million dollars -- two medallions put on -- just in dollars and cents alone.

I agree with what Mr. Turner said about taking care of just the regular work that we have. We're on a huge decline.

And just to clarify, I don't mean to throw dollars and cents out but if you look at 258 times 400,000, the latest bid 450,000, you get a huge millions of dollars involved there, and adding jitneys on would kind of destroy that and also ruin what relationship we have with the hotels, because they're already using them.

The last point I will make, and thank you for letting me speak, is we have not at this point had any rule or regulation that stops limos, jitneys from going to hotels and just parking there

anyway. We don't have any specific laws for that, and those are forthcoming to be brought forth to Mr. Scali and to the City Council, because at this point, they're going at will when they want to.

MR. SCALI: We do have a rule. The problem is catching them. The problem is someone has got to be out there to catch these limos hanging out there. If they sneak up, they wait there, and if an officer is not there or a hackney person is not there --

MR. GERVAIS: I apologize then. I didn't think we had a specific rule.

MR. SCALI: There is.

MR. GERVAIS: Because they park there all the time. So the guys just thought we didn't have that rule in Cambridge, but hopefully you said we might have extra help in the spring time.

MR. HAAS: Just as a general comment, I think it's in your vested interest that when you do observe violations of the rules and regulations that you notify us, because when we hear about this after the fact, it doesn't stop the problem. As

the Chairman said, we don't have the manpower to be sitting at a hotel waiting for a jitney or a shuttle to pull up and sit and wait. So you're kind of our eyes and ears and you have a vested interest in terms of making sure everybody is obeying the rules, including your own community.

MR. GERVAIS: As with Chairman Scali, and Chairmen of other coordinating -- the President of the Hotel Association, maybe --

MR. HAAS: So as an association, I think it's in your best interest that as you observe violations and things like that you let us know about it even if it's cabs out of the city. There was a lot of testimony about Brookline cabs coming into the city and Boston cabs coming into the city and picking up unreserved fares. Again, it would be helpful if you give us a cab number or things like that, then we can keep our eyes open for that, but it's just catch as catch can, and that's not going to be good enough. You see this every day when you're driving around.

MR. GERVAIS: They'll let us know too

when this is going to be going before City Council, because I have a feeling that a large number of cab drivers will show up, like two or three hundred.

My last point and probably the most important point is the cab industry in the City of Cambridge would like to wish all of you a happy holiday and a Happy New Year. Thank you.

MR. SCALI: Thank you, Mr. Gervais.

Pleasure of the Commissioners? This is strictly a recommendation to the City Council, obviously. So I'm sensing that we agree on a lot of points in terms of that this would be a detriment to the cab industry in particular, but also there may not be a benefit to the citizens of Cambridge, but more a benefit to the tourism aspect of the hotels. I guess I'm feeling more so that we recommend denial.

MR. HAAS: I look at it kind of like a balance between which way the scale is going to tip. Clearly the notes I made are not weighted, and some things have more weight than others and things like that.

Again, as I was going through and just trying to think about it, clearly, I found more arguments against issuing the Jitney licenses than I did in favor. I tried to keep it as a balanced perspective.

I agree with your comments about having control with respect to imposing conditions, but we're finding ourselves right now in a position where we can't police it anyway. So it is kind of a moot issue for us in terms of whether DPU issues the license or we make a recommendation to the City Council and they issue the license with a set of conditions.

MR. SCALI: We will have to watch it then if we do.

MR. HAAS: And again, I don't know how we get our arms around that and police it adequately. We have plenty of ability to regulate the taxicab community, and we do that on a regular basis. A number of drivers can attest to that. I think it's an unfair enforcement with respect to those two industries.

MR. SCALI: Comments?

MR. TURNER: No additional comments.

MR. HAAS: I'll make a motion to disapprove the two applications.

MR. SCALI: All right. So these comments are both for Copley and for H/M, because they are both similar applications. So we're incorporating all these comments into both applications.

(Whereupon, the above comments regarding Copley Coach apply to the Application by H/M Transportation.)

MR. SCALI: The Commissioner has made a recommendation that we recommend denial to the City Council.

MR. TURNER: Seconded.

MR. SCALI: On both applications. If we could give some reasons that would be helpful that Mrs. Lint could put into her decision. It would be very helpful to recommend why.

MR. HAAS: Do you want to send that along with some additional notes?

MR. SCALI: Do you want to use the arguments that you --

MR. HAAS: I don't know. If the Commission agrees with the arguments then that's fine.

MR. SCALI: The arguments against issuance are that cab drivers fear that this business will cut into their business during this economic downturn; that the enforcement if solicitation for jitney service cannot be monitored or enforced effectively at this point in time; that in order for the taxicab community to provide for non-profitable trips or short trips, they depend on airport runs, which is the longer trips.

The taxicab community provides a service to all facets of the community without regard to the profitability of the fares. The client base for airport runs is not consistent enough to support the scheduled runs being proposed by the jitney operators.

Unlike the present medallions, it is difficult to assess the impact in jitney services in terms of devaluing the cost of medallions. It's virtually impossible to assess how many Jitney licenses are too many.

There is a claim that there is already a saturation of jitney and limousine services already servicing the Cambridge area, and we are not able to police whether jitney services are keeping to their proposed scheduled routes.

I would agree with all those aspects. I would incorporate those.

MS. LINT: So can I --

MR. SCALI: Yes. Mrs. Lint, I know you didn't get all those. We can incorporate those as reasons one through eight from the Commissioner's memo to be incorporated.

So it's moved. I'll second it.

All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: And that's on both.

I'm assuming, Mrs. Lint, that this won't be heard before the City Council until --

MS. LINT: The next is January 6.

MR. SCALI: The second Monday in January, the first Monday?

MS. LINT: The first Monday in January. So we'll have to get it over today.

MR. SCALI: All right. Thank you all.

MS. LINT: I'm sure Chris will just love to have that today along with the agenda.

MR. HASSANI: Will I get any denial letter in the mail?

MR. SCALI: You will get a letter in the mail, yes. It will give you the reasons and -- actually, it's not a denial. This is a recommendation for denial to the City Council. So it will be heard before the City Council at the first available date in January. It will be a Monday night. If you want to speak, you have to go and sign up to speak on the list before the Council meeting begins.

MR. HASSANI: If not, I'm just going

to receive it in the mail?

MR. SCALI: If not, and the City Council takes our recommendation for denial, you'll then get a notice from the City Council, the City Clerk, saying that they denied it, and then you can appeal it to the DPU. You have to wait for the City Council denial before you can do it.

That was the one from H/M.

MS. LINT: Yes, Mohamed Hassani.

MS. LINT: The Polish American.

MR. SCALI: The Polish American
Disciplinary; this one was difficult.

MR. HAAS: In my view, I think that the biggest mistake they made was they tried to deal with the situation for an extraordinary period of time. I mean, an hour-and-a-half for woman that's totally out of control. And then when it finally became -- and this was all going on outside of the club. We've haven't got any complaints from the residents. I'm not sure what the proximity of the residents are, but we got no complaints from them. Then even when this was getting way out of control, they still didn't call.

So in my view, I think they had a responsibility as this thing started to materialize, to call and get it resolved earlier than later, and it wouldn't have turned into the donnybrook that it turned into. I still think that they share some responsibility with respect to that.

MR. SCALI: I was trying to figure out

what was going on inside. I guess she went to the bathroom and either she did something in the bathroom that caused her -- we don't really have any evidence that shows what she did. They could have over served her. We don't really -- there's no evidence of that. They are responsible for their guests.

MR. HAAS: It was clear to Mr. Lynch that she was out of control. He tried to deal with it personally for an hour-and-a-half, so it wasn't like this was going on and he was totally oblivious to it, and that's why he didn't call. He was fully cognizant of the fact that he had a situation on his hands and he declined not to call the police.

MR. SCALI: I guess we could say that they had a responsibility to take care of the situation before an hour-and-a-half went by, by calling the police.

MS. LINT: It's a violation of Rule 1, and there is also -- I'll have to look it up. There's one that says, when there's a situation, you need to call the police.

MR. SCALI: I think it's Rule 25, or something like that.

MS. LINT: They're all different now.

MR. SCALI: Previous history? I think we have one here. Fight in 2004, which there no action taken against them because they acted spontaneously by calling the police. A stern warning due to a complaint by an officer in 2002, where a member was assaulted by the club's president, and the police were not called. A 30-day suspension for having two poker machines on premises, and a one-day suspension for being opened after legal closing hours in 1983. So there's kind of a bit of a history there with not calling the police a couple of times.

Pleasure of the Commissioners? I'm assuming we're finding a violation for a violation of Rule 1 and Rule 27.

MS. LINT: And Rule 27.

MR. HAAS: The Deputy Chief may not agree.

MR. SCALI: I'm sorry. Comments,

discussion? I didn't give you an opportunity to talk.

MR. TURNER: I agree with the comments by Commissioner Haas, and really have nothing more to add. I think he covered it quite well.

MR. HAAS: In my view, there's probably two courses of action that I think would be appropriate. Either one, you place a written warning in the file and send them a notice, or you can take it one step further with a warning and place them on a six-month probation. And if there is a repeat, then it will result in taking this back into consideration and assessing that against any future violations in terms of any kind of suspension that the Commission might want to consider.

MR. SCALI: I think I would be more in favor of granting a suspension, suspended for six months, because I think this is like their third warning. Am I correct? We can place it on suspension.

MR. HAAS: On the one, they did call

the police, and we had found no fault for them because of that.

MR. SCALI: In 2004, you're right. Then they got a warning in 2007 where they did not call the police.

MS. LINT: They don't like to call police.

MR. SCALI: So this would be a second violation on not calling the police. In keeping with our progressive discipline, I would say it would be a one-day suspension. We can suspend that for six months if that would be okay with the Commissioners. Discussion?

MR. HAAS: I think that's appropriate to hold it in abeyance for six months, and again, if something occurs within that six month period then that one day would then be enforceable, in addition to any other kind of penalties that we want to assess for any future or subsequent violation.

MR. SCALI: Comments?

MR. TURNER: I guess I'll make that in

the form of a motion.

MR. SCALI: All right. A motion that we find them in violation of Rule 1 and Rule 27, whereby, they did not call the police, and are responsible for their patrons and guests; and that there be a one-day suspension of their Club license and Entertainment license held in abeyance for six months, so that if there are any future violations that this would then come forward again on the one-day suspension. If it is chosen, then it would be a one-day suspension that Mrs. Lint would choose in keeping with our progressive discipline since they had a warning in 2002.

Moved, seconded.

MR. HAAS: Second.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Aye.

MS. LINT: That's fine.

MR. SCALI: Just want to make sure you got it all.

MS. LINT: First, you have the license issues. They haven't filed a transfer application yet.

MR. HAAS: The thing I found curious was when we had the second testimony for Libby's, that gentleman's name is Mr. Singh. They're transferring a license to Mr. Singh. No, the mother I guess. And there's two gentlemen by the name of Singh that are managing the restaurant. So I'm still not clear of the connection.

The other thing I was a little bit troubled by is I think we have an obligation to check with ABCC to make sure that that's enough of a distance between the sons and the mother in terms of --

MR. SCALI: He claims he talked to Bill Kelly at the ABCC.

MR. HAAS: Yes, but he ultimately qualified by saying, "unless I misunderstood what he said."

MR. SCALI: I have no doubt that Mr. Goldberg talked to Mr. Kelly about it.

MR. HAAS: I'm not disputing that at all. I guess the fundamental question is, is transferring a license to the mother of the two owners sufficient separation in order to meet the intent of the regulations. That's the fundamental question; right?

MR. SCALI: I think we have a few that have done that in the City already.

We really don't have to vote on that part of it because it's not before us, because they've got to apply to transfer the stock anyway, then we can take it up at that point. The issue is whether we take any action disciplinary-wise, or just put it on hold for now.

MR. HAAS: In my view, I don't think we have enough based on what we were able to discern from the testimony to find them responsible for the second incident. Well, this incident.

MR. SCALI: You're talking about --

MS. LINT: You're skipping down.

MR. HAAS: Which one am I working on?

MR. SCALI: We're talking about this

one first.

MS. LINT: The multiple licenses.

MR. HAAS: That's what I thought we were talking about, and then you started correcting me.

MS. LINT: No.

MR. SCALI: You said something about the violation of Libby's. We haven't gotten to that point yet.

MR. HAAS: I was talking about Cafe of India and Libby's because that's the issue; right?

MR. SCALI: The issue before us is the issue of the three licenses that they need to get rid of.

MR. HAAS: Right, one of them happens to be Libby's and the other happens to be the Cafe of India, and then there's another.

MR. SCALI: Right, Doma. Do we want to take action on the issue of the three licenses at this point?

MR. TURNER: Mr. Chair, have we heard from Attorney Goldberg?

MS. LINT: No.

MR. SCALI: He said he was going to file an application to turn the stock to the mother.

MR. TURNER: By today?

MS. LINT: He didn't say.

MR. SCALI: Did the deadline pass for January? Actually January 20 is still open.

MR. HAAS: This has been going on for a long while, hasn't it.

MS. LINT: Since May.

MR. SCALI: I guess I would just say we continue the matter until --

MR. HAAS: Is there a harm in calling ABCC just to gauge what their view of it is?

MS. LINT: I can call them.

MR. HAAS: That could kind of guide our decision I would imagine. If they feel that's fine then -- but then we'd have to encourage them to do it quickly because it's been going on for a long period of time.

MS. LINT: I think we've done that.

MR. HAAS: I know, but they keep on

coming back.

MR. SCALI: You can give them one shot I guess. We're not sure we're going to grant the application to the mother I guess, so we have to hear that first.

MR. HAAS: Before they go through that exercise, I'd just be wondering if the ABCC will be okay with that arrangement. Ultimately they're the final arbiter on that; right?

MR. SCALI: Well, yes, once if we say yes, and then they would say yes. Sure, we can check with the ABCC.

MS. LINT: There's no question that it's just who's going to be operating it, who's going to run it, so it still -- even if it's mom.

MR. HAAS: I think it's very clear that the mother is just the owner in name only. It's just to satisfy the requirements, and if the ABCC seems to think that's fine then I don't know if we should take issue with it. You said others have done that in the City; right?

MS. LINT: I'm not aware of it.

MR. SCALI: There are others that have family members. I'm pretty sure it's happened before.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: At this point, where the application has not been submitted yet, to our knowledge, then we should continue this perhaps until the first hearing in January where we can have the players come in and update us on the status of the application.

MR. SCALI: We'll make a motion that Mrs. Lint check with the ABCC on the process, first.

MR. HAAS: For the interpretation of the regulations with respect to being the owner of one establishment in name.

MR. SCALI: And then the second part of that would be that we continue the matter until the application is submitted, which I think is probably the second hearing in January, right, so to January 20, when we hear the application.

It's moved. Seconded?

MR. TURNER: Second.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Aye.

MR. SCALI: The other portion of this is the Libby's Disciplinary, which wasn't real clear, Commissioners.

There's a woman who observed supposedly two intoxicated males who we have no testimony from, but just her word that she said this to an officer. The officer wasn't here. We have second-hand testimony from Sergeant Boyle. It's kind of tough to link -- I believe that the woman and the officer spoke. The woman saw this and told the officer. I think it's kind of hard to pin a violation on them without direct testimony on the observation of the two intoxicated males.

MR. HAAS: It's unfortunate because I did talk to Officer Brown. He did have first-hand knowledge of it. But I think without giving the owners of Libby's and their attorney an opportunity to question the officer, it would be unfair to hold that event against them. So I agree.

MR. TURNER: I would concur that unfortunately the key player here is the witness, and there was no testimony or cross-examination of

the witness by counsel, so therefore, I just see that there's nothing here to proceed.

MR. HAAS: I would make one further recommendation. The one thing I found troubling is it shouldn't be up to Mr. Goldberg to convince the owners that they're got to take greater care in terms of serving to intoxicated individuals. I know they mentioned they're having Frank Connolly go back in and things like that, but I think it's incumbent upon them to have them go back in there, or have Frank go in there, make some recommendations, and then maybe -- I'm not certain we're not going to see another violation.

MS. LINT: They have done that and they've come in to meet with me. They speak with Frank on a very regular basis. I know that. I think they're frustrated. They know that they bought a bad reputation and it's sometimes hard to climb out of that. I think they're trying.

MR. HAAS: I think they're trying too, and I don't think it's so much the principals. I think it's the clerks that work for them that are

not -- and they can't be there all the time, I understand that.

MR. SCALI: I'm not all that convinced that they're trying that hard. I think that maybe the owners think that they're trying. I think that they need to make sure that their clerks understand that they're serious about this, and that they need to change the atmosphere in front of the store. I think that they're just not willing to take that next step.

MS. LINT: They are. They're redoing the whole store, or planning on redoing it.

MR. SCALI: I'm just not convinced that they are actively pursuing that. I think they want to it.

All right, so a motion then to place the matter on file, or find no violation?

MR. HAAS: Find no violation.

MR. SCALI: No violation because of the lack of testimony and cross-examination at this point in time.

MR. HAAS: Yes.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Do you wish to place a caveat on that saying that we recommend our recommendations to them, or do you want to leave that alone?

MS. LINT: I don't see how you can if you find no violation.

MR. HAAS: Right. What I would like to do though is, I would like to do -- because I'm not convinced that this is over -- is somehow in the letter telling them that we didn't find them at fault this time; that the Commission is going to look very dimly upon any future violations, just as an added incentive for them to tighten up what they're doing so they don't come back before us for the same issue again.

MR. SCALI: With a paragraph in the letter saying that we recommend that they continue

to --

MR. HAAS: Make every effort to control the sale of alcohol and observe the regulations under which their license has been granted.

MR. SCALI: And to attempt to change the atmosphere of the store. I still think that's an issue as a suggestion to them, not an order.

MR. HAAS: No, but it's also a warning that if they come back before us again, you know.

MR. SCALI: So do you want to make that a motion, or just a suggestion in the letter?

MR. HAAS: I'd just incorporate that into the letter. I think we've already made a motion in terms of our decision with respect to the violation, the alleged violation.

MR. SCALI: So just a paragraph, a suggestion to the licensee.

MS. LINT: You have to vote it.

MR. HAAS: I thought we did vote it.

MS. LINT: No, we didn't.

MR. SCALI: That's what I was saying;

do you want to make a motion on that paragraph?

MR. HAAS: I'll make a motion that we incorporate a paragraph to the effect that any future violations could result in much harsher penalties.

MR. TURNER: Whatever we said the first time.

MR. HAAS: Harsher penalties if in fact we see a reoccurrence of this, and we're encouraging them to take every step they possibly can to eliminate the occasion or opportunity for these kinds of violations from reoccurring.

MR. TURNER: Second it.

MR. SCALI: Moved, seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: That would be all that's left.

MR. HAAS: I'm trying to be supportive of Mr. Goldberg too, because he's trying to work with them.

MR. SCALI: I'm not sure Mr. Goldberg can really do anything.

MR. HAAS: I'm surprised that he's the one that's saying --

MR. SCALI: Unlimited Motors; what happened to that no-show on that?

MS. LINT: The next agenda.

MR. SCALI: Any other business, Commissioners? No.

Motion to adjourn. Moved.

MR. TURNER: Second it.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

(Whereupon, the proceeding was concluded.)

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
BRISTOL COUNTY, SS

I, Anne Ouellette, a Professional
Court Reporter, the undersigned Notary Public
certify that:

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

I further certify that the proceedings
hereinbefore set forth is a true and accurate
transcription of my record to the best of my
knowledge, skill and ability.

In Witness Whereof, I have
hereunto set my hand this 29th day of December,
2008.

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