

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

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, March 24, 2009
6:00 p.m.

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INDEX OF AGENDA PROCEEDINGS

<u>Agenda Matters</u>	<u>Page</u>
Application - President & Fellows Of Harvard College	4
Application - Everest Crossing, LLC	14
Disciplinary - P & E Restaurant	36
Disciplinary - Saad Moustafa and Sam Jacobs	55
Application - The Upper Crust	95
Application - Sweet Cupcakes, Inc.	77
Application - Mount Auburn Hospital	80
Application - Julian's Cheesecakes	83
Application - Shrimp Market of Boston	88
Application - Checkraise LLC	94
Application - Wrapro Falafel & Grille	120
Application - Clube Desportivo	124
Application - Mass Chicken, LLC	129

P R O C E E D I N G S

MS. LINT: License Commission General Hearing, Tuesday evening, March 24, 2009 at 6:05 p.m. We're in the Michael J. Lombardi Municipal Building, Basement Conference Room. Before you the Commissioners: Chairman Richard Scali, Deputy Chief Dan Turner, and Commissioner Robert Haas.

If anyone is here for the Cellar Wine and Spirits, that's been continued to April 14.

MR. SCALI: Anyone here for Cellar Wine and Spirits? No hand.

MS. LINT: Mystic Rosa has also been continued to April 14.

MR. SCALI: Anyone here for Mystic Rosa? No hands.

MS. LINT: And the Gateway Inn has been continued to Thursday, April 2 at 10:00 a.m.

MR. SCALI: Anybody here for Gateway? No hands.

Before I forget, motion to accept the minutes from our last meeting.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Aye. Thank you very much.

MS. LINT: Do you want to take those matters out of order?

MR. SCALI: Are there any CLAB members here?

MS. LINT: Yes, there are. Cambridge Queen's Head and OM.

MR. SCALI: Let's go to the second item on Page 2.

MS. LINT: Application: President and Fellows of Harvard College d/b/a Cambridge Queen's Head, Scott Smider, Manager, holder of an All Alcoholic Beverages as an Educational Institute at 45 Quincy Street has applied for a Change of Premises Description to include 24 outdoor patio seats on private property with service of food and

alcohol.

MR. SCALI: Mr. Smider, are you waiting for an attorney or anything?

MS. SMIDER: No, I'm sorry.

MR. SCALI: Come on up. We're going to take you first seeing as you are a dedicated member of CLAB. That's one of the main privileges you get, getting moved up to the front of the agenda. Good evening. Just tell us who you are for the record.

MR. SMIDER: Scott C. Smider, I'm the general manager of the Cambridge Queen's Head for Harvard College.

MR. SCALI: We are here to add an outside patio?

MR. SMIDER: Yes, sir.

MR. SCALI: And this is on private property?

MR. SMIDER: Yes.

MR. SCALI: Harvard's property.

MR. SMIDER: Yes.

MR. SCALI: You want to extend the

alcohol and the food to that area?

MR. SMIDER: Yes.

MR. SCALI: With 24 seats. Tell us what the area is going to look like.

MR. SMIDER: If I could pass this to you, I actually have a layout of what we would propose. Here's the seven tables, the 24 chairs. Also, near the doorway where we would be doing ID checking and just keeping general watch over the patio area.

MR. SCALI: It's completely enclosed?

MR. SMIDER: It is completely enclosed. That is a retaining wall that you see that's on the left side of the area, which extends up I would say about 15 feet into the air. From ground level though, it's slightly above waist height, and then the stairs are open on each side.

MR. SCALI: I think you might have to have something on each side to block.

MR. SMIDER: What I was going to ask the Commissioners was what they thought would be appropriate for basically space containment, be it

possibly some sort of crowd control.

MR. SCALI: It's not about crowd control, it's really more about containment of people so that they can't walk off with the alcohol. So you could have like planters there or chain-links.

MR. SMIDER: I was going to ask if using ropes would be appropriate just so as to not limit egress.

MR. SCALI: Yes. You have to have something that would block all four sides with a small entrance on either end, just for ABCC purposes, to make sure that people are not walking off with the alcohol.

Tables and chairs of what kind of quality or decor?

MR. SMIDER: Small tables and chairs, stainless steel tops for the tables, small rounds approximately the size of what I'm sitting at, at the moment. Chairs also stainless steel with a cushion on the bottom is what we're looking at initially.

MR. SCALI: Hours of operation?

MR. SMIDER: No change in the hours of operation. So our standard is Wednesday from 5:00 to 1:00; Thursday from 5:00 to 1:00; Friday from 5:00 to 2:00; and Saturday from 8:00 to 2:00.

MR. SCALI: 2:00 a.m.?

MR. SMIDER: Yes.

MR. SCALI: Outside until 2:00 a.m.?

MR. SMIDER: I'm not sure what --

MR. SCALI: Our policy now is no later than 1:00 a.m. on outside seats.

MR. SMIDER: Then until 1:00 a.m.

MR. SCALI: So I don't know if the Commissioners wish to entertain any later hours than that.

MR. TURNER: Do we have any other patios until 2:00 a.m.?

MS. LINT: No.

MR. SCALI: No.

MR. TURNER: Then stay with the 1:00 a.m.

MR. SMIDER: That's my error in

understanding.

MR. SCALI: Somebody is out there monitoring at all times for noise?

MR. SMIDER: Absolutely.

MR. SCALI: Would that be a manager?

MR. SMIDER: That would be an employee at all times.

MR. TURNER: Mr. Chair, are there any ADA requirements on outside patios? And would this meet that having stairs maybe through the inside?

MR. SMIDER: Mr. Chair, if I can address?

MR. SCALI: Yes.

MR. SMIDER: We would be able to have ADA access. We have an elevator on the north side of the building that brings folks down into the pub directly basically so they don't have to use those stairs. Then there's also another elevator on the east side of the building that can be used for ADA access.

MR. SCALI: I think what he's referring to though is when people come to sit

there, there has to be enough space for people in wheelchairs to maneuver around the tables and chairs. So that may reduce your number.

MR. SMIDER: Okay.

MR. SCALI: I think that's what you were referring to; right?

MR. TURNER: I was concerned where it's stair access from both sides, left and right, I can understand where applicant's coming from, coming through the building. It's ADA accessible from within the building to the patio.

MR. SMIDER: It is accessible on both sides from both doors coming out. We had asked the architects when laying out the seating arrangement to make sure that everything was ADA accessible.

MR. SCALI: You already have those on the plan?

MR. SMIDER: That was done by our architects with the layout. I apologize if it's not on there. If there needs to be any additional notation that it meets those requirements, I'm happy to do so.

MR. SCALI: I'm not sure what the width is but you probably know better than I.

MR. TURNER: And Mr. Chair, one last question. There's no increase in capacity; correct?

MR. SMIDER: I'm not asking for an increase in capacity.

MR. SCALI: So the 24 seats are coming from the inside out? You're adding 24 seats; right?

MR. SMIDER: Adding 24 seats, yes.

MR. SCALI: So that would be an increase in capacity.

MR. SMIDER: Pardon me, then yes.

MR. SCALI: So that's increasing the license by 24 seats.

MS. LINT: Seasonal.

MR. TURNER: Seasonal outdoor seating only, correct.

MR. SMIDER: Pardon me for the error.

MR. SCALI: Questions?

MR. HAAS: Are there any residents

within the immediate area of this patio?

MR. SMIDER: There are no residents that I'm aware of. We have notified --

MS. LINT: No.

MR. SCALI: No living quarters?

MR. TURNER: A fire station.

MR. SCALI: The highway is right there.

MR. TURNER: The firefighters, the Fire Department.

MR. HAAS: I'm not inferring anything.

MR. SCALI: Disturbing the firefighters. Anybody from the public want to be heard in this matter? Notification to abutters? Pleasure of the Commissioners. Motion to approve.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: So that would be motion to approve subject to a 1:00 a.m. closing hour, 24 seats, ADA compliant, barriers to be added on each end. Moved.

MR. HAAS: Moved.

MR. SCALI: Seconded?

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck, Mr. Smider. I
hope the spring goes well.

MR. SCALI: We'll go to the other CLAB member, at the bottom of Page 1 -- the beginning of Page 2.

MS. LINT: This is at top of Page 2.

MR. SCALI: I'm sorry. Go right ahead.

MS. LINT: Application: Everest Crossing, LLC d/b/a OM, Bikram Yonjan, Manager, holder of an All Alcoholic Beverages as a Restaurant license and Entertainment license at 92 Winthrop Street has applied for a Change of Manager from Bikram Yonjan to Luis Sanchez, a Change of Premises Description, an Increase in Occupancy, and to amend their existing Entertainment license to include dancing by patrons.

MR. SCALI: Good evening. Pull up a chair. Have a seat. Tell us who you are for the record, please.

MR. GOLDBERG: Bernard Goldberg, 620 Massachusetts Avenue Cambridge. On my left --

MR. CHOWDHURY: Solomon Chowdhury, owner of OM Restaurant and Lounge.

MR. SANCHEZ: Luis Sanchez, General Manager of OM Restaurant.

MR. SCALI: So the first one is easy, change of manager; right?

MR. GOLDBERG: Yes.

MR. SCALI: Going from Mr. Yonjan. Is he gone?

MR. CHOWDHURY: He is still the owner, part owner of the restaurant. Since business has been slow, so he took a full-time, 9:00 to 5:00 job. He'll still oversee the restaurant, but Mr. Sanchez is coming along and he's going to be at the restaurant more often than Bik.

MR. SCALI: So Bik is still one of the owners but he doesn't want to be Manager anymore?

MR. CHOWDHURY: Yes.

MR. SCALI: Mr. Sanchez, tell us your experience in the restaurant business.

MR. SANCHEZ: I have a couple of years of corporate experience through both Westin Hotels, the Westin Copley and the Westin Waterfront, and I was also a cofounder of a restaurant in Brigham

Circle called The Savant Project. Prior to that I was at Teatra, which is a sister restaurant of Mistral, and just various restaurants throughout Boston, The Fireplace, Sophia's.

MR. SCALI: You were at Mistral?

MR. SANCHEZ: It's a sister restaurant called Teatra.

MR. SCALI: Have you been listed as a manager before on a license?

MR. SANCHEZ: I have not been a manager on record before.

MR. SCALI: I believe you had a conversation with Mrs. Lint about the background issues.

MS. LINT: There's a letter in that packet that I just passed.

MR. SCALI: While the Commissioner is looking at that, questions for Mr. Sanchez?

MR. TURNER: Do we have Inspectional Services -- oh, I'm sorry. This is just a change of manager.

MR. SCALI: Change of manager, change

of premise description.

MR. TURNER: I'm concerned on the increase in occupancy. Do we have Inspectional Services approval?

MR. GOLBERG: Yes, I have that.

MR. SCALI: Are you adding a dance floor, taking tables and chairs out at a certain time?

MR. GOLBERG: Yes. The dance floor will be on the first level, and at the present time I believe there is only five chairs at the bar. So that's where the dance level is. The Entertainment license that they had previously provided for a disc jockey as well as television sets, and now the Entertainment license would include dancing by patrons.

MR. SCALI: When does the dancing start?

MR. GOLDBERG: When it's approved.

MR. SCALI: What time? I'm sorry.

MR. GOLDBERG: At 10:00.

MR. SCALI: I should make myself

clearer. At 10:00 p.m.?

MR. GOLDBERG: Yes.

MR. SCALI: And taking out how many tables and chairs?

MR. GOLDBERG: There are no tables or -- are there any tables and chairs downstairs?

MR. CHOWDHURY: It's only on the first-floor. We have a few couches and small little tables that we will take out, five or six.

MR. SCALI: Is it your waiting area?

MR. CHOWDHURY: We have two floors. We have a lounge on the first-floor, so it's in the lounge.

MR. SCALI: Is that part of your capacity on the first level? How many people would be displaced from being able to sit down?

MR. GOLDBERG: What they're looking for is approximately 118 standing patrons in the first level for dancing purposes. The seating capacity on the first level is 76.

MR. CHOWDHURY: Right now it's 76.

MR. SCALI: So that would be gone, the

76 seats?

MR. GOLDBERG: After 10:00 p.m.

MS. LINT: It would be 115 standing, which is what we discussed with Ranjit.

MR. SCALI: And we're going to be catering to what kind of a crowd?

MR. GOLDBERG: Over 21, but basically -- I mean Solomon has been here before. I think a decision was made on December 3, and it was overcrowding and other violations. I think the corporation learned a good lesson. I have the decision here and one of the things I outlined was the fact that the Board felt that they cooperated with the Police Department, but did not take responsibility for maintaining order and capacity.

So here they're going to turn over a leaf, a new leaf in the sense of they're asking the Board to increase the capacity downstairs, and also bring in customers who will not be seniors, I don't believe, but --

MR. SCALI: Why not?

MR. GOLDBERG: Well, I'm talking about

myself and my legs. But needless to say, they recognize what they did before, and hopefully they will not commit the same errors that they did before.

Prior to the incident which happened some time in November, they had a clean record. I think that they were also cited by Ms. Lint that they had moved some furniture around, or chairs around, and they had to comply with that, which they did. So the only mark against them is the decision made by this Board on December 3, and I would hope that if the Board were to grant them the increase in capacity for the purposes which they seek that the Board will grant them this opportunity.

MR. SCALI: So we are going from 76 to 118, so it's an increase in capacity of --

MR. HAAS: 115.

MR. SCALI: I'm sorry, 115.

MS. LINT: With 60 outdoor, so it's 175 total, inside and outside, total. So it's actually increasing from 153 to 175.

MR. SCALI: 153 to 175.

MR. GOLDBERG: Mr. Chairman, I have provided the Board with these plans. It may help you see the entire picture as we discussed previously with Ms. Lint.

MS. LINT: I'll send them around. It may make you more confused.

MR. SCALI: And the patio will be open at the same time as the dance floor?

MR. GOLDBERG: Yes, they will be. We have plans here for seating arrangement, capacity I should say, without seating as Ms. Lint indicated, which will be 115. And with seating before 10:00 p.m., and with seating after 10:00 p.m. At 10:00 p.m., the upstairs dining room area more than likely than not will not be serving at that particular time.

MR. SCALI: So we're not serving food after 10:00 p.m.?

MR. GOLDBERG: I'm not saying that. The capacity in the dining room area would be 77, and they'll have that opportunity to eat if they're

going to be eating late. But more likely than not, they'll be limited with regard to the dining room area so far as capacity is concerned.

MR. SCALI: With the dance floor, are people going to be able to hear the music out on the patio from the dance floor?

MR. CHOWDHURY: No. We'll have the windows closed.

MR. SCALI: You're going to have to keep the windows closed in the summertime, because that's a very big issue with music coming out into the street.

MR. TURNER: Do you have the full set of drawings?

MR. GOLDBERG: Yes.

MS. LINT: I have more here.

MR. SCALI: This is what it is now. This is what it would be afterwards.

MR. HAAS: The seating on the second-floor will be maintained though; right?

MR. SCALI: The second-floor seating will stay the same?

MR. GOLDBERG: Yes.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: I do have a couple of concerns. Number 1, I don't see any approval from Inspectional on this.

MS. LINT: I have it.

MR. TURNER: The main entry is a single entry door. My concern is you have a capacity on the second-floor, and now you're requesting an increase in capacity on the first-floor, however, you've got a single main entry and I don't know what the width is. Is that entry width capable of handling the increased capacity when we add the upstairs and downstairs capacity going out that main entrance? Has the architect reviewed all that?

MR. GOLDBERG: The Inspectional Services have approved that previously and have no problem with regard to that at the time. I did present this to Ranjit and he had no concerns with regard to that. He gave us permission to go ahead

with the Zoning as well as Inspectional Services.

MR. CHOWDHURY: We do have two doors on the second-floor, so as two doors on the first-floor.

MR. TURNER: Do you have a service entry in that side alley? Is that an exit as well, an emergency exit for the patrons?

MR. CHOWDHURY: Yes. It basically takes you to the entrance of the mall, which there's about four other restaurants in the building.

MR. TURNER: Where is the outside seating? I'm looking at this submittal and it has "first-floor capacity plan without seating outside," or is that "with outside seating"? It's abbreviated "w/out." I assume that's without.

MS. LINT: It's without.

MR. GOLDBERG: That seating outside is along the sidewalk as well as there is private property seating on the amount of 36 seats, which is adjacent to that back area you were talking about where there is delivery.

MR. TURNER: Shouldn't that all be indicated on that?

MR. SCALI: Well, they're just changing the dance floor. Is there a patio plan? Is there an increase in patio seats?

MR. GOLDBERG: No.

MR. SCALI: They're staying the same?

MR. GOLDBERG: Twenty-four.

MR. SCALI: It's 24 and 26 are the same. Those are not changing.

MS. LINT: The current occupancy is 153, 60 of that is the outdoor seating; correct?

MR. GOLDBERG: Uh-huh.

MS. LINT: It's going to go to 194, the additional is standing only so it's 175 with the 115 downstairs and the 60 outside. Do you want to weigh in? And then what they were asking for was to go to 194 and the balance is just standing, so we calculated that with Ranjit and there's 19 additional standing only.

MR. SCALI: So it's going from 175 to 194.

MS. LINT: This took a while today.

MR. SCALI: So 16 additional standing.

MR. GOLDBERG: Nineteen.

MR. SCALI: Nineteen, after 10:00

p.m.?

MR. GOLDBERG: Yes.

MR. SCALI: Otherwise, everything else is staying the same.

MS. LINT: The only condition that Ranjit had was that we had a copy of the valet parking lease, and that was the only concern, and they do have that now.

MR. HAAS: Just referring back to the November issue, and we were told back then that you were doing headcounts and ID checks, and we found out there was a problem with that. What are you changing now to make sure we don't see that problem reoccurring?

MR. CHOWDHURY: Right now we have, late night we have two people at the door and they are well trained, and they are checking ID. Plus, we also have every weekend, which is Thursday,

Friday, Saturday, regularly we do have detail that's working between us, Tommy Doyle's, and Charlie's Kitchen. So every weekend we have a detail.

MR. HAAS: But the detail officers don't check control for capacity and --

MR. CHOWDHURY: No, they don't, but we have our own people that's checking IDs and stuff, and just to be on the safe side, we do also have the detail police if there is an issue with that.

MR. HAAS: We were told that back prior to November that you were checking IDs and capacity, and then we found to the contrary. What's changing now to make sure that this doesn't happen again?

MR. CHOWDHURY: We went ahead and changed the securities that we had from back then. We have all new securities that are well trained, and we are constantly checking on them to make sure they are doing their job.

MR. HAAS: So if we do spot inspections they'll be okay?

MR. CHOWDHURY: Absolutely.

MR. SCALI: Any other questions?

MR. HAAS: No questions.

MR. SCALI: You have to understand that if we give you 115 people standing on that dance floor, that's it. There's no leeway. That's what the Commissioner's concern is about that if you're going to be counting, you're going to accurately counting people. It's a safety issue. Doors, people exiting, fire safety code, that's the concern, and not spilling out onto the patio.

MR. CHOWDHURY: Not at all.

MS. LINT: Mr. Chair, Councilor Toomey is in favor of the application, as is Ginny Nathan's who is no longer on the Harvard Square Council.

MR. SCALI: As a private citizen?

MS. LINT: As a resident of the area.

MR. SCALI: Anybody from the public want to heard on this matter? Ms. Jillson?

MS. JILLSON: For the record, my name is Denise Jillson. I'm the Executive Director of

the Harvard Square Business Association, and we would be in support of this. I've worked very closely with Solomon on various committees in Harvard Square. I know that there were some bumps in the road back in November, but we are really hopeful and committed to making sure that everything is going to be perfect, because we're looking forward to a great season in Harvard Square.

Solomon particularly has been a wonderful partner, community partner, and we really appreciate everything that OM brings to the Square. We're delighted to hear that Ms. Nathan's is also in agreement with us. It's very exciting.

MR. SCALI: I was a little bit surprised myself.

MS. JILLSON: I'm not. Thank you.

MR. SCALI: So you have no concern about the noise or the people coming out?

MS. JILLSON: Now that you mention it, yes. The one concern that we have, and I know that Mary Catherine Dibel from Upstairs in the Square

and Carrie have both spoken to the folks at OM relative to the noise, and I think that the plan that they have - you know, there's always been a desire for more dancing, more late night dining, more entertainment. We know that through the Harvard Square Initiative. But I think that it's really very important that we're all - particularly there, because everything is so close together. If it spills out into the street from OM, it impacts the way Upstairs diners like to dine, it's a problem. But I think that this is a good plan and I think that it probably solves the problem that we had last summer. Thank you.

MR. SCALI: Anybody else want to be heard? No questions?

MR. HAAS: No questions.

MR. SCALI: Abutter notifications?

MR. CHOWDHURY: We did that.

MS. LINT: You have to address the manager situation.

MR. SCALI: Mr. Sanchez, I guess you gave an explanation of the background issues.

Commissioners, do you wish any further explanation on those background issues?

MR. HAAS: I think there's been sufficient time that's passed since the last offense, and now I might take him at his word in terms of what he's offering in your letter.

MR. SANCHEZ: I'm here to make OM a better place and make your jobs a lot easier.

MR. HAAS: That's what we want.

MR. SCALI: I think from what I recall, the ABCC wished us to explain to them why we are allowing it, if we are going to allow it, because generally it's no with those issues. I think we have to explain that to them as to why, and they may have their own process for approving or disapproving you at that point, just so you're aware of that.

MR. SANCHEZ: Of course.

MR. SCALI: Pleasure of the Commissioners?

MR. GOLDBERG: In regard to the Entertainment license, would that go along with the

application and the decision by the Board?

MR. SCALI: The Entertainment application would be strictly us. The capacity issue would go to the ABCC as well for the premises description change and the ultimate plans.

What days of the week are you having dancing?

MR. CHOWDHURY: We have a DJ usually Friday and Saturday. There are some occasions we will have it on Thursday.

MR. SCALI: So Thursday, Friday, Saturday only?

MR. CHOWDHURY: Unless if Monday is a holiday, sometimes we'll have it on Sunday.

MR. SCALI: That's until what time?

MR. CHOWDHURY: It will be until 2:00.

MR. SCALI: Do we wish to vote this evening, Commissioners?

MR. HAAS: I suppose we do.

MR. SCALI: With regard to the change of manager, motion to approve.

MR. HAAS: Motion.

MR. SCALI: Moved, subject to --

MR. HAAS: ABCC approval.

MR. SCALI: ABCC approval and
explanation.

MR. TURNER: Second it.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: With regards to the
entertainment/dancing license, motion.

MR. HAAS: Motion per discussion.

MR. SCALI: Discussion, subject to the
windows being closed after 10:00 p.m.

MR. CHOWDHURY: Yes.

MR. SCALI: Subject to capacity checks
of 100 to 115.

MR. TURNER: Mr. Chair, on the motion?

MR. SCALI: Deputy Chief.

MR. TURNER: Does the House of Blues
already have a patio in that alley.

MS. LINT: Tommy Doyle's.

MR. SCALI: House of Blues has been long gone.

MR. CHOWDHURY: They don't have a patio but I think recently they just got approved for 10 outdoor seating, which will be on Winthrop Street. That's what they told us.

MR. SCALI: Tommy Doyle's didn't get the patio on Winthrop Street.

MR. TURNER: Who owns that property? Who owns that driveway?

MR. CHOWDHURY: It's owned by our landlord and we are renting it from him, and that's where we have our outdoor seats.

MR. SCALI: Subject to the windows being closed after 10:00 p.m., capacity checks of 115, six-month review.

MS. LINT: Do you want Mr. Sanchez to have 21-Proof training?

MR. SCALI: Yes, 21-Proof training for Mr. Sanchez. Any other conditions, Commissioners, on the dancing?

MR. HAAS: No.

MR. SCALI: Motion with conditions.

MR. HAAS: Motion.

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

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: With regards to change of premises description, and capacity going from 175 to 194, which basically adds the additional standing on the first-floor after 10:00 p.m. Motion.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: Discussion?

MR. HAAS: No discussion.

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

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck.

MR. GOLDBERG: It's now up to them.

MS. LINT: Disciplinary matter: P & E Restaurant, Inc. d/b/a Desfina, Paraskevas Mallakis, Manager, holder of an All Alcoholic Beverages as a Restaurant license and Entertainment license at 202 Third Street due to court action for inappropriate actions toward neighbors.

MR. SCALI: Good evening.

MR. CRANE: Good evening,
Mr. Commissioner.

MR. SCALI: Tell us who you are for the record, please.

MR. CRANE: My name is Kevin Crane. I'm an attorney. My address is 104 Mount Auburn Street in Cambridge. I represent the licensee. I have with me Efstathios, E-F-S-T-A-T-H-I-O-S, Mallakis, also known as Steven, and his brother Paraskevas, P-A-R-A-S-K-E-V-A-S, also known and will be referred to this evening by Peter.

MR. SCALI: Mrs. Lint?

MS. LINT: We did notice Officer O'Connor to be here. I do see Mr. Hildum and he could certainly help us out in this regard.

MR. SCALI: If you could maybe give us a little history as to how this got to us?

MS. LINT: This started I believe as a noise issue when Desfina had applied to continue their live entertainment that they had a special permit for, and that had expired. They had to reapply and there were concerns from the neighbors about the noise and they were opposed to it.

Subsequent to that the immediate abutters started having things happening to their property. Things being tossed at the door and so forth, and I believe Mr. Hildum could really elaborate on that, and there is a video that shows exactly what was going on.

MR. SCALI: I'm assuming there was a police action taken on this.

MS. LINT: As a result of the video there was police action. A report was taken, a criminal complaint application for criminal harassment was sought in the Cambridge District Court, and that did issue.

MR. SCALI: So the complaint did

issue, and is there a disposition of that?

MS. LINT: There is a disposition. It was six months pretrial probation. Originally, there was a stay-away, no contact order with the alleged victim. There was also a letter of apology that needed to be written as well as \$500 restitution.

MR. SCALI: So there is a report that we can see?

MS. LINT: There is no report.

MR. SCALI: Is the officer going to attend?

MS. LINT: I thought so.

MR. SCALI: It's Officer O'Connor. Is Officer O'Connor here?

MR. HAAS: No, he's not here.

MR. SCALI: Let's go to the other complainant then. Mr. Hildum, please come forward.

MR. HILDUM: It's actually Hildum, David Hildum, HILDUM. I'm the co-owner of the property at 206 Third Street, which directly abuts Desfina Bar and Restaurant.

As Ms. Lint said, basically the harassment began within a couple of weeks of the decision by the Board of Zoning Appeals to deny the request for Mr. Mallakis to have a continued variance for late-night live entertainment.

Within a couple of weeks of that, in the sort of middle to the end of February 2007 -- the meeting I believe was on the 8th of February -- within a couple of weeks of that we started noticing spit, large globs of spit on our front door, originally about two to three times a week.

I have to say that we very quickly ascertained, at least we assumed what was going on, and I actually witnessed on a couple of occasions looking through the peep hole and looking through our mail slot, witnessing Mr. Mallakis walk by after closing the door to his restaurant, walk by and spitting on the window.

As I said, this behavior was two to three times a week starting in February and kept going until the middle of June, again, on that same pretty regular schedule. Our approach

initially was first of all to avoid any contact. We figured that if we just laid low and stayed out the way, he would grow tired of this behavior, which he did not.

In early June, we really didn't know what to do. In early June, we ordered a security camera system. I installed that and right about that time, Mr. Mallakis left town for a good part of the summer. The spitting stopped, and it started right up, right around the time that he returned at the end of August or early September. A little less frequent but still a regular pattern.

Initially, we kind of left the spit on the door. We thought maybe if it was there he would wait for a clean slate. After I got the camera, we began a pretty elaborate process of monitoring every night. Installing the cameras every night, monitoring, waiting for him to leave the restaurant, and waiting to see if he spit on the door.

When he spit on the door, we would go down. I began taking photographs. I took samples

on cotton swabs, and we saved the video. Again, not really sure what we were going to do but we felt we needed to do something to back up this or to help us out.

In December, on December 18, we noticed that he had poured a liquid on our door. We immediately went down and I have to say it looked like it was urine. It may have been kitchen grease. I don't know which is worse. It took us about an hour-and-a-half, maybe two hours of boiling water, detergent, all kinds of cleaning agents to clean off our front door, the doorstep, the sidewalk area around it.

Then again, on the 11th of January, 2008, the same thing happened. There was grease poured on the door. Both of those events I have very clearly on videotape. At that point, we really -- that really ratcheted up our concern, and we contacted the police and subsequently filed a police report. The last time that Mr. Mallakis spit on our window was actually the night before I came down and filed a police report.

After, I believe it was Detective O'Connor went to the restaurant and spoke with Mr. Mallakis, the spitting stopped. I believe he was told by the Middlesex County Court or the DA that he needed to stay away from us and avoid any contact. So that resulted in things being a little smoother. I think it's fitting that the only way he's apparently able to interact with consideration of his neighbors is if the court tells him to stay away from us.

We really didn't know what to do. We really were at wits end when it came to the grease on the door. We had to go for about two weeks of carefully stepping over the grease when we went in and out of our house. Our house smelled of restaurant kitchen.

I guess the point I really want to emphasize is that this is behavior that lasted for one calendar year. It began in February of 2007, and the last incident was in February 2008. And if we had not filed a criminal complaint against Mr. Mallakis, I guarantee you this would still be a

regular pattern. It was a constant pattern. He did it when he walked by the house. He went out of his door and he went out of his way to come to our door, spit on the door, and then turn around the other way to go to his parking space sometimes. So this was consistent continued behavior, and it was antagonistic and directed absolutely toward us.

MR. SCALI: So I assume you were a witness in court. Did you go into court to present the information, or did the detective do that for you?

MR. HILDUM: We didn't really have an opportunity.

MS. LINT: When there is an agreement for pretrial probation, you don't present the facts.

MR. SCALI: So it was determined beforehand that there was an issue.

MR. HILDUM: Yeah. We were prepared to testify though.

MR. CRANE: But there is no factual determination.

MR. HILDUM: I do have copies of the DVD if you would like.

MR. SCALI: I know that Mrs. Lint has seen it.

MS. LINT: I believe Commissioner Haas has seen it.

MR. HAAS: I've seen it.

MR. SCALI: Do you wish to view it Deputy Chief?

MR. TURNER: No. I'm satisfied.

MR. SCALI: I think the Commissioner thinks we should see it.

MR. HAAS: I think it speaks for itself, but I think it's important that the Commissioner see it.

MR. SCALI: I think we probably should see it too. Is it on your computer?

MR. HILDUM: Yeah.

MR. CRANE: Mr. Chairman, I don't question his testimony.

MR. SCALI: Are you stipulating that it is Mr. Mallakis on the tape?

MR. CRANE: Yeah. I don't question that.

MR. HAAS: My contention is that it was outrageous behavior, and for it to go on as long as it did, I think it's inexcusable. I really found it offensive when I saw it. I can't imagine how these people lived under that condition for that period of time knowing every night, or every other night that somebody was coming in and defacing their property. Again, I think the reaction was that until -- like Mr. Hildum said, I agree with him, I think unless he went to court, it wasn't going to stop.

MR. CRANE: Mr. Commissioner, I don't necessarily disagree with you, and Mr. Mallakis is quite contrite about what has happened. He realizes he exercised terrible judgment, and it was unfortunate that it took the criminal proceedings to the really bring that to reality.

He has issued his apology, and he's paid his restitution as per the court order of 5/4. He still has an outstanding order against contact

with the neighbor. It hasn't gone on since the -- it's been over a year now since there has been any incidents, and maybe it did take the criminal proceedings to do that but it's been over a year, and when it started it was quite effective.

The judge at the Third District Court granted a pretrial probation, which I understand is not that common, so Judge Hogan did hear each side of the story, and it's been continued until September 4, 2009.

Mr. Mallakis and his family have operated this location for 10 years and this is the only incident. And it's not associated with the operation of the licensed premises. You can certainly reflect on his character and fitness, but there have been 10 years with no incidents whatsoever.

His brother and he also operate Kendall Pizza across the street, which has been in operation for 25 years, again, without incident. I don't know what more I can say about it. He is very contrite about it and realizes he really acted very

poorly, and I think he's paying for it by way of the criminal sanctions.

MR. SCALI: And legal fees, I'm sure.

MR. CRANE: I'm sure of that too. And there's public disgrace involved here too, I would say.

MR. SCALI: I guess I just don't know what he was thinking.

MR. CRANE: He wasn't, Mr. Chairman. That's the problem.

MR. SCALI: I've known Mr. Mallakis for years and years and years, and I just don't understand what was going through his head. I don't understand that.

Even if it was the worst decision the Zoning Board made towards you, I don't see how you get anything out of doing that to your neighbors. I just don't understand that. There are other recourses I'm sure that he could have taken.

How is the situation in the neighborhood right now? I guess my concern is are the Hildum's feeling safe and sound?

MR. CRANE: You can ask Mr. Hildum that, but my client has really had no - there have been incidents for a year, and he's under a court order to have no contact with them. So if he contacted them, he's be subject to contempt as well as having the pretrial probation rescinded, and be subject to the criminal proceedings.

MR. SCALI: Any questions?

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard in this matter? Come forward.

MS. MEDNICK: I'm the co-owner of 206 Third Street. Just to speak to the Chairman's question about "safe and sound." Once your abutting neighbor, not just a near neighbor, a completely attached on four stories neighbor violates your personal privacy in that particularly pernicious kind of way, safe and sound has a new kind of definition.

It's very very hard for me, and I think for David too, to feel completely secure in our property, and to feel like it's our home, our

really sacred space anymore. That went away a long time ago. This is a restaurant and bar that operates until late at night. There are always people sort of in and out of that area. We always have to be on guard about who is there. Who's hanging out in front of our house? Who's smoking in front of our open windows in the summer time?

You know this property. There are two steps between home and public space. So already we were making decisions when we bought the place about personal space versus public space, but this is a whole other order of magnitude in terms of violation. So I would like you to take that into consideration. Thank you.

MR. SCALI: This body has administrative powers to take action against your license, so if we find that your character and fitness is not appropriate then we can cancel, we can suspend, we can revoke, we can further condition your license. I'm not sure what that would get the neighbors. I guess if you understand that the issue is a serious matter, which I believe

you do at this point in time after all the court action, according to Mr. Crane. It sounds as if you're taking this very seriously. Its a huge issue for us to consider as to how you are going to continue to operate this business in that neighborhood, and make sure you do it in a reputable and professional manner.

I know I would need time to think more about it, Commissioners, in terms of what we might do.

MS. LINT: If I may, Mr. Chair, not to muddy the waters, but I think there's also a concern with warm weather coming and people having windows open and so forth that the noise issue may rear its head again where the properties completely touch each other. That being the case, if I may suggest that perhaps Mr. Hedley go down and see if there's a resolution in terms of blocking the sound at a certain level, or pointing speakers away from the back wall, or something like that.

MR. SCALI: Is it the noise inside the restaurant from the music?

MR. HAAS: The walls are attached. MS.

MS. LINT: So there's not much you can do but just try to stop a problem before it might become a problem.

MR. CRANE: We have no objection as far as being proactive in that regard. It is somewhat of a different issue than is before the Board tonight.

MS. LINT: Just in anticipation.

MR. CRANE: Well, you can anticipate any problem like that, the less I have to come up here on behalf of a licensee client, the better.

MR. TURNER: Mr. Chair, I would like to recommend taking it under advisement and that will also allow me the opportunity to review the tape, and meet with Mr. Hildum and review the tape as well, before we make a final decision, I think just to cover all the bases.

MR. SCALI: I don't think you'd be able to meet with Mr. Hildum, but you certainly ought to look at the tape.

MS. LINT: I can take the --

MR. SCALI: I know you've already met with Mr. Hildum.

MS. LINT: Yes, but I can get the DVD so you can see it.

MR. SCALI: Any other concerns?

MR. HAAS: No, but I'm just really perplexed as to what the appropriate redress is. They had to go through a great deal of expense. I'm sure that this is always going to impact them. I just think it was wholly irresponsible and malevolent to some degree to go through that kind of activity for such a prolonged period of time. I need some reassurances that we're not going to see this happen again. It was outrageous, it really was.

MR. CRANE: Mr. Chair, I think I can say on that front that if people feel unsafe, they feel unsafe, and what can we do about it? There is this court order which I think is a good tool to prevent any sort of future contact between the parties.

As far as expense goes, there was a

\$500 restitution, and that's been paid. He is sincerely apologetic as per the court order. The court is going to continue to oversee this case until September, and I would suggest if there is a sanction to be imposed that you consider either a warning up to the point of court supervision, or maybe if it has to be a permanent warning in the file, a permit a warning. That would start the progression of disciplinary action down the road.

MR. SCALI: I guess up until September, I'm assuming nothing is going to happen until then. But I hope nothing happens after that as well. But the threat of court action --

MR. CRANE: The court action will be over then, and if it entails a permanent warning like I say, then so be it. I would suggest that that might be an appropriate sanction for the Board to impose.

MR. SCALI: Further discussion?

MR. CRANE: He understands that if there is a warning issued in your progression of discipline that then they're looking at suspension

of the license on any subsequent behavior, whether it be - it won't be involving this neighbor, but any other possible violation.

MR. SCALI: I'm not sure a warning is appropriate. I think pretrial probation is pretty easy. I'm not sure a warning is appropriate.

MR. CRANE: A judge sitting and hearing everyone made that decision, Mr. Scali.

MR. SCALI: It's not my decision, as I said, it's just my opinion.

All right. Motion to take the matter under advisement.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Second.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: We take this matter up on April 2 at 10:00 a.m., and you're welcome to be here of course, or anybody else as well.

MR. CRANE: Thank you.

MS. LINT: Top of Page 1, Disciplinary matter: Saad Mustafa and Sam Jacobs d/b/a Foreign Auto Wholesalers, for operating used-car dealership in the city without proper licensing.

MR. SCALI: Mr. Moustafa, Mr. Jacobs? Not here. Mrs. Lint?

MS. LINT: I did receive a letter today from Mr. Moustafa telling me that he had a conflict of timing for prior business travel. Will be unable to attend hearing, and that he transported all vehicles remaining out of the storage lot on First Street and have no cars stored for other in the City of Cambridge.

MR. SCALI: So Officer Arcos, you are here because did an investigation for us?

OFFICER ARCOS: Yes, sir. I just want to point out that I went by the location earlier today, and I verified that there were no cars. I spoke with the management and he has stated that Mr. Mohamed, in fact, canceled his lease sometime last week.

MR. SCALI: Could you tell us the

investigation that you did?

OFFICER ARCOS: The investigation that I conducted generated a few reports, which now I'm going to read to you. Basically, I was presented with this investigation to prove that Mr. Mohamed was still selling used-cars illegally in the City of Cambridge, and we needed proof of him doing so.

On Thursday, March 5, at approximately 3:30 in the afternoon, I dialed the number, 617-776-7800 that I obtained from Ms. Andrea Boyer, who is the Chief Licensing Investigator for the City of Cambridge. At that time, I dialed the number and I contacted with the person who identified himself to be Sam. At that time, I began a conversation involving the purchase of a used motor vehicle from him. I told him that I had obtained his number from the Internet.

Sam told me that his office is located in Somerville but his vehicles are stored in Cambridge. I then asked him if I could see them tomorrow. He stated that he is at the auction all day tomorrow. He then asked me if I was available

over the weekend and I told him that I was going to go to Maine for the weekend. We finally agreed to see the vehicles on Monday afternoon around 3:00.

On Monday, March 9, I again contacted with this individual who identified himself as Sam. I told Sam that I was Tony, the guy who spoke with him last Friday about purchasing a vehicle from him. I continued telling him that I had to cancel our meeting in Cambridge because of the snow and bad weather.

We discussed several motor vehicles over the telephone as well as price. Sam stated that he had a Pontiac for \$7,800 that would suit my needs. I told Sam that I was purchasing the car for daughter and I wanted to spend less than that. Sam then told me to call him on Tuesday, and at that time, we ended the conversation.

On Tuesday, March 10, I again contacted him via phone around 11:15 in the morning. I told Sam that I was Tony from yesterday. He asked me if I wanted to see the vehicles today. I told him that I could go to

Cambridge today around 2:00 in the afternoon. At that time, we agree to meet at his lot located on 13 Fern Street in Cambridge where he stores his vehicles.

At approximately 2:00 in the afternoon, myself and Sam met at 13 Fern Street in Cambridge. He arrived in a silver Saab with a black convertible roof. After introducing ourselves to each other, he directed me to a red Pontiac in the lot. Sam stated that the red Pontiac was the vehicle that he had mentioned to me over the telephone yesterday. We talked more about the price, and I inspected the vehicle outside and inside. Sam was firm with the price.

A short time later, I asked Sam if it was possible to test drive the vehicle. Sam said that was okay and went to retrieve a plate from another vehicle in the lot, a white Jeep with a plow. I observed Sam getting the plate from inside the white Jeep. The plate, a Massachusetts Dealer plate, 875. Sam placed the plate on the red Pontiac in the back using two screws.

At that time, we both got inside the vehicle and I drove the red Pontiac out of the lot. I turned right on New Street, continued straight on Garden Street, right on Walden Street, right on Concord Avenue, and right on Fern Street and right back into the lot. We spoke more about the vehicle, and Sam recommended a company that he worked with about financing it. At that time, I told Sam that I was going to try to bring my daughter by today so she could see the vehicle and make a decision.

As I walked away, Sam called me back and told me the following: I forgot to tell you it is three months or 3,000 miles warranty. I then thanked him and left the area.

Furthermore, I conducted a check on the Dealer plate, 875, and the telephone number 617-776-7800, used by Sam. I also conducted a check on Sam Jacobs and found the following: The owner of the plate is Saad Moustafa. Andrea Boyer spoke with the Registry of Motor Vehicles and was told that the number on the owner license is

020-56-9875, which is Mr. Moustafa's federal tax ID number.

The listed name under 617-776-7800 is Foreign Auto Wholesalers, and the address is 445 Concord Avenue in Cambridge. The company is listed as Saad Moustafa as owner/manager. I obtained a comprehensive business report and I learned that he has several addresses under his company. Please refer to the attached report for more detail, which Mrs. Lint has. I did not find any information under the name Sam Jacobs.

MR. SCALI: You're not sure if Mr. Moustafa and Mr. Jacobs are the same person?

OFFICER ARCOS: I'm 99.99 percent sure that Sam, the person that I met as Sam is also Saad Moustafa.

MR. SCALI: So you think it's the same person.

OFFICER ARCOS: I'm basing my opinion on the photo that I obtained from the Registry of Motor Vehicles.

MR. SCALI: Mr. Moustafa was here when

he applied for the license, and told us at that time that he had a partner named Mr. Jacobs, so I thought there were two people.

OFFICER ARCOS: During my investigation, I couldn't find anything under that name.

MR. HAAS: That photograph matches who Mr. Jacobs appeared to be when you met with him?

OFFICER ARCOS: Yes, Commissioner.

MS. LINT: I would add to that, that I called -- after I received the letter today from Mr. Moustafa saying that he was not able to appear here today, I called the number on the business certificate, and the taped answering machine said that you've reached Foreign Auto Wholesalers which is the pick up - this is the pick up lot for Foreign Auto Wholesalers at 13 Fern Street and 445 Concord Avenue.

MR. HAAS: So he's still using that address?

MS. LINT: Still using that on his phone.

MR. HAAS: You said the plate came back to 445 Concord Avenue when you checked with the Registry? It's listing that as the business address for the plate?

OFFICER ARCOS: The plate came back to 80 Pearl Street, Somerville.

MR. SCALI: Which is where I think the Registry of Motor Vehicles has it listed; right?

OFFICER ARCOS: Right.

MR. SCALI: Does he still have an office there? Do you know if he has an office at 80 Pearl?

OFFICER ARCOS: It's a house. When I spoke with Andrea she told me it was a house.

MR. HAAS: Did Mr. Moustafa present us with a copy of his Somerville license?

MS. LINT: No.

MR. HAAS: We never got a copy of that?

MR. SCALI: Although I think Ms. Boyer did contact Somerville.

MR. HAAS: To verify.

MR. SCALI: Yes.

Anybody from the public want to be heard in this matter? No hands.

I'm not sure if he's really gone I guess is the issue. According to Officer Arcos the lease is canceled.

OFFICER ARCOS: He canceled the lease last week and there were no cars on the lot today.

MR. SCALI: Did he cancel the lease for the lot and for the building, because it's two different addresses. I don't know if it's the same.

OFFICER ARCOS: It's 445 Concord Ave. They own the lot where they were storing. He canceled all of that.

MR. SCALI: So the landlord tells you that he's gone.

OFFICER ARCOS: Yes.

MR. HAAS: What theory would you have for him using a different name?

OFFICER ARCOS: That's what I would like to know.

MR. SCALI: If I saw him in here, I could tell you who he is. If he showed up, I would be able to remember him from our hearing.

OFFICER ARCOS: I ran everything that I knew in the computer under Sam Jacobs and I couldn't come up with anything.

MR. HAAS: Did you do a credit check on him, Jacobs?

OFFICER ARCOS: I did the company that has all the related businesses in person, and there was no Sam Jacobs anywhere.

MR. SCALI: I guess the action is should we refer this for further legal action to the Law Department or through the Police Department?

MR. HAAS: I don't know if there is any --

OFFICER ARCOS: I spoke with Lieutenant Albert and he's under the impression that by using the Dealer plate in Cambridge, he violated some --

MR. HAAS: I'd file a complaint at the

Registry. I think there's a misappropriation of those plates.

OFFICER ARCOS: Yeah. I'm supposed to speak with him after the outcome tonight, and he's going to take action on that Dealer plate.

MR. HAAS: Is that the only Dealer plate that's listed to him.

OFFICER ARCOS: Yes. There was a problem with the tax ID number. When we ran that tax ID number, it came back to a David - I forgot his last name, but this guy out of Fall River, and he had two warrants. When Andrea called the Registry they said that this is the first time they had that problem matching the tax ID number with the Social Security number, and they never heard, and they were going to revisit that problem because it shouldn't be that way.

MR. SCALI: Action Commissioners?
Discussion?

MR. HAAS: I don't know. As a body, we can't take any action against him. He's not operating anymore, so other than the fact we're not

going to issue a license, I guess.

MR. SCALI: He's already been told not operate.

MR. TURNER: I guess we could place the matter on file and it's already in good hands with the Police Department.

MR. HAAS: So Lieutenant Albert is going to continue to follow up on this; right?

OFFICER ARCOS: Yes, Commissioner.

MR. SCALI: Motion to place the matter on file subject to filing the complaint with the Registry of Motor Vehicles on the plate, and I guess the police continue on their investigation as well.

MR. HAAS: He's under the impression that he's got a continuance by virtue of the fact he's sending us a letter saying he's going to be out of town.

MS. LINT: I just don't think he's ever going to appear here. I did leave a message for him to call me but I'm sure he won't.

MR. SCALI: More discussion?

MR. HAAS: No discussion.

MR. SCALI: Motion to place the matter on file subject to filing the complaint with Registry of Motor Vehicles on the Dealer plate, and with Lieutenant Albert continuing with his investigation. Moved.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Aye. Thank you Officer Arcos. Very good job.

MS. LINT: Application: Continued from March 5, 2009 Decision Hearing. The Upper Crust Harvard Square, LLC d/b/a The Upper Crust, Jordan Tobins, Manager, holder of a Common Victualer license at 49B Brattle Street has applied for a new Wine and Malt Beverages as a Restaurant license. The proposed seating capacity is 16. The hours of operation are 11:00 a.m. to 11:00 p.m. seven days per week. The address is located in Cap Area No. 1.

MR. SCALI: Good evening again. Just tell us your name for the record.

MR. TOBINS: Jordan Tobins, Owner/Manager of The Upper Crust.

MR. SCALI: When last we were here you were applying for a new Beer and Wine license. We suggested you might want to go back out and see what's available out there for sale since there were a couple for sale. How have you done?

MR. TOBINS: Actually, the day of the hearing, March 5, I contacted Katherine Triantafillou and spoke with her regarding the

discussion with the Board. I told her that we would be interested in pursuing that license with them. I explained our discussion and sort of the realm of the price, the cost, things like that.

We had what I thought was a pretty good discussion and I actually had asked her to give Ms. Lint a call just so she could verify what I was telling her about the hearing and the things that we had discussed. I gave her my cell phone number and my e-mail address.

It was three weeks and I hadn't heard anything from her. So I contacted her again yesterday, and said our hearing is coming up tomorrow. I haven't heard anything. I'd kind of like to know what's going on. Her response was she had been away, she contacted her client, and the client is interested in selling the license but they're not sure what they're going to do with the license right now. They're not sure if they're going to put it with a broker or if they're going to list it privately, or what they're going to do. She said that she did know that they were going to

list it regardless, in the realm of about \$35 to \$40,000.

Explained to her our business, the size of our business. I said we really can't afford to spend that much money for a license but we'd still like to talk about it. She said she would get back to me and has not.

MR. SCALI: That's a fairly reasonable price. They had been going for a hundred thousand dollars or more a couple of years ago, and everything has kind of come down, you know, with the economy and all that too. So that's really not outrageous for a price.

MS. LINT: But it was a free license before.

MR. SCALI: That was a free license issued in 1985, so in those days there were really no free licenses. It was just one of those open kind of quota things at that point in time.

MR. TOBINS: My concern is like I said, we have 16 seats. You know, we'd have to sell - for us, 16 seats, we would have to sell a

lot of beer to make up for the cost of that license.

My other concern like I said is that I did contact her. Actually, I did call her three times. I spoke with her twice. But in that three week period, I felt like that was a pretty good amount of time for them to discuss this and sort of come to a conclusion about what they were going to do with the license, whether they wanted to negotiate with us - and she had all my contact info.

Like I said, I was disappointed when I called and got her yesterday and she said that her client's not sure which way he wants to go with it, whether he wants to do it with a broker or privately listing it, or putting it in the paper. She said those were the things they were discussing.

MR. SCALI: They're trying to maximize their options, I'm sure. She wants to make the most for her client. I think he has some debt issues going on there too.

MR. TOBINS: That was sort of my feeling. I think they were sort of waiting to see what was going to happen with the debt issue and whether that license was going to have to - I don't know. So we really are hoping to -

MR. SCALI: So there are no other licenses that you had any interest in? I guess there are a number of full alcohol licenses out there, particularly Cambridgeport Saloon, which is a very small capacity.

MS. LINT: It's a lot more than 16.

MR. SCALI: It's like 60.

MR. TOBINS: To be honest with you, our restaurant, we really don't need an All Alcohol license. The all alcohol part of it doesn't really complement the food. In the two locations that we do have an All Alcohol license -- you know, that's what the towns issued us -- we actually don't even serve the full alcohol part of it. We just offer the beer and wine.

MR. SCALI: Discussion?

MR. HAAS: I think we've asked

Mr. Tobins to go out and explore what other opportunities are out there. I think he's done that. I guess the question now is do we want to hold up his application further, or do we just move it.

It doesn't seem like there's any other viable options at this point in time with respect to a license, unless that one person wanted to come back and negotiate. But it sounds like they're not ready to do that at this point in time, so to hold you up forever in terms of a decision --

MR. SCALI: That's kind of usually the case; they're looking for a higher price.

Our policies have changed over the last couple of years and I didn't want you to be the victim of us changing our policy back again. That's why I mentioned that at our last hearing.

I guess we need to make clear to the public that if there are licenses for sale out there, that's the first option, although we don't want people to be gouged by the high prices that they were asking years ago. They were asking a

half-million dollars in Harvard Square two years ago for some licenses, which is totally outrageous. I think that's why we changed our policy two years ago to show that we are now offering free license to those that may need them.

So pleasure of the Commissioners?

MR. TURNER: Mr. Chair, I agree with Commissioner Haas on his observation of this case. By happenstance I had a chance to visit The Upper Crust establishment in Boston. I just happen to be looking for an establishment to have lunch and looked up and saw a piece of pizza.

I fully agree that this isn't an establishment that's pushing beer and wine on patrons. The predominant service is food service. They're a pizza place. There was a little shelf that you could choose three or four beer selections, so certainly if somebody wanted to have a beer to accompany their piece of pizza. This is clearly not pushing -- it's not a barroom pushing beer on patrons. So I would be comfortable with granting approval.

MR. SCALI: Anybody from the public want to be heard? Ms. Jillson, you can up again, I'm sure, if you want to speak.

MS. JILLSON: We just want to reiterate our overwhelming support. We agree with you, it's such a tiny little shop and it just augments and adds to - you know, there's nothing like a cold beer with a slice of pizza.

And also, just to reiterate how great The Upper Crust has been. They've been a great addition to Harvard Square and a great community partner. So it definitely has our support. Thank you.

MS. LINT: I do have a letter from Councilor Toomey in support of the application as well.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Yes.

MS. LINT: 21-Proof.

MR. SCALI: Motion then to approve new Beer and Wine nontransferable, non-salable license,

16 seats only, 11:00 to 11:00 p.m., 21-Proof training for you and your staff. I think that's it; right?

MR. HAAS: Yes.

MR. SCALI: Moved.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Aye.

MR. TOBINS: Thank you very much.

MR. SCALI: Thank you for your patience and your efforts.

MS. LINT: Application: Sweet Cupcakes, Inc. d/b/a Sweet, Courtney Forrester, Manager, has applied for a Common Victualer license at Zero Brattle Street. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises and to have hours of operation from 11:00 a.m. until 10:00 p.m. seven days per week with a seating capacity of six.

MR. SCALI: Six seats, okay. Tell us who you are for the record.

MS. FORRESTER: Courtney Forrester, owner of Sweet Cupcakes.

MS. TENG: Alison Teng, I will be the manager of Sweet Cupcakes.

MR. SCALI: So you're selling cupcakes, I'm gathering. What else are you selling?

MS. FORRESTER: We sell milk, apple juice, and water, in addition to cupcakes; ice tea, just cold drinks.

MR. SCALI: Is there anything else

besides cupcakes? Is it other sweets?

MS. TENG: Cookies.

MS. FORRESTER: T-shirts and that's it.

MR. SCALI: Six seats, 11:00 a.m. to 10:00 p.m. seven days a week. Any experience in the restaurant business before?

MS. FORRESTER: We have a location in Boston. We've been open since May 2008, and so far so good.

MR. SCALI: Expanding to your second location then.

MS. FORRESTER : Exactly.

MR. SCALI: Questions ?

MR. HAAS: No question.

MR. TURNER: No questions.

MR. SCALI: Anybody want to be heard from the public?

MS. JILLSON: Just me.

MR. SCALI: Ms. Jillson loves cupcakes.

MS. JILLSON: I have to tell you, try

the cupcakes. These are the best ever and we're delighted that this is our new member, and we want to officially welcome them, and also mention that we love this 10:00 in the evening closing, because you never know when you need a cupcake.

MR. SCALI: You can have dessert after going to the restaurant. You can have a cupcake.

MS. JILLSON: We're in favor of this and know that you'll do the right thing.

MR. SCALI: Anybody else? No hands.
Motion to approve.

MR. HAAS: Motion.

MR. SCALI: Moved. Seconded?

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Congratulations. Good
luck.

MS. FORRESTER: Thank you very much.

MS. LINT: Application: Mount Auburn Hospital, Katherine Rafferty, Director of Community Affairs, has applied for a Garage and Gasoline license for the West Garage at 330 Mount Auburn Street for 268 cars and 2,680 gallons of gasoline in the tanks of cars only.

MR. SCALI: Good evening.

MS. RAFFERTY: My name is Katherine Rafferty. I'm Director of Community Affairs at Mount Auburn Hospital, and we're please to announce that the new Stanton Building opened.

It's a new patient care center with an attached garage. The garage has 268 parking spaces on two-and-a-half levels, and 119 of those spaces are uncovered and then 149 are covered spaces. The covered spaces are really for the ambulances, family care people who are following the ambulances, and for people who are coming to the Radiation Oncology Center. It's an adequate pickup/drop off for the patients.

MR. TURNER: Mr. Chair, the Fire Prevention Office has reviewed the plans and

followed along with this construction project, and the annual permit will issue for this garage for the gasoline upon approval of the license.

MR. SCALI: Concerns?

MR. HAAS: No concerns.

MR. SCALI: Anybody from the public want to heard? I know we had an abutter notification issue. Did we notify our abutters? You did it?

MS. RAFFERTY: We did it.

MR. SCALI: You've got those stamps on them?

MS. RAFFERTY: I brought them down the other day.

MR. SCALI: I want to make sure those condominium owners got their notice.

MS. LINT: I'll take them.

MS. RAFFERTY: Great.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion.

MR. SCALI: Motion to approve.

MR. HAAS. Yes.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Aye. You're all set
Ms. Rafferty. See how easy it is once you get the
process down.

MS. LINT: Application: Julian's Cheesecakes, Inc. d/b/a Finagle A Bagel, Antonio Pereira, Manager, holder of a Common Victualer license and Entertainment license at 11 First Street has applied for a Change of Hours from 6:00 a.m. to 11:00 p.m. seven days per week to 6:00 a.m. to 9:00 p.m. seven days per week, an Increase of Capacity from 43 seats to 46 seats (30 inside and 16 outside) to include a seasonal outdoor patio on the public sidewalk. Applicant has also applied to amend their current Entertainment license to include live musical instruments and/or vocalists with amplification.

MR. SCALI: Good evening. Tell us who you are.

MR. PEREIRA: Antonio Pereira, Finagle A Bagel Manager, Finagle A Bagel, 11 First Street in Cambridge.

MR. SCALI: Mr. Pereira.

MR. PEREIRA: Nice to see you.

MR. SCALI: So this is to add your Patio on the sidewalk; correct?

MR. PERERIA: Correct.

MR. SCALI: How many seats on the
Patio?

MR. PEREIRA: It's 8 tables and 16
chairs, so it's 16 seat.

MR. SCALI: And no alcohol; right?

MR. PEREIRA: No alcohol.

MR. SCALI: Food only.

MR. PEREIRA: Food only.

MR. SCALI: Change of hours, going to
9:00 p.m. only, 6:00 a.m. to 9:00 p.m.?

MR. PEREIRA: Correct.

MR. SCALI: So you're cutting back on
the hours?

MR. PEREIRA: We had 11:00 previously
but it's not necessary.

MR. SCALI: Are you going from 43 to
46 seats?

MR. PEREIRA: The seating is still the
same. I think that there was maybe an oversight.
The DPW didn't allow the change, so it's staying
the same.

MR. SCALI: So staying at 43.

MR. PEREIRA: We're just going to remove seats from the inside.

MS. LINT: So the inside will be 27 and not 30?

MR. PEREIRA: Correct.

MR. SCALI: So you're going to take out three seats on the plan.

MR. PEREIRA: Correct.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. HAAS: The amplified music, is that going to cause any potential disturbance around the neighborhood?

MR. PEREIRA: It's from 10:00 in the morning to 11:00 in the morning. It's a children's hour that we have, and it's more to just have the music heard and not the kids I guess. I called the music lady on my way in. I wanted to make sure I have the right equipment and stuff, and she said the reason I use an amplifier is the background noise.

MR. SCALI: It's only that one hour?

MR. PEREIRA: It's just that one hour,
Mondays from 10:00 to 11:00.

MR. SCALI: Just one day a week?

MR. PEREIRA: One day a week, yeah.
We do it in all the stores. In this particular
store, we haven't started because we don't have the
permit for it.

MS. LINT: I do have a letter from
Councilor Toomey in support of the application.

MR. SCALI: Anybody from the public
want to be heard in this matter? No hands.
Questions, Commissioners?

MR. HAAS: No question.

MR. TURNER: No questions.

MR. SCALI: Motions to approve the
sidewalk patio.

MR. TURNER: Moved.

MR. SCALI: And the change of hours
and the live entertainment one day a week. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. PEREIRA: Thank you.

MR. SCALI: Thank you very much.

MS. LINT: Application: Continued from March 5, 2009 Decision Hearing, Shrimp Market of Boston LLC d/b/a Shrimp Market, Justin Gould, Manager, has applied for a Common Victualer license at 100 Cambridgeside Place, Suite F5. Said license, if granted, would allow food and nonalcoholic beverages to be sold, served, and consumed on said premises and to have hours of operation from 11:00 a.m. until 9:00 p.m. seven days per week.

MR. SCALI: Have a seat. You must be tired of seeing us because we are tired of seeing Shrimp Market. When last we were here, we were at the edge of completion I think it was.

MR. GOULD: We were. I believe I saw you upstairs. We got final sign-offs. We had everything done with our Ansul system that needed to be done. Everything has been done and corrected, updated. I'm not sure if you have a copy of the Ansul report. I have one in my pocket if you need one.

MR. TURNER: We have it.

MR. SCALI: And the mall does that; right? The mall does that Ansul system?

MR. GOULD: That was the confusion. They don't. At first, I was told they did. She had told me that it was all taken care of, everything was updated. I got a call later saying that I'm sorry, we don't do that portion of it. We just do the cleaning. Ansul system is your job. So I made the proper contacts and we are on a six-month rotation. Everything is set up; no more issues, no more problems I hope.

MR. SCALI: Is the Fire Department satisfied?

MR. TURNER: The Fire Department is satisfied.

MR. SCALI: Commissioner?

MR. HAAS: I guess the only remaining concern we had was that you're the Regional District Manager; right?

MR. GOULD: I am now the Northeast Operations Manager.

MR. HAAS: I guess we were concerned

about the responsiveness of the store manager in terms of future issues. I'm just trying to figure out what assurance we have that it's not going to take you to get these things done when they have to be done in a timely fashion.

MR. GOULD: The only other contact will be the manager himself, Woody Canal is the General Manager now. I'm all over the Northeast at the moment. If you want me to leave a cell phone number.

MR. SCALI: I don't believe my staff should have to call Florida to get a hold of the owner, and that's not going to happen again.

MR. GOULD: She wanted to make this one too but - so here I am.

MR. SCALI: I didn't think she was going to fly up from Florida.

MR. GOULD: She told me last week, I'll be up for this one. Then I got a call yesterday saying she's in conference, so here I am. I just came up from Jersey.

MR. SCALI: I know she called my staff

and had a very irate conversation on the Thursday; that she was being put upon. How could we do this to her and the whole thing?

MR. GOULD: I called her and I told her that I've got everything under control; that I'm trying to do everything I can. I live here. I'm in contact. I'm in association with everybody here. She said I'm going to make a phone call. I kind of told her not to. It's probably not a good idea.

MR. SCALI: She was quite rude on the phone. I'll be honest with you.

MR. GOULD: I believe you, sir.

MS. LINT: The other issue is they've been operating for over a year. They never picked up their CV last year so those fees were never paid. I know the mall pays them.

MR. SCALI: They pay an overall fee for all the seats. It's just one fee. It's not individual fees.

MS. LINT: But does it go up and down based on the numbers?

MR. SCALI: The seats are all the same. There is no additional fee.

MS. LINT: There should be.

MR. GOULD: Contact can be made to through the store directly. The manager there can always get a hold of me. I'll be in Ireland for the whole month April but my cell phone will be on me.

MR. SCALI: Lucky for you.

If you can give Mr. O'Neil in my office the right information because he's not going to call Florida any more.

MR. GOULD: You can get me directly any time day or night.

MR. SCALI: Pleasure of the Commissioners? Place on file?

MR. HAAS: Is that all we can do at this point?

MS. LINT: You have to vote the CV.

MR. SCALI: Motion to approve the application subject to local contact phone numbers.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: And a warning that we're not going to track you down again. Moved.

MR. HAAS: Moved.

MR. TURNER: Second.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. GOULD: Thank you, sir.

MS. LINT: Application: Continued from March 10, 2009. Checkraise LLC d/b/a Lord Hobo, Daniel Lanigan, Manager has applied to transfer the All Alcoholic Beverages as a Restaurant license at 92 Hampshire Street currently held by Northbound Train, Inc. d/b/a B-Side Lounge, Mark DeGiacomo, Chapter 7 Trustee. The operating hours would be Monday through Wednesday 4:00 p.m. to 1:00 a.m., Thursdays and Fridays from 4:00 p.m. to 2:00 a.m., Saturdays from 11:00 a.m. to 2:00 a.m., and Sundays from 11:00 a.m. to 1:00 a.m. with a seating capacity of 95. Applicant is also applying for an Entertainment license to include an audio tape machine/CD which may play music below, at, or above conversation level and five TVs. This address is located in Cap Area 13.

MR. SCALI: Good evening. Just tell us who you are again for the record.

MS. SIMEO: Karen Simeo, McDermott, Quilty and Miller, and with me I have Mr. Daniel Lanigan, the proposed manager of record and owner of the license as well.

MR. SCALI: Well, owner of the license not through us.

MS. SIMEO: To be determined. Well, shareholders, members in the LLC.

MR. SCALI: So there were a number of issues from our last hearing, a number of neighbors that had come in and testified about a number of different issues. I think we had three issues that I can recall. One is the issue of your food to alcohol ratio, and I think Mrs. Lint can verify through Rule 18 of our rules which specifies that service needs to be a majority food with alcohol as an accessory to the food. You stated at our last hearing that you were going to 50-50 alcohol versus food. So how have we adjusted that?

MR. LANIGAN: I think I underestimated it. I talked to my chef and we concurred that he's really into the food aspect of it. We did put together the final menu. I forwarded a copy to you folks today. I'm excited about what we're going to do there culinary-wise. I think the neighborhood will be excited about it.

The primary seating is restaurant Seating. There's a relatively small bar. Our focus is going to be as a restaurant. We will be serving alcohol but --

MR. SCALI: So you went to your chef. How did you adjust your menu? Did you add items?

MR. LANIGAN: We added items, we expanded it. Basically we brainstormed and finalized what we wanted to sell, what we wanted to offer.

Matt Bailey is the chef. He's a very well-known chef. He works for a restaurant group in the South End. They have five restaurants; he's opened every one. He works with Mistral and Teatra, restaurant that do eight to nine million dollars a year in sales, which are 75 percent food.

He's leaving that job because he wants to work with me and he likes the vision, and he wants to be part of something. He wouldn't be leaving that job if he didn't think that there was going to be a significant emphasis on the food.

MR. SCALI: What's your food to

alcohol ratio going to be now?

MR. LANIGAN: My guess is somewhere between 65 to 70 percent food, and the rest in alcohol. If somebody orders an entrée for \$17, and gets two drinks with it that are \$6.00, then you're looking at 65 percent of the check.

MR. SCALI: Is that really a reality for you because we have the right to ask for your receipts and revenue, and check that.

MR. LANIGAN: I'm happy to give full transparency on this sort of thing. I think once we open you'll see that we're very very busy for dinner and I hope to be selling a lot of food. I'm happy to prove that. You know, after we get open we can just show you the records.

MR. SCALI: If it's not your concept, then it's not your concept. It just may not be right for this location. If it can be your concept then --

MR. LANIGAN: The first place I opened was beer, wine, small food. The second place was much more significantly weighted toward food, and

this place is even more so.

MS. SIMEO: I just feel the need to reiterate the relationship with the chefs in this particular situation. The chef is a pretty well-known chef with a good reputation, and so this move - you know, he's not in any way intending to leave his career as a chef to become part of a bar operation. He's excited about launching this restaurant operation. So that's an important piece of what he brings to the table in terms of his food experience.

MR. SCALI: Hopefully we solved that problem. The other issue which the Commissioner suggested last time actually was your closing hour. It was a 2:00 a.m. license but the Commissioner suggested you do something less. In your letter you're suggesting that you wish to reduce it to a 1:00 a.m.

MR. LANIGAN: To 1:00 a.m., yes.

MS. SIMEO: Obviously, Commissioner Scali, with the understanding that we discussed last time at the Board that the Applicant, if

approved by this Board when they're open, prove themselves. And they're not in any way precluded from coming back. And I think you also mentioned that the difference would be banked in the interim period.

MR. SCALI: So you wouldn't lose the value of that 2:00 a.m. You could bank the 2:00 a.m. and I think the Commissioner suggested a six months trial period and then you can come back.

MR. LANIGAN: I'm very comfortable with that.

MR. SCALI: The third issue I find a little bit more troubling, and that's the issue of your past record in the Amherst, particularly. Maybe we misunderstood one another or maybe I didn't make myself clear, but I asked you at the time - I think I asked you -- did you have any violations in Amherst or Northampton.

MR. LANIGAN: Right.

MR. SCALI: And I believe your Response was that you had one minor violation, and

I can't recall what you said as to what kind of violation that was.

MS. LINT: The curtains in Northampton.

MR. SCALI: The curtains, that's what it was. So I believe Mrs. Lint then did her homework.

MR. LANIGAN: As I would encourage her to do.

MR. SCALI: She called Amherst, called the ABCC, and we have a little bit further information.

MS. LINT: In Amherst, there were two bounced renewal checks. There was also an ABCC sting in December of '06 for sale to an underage person, and that resulted in a four day suspension in '07. There was also a town violation, four violations of the town by-law all in one event. That was in 2003, and that resulted in a seven day suspension.

MR. SCALI: What was the town violation for?

MS. LINT: That was serving after 1:00 a.m.; glasses and bottles on the table after 1:00 a.m.; employees on premises after 1:30 a.m. And I think there was one other thing but I didn't quite get it.

MR. SCALI: Did your memory fail you?

MR. LANIGAN: I have no good excuse. I was encouraging you folks because I was excited for you to check out my record out there thinking that that would quell any fears you might have about my worthiness as an owner/operator.

I was pretty startled today when I got news that it didn't come back as I thought it would. I don't really have a good excuse. I think that the ABCC -- well, one of them was when we had just opened up years and years ago. I wasn't there. It's my responsibility as an owner, I understand that, but I'm not in any way trying to hide anything from you. I thought that after ten years of being either a general manager or owner in the industry that my record would speak for itself. So I really have no reason to not tell you.

MS. SIMEO: When you were here last, is it that because of the passage of time you didn't recollect those.

MR. LANIGAN: I don't want to sit here and say I forgot, because when she brought it up today I -- there's a few misinterpretation from Amherst that I think we cleared up.

MR. SCALI: Were you there then in 2003? You were an owner; right?

MR. LANIGAN: Yes, I was.

MR. SCALI: But you weren't a manager?

MR. LANIGAN: Right.

MR. SCALI: In 2006, you were an owner and a manager then?

MR. LANIGAN: No.

MR. SCALI: You weren't the manager then?

MS. SIMEO: He was not the manager at the sting time, no.

MR. LANIGAN: And the first violation occurred soon after we had opened and I terminated

the employee immediately and it's never been an issue again.

MS. SIMEO: He was actually a leftover employee. It was right on that transition period.

MR. LANIGAN: I took in a bartender who had been in the previous establishment, and made that mistake, and I fired him immediately.

MR. SCALI: I guess I would have felt more comfortable if you said we had two slip ups.

MR. LANIGAN: Absolutely. I wish I had mentioned them too.

MR. SCALI: But we're going to do better, or we did better, but to - I guess I shouldn't say lie, but to not tell the whole truth.

MR. LANIGAN: I'd prefer transparency for sure.

MS. SIMEO: If I may, Mr. Chairman, the pieces that I have just inserted I actually just learned from some of our digging today, because Mr. Lanigan called me today really upset. He said, you know, I can't believe that these two things I just completely - there's no excuse for me

not remembering and I should have had them, but here I am telling them please call, please call, because I'm really convinced that they're going to get stellar -- zero is going to come up.

Just as far as my interjections go, it's information that came to me today, so we also did a little bit of digging on our own to get a little more information.

I will say I think that if Mr. Lanigan's intent was to deceive anyone here, it's a very poor job to do that and then tell people to please call these people and I'll have people call you. I know that the Board has lots of common sense, and I don't think that the Board perceives this as an intentional misrepresentation. I don't think people generally tell you one thing and then encourage you to call and follow-up.

With that being said, I do also think that as far as the character and fitness of the applicant goes, anyone who has been in the management and operation of businesses for ten years with only three violations remains to be a

pretty good applicant before you. I would challenge you to find many in the state with that good of a record.

MR. SCALI: Come to Cambridge, many people have excellent records.

MS. SIMEO: I could comment on the prior - one of our conversations --

MR. SCALI: Well, one or two that don't. One or two that don't have a good record but most do here.

MR. LANIGAN: I think that someone in your office had a conversation with an ABCC field agent in that area. I think he had said some positive things about my suitability as an owner/operator in the last few years. I think that that bodes well.

MR. SCALI: I think they probably felt that was good for Amherst because Amherst has a bad reputation.

MS. LINT: I do have an e-mail from Sergeant Ferreira who also called out there. He reported that Amherst PD told him that when the

Morning Dove first opened they had an issue with employees staying and drinking after hours. The help was still in the establishment at 3:00 a.m. When the Police Department notified the owner the employees were fired and since then they're never had any more problems or issues with the Morning Dove. The Chief said that the owner runs a clean place.

MR. SCALI: We did a little Internet search and it sounds like there's lots of comments on the Internet about the Morning Dove, which are excellent comments saying that it's not a student hangout, and that you card regularly, and that you do a great job with controlling the population out there. So they didn't say anything negative online about the Morning Dove.

MS. SIMEO: We appreciate that, Mr. Chairman.

MR. LANIGAN: I brought this magazine, copies of it. This is Beer Advocate Magazine. It's a national magazine with 250,000 members on the website. It's probably where you got some

information. They rank the top 25 places on earth and we were number five and number ten, two in the Top 10 in the whole world. So I think that that speaks well for us as well. I can pass it around if you want to see it.

MS. SIMEO: This particular publication we didn't submit at the last hearing either, Mr. Chairman, because it is a focus on the bar and beer business, which isn't the intent here, so we didn't want those two lines to cross. But in light of --

MR. HAAS: Was this another omission?

MS. SIMEO: No. It's not an omission. It certainly targets the existing businesses which are as testified to geared more towards the bar service.

MR. LANIGAN: I was proud of that.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: The last time we met there were some neighbors that expressed a lot of concern. Have you done any reach out to the

neighborhood and those groups.

MR. LANIGAN: There's been several folks who have reached out to me who didn't make the hearing and we have since met at the establishment and talked, sort of meet and greet. Let them get to familiarize themselves with me and let me hear their concerns. I feel like we've been pretty proactive about making people feel comfortable with how we're going to interact in the neighborhood.

MR. TURNER: All right.

MR. SCALI: Any other questions? I think we have people here that want to speak I'm sure. Anybody that wants to be heard, please come forward. If you spoke last time, we still have your comments. If you have anything to add to those comments. I don't want you to rehash the past, but if you have additional clarifications I guess is the issue.

MR. WHITE: My name is Greg White and I live at 94 Hampshire which is directly below, actually above what was formerly the B-Side. We

look forward very much to bringing a new restaurant into the neighborhood, add a little more vibrancy. It's been a little empty without it. I voiced some concerns to Daniel earlier about noise, simple things as closing a door which wasn't done with the previous owners, clean the sidewalk, et cetera. He assured me these things will be taken care of, and I also did some research on the Internet looking for his previous establishments, and people speak pretty well about him. So I'm excited to have them come in and hopefully you are too.

MR. SCALI: You live above it you said?

MR. WHITE: Yes, I do.

MR. SCALI: So you think it would be not as bad as the B-Side, better than the B-Side?

MR. WHITE: I didn't have very many problems with the B-Side, to be honest with you. Just some trash issues which were always addressed and taken care of. The only concern I had was noise and cleanliness in the area. We had a conversation today and I think it's under control.

MR. SCALI: Anybody else want to be heard?

MR. SAGHBINNI: My name is to Jean Claude Saghbinni. I also live above the other part of the restaurant.

MR. SCALI: What address do you have?

MR. SAGHBINNI: 94 Hampshire.

MS. LINT: And his name?

MR. SCALI: Your last name?

MR. SAGHBINNI: Saghbinni, S-A-G-H-B-I-N-N-I. We're really excited that a new restaurant is going to open there. We didn't have any problems before with the noise. I assume we won't have any problems but it will be good to have a vibrant new restaurant on the corner.

MR. SCALI: So you're excited about it?

MR. SAGHBINNI: Yes, we are.

MR. SCALI: Anybody else? One more hand.

MS. SAGHBINNI: Hi, I'm Jean Claude's wife at the same address. I'm also really excited

to have a new place open. Since it's been closed it's been very quiet in the neighborhood, and also it's not very safe. I'm very excited that we can now go out somewhere; to walk there and be able to stay. Hopefully they'll be able to stay open until 2:00 on the weekend. I think it makes a big difference because there aren't really a lot of places nearby that are open late and have good food. Sometimes we work late so it's good to have a place to eat and have a few beers with friends.

MR. SCALI: Thank you. Anybody else want to be heard?

MR. MAHONEY: I'm Dennis Mahoney. I live at 325 Windsor. I'd like to reiterate what she said. It's been very quiet, it's been great. I don't know about safety. I guess all the drunks can keep you safe, that's good.

I was on the Internet like you guys, looking on the Internet, and they keep promoting this bar as a beer bar with over 40 taps and exciting cocktails and wine. I don't see any sites I went on that says "Restaurant." It's going to be

a beer bar like our other beer bars. I don't know how the restaurant aspect comes into this because I've never seen anything advertised about a restaurant.

MR. SCALI: So your concern is that it's going to end up being a bar?

MR. MAHONEY: It's going to be just like the other place. Like I said, it's quiet. Safety, I don't know. I guess people coming out of the bar makes you feel safe, there's something wrong there. Thank you.

MR. SCALI: Anybody else?

MR. BURKE: My name is Joe Burke. I'm at 327 Windsor Street. First of all, again, some of the people live above the bar. We live on the street level, and basically people walk by our homes. That's why we get a lot of the noise, a lot of the parking issues, again, the urine - we spoke about this the last time.

The other thing is I believe the kitchen is supposed to close at 12:00. I'm glad that -- is that correct? Maybe I'm incorrect about

that.

MR. LANIGAN: We said we'd have a late night menu until we closed, seven nights a week.

MS. SIMEO: So initially, even when it was 2:00, and still with the 1:00.

MR. BURKE: Our feeling still is that 2:00 is just too late for that area. It's a residential area. We don't need to have this. So we'd rather not see it go to 2:00, and I'm glad he has drawn it back to 1:00 at this point, too. Thank you.

MR. SCALI: Applause for the neighborhood, not for you, for him.

Anybody else want to be heard?
Pleasure of the Commissioners?

MR. HAAS: You want to talk about this at all?

MR. TURNER: One more.

MS. SCALI: Tell us your name.

MS. PELICANO: Carla Pelicano, I live further down Broadway.

MR. SCALI: What's your address?

MS. PELICANO: That is an area that I in general feel more comfortable walking through when there are more people there. In the past, it hasn't been all that safe. A lot of people I know used to live there because it was a little bit cheaper, and they sort of took risks, and a few got mugged. Since there's something in the area, I think it is a little bit safer. I know as a woman, I feel much more comfortable walking straight down Broadway to my home when there's something going on there.

MS. LINT: I have a letter from Councilor Toomey also in favor of the application.

MR. SCALI: We also have a letter from Michael Muey, Executive Director of the Persons with Disabilities Commission with regards to your accessibility. Have you seen that?

MR. LANIGAN: Yes. I just got the e-mail and we're looking into it. We'll comply with whatever has to happen.

MR. SCALI: I guess he's saying that in order for you to be ADA compliant --

MR. LANIGAN: I have to look up the code because there's still the matter of two swinging doors that are difficult to navigate. We're working on it.

MR. SCALI: I'm not sure where you fall in renovations and how that works.

MS. SIMEO: It's minimal; it's just cosmetic.

MR. SCALI: To fix it?

MS. SIMEO: Oh, I thought you meant the dollar trigger in renovations that then trigger those issues. I'm virtually certain we're below the dollar trigger but Mr. Lanigan wants to still comply, so he's looking into it and will address it.

MR. SCALI: I think it would be appropriate to have it ADA compliant while you're doing your changes, if it's reasonably feasible for you to do that without great expense.

MR. LANIGAN: Can I add something?

MR. SCALI: Sure.

MR. HAYEK: We haven't promoted this

place on the Internet so I'm not sure where the information is coming from as far as the focus on a beer bar. That may be other people sort of placing their hopes and dreams on my next endeavor, but there hasn't been any specific mention from me, personally.

MR. SCALI: On this location?

MS. LINT: I think it's referenced to the other locations.

MR. SCALI: It's on Beer Advocate, and I know that Mr. O'Neil in our office did some other Internet research on that too.

Anybody else want to be heard? You have to come forward and just tell us your name one more time.

UNIDENTIFIED SPEAKER: I just want the Board to realize too, any of the people that are complaining about this are basically residents that have been here for a long time. They have an investment in their homes and their property and their surroundings too. So it's a big fear for us now. So just to keep that in mind, too, for us.

All right.

MR. SCALI: Most definitely.

Pleasure of the Commissioners? Oh, one more. There's always that one more person after they hear someone else. Just tell us your name.

MS. BURKE: Stella Burke, 325 Windsor Street. Just to reiterate what the people were saying here about the safety they feel that the bar is open again, there's people walking around the neighborhood. Most of the issues we've had with the bars that have been there have been after it's closed when these people are walking around the neighborhood; that's when most of our problems have occurred, not when people are in there eating. It's later on at night when they're coming out; that's when we've had most of our problems. So if that makes someone feel safe, they should come and live at my house for a while.

MR. SCALI: I understand. Last call. Anybody else feel the need to speak. Pleasure of the Commissioners?

MR. HAAS: Under advisement.

MR. SCALI: Motion to take the matter under advisement. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: We're scheduled to vote the morning of April 2, which is at 10:00 a.m. right here in this room. You're welcome to be here if you wish. Anybody else is welcome to be here if they wish as well. If you are not able to be here, you'll be able to find out the disposition right after through Mrs. Lint and she'll be happy to tell you what we decide.

MS. SIMEO: Mr. Chairman, I presume at that vote there is no public comment period.

MR. SCALI: The only public comment we would take is if it's a clarification on something that we're asking. So if something comes up between now and then that we're not clear on, we'd ask someone to comment on that.

MS. SIMEO: And you'd let us know if that came up in the interim.

MR. SCALI: Mrs. Lint would be happy to advise you beforehand if there's an issue that someone brings up in the meantime, or even that day, that morning, if someone brings up something we don't know.

Thank you very much.

MS. LINT: Application: Wrapro Falafel & Grille, Jacques Hayek, Manager, holder of a Common Victualer license at 1670 Massachusetts Avenue has applied for an Increase in Operating Hours and an Increase in Capacity from 20 seats to 32 seats to include 12 outdoor seasonal patio seats on the public sidewalk. The current hours are Monday through Saturday from 11:00 a.m. to 9:00 p.m., and 12:00 p.m. to 6:00 p.m. on Sundays. The proposed hours are Monday through Saturday from 11:00 a.m. to 10:00 p.m. and 12:00 p.m. to 6:00 p.m. on Sundays.

MR. SCALI: Tell us your name.

MR. HAYEK: Jacques Hayek, owner and manager of Wrapro at 1670 Massachusetts Avenue in Cambridge.

MR. SCALI: We are applying to increase your hours to go to Monday through Saturday 11:00 to 10:00, and 12:00 to 6:00 on Sundays.

MR. HAYEK: That's correct.

MR. SCALI: How long have you been

there?

MR. HAYEK: Almost a year.

MR. SCALI: And you're also applying to add your patio?

MR. HAYEK: Yes.

MR. SCALI: The patio will have 12 seats.

MR. HAYEK: Twelve seats, four tables.

MR. SCALI: On the public sidewalk?

MR. HAYEK: Yes, sir.

MR. SCALI: No alcohol?

MR. HAYEK: No alcohol.

MR. SCALI: Does he have permission to be on the sidewalk, a public works permit?

MR. HAYEK: Yes. I already have that.

MS. LINT: We don't have it. We need a copy.

MR. HAYEK: Do you want me to show you now?

MR. SCALI: If you have it, sure.

MS. LINT: I see it.

MR. SCALI: Comments?

MR. HAAS: No comments.

MR. TURNER: No comments.

MR. SCALI: Anybody from the public want to be heard on this? Is this your neighborhood, Ms. Jillson?

MS. JILLSON: Just can't get enough of me.

MR. SCALI: 1670, that's kind of --

MS. JILLSON: Yes, but you know what? Jacques is our member, and he's our good member and we want to advocate on his behalf. We're very pleased that he's having an outside patio, so he has our overwhelming support.

MR. SCALI: I've been hearing about your patio coming for a long time. I know that people have been calling and calling, your patio is coming, the patio is coming but you're finally here.

Motion to approve.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Okay. You're all set.

MR. HAYEK: Thank you.

MR. SCALI: You'll get a letter from us with all the details. Before you do anything, follow the letter.

MR. HAYEK: Absolutely. Thank you so much.

MS. LINT: Application: Clube Desportivo Faialense, Inc., Helder C. Duarte, Manager, holder of an All Alcoholic Beverages as a Club license at 1121 Cambridge Street has applied for a Change of Manager from Helder C. Duarte to Joe Santos.

MR. SCALI: Good evening. Tell us who you are.

MR. SANTOS: My name is Joe Santos.

MR. SCALI: I understand that Mr. Duarte passed away; am I correct?

MR. SANTOS: I believe so. I'm new coming to the club.

MR. SCALI: You're a new member?

MR. SANTOS: I've been a member for years but I'm for the new committee. There's a new committee that came in on January 10.

MR. SCALI: So you're part of the new committee?

MR. SANTOS: Yes.

MR. SCALI: And do you have any experience on being a manager before?

MR. SANTOS: I used to work and help my friend at Prospecticus. He owned Prospecticus for 27 years. So I'm a really good friend of him. I used to run the store for him sometimes.

MR. SCALI: Are you familiar with alcohol service and our rules and regulations?

MR. SANTOS: Yes.

MR. SCALI: Tell me what your policy is on renting out the club.

MR. SANTOS: We only rent the club out to members. The maximum capacity is 140 people.

MR. SCALI: I understand there was an incident there a short time ago.

MR. SANTOS: Yes, sir.

MR. SCALI: Which I think we're having a hearing on; correct?

MR. SANTOS: Yes, we are on the 14th.

MR. SCALI: We won't get into that right now, but I guess I just need to be assured that you're - as all the private clubs - making sure that your policies are being followed as to how you're renting out the property, who's there

managing, who's there making sure it's secure, who's there making sure that no one is getting hurt, and that it is for your members and guests of members only. So you need to follow those rules strictly.

MR. SANTOS: My advice to them in the beginning was to get a police officer for detail, and for one reason or not, this was supposed to be a baby shower. The lady was eight months pregnant.

MR. SCALI: I don't want to get into the details about that because we have to have a hearing on that. We owe you that at least, to give you a fair shot at the details on that. I just want to make sure that you understand your policies about how it's rented out. Are you the person to go to, to rent out that club.

MR. SANTOS: Me or the president.

MR. SCALI: Questions?

MR. HAAS: You have final say and approval in terms of the rental of the club?

MR. SANTOS: No, I don't. The president does.

MR. HAAS: Does he consult with you on that?

MR. SANTOS: Yes, he does. We have a meeting. We decided that we were going to meet with all the committee before we rent the hall to anybody now. When they rented this hall, I wasn't even part of the committee then.

MR. SCALI: Do you rent to people who are not members?

MR. SANTOS: No.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: I'm going to suggest that we continue this matter until our hearing that we have coming up on the 14th, because I think we should probably talk about policies with you at that point in time, and have the hearing at the same time on the complaint. Nothing against you personally, but I want to make sure we have the right person for the job and understand what happened during that incident.

So I'm going to make a motion to continue this to the 14th of April. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: We'll see you on the 14th with the other matter.

MR. SANTOS: Thank you very much.

MS. LINT: Application: Mass Chicken, LLC Mehdi Anbardar, Manager, holder of a Common Victualer license at 736 Massachusetts Ave. has applied to change the hours of operation from 1:00 a.m. to 10:00 p.m. seven days per week to 11:00 a.m. to 11:00 p.m. seven days per week.

MR. SCALI: Good evening. Tell us your name, please.

MR. ANBARDAR: My name is Mehdi Anbardar. I'm manager for Mass Chicken. I want to change my hours.

MS. LINT: Just adding one hour.

MR. SCALI: Adding an hour until 11:00 p.m.?

MR. ANBARDAR: Yes, exactly.

MR. SCALI: And business is good?

MR. ANBARDAR: I try to build, yeah.

MR. SCALI: So people are coming in?

MR. ANBARDAR: Yeah.

MR. HAAS: Subtracting an hour too; right?

MR. SCALI: Oh, taking an hour off the

morning?

MS. LINT: An hour off the morning,
and adding an hour at -

MR. SCALI: No one is having chicken
at 10:00 a.m.

MR. HAAS: I would have this morning.
I was starving.

MR. SCALI: Did you go there at 10:00
a.m. this morning?

MR. ANBARDAR: That's right.

MR. SCALI: He wanted a chicken
sandwich at 10:00 a.m. this morning.

MR. ANBARDAR: I wish I applied for
breakfast.

MR. SCALI: Maybe that's possible in
the future for you. You don't know.

So we're going from 11:00 to 11:00;
right?

MR. ANBARDAR: That's right.

MR. SCALI: Any concerns?

MR. TURNER: No concerns.

MR. HAAS: No questions.

MR. SCALI: Motion to approve.

MR. HAAS: Motion.

MR. TURNER: Second.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: I believe Councilor --

MR. SCALI: Councilor Kelley?

MR. KELLEY: I wondered if you heard the disciplinary action on the hotel on Route 2 tonight?

MR. SCALI: That was continued.

MS. LINT: April 2 at 10:00 a.m.,
Thursday.

MR. KELLEY: So it wasn't discussed tonight?

MR. SCALI: No.

MR. KELLEY: It will be discussed
Then?

MR. SCALI: Attorney Shadrawy was out of town so he continued it.

MR. KELLEY: Can you send me a note on

that, please? I'd really appreciate it. Thank you very much.

MR. SCALI: You're all set.

MR. ANBARDAR: Thank you very much.

MR. SCALI: Any other matters before the Commissioners?

MS. LINT: No.

MR. SCALI: Motion to adjourn. Moved, Seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

(Whereupon, the proceedings concluded at 8:11 p.m.)

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 31st day of March, 2009.

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