

CAMBRIDGE LICENSE COMMISSION HEARING

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION HEARING

LICENSE COMMISSION BOARD MEMBERS:

CHAIR ANDREA JACKSON

POLICE COMMISSIONER ROBERT C. HAAS

FIRE CHIEF GERALD REARDON

STAFF: EXECUTIVE DIRECTOR ELIZABETH LINT

AT: Michael J. Lombardi Building
Basement Conference Room
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

DATE: October 30, 2014

TIME: 3:00 p.m.

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P R O C E E D I N G S

October 30, 2014

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(Hearing is being audio and videotaped by
Xavier Dietrich.)

EXECUTIVE DIRECTOR ELIZABETH LINT: Good
afternoon. We would like to get started.

If anyone has a cell phone on, we would
appreciate it if you turned it off or put it on
silent mode.

This is License Commission General
Hearing, Thursday, October 30, 2014. It is 3
p.m. We are in the Michael J. Lombardi Building,
831 Mass Ave, Basement Conference Room.

Before you are the Commissioners Chair
Andrea Jackson and Chief Gerald Reardon.

Commissioner Haas should be here in about 15
minutes.

I would like to advise everyone this

meeting is audio taped and videotaped and we'll go slightly out of order until the Commissioner is able to arrive.

Start with ratifications.

- - -

RATIFICATIONS

EXECUTIVE DIRECTOR ELIZABETH LINT:

Medallion 14, 91, 248, 73, 75, 103, 175, 77, and 80. All paperwork is in order. They are all refinances.

CHAIR ANDREA JACKSON: You said everything is in order?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIR ANDREA JACKSON: I make a motion that we accept the ratifications.

Is there a second?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIR ANDREA JACKSON: Aye.

EXECUTIVE DIRECTOR ELIZABETH LINT: And actually, Legal's we just have to accept because it was a reverse application, the ABCC has already approved it.

CHAIR ANDREA JACKSON: Are they here?

EXECUTIVE DIRECTOR ELIZABETH LINT: They don't have to be here.

CHAIR ANDREA JACKSON: I say just call it just to make sure.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yeah. Absolutely.

- - -

APPLICATION: LEGAL SEA FOODS, LLC

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Legal Sea Foods, LLC,
holder of three all alcoholic beverages
restaurant licenses located at 5 Bennett Street,

5 Cambridge Center, and 20 University Road has applied for a change of beneficial interests, Matthew Chanin, will be added to the board of managers of the LLC.

The application has already been reviewed by the Alcoholic Beverages Control Commission.

It just needs your approval.

CHAIR ANDREA JACKSON: Are there any members of the public that wish to be heard on this?

Seeing none, I make a motion that we approve the application for Legal Sea Foods, LLC for licenses located at 5 Bennett Street, 5 Cambridge Center, 20 University Road for a change of beneficial interest.

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIR ANDREA JACKSON: In the room today we have Councillor Carlone, not sure if you would like to be heard on anything in particular. We can take you now or you can wait until whenever the item comes forward.

COUNCILLOR CARLONE: Well, thank you for offering that. I do have a 3:30 movie. "A movie"... that's funny.

(Laughter.)

CHAIR ANDREA JACKSON: Are you going to invite everybody?

COUNCILLOR CARLONE: I would love to go to the movies.

Meeting.

I am here in support of Tom Brush and Felipe's restaurant on Brattle, and all I was going to say was --

CHAIR ANDREA JACKSON: And, I'm sorry, if I can have you state your name for the record.

COUNCILLOR CARLONE: Sure.

I'm Dennis Carlone, C-A-R-L-O-N-E. 9
Washington Avenue, Cambridge.

And as a councillor, who has known Tom for awhile, I just came when he mentioned to me he was coming today, I said, wow, that's fantastic, he's going after another restaurant location and what I know of him is just a very special guy who cares about what he does, runs a good operation.

He did mention to me some concern about the roof deck, a neighbor concerned about it, and as an urban designer, if that becomes an issue I will strongly speak against the concern.

The buildings on either side are relatively sealed. Actually, restaurant use on a roof I think would be great thing for Harvard Square. You have that elsewhere in Harvard Square where there's been success and neighbors

are just as close, and in fact, not even -- much further away and have not -- there have been no issues.

And any time we can use one-story buildings to expand the use to a vacant flat roof, it just enhances the visual character of the city and the uniqueness of the restaurants in the city. So anything to enhance the success of the restaurant whether it be a liquor license. I assume you know Tom through previous meetings and discussions and think well of him, but I just wanted to concur that I do too.

I might add, I have never spoken as a councillor at one of these meetings before and previously was always from an urban design point of view, but this is an addition to The Square and I hope you view it very positively. So thank you.

And thank you for letting me speak first.

I appreciate it.

EXECUTIVE DIRECTOR ELIZABETH LINT: Go
back in order?

CHAIR ANDREA JACKSON: In order.

- - -

APPLICATION: HSA FOOD PARK, LLC, D/B/A
NACO TACO PARK

CHAIR ANDREA JACKSON: Application: HSA
Food Park, LLC, d/b/a Naco Taco Park, Alex
Tannenbaum, manger, has applied for a new wine
and malt restaurant licenses at 297 Massachusetts
Avenue.

The proposed hours of operation are 8
a.m. to 12 a.m. Sunday through Wednesday and 8
a.m. to 1 a.m. Thursday through Saturday. The
proposed seating capacity is 74 inside and 64 on
a private patio.

ATTY KAREN SIMAO: Good afternoon, Madam
Chair and Members of the Board. Karen Simao,

McDermott, Quilty & Miller.

To my right, I have an Alex Tannenbaum, T-A-N-N-E-N-B-A-U-M, one of the owners and proposed manager of record.

To his right is Michael Scelfo, known to the city as chef extraordinaire, who will be our food consultant on this project, and to his right, Mr. Brian Lesser, who is involved with Michael in their Harvard Square location and is also one of the partners in this particular location before you today.

As set out in the application, our request today is for a new wine and malt beverages license to be exercised at 297 Mass. Ave.

I drove by the site earlier today, I'm sure the Board is aware of it, but it is the site right next to the MIT Museum building, and when you look at the floor plan and the rendering here

it illustrates for you -- fills in what is currently empty space at the location.

And the proposed concept here, and this is something that Brian and Alex have been working with MIT on, is there was strong need here with the departure of a few restaurants directly across the street, there was a really strong need for acceptable economical food service and activity at this particular corner and this proposal seeks to meet all of those things in what is a somewhat untraditional concept.

And the reason I say that, is that the traditional part of it is that there's interior seating and there's an exterior patio. Those are all of the traditional things the board is used to seeing.

The menu is certainly different in that it provides you can come in and out and eat for

\$10, something that is difficult to find, I think, anywhere these days, and certainly not food of the quality and caliber as Mr. Scelfo has provided to the city for years now, but the nontraditional piece is the use of this trailer, the food truck portion, if you will, of the premises, and if you look at your rendering, it is represented by this sort've black piece underneath the Naco Taco sign and that extends out from the building.

You can see that better on your plan "temporary food truck trailer." To be clear, this is design, concept, vibe, feel. This is really, I call it a staging area, Brian and Alex and Michael call it "the front line," sort of the last piece of where your food gets served out of.

All the food is prepared on the interior of the premises in compliance with all codes.

Everything continues to function as the traditional restaurant concept does. But as a way to maximize and to really marry this interior space with this exterior space, that trailer is doing that.

It is something that you have seen in a few other jurisdictions, different states, and something that we are going to be seeing more and more of here. I think that Cambridge will be the one to sort of lead that concept as they have so many other times in innovation as it relates to the food service industry.

The renderings show you really it is a significant outdoor space, and they show you how this is intended to be completely blocked off, this is entirely on private property, and how it is intended to be blocked off from the public, and the one entrance and exit you will see is right before that blue car there into the patio

area.

POLICE COMMISSIONER ROBERT HAAS: When you say "blocked off," you are referring to the planters on the other side?

ATTY KAREN SIMAO: Correct. That's the how the separation that is needed to be created, it will be created by those planters. And this is an idea of the green that will be there.

Did you bring any of the evenings shots?

POLICE COMMISSIONER ROBERT HAAS: Can you point to me where the trailer's gonna be again?

ATTY KAREN SIMAO: The trailer, it is a little easier if I may approach. So when you're walking from the street, all you're seeing is this side of it. On these plans you see a little sort of overview of what it looks like, so it abuts this greenery here and it is in the corner.

CHAIR ANDREA JACKSON: So, counselor, are

you pointing right here?

ATTY KAREN SIMAO: Yes.

CHAIR ANDREA JACKSON: So, for the record, that's where the red Naco Taco sign is at.

POLICE COMMISSIONER ROBERT HAAS: So the trailer is not actually drawn into this picture or it is?

ATTY KAREN SIMAO: It is.

POLICE COMMISSIONER ROBERT HAAS: It is drawn in?

ATTY KAREN SIMAO: It is. It's just from this angle, that's the only piece of the trailer that you would see.

POLICE COMMISSIONER ROBERT HAAS: I get that on this. I can't reconcile this piece.

FIRE CHIEF GERALD REARDON: You're looking at it longitudinally so it's sitting out in front of a building that doesn't show well.

ATTY KAREN SIMAO: One is an aerial sort of view of the floor plan, and the other is from the street scrape what it would look like.

POLICE COMMISSIONER ROBERT HAAS: So the picture is somewhat deceiving, so you have all this area for patio seating here?

ATTY KAREN SIMAO: That's correct. That's correct. I mean, this is from the street. How -- again, this is a street view.

POLICE COMMISSIONER ROBERT HAAS: It looks like it's flat, so it is hard to tell the depth of the property. It looks a lot narrower than what the picture is depicting.

ATTY KAREN SIMAO: I agree. And that's why we wanted to make sure to give a couple different angles.

FIRE CHIEF GERALD REARDON: So the trailer will be a real trailer, so to speak, that's set up on permanent block and the idea is

to leave it there on a permanent basis?

MICHAEL SCELFO: It's actually partially going into the structure. It's actually inside the building as well as outside the building, if that makes sense.

ATTY KAREN SIMAO: So again, looking at the floor plan, where you see "temporary food truck trailer," that actually abuts to and is connected to, and as Michael, I think, said is partially set into the actual trailer.

FIRE CHIEF GERALD REARDON: So the trailer actually extends inside the structure?

MICHAEL SCELFO: Exactly.

BRIAN LESSER: Abuts to the window, so for all intents and purposes --

FIRE CHIEF GERALD REARDON: If this is the outside wall, it doesn't go inside the building?

BRIAN LESSER: It doesn't go inside.

FIRE CHIEF GERALD REARDON: It just butt
up to it?

BRIAN LESSER: Correct.

FIRE CHIEF GERALD REARDON: And someone's
gone over the fire stopping and everything in
terms of your code compliance?

BRIAN LESSER: Yes.

FIRE CHIEF GERALD REARDON: That gets
into a little --

BRIAN LESSER: We went through the large
zoning conversations about the whole process.

FIRE CHIEF GERALD REARDON: Well, zoning
is different from fire code.

BRIAN LESSER: No, no. We talked about
all these pieces as well.

FIRE CHIEF GERALD REARDON: So the idea
would be to put it in there as they do in
permanent type trailer facilities and take the
wheels off, set it on a foundation and leave it

there?

BRIAN LESSER: Exactly.

ATTY KAREN SIMAO: Yeah.

FIRE CHIEF GERALD REARDON: One more quick question. Is there an awning that's shown here, is that what that is over the --

BRIAN LESSER: Over the trailer?

FIRE CHIEF GERALD REARDON: Yeah.

BRIAN LESSER: It's actually an awning that's an extension off the trailer, like you would see in any carnival-style place.

FIRE CHIEF GERALD REARDON: That's what I had in mind. Okay.

ATTY KAREN SIMAO: Is it retractible or not? I don't recall, Brian.

BRIAN LESSER: It comes up and then it comes back down.

FIRE CHIEF GERALD REARDON: Okay.

ATTY KAREN SIMAO: Just to talk a little

bit about Mr. Lesser, who I know has been before the board before, Mr. Lesser has over 20 years experience in this industry, and the reason he's not listed as manager of record is to make sure that the board has a point of contact at any point in time who is available and on site, and Mr. Tannenbaum, being Mr. Lesser's partner, has spent significant amount of time with Mr. Lesser training under his various other locations and Mr. Lesser will be very much involved in the day-to-day operation.

As the board knows, once you are listed as manager of record on a certain number of licenses, I think that dilutes the value of that manager of record and so we wanted to make sure that there was really someone, one of the partners, that was really that face for the board.

That being said, Mr. Tannenbaum is

certainly a reputable business person in his own right. Although this is his first restaurant venture, his background in real estate and finance is obviously critical to the day-to-day operation, and in my opinion, having several clients in this industry, critical to really understanding the rules and regulations, not only of this board, but of the ABCC, and being able to implement and enforce those on a day-to-day basis at the site.

He is already TIPS trained and certified. I know that the board requests the 21 Proof, which we are in the process of scheduling.

All of those things will be checked off of the list.

But I think that's what is invaluable here is this coming together of business experience and Mr. Lesser's very practical experience in the service of -- although this is

just beer and wine, the rules are the same, I think this will be your only beer and wine location, the heightened awareness of that, and the rules and regulations and the requirements that are a part of that, I think is a testament to Mr. Lesser and what he, as a partner, the critical piece, he also brings to the table here.

FIRE CHIEF GERALD REARDON: Will the cooking all be done in the trailer or is this a combination of inside and outside in terms of food prep?

ATTY. KAREN SIMAO: Do you want to talk a little about that, Michael?

MICHAEL SCELFO: It will take in place inside and outside.

The majority of the hot cooking will take place within the trailer or, you know, the exterior portion of the kitchen. We will be doing prep and some light cooking on the inside,

but all the ventilation is over the line in the trailer. Any cooking that happens on the inside, will be in, you know, in an area that's up to code, but not necessarily ventilated. It'll all be utilizing equipment that wouldn't need to be ventilated.

FIRE CHIEF GERALD REARDON: Are you using fryolaters in the trailer area?

MICHAEL SCELFO: There will be a fryolater in --

FIRE CHIEF GERALD REARDON: All that hood work will be --

MICHAEL SCELFO: It's all built right into it, yeah.

FIRE CHIEF GERALD REARDON: Is this a company that's making this stuff special that does this particular type of design?

MICHAEL SCELFO: Alex could speak actually more to that.

ALEX TANNENBAUM: So there are lots of different trailer manufacturers, some that just will just pump out, you know, the basic one. We spoke to several that actually customize it and basically to the building, they understand the hookups we have, and the requirements of Cambridge and the requirements of Massachusetts, and they are gonna stick to the health codes for that and the fire codes and build it specifically to our request.

FIRE CHIEF GERALD REARDON: So it is almost like one-stop shopping. One vendor who will do the whole job.

ALEX TANNENBAUM: All the equipment, all the ventilation.

BRIAN LESSER: Ansul, hood work, all of the sinks, URL-rated, you know, fixtures inside.

FIRE CHIEF GERALD REARDON: So the fire protection and the outside will be part of the

fire alarm system on the inside?

BRIAN LESSER: That's what our understanding would be.

ATTY KAREN SIMAO: Just to talk a little bit about the day-to-day logistics. The plans, as submitted, propose total interior seating of 98 seats and a total exterior on the patio of 82 seats, so the idea here is that, you know, today is a perfect example, at lunchtime it was unseasonably warm for October.

The goal is to really utilize the interior and exterior space as often as possible throughout the year.

POLICE COMMISSIONER ROBERT HAAS: So the patio would remain set up all throughout the whole year then?

ATTY KAREN SIMAO: You'll take it in the winter, I presume, in the dead of winter?

BRIAN LESSER: During the snowstorms and

in the dead of winter we'll take in the furniture, yes.

ATTY KAREN SIMAO: But on those, you know, cusp months, as I call them, which sometimes are pleasantly surprising, the furniture will be readily accessible to move out, is that accurate?

BRIAN LESSER: Yes.

ATTY KAREN SIMAO: Depending on the weather forecast, which they are right 50 percent of the time.

CHAIR ANDREA JACKSON: How do you propose to address the concerns possibly of neighbors and noise out on the patio at night?

ATTY KAREN SIMAO: Sure. So the location where we are located, again, I think lends itself to this particular concept.

The proposed hours on the patio outside is a midnight close.

I will say, I wasn't present, but Mr. Lesser and Tannenbaum met with both the Area 4 neighborhood group -- obviously, the most immediate abutter being MIT, which is also our landlord, but for the record, the most immediate abutter is MIT, and they are 100 percent in support of this.

But the Area 4 and Cambridgeport neighborhood groups seem to be very receptive to the concept.

I understand there was some confusion, or there appears to have been some confusion, not on the exterior patio, that was proposed as a midnight, and that was met with support.

On the interior, the applicant was seeking a 1 a.m. Thursday to Saturday only and only for the interior.

And it sounds like there may have been, I don't know whether it was a -- again, I wasn't

there, a miscommunication or a misunderstanding as to that interior space, but the application that you have before you for the interior space requests that 1 a.m. Thursday to Saturday.

So during the week, we are asking for a midnight on the exterior patio and that will be very dependent on business, and you know, staying open to midnight on the patio on a Tuesday will depend who is out on a Tuesday.

The business that this type of location generates is a neighborhood business. It is not a destination location. People are not driving from Boston to come into Naco Taco on a Tuesday night to have tacos here.

This is very much intended to, as we said, meet the need to vitalize and add life to this particular corner, as well as to meet the public need of the people living, and we're talking about the evening hours now, because

during the day it is living and working in the area, but certainly in the evenings, these are people in the neighborhood that we will be servicing.

To the extent that there are -- again, Mr. Lesser has a very strong track record. Mr. Tannenbaum is going be there daily. Mr. Scelfo has a wonderful reputation in the Cambridge. To the extent that there's any concerns, questions, if noise does become an issue, if anything becomes an issue, whether it is trash or anything else, we would say, as we always do, let the operator know and they will work with the neighbors, the community, the board, to do whatever is necessary to remedy any situation whether it is noise or anything else.

FIRE CHIEF GERALD REARDON: So you have been certified for the footprint for 92 seats inside, that's already -- what is the plan for

the outside seating when you have to put it in?

Do you have a storage area?

BRIAN LESSER: We do. We actually have a storage facility inside, inside the space. Are you familiar with the old space? It's the old Latte Market.

FIRE CHIEF GERALD REARDON: It's been -- it might have been two renditions since I have been there.

BRIAN LESSER: A car dealership years ago. But there is a basement space we'll be putting the stuff in.

FIRE CHIEF GERALD REARDON: So you also know, too, once you get capped to your seating inside, we can't take the outside --

BRIAN LESSER: Apply for both, exactly.

CHAIR ANDREA JACKSON: Just so I'm clear again, counsel, can you tell me again the number of seats? Because I feel what I'm looking on the

agenda might different than what you stated.

ATTY KAREN SIMAO: The plans that you have in front of you, lists 98 interior and 82 exterior. However, that is including some standing. It looks like 8 standing seats. So your numbers here are bigger than what --

CHAIR ANDREA JACKSON: On the agenda, we are showing 74 inside and 64 on the patio.

ATTY KAREN SIMAO: Yes. And I think that was the earlier plan.

BRIAN LESSER: For seats but the actual occupancy are those numbers.

ATTY KAREN SIMAO: Right, but this one increased the seating. This plan increased the seating.

POLICE COMMISSIONER ROBERT HAAS: So you're saying the seating is actually 90? Or 98?

ATTY KAREN SIMAO: The seating is 90 because it includes 8 standing, yes, and so this

being the most recent plan, this would be the number we would ask the board --

POLICE COMMISSIONER ROBERT HAAS: 90, 82?

ATTY KAREN SIMAO: 90, 82.

CHAIR ANDREA JACKSON: And again, for the patio then?

ATTY KAREN SIMAO: 82.

POLICE COMMISSIONER ROBERT HAAS: Have you run this concept before?

BRIAN LESSER: This particular one? I have a fast casual concept that's different and I have plenty of full service, but nothing as specific and as unique as this.

But the only unique part is the aesthetic. So, I mean, it's really a restaurant, you go in, you sit down and you order and we deliver the food, and so in that capacity, we do that -- I do that eight or nine different places.

POLICE COMMISSIONER ROBERT HAAS: But it is a combination, as your attorney described it, a food truck plus a restaurant, right, because I'm assuming on the trailer, people are coming to get their food as opposed to having it served to them on the patio.

BRIAN LESSER: Actually, we're gonna serving all around.

POLICE COMMISSIONER ROBERT HAAS: So they're gonna serve away from the trailer as well?

BRIAN LESSER: Exactly.

ATTY KAREN SIMAO: The food truck is really an aesthetic. It's a look. It's a feel. It's just not --

CHAIR ANDREA JACKSON: They're not going there to get their food?

BRIAN LESSER: No.

Some of these other areas in San Diego or

Austin, there's these sort of food park areas, they have this very unique feel to it and that's sort of what we are trying to replicate.

POLICE COMMISSIONER ROBERT HAAS: Mr. Tannenbaum, you haven't been in the food industry before?

ALEX TANNENBAUM: I have been working with Brian just over a year now in various roles in a number of his restaurants at Tavern Road, Alden & Harlow and working in the catering department for one of his fast casual concepts.

So I have been doing a little bit of everything for the better part of a year because --

BRIAN LESSER: Cheap labor.

ALEX TANNENBAUM: For some reason I decided that finance wasn't the right career for me and I --

POLICE COMMISSIONER ROBERT HAAS: So you

feel that you are fully equipped to make the adjustment over to --

ALEX TANNENBAUM: That's been the last year for me.

POLICE COMMISSIONER ROBERT HAAS: And manage a liquor license on top of that?

ALEX TANNENBAUM: Absolutely. I'm familiar with the rules and everything.

FIRE CHIEF GERALD REARDON: So you also have to deal with applying for and getting a crowd manager in this location. Must be present every night.

POLICE COMMISSIONER ROBERT HAAS: Do you have that at other establishments?

BRIAN LESSER: Yeah, we have crowd manager certifications for all the employees and TIPS training.

POLICE COMMISSIONER ROBERT HAAS: So you are familiar with it then?

BRIAN LESSER: Absolutely.

MICHAEL SCELFO: Yeah, our team at Alden & Harlow went through that as well. The management team has gone through the certification as well, and it is complete.

POLICE COMMISSIONER ROBERT HAAS: So you have been employed with them for a year?

ALEX TANNENBAUM: Yeah, with Brian.

POLICE COMMISSIONER ROBERT HAAS: And prior to that, where did you come from?

ALEX TANNENBAUM: Prior that, I was working in finance at mutual funds, and before that, I was in commercial real estate for three and a half years.

POLICE COMMISSIONER ROBERT HAAS: Okay.

FIRE CHIEF GERALD REARDON: If you are successful, when do you think that you would in operation?

BRIAN LESSER: January.

POLICE COMMISSIONER ROBERT HAAS: You have already ordered the trailer?

ALEX TANNENBAUM: We are prepared to order the trailer. The turnaround can be four to six weeks, but we are waiting.

ATTY KAREN SIMAO: The lawyers always tell them to pump the brakes until we know we have approval.

FIRE CHIEF GERALD REARDON: So I assume you've had conversation, the size, the length, and what you're gonna put in it for specification?

BRIAN LESSER: Exactly.

POLICE COMMISSIONER ROBERT HAAS: So it's safe to say you'll probably just have an interior restaurant from January until the spring?

ALEX TANNENBAUM: I think it's probably safe to say.

BRIAN LESSER: Although the weather has

been pretty nice.

ATTY KAREN SIMAO: Brian is the eternal optimist.

BRIAN LESSER: This is the best outside outdoor season I've had out in one of the restaurants in Fenway, it's a restaurant there called Sweet Cheeks, and we have an outdoor patio and this month has been completely filled outside, and I have never seen it like that before, so ...

FIRE CHIEF GERALD REARDON: Compared to last winter.

BRIAN LESSER: That's true.

FIRE CHIEF GERALD REARDON: What about interior construction from where it is right now, is this major, minor, cosmetic on the interior?

BRIAN LESSER: The base building work is being performed by MIT at the moment, so the HVAC system, fire safe system, plumbing, fixtures, and

bathrooms are all complete, sprinkler system, all done currently and will be inspected prior to delivering the space to us.

So the work that we are really doing is very minimal, non-structural finish work.

ATTY KAREN SIMAO: Cosmetic, and we estimated that number at \$20,000 in the application.

BRIAN LESSER: All the heavy lifting is done by the landlord.

POLICE COMMISSIONER ROBERT HAAS: Your deliveries and trash removal, is that behind the restaurant or in front of the restaurant?

BRIAN LESSER: Behind the restaurant there's an area for a dumpster which we'll apply the permit for.

POLICE COMMISSIONER ROBERT HAAS: That's the one that's adjacent -- is that what the depiction is next to the bathrooms?

BRIAN LESSER: Actually, it's behind that. Behind that. The back of the building.

POLICE COMMISSIONER ROBERT HAAS: Oh, right behind the building, okay.

BRIAN LESSER: There's a private way there. I think it's called --

ALEX TANNENBAUM: Village Way or Village Street.

BRIAN LESSER: Village Street is a private way as well so there's access to that area.

POLICE COMMISSIONER ROBERT HAAS: So can you point to that?

ALEX TANNENBAUM: It would be behind.

BRIAN LESSER: It's actually behind the building.

ALEX TANNENBAUM: Imagine the building continuing further over here behind the back of it.

ATTY KAREN SIMAO: If you are holding this way, this being the back of the building, it is beyond here.

POLICE COMMISSIONER ROBERT HAAS: What is this grayed-out area that says NRC?

ALEX TANNENBAUM: That's the rear of the same building. That's not part of our space. It's just part of the building. It's part of same building. It's currently vacant.

POLICE COMMISSIONER ROBERT HAAS: It's still vacant?

ALEX TANNENBAUM: Still vacant.

BRIAN LESSER: Still vacant, and it's not of the same grade actually as the other space.

FIRE CHIEF GERALD REARDON: That's MIT's also, I believe.

BRIAN LESSER: Yes.

POLICE COMMISSIONER ROBERT HAAS: And parking, is that just the street or --

ATTY KAREN SIMAO: Can you talk a bit about parking?

ALEX TANNENBAUM: Sure. So we have MIT owns a lot right behind, again behind the building, behind where those dumpsters would be, that's within 300 feet, I believe, is the zoning situation for that and we have ten spots.

POLICE COMMISSIONER ROBERT HAAS: Are you going to use that parking lot?

ALEX TANNENBAUM: We'll have ten spots.

BRIAN LESSER: We have ten dedicated spots for that restaurant.

POLICE COMMISSIONER ROBERT HAAS: And the front, is that metered parking?

ALEX TANNENBAUM: There's meter parking on Mass. Ave.

POLICE COMMISSIONER ROBERT HAAS: What is behind the building?

ALEX TANNENBAUM: In terms of businesses?

POLICE COMMISSIONER ROBERT HAAS: There's a guy that's walking across the street and looking to the left. So what is behind there?

ALEX TANNENBAUM: What is that? That's the MIT Museum just to the right over there, and behind that, I think that's one of the other Tootsie Roll subsidiary factories right behind Village Street.

POLICE COMMISSIONER ROBERT HAAS: But there's no parking along that way?

ALEX TANNENBAUM: No, I mean, that's --

BRIAN LESSER: No, that's a private way and I believe there's fire zone on each side of the street.

FIRE CHIEF GERALD REARDON: Fire lane?

BRIAN LESSER: Fire lane.

POLICE COMMISSIONER ROBERT HAAS: I can see the red sign.

So you anticipate ten spaces in the

parking lot and then whatever you have over here in the front of the store is pretty much your parking, right?

BRIAN LESSER: Correct.

POLICE COMMISSIONER ROBERT HAAS: It sounds like a lot of your customers particularly -- well, I guess potentially you have a lot of walk-in, I guess.

ATTY KAREN SIMAO: That's the goal. This concept is geared towards, as I said, it is not a designation spot.

We anticipate this being -- again, I drove past the site today, the volume of walk-in traffic in that area is really impressive. I mean, there's a lot of foot traffic there, and that's what we expect to cater to.

CHAIR ANDREA JACKSON: Any other questions?

POLICE COMMISSIONER ROBERT HAAS: No.

CHAIR ANDREA JACKSON: Any other questions?

FIRE CHIEF GERALD REARDON: No questions.

CHAIR ANDREA JACKSON: Again, you are just looking for a beer and wine license?

ATTY KAREN SIMAO: That is correct.

And again, I know the board is obviously familiar with the Ballarin case, and I think we have covered a lot of the factors set out in that case as to the rationale and factors to consider in granting a new license, not the least of which is public need and public demand, and that's why we are here today, but I think it is also worth mentioning, that there was a void left by the departure of All Asia and Cambridgeport Saloon, which were directly across the street, and there is a need to add some life and energy to this location as well as a need for this type of concept, which really doesn't exist anywhere at

this point.

But the departure of those two locations in and of themselves, I think, left a hole in that there.

POLICE COMMISSIONER ROBERT HAAS: So what do you have as evidence of demonstrated need?

ATTY KAREN SIMAO: Of what?

POLICE COMMISSIONER ROBERT HAAS: Demonstrated need, what do you have in the way of petitions or -- you said you met with the Area 4 neighborhood group and stuff like that, did they give you any kind --

ATTY KAREN SIMAO: There is a letter of support there, and again, I want to be very clear that's a letter of support -- they are supporting midnight closing inside and outside. And we're asking that 1 a.m. Thursday to Saturday on the inside.

Cambridgeport was also supportive, we've

reached out to them. We have not -- I don't know if it was sent directly.

EXECUTIVE DIRECTOR ELIZABETH LINT: I did not receive it.

ATTY KAREN SIMAO: And so we expect their letter, it hasn't arrived, it should be arriving.

BRIAN LESSER: But they are very supportive and very receptive. Very supportive.

ATTY KAREN SIMAO: I think we also need to look at the most significant abutter is MIT, and they were actively looking for someone to come into the space and do exactly what it is we are doing.

And I don't think, I know that traditionally there is a self-serving concept when a landlord is also supporting the application, however, in this case, given the volume of people impacted, MIT community impacted, I think it is worth mentioning is significant in this

particular case.

CHAIR ANDREA JACKSON: Counsel, can you repeat the hours that you are looking for?

ATTY KAREN SIMAO: Certainly.

What we had sought in the application is on the outdoor patio -- let me tell you what we applied for. Originally we applied for Sunday to Wednesday 11 a.m. to midnight both indoor and outdoor. And our hours indoor and outdoor that we originally applied for, Thursday to Saturday, were 11 a.m. to 1 a.m.

In the community outreach process, Mr. Lesser and Mr. Tannenbaum agreed to scale back the 1 a.m. that we applied for for the outdoor seating to midnight. But we would still like to have the option of the 1 a.m. on the interior space only Thursday to Saturday, understanding that we want everybody to be comfortable moving forward, build a good relationship, and move

forward from there.

CHAIR ANDREA JACKSON: Thank you.

ATTY KAREN SIMAO: I would also -- the other thing I don't think I mentioned, which is significant, in any of these operations, you know, this is obviously a business investment but it is also becoming a part of the community. And Mr. Scelfo and Mr. Lesser are already part of the Cambridge community and Mr. Lesser sought to expand that with Mr. Tannenbaum here at this location and being part of that community is obviously being a good neighbor and all the things we talked about, being responsive to questions and requests from the community, but I think it is also job creation, and I don't think that often enough we, and I'm saying "we," counsel in these hearings, really talk about the job creation. The jobs that Mr. Lesser and Mr. Scelfo created at Alden & Harlow as well as an

additional 35 jobs that will be created here and potentially more during that peak season with the outdoor seating is important, and I know that Mr. Lesser has a policy of trying to hire within the parameters of the law, neighbors and residents and people in the neighborhood. From a business perspective, it's no brainer because it is closer commute time and things like that, but it is also a way of giving back to the community, and I know you want to talk about that --

BRIAN LESSER: As part of our conversations with the neighborhood group was very specific. They have a program and we've extended the opportunity to extend that sort of program with our employment, and they are sending us all the information to start that process.

CHAIR ANDREA JACKSON: Any questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

CHAIR ANDREA JACKSON: Any questions?

FIRE CHIEF GERALD REARDON: No further questions.

CHAIR ANDREA JACKSON: Any members of the public that wish to be heard in this matter?

Seeing none.

POLICE COMMISSIONER ROBERT HAAS: Two.

CHAIR ANDREA JACKSON: I'm sorry, I did see you, sir. Please come forward.

Sir, before you start, I just need you to please come forward and if you could state your name for the record and spelling your first and last name, please.

TOM TIPTON: Tom Tipton, T-I-P-T-O-N. I think that's a very excellent idea what they are presenting here.

CHAIR ANDREA JACKSON: Thank you.

TOM TIPTON: I don't have to get into the details.

CHAIR ANDREA JACKSON: Anyone else that wishes to be heard?

DENNIS JILLSON: My name is Dennis D-E-N-N-I-S J-I-L-L-S-O-N.

And I'm here to represent MIT, the landlord, both the landlord and the abutter of a property right around here. We have been working with Alex and Brian for quite awhile trying to get this concept into this property, so I want to come here and support them as the -- as an abutter for MIT and of course as a landlord too.

CHAIR ANDREA JACKSON: Thank you very much.

POLICE COMMISSIONER ROBERT HAAS: Mr. Jillson, when you say "abutter," you actually physically live next to the restaurant?

DENNIS JILLSON: MIT is the abutter.

POLICE COMMISSIONER ROBERT HAAS: Oh, okay. When you said "as an abutter," I'm trying

to figure out what building --

DENNIS JILLSON: I have been working at MIT for 17 years.

MICHAEL SCELFO: He's the one that's gonna be living there.

CHAIR ANDREA JACKSON: Anyone else who wishes to be heard in this matter?

Seeing none, I think it is a very interesting concept. I think it will be a nice addition to the neighborhood. So based on that, I would like to make a motion that we approve HSA Food Park with Alex Tannenbaum, as the manager, with a new wine and malt restaurant license with the hours of 11 to midnight, Sunday through Wednesday, 11 to 1 Thursday through Saturday, for the inside, is that correct, and with a review in six months.

EXECUTIVE DIRECTOR ELIZABETH LINT: Six months from opening?

CHAIR ANDREA JACKSON: Six months from opening, yes.

FIRE CHIEF GERALD REARDON: And we are clear on the inside and outside?

CHAIR ANDREA JACKSON: In terms of the seating capacity?

FIRE CHIEF GERALD REARDON: Yeah.

CHAIR ANDREA JACKSON: With a seating capacity of 90 interior seats and 82 patio seats. The interior having 90 seats, 8 standing.

POLICE COMMISSIONER ROBERT HAAS: For clarification, when we say you are going to close the outside at 12 midnight, does that mean the trailer closes its operation as well? Or you are just not going to have food served outside?

ALEX TANNENBAUM: The latter.

BRIAN LESSER: The latter. No food outside.

POLICE COMMISSIONER ROBERT HAAS: So the

trailer will still be functioning?

BRIAN LESSER: Still be functioning.

POLICE COMMISSIONER ROBERT HAAS: What is the access from the trailer back into the restaurant?

BRIAN LESSER: You will see --

ATTY KAREN SIMAO: On this floor plan --

ALEX TANNENBAUM: A direct connection.

ATTY KAREN SIMAO: It is a direct. You will see --

POLICE COMMISSIONER ROBERT HAAS: I see the doorway, so I'm trying to figure out, I mean, you have a kitchen in the interior space, what would you be using the trailer for to support your interior operations? I'm trying to figure out --

BRIAN LESSER: A finishing line.

ALEX TANNENBAUM: The whole kitchen flows together. The interior, the exterior is all

needed for the kitchen.

BRIAN LESSER: So it all sort of flows from one --

ATTY KAREN SIMAO: So if you think of some of the open kitchen concepts that you see that looks like a bit of a traditional square, that finishing line that is usually with the customer seen sitting there, that's really the function of this, so it is configured more as a rectangle instead of a traditional square and the end piece of that rectangle being the finishing line.

CHAIR ANDREA JACKSON: Are you all set?

POLICE COMMISSIONER ROBERT HAAS: I'm good.

CHAIR ANDREA JACKSON: A motion's been made, is there a second?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor

signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIR ANDREA JACKSON: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIR ANDREA JACKSON: Congratulations.

ATTY KAREN SIMAO: Thank you very much.

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APPLICATION: CHIANG MAI TAI CAMBRIDGE,

INC. D/B/A CHIANG MAI THAI

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application Chiang Mai Thai Cambridge, Inc.,
d/b/a Chiang Mai Thai, Kevin Morrall, manager,
has applied for a common victualler, license to
be exercised at 100 Cambridgeside Place.

Said license, if, granted, would allow
food and nonalcoholic beverages to be sold,
served, and consumed on said premises inside the
Cambridgeside Galleria Food Court.

CHAIR ANDREA JACKSON: Anyone here?

EXECUTIVE DIRECTOR ELIZABETH LINT: He did indicate to me when I spoke to him about changing the date, that he might not be able to make it because he's coming from out of state.

CHAIR ANDREA JACKSON: Okay, let's put it on the end the agenda. There's no need to keep everyone here waiting. We'll just come back to it at the end. If he shows up, then we'll address it then.

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APPLICATION: CHAZUMBA, LLC, D/B/A

FELIPE'S TAQUERIA

EXECUTIVE DIRECTOR ELIZABETH LINT:
Application: Chazumba, LLC, d/b/a Felipe's Taqueria, Thomas Brush, manager, holder of a common victualler license at 21 Brattle Street has applied for a new all alcoholic beverages restaurant license at said address.

The current approved common victualler

hours are 8 a.m. to 2 a.m. seven days per week.

ATTY. KEVIN CRANE: Good afternoon, Madam Chairman, Commissioners. My name is Attorney Kevin Crane, K-E-V-I-N C-R-A-N-E. I represent the petitioner. To my left is Thomas Brush, B-R-U-S-H, and to my right is Felipe Herrera, H-E-R-R-E-R-A, and he's the Felipe of Felipe's Taqueria.

First of all, administratively I have my affidavit and green cards.

Madam Chair, as you know, we have been before you before a couple times and obtained our certificate of a common victualler license for the premises over the past few months. The previous occupant at the premise was Bertucci's restaurant who vacated in August of 2013.

My client has performed extensive renovations on the site. I was in there Tuesday actually, and it was striking to me what he's

done on the inside and the deck in comparison to what has been there before.

As you know, we had to wait a number of months before we could apply for any sort of pouring license in that the Bertucci's license was still attached to the premises and the two licenses could not be attached to the same premises even though we had control of the premises.

As far as my client's history in the industry, he's operated his establishment on Mount Auburn Street for ten years. He vacated last March. He also is the manager of record at Flat Patties, which is a couple doors down from this particular location, which I believe is the only malt beverage-only pouring license in the city. But he's been the manager of record there since it opened probably five or six years ago. Maybe more.

He's also been manager of record at a number of restaurants that he previously owned in New Orleans. He's not owner of any those restaurants anymore, but he was a manager of record, all alcoholic licenses, and never had any disciplinary problems with them.

So he's been under the jurisdiction of this board for at least ten years on Mount Auburn Street with his common victualler license and Flat Patties for a number of others years.

As far as this particular location goes, the floor plans which we submitted are the same floor plans that were submitted in conjunction with the common victualler application.

It calls for 62 seats on the first floor, which includes bar seating of 20 seats, 48 seat new mezzanine section, and 60 seats on the seasonal roof deck which includes 12 bar seats.

EXECUTIVE DIRECTOR ELIZABETH LINT: How

many?

ATTY KEVIN CRANE: 60 which includes the 12 bar seats on the deck. Also there will be 12 outside seats on the sidewalk similar to what Bertucci's previously had.

Among the plans we submitted in conjunction with this application and the common victualler's application clearly showed that the roof deck has seats.

There seems to have been some question about whether there were going to be seats out there and just have bar rails, and I'll talk in much greater length about bar rails as we go along.

But I do want to submit for the record renderings regarding the -- additional renderings regarding the roof which show in greater detail the existence of the seats.

POLICE COMMISSIONER ROBERT HAAS: So you

are saying Bertucci's did, in fact, operate seats on the roof prior?

ATTY KEVIN CRANE: Did not, no. The roof aspect of the operation, Commissioner, is totally new.

As you can see from the renderings, there are seats there on both of them. The seats have not been put there yet, and maybe that's why we got this fantasy of bar rails. The construction is ongoing up there.

We're going to have panels covering where the seats are and also there will be an eight-foot barrier in the area closest to the abutting office building, which will hopefully deaden some of the noise issues.

As far as the menu is concerned, I'll submit another set of the menus. But it is the same ones that have been submitted before. Do you want them?

EXECUTIVE DIRECTOR ELIZABETH LINT: Not if I have them.

ATTY KEVIN CRANE: You do have them. It is the same menu. It is the same menu Felipe's operated on for the last ten years.

We anticipate that 15 percent of the sales will be associated with malt beverage, wine, and all alcohol, and that half would be -- half of that 15 percent would be wine and beer sales and the other half all liquor sales.

I would emphasize to the board that on entertainment we are only requesting two TV sets, and music at or below conversational level. That is a dentist's office standard in my mind.

As far as the two TV sets, one will be on the first floor and one will be on the second floor.

The one on the second floor won't be there all the time. There will be no TV set on

the roof deck.

FIRE CHIEF GERALD REARDON: Second floor is what you referred to earlier, counselor, as mezzanine?

ATTY KEVIN CRANE: Mezzanine, that's correct, Chief.

So, again, a concern about noise with the TV sets there, I think that's more of a drinking atmosphere, but there won't be any TV set up on the deck.

As far as the criteria that the board requires on a petition such as this, the first factor is whether existing licenses that are inactive have been pursued.

I spoke with the broker now that has the ManRay license and I spoke with the attorney that represents the Western Front, those two licenses are both asking price in excess of \$200,000.

Tommy Doyle's, which is on Winthrop

Street is also inactive but the landlord there wants to preserve that license as best he can for that site, and I also spoke with the proprietor of HiFi Pizza and the price there on that one is in excess of \$100,000, and that's only a beer and wine license, and the capacity attached to that license is only 50 seats.

If we had to pay for a license, the cost would go up. My client is trying to keep within his business model, prices moderate, he's been very successful doing that, and he's had a successful business. He wants to keep it affordable. He's not the deep-pocket operator that could go out and purchase a license based on availability of credit. So it is really a small operation, it is mom and pop, but it is Tom and Felipe.

The second criteria is whether there's a need for this type of establishment. First of

all, as far as the roof deck is concerned, the only other roof decks that I'm aware of in Harvard Square are the Daedalus restaurant, which is on the western end of The Square and also the nightclub there, that Sinclair place, I have never been in there, but it abuts our premises. And those are the only two roof decks that are in Harvard Square.

This is a Mexican-style restaurant, and based on the present business that we're doing in Harvard Square, it would seem that there would be a continuing need for this type of establishment. At its present location, as you might be aware, they are out the door. And, Madam Chair, I know you in the past have asked my clients in a situation like this whether beer and wine versus alcohol, and I think it is a very good question, and in anticipation of that, I would submit with a Mexican restaurant, people think of Margaritas.

As far as the business model is concerned, we really would need the all alcohol to supply a Margarita, which is the full Mexican-style restaurant experience.

The final comment I want to make on need is, I want to reference the existing regulations of this board. And under Addendum D, subparagraph 5, which is still a pertinent regulation, Addendum D pertains to the written policy on liquor and entertainment licenses in Harvard Square Central Square and Massachusetts Avenue between said Squares. And subparagraph 5 states "Applications for one-day licenses in warm weather, outdoor extensions of premises shall generally be reviewed in an ordinary fashion and not with rigorous searching and detailed examination. The Commission acknowledges that one-day liquor and entertainment licenses and seasonal outdoor extensions of premises generally

fulfill an extraordinary public need not otherwise fulfilled." So it is the policy of this board that roof decks supply a satisfied and extraordinary public need.

As far as the third factor, which is that there will be no harm, I think my client's history as far as his capacity of an operator would go towards the point of no harm, and as far as benefit goes, again it would be an expansion of a small business supplying a positive economic development, just as in the previous case, counsel referred to it, is an issue that, I think, the board should take into consideration.

As far as this public support, I do have a set of petitions here of names signed and support, it has been in the restaurant for the past month or so, and I would like to submit that. I believe there's approximately 700 signatures to the petitions.

I believe there's also some letters of support in the record. I'll leave that to the Executive Director.

EXECUTIVE DIRECTOR ELIZABETH LINT: She took my file.

CHAIR ANDREA JACKSON: I'm going give it to you in one second. I just had a question.

FIRE CHIEF GERALD REARDON: Counsel, the roof deck, what is the distance for a setback from the parapets at the front of the building, I'm just wondering, roughly?

TOM BRUSH: I would say approximately 20 feet. 15 to 20 feet.

FIRE CHIEF GERALD REARDON: There's no visual from the street of this deck whatsoever really?

TOM BRUSH: No, not from the street, no. And if you get way back, there's like a little triangle park that's over by Citizens Bank. If

you get further back, you can get perspective, but there's a perimeter, there's a 42-inch high wall around it, and we did go over that at great length with the Historical Commission in getting that approval.

FIRE CHIEF GERALD REARDON: And the exits, there are two exits on the roof deck?

TOM BRUSH: Yes.

FIRE CHIEF GERALD REARDON: One down the interior stair, is it, and one to the rear of the building?

TOM BRUSH: That's correct, there's a fire escape being installed.

FIRE CHIEF GERALD REARDON: Because that doesn't exist today?

TOM BRUSH: It is in the process. It will be completed by next Wednesday.

FIRE CHIEF GERALD REARDON: When those people get to the base of that stair, there's

clear access for them to egress the area, they are not blocked in by a chain-link fence or other appurtenances?

TOM BRUSH: No. It's -- there's a street that goes right up Church Street.

FIRE CHIEF GERALD REARDON: So they'd have clear access?

TOM BRUSH: Yes.

FIRE CHIEF GERALD REARDON: Thank you.

And there's no cooking equipment on the roof deck?

TOM BRUSH: None. No. None whatsoever.

FIRE CHIEF GERALD REARDON: Is there any -- are any of these buildings required to have fire protection up top in terms of the alarm system, just the --

TOM BRUSH: This has pull stations up there. There are siren and horn -- outdoor ones. One on the exit going downstairs, one just before

you get to the corridor to take the fire escape downstairs, and there's also one in -- there's a fully accessible elevator going to the roof, which also has a pull station inside there as well, emergency lighting, everything, all the requirements for the fire safety.

POLICE COMMISSIONER ROBERT HAAS: We didn't talk about the rooftop during the CV license application, did we?

ATTY KEVIN CRANE: Excuse me?

POLICE COMMISSIONER ROBERT HAAS: We didn't talk about the rooftop, the proposal for the rooftop when you were here for a CV license?

ATTY KEVIN CRANE: Yes.

POLICE COMMISSIONER ROBERT HAAS: Did we talk about that?

ATTY KEVIN CRANE: We had two stages, Mr. Commissioner. The first one included the roof deck, but we had an issue with the handicap

access. And then once that got resolved the elevator was constructed and we came back to ask the CV to be extended to the roof deck.

POLICE COMMISSIONER ROBERT HAAS: So we approved the rooftop already?

CHAIR ANDREA JACKSON: Right. We've already approved the rooftop.

ATTY KEVIN CRANE: The roof deck has been approved for food, yes.

CHAIR ANDREA JACKSON: You are not going to have any entertainment? I'm sorry, counsel. You are not going to have any entertainment, no TVs on the roof deck, no music?

ATTY KEVIN CRANE: There will be music at or below conversation level.

CHAIR ANDREA JACKSON: I'm sorry, you were going to say before?

ATTY KEVIN CRANE: Just as far as the support goes, I believe that there are letters in

there from Councillor Cheung maybe in addition to Councillor Carlone's previous comments. I believe Frank Kramer and Dan Hogan from Passim restaurant, rank and file members of the business association submitted letters. I believe Denise Jillson also submitted a letter of support.

And just finally on the public support issue, again I refer you to the regulation regarding overriding the cap, and it would be for so called mom-and-pop operations or those catering to food-oriented, nonbar and nonentertainment operations. Again, I believe that my client suits that standard to a tee.

Finally, Madam Chair, I would like to respond to some of the points that Mr. DiGiovanni submitted in his letter.

Mr. DiGiovanni and I have been discussing these issues over the past two weeks or so. In his letter he refers to the bar rails, and he has

pictures attached to his letter of these bar rails. They are totally out of cloth. He's a victim of misinformation or deliberate confusion on the bar rails.

We have not put the seats in yet. The construction is not finished. When the seats go in, there will then be walls underneath these railings. Yes, if you looked at them now, you might see some of them that are standing there. They are not. We've always had the seats presented in any plans.

So there's no bar rails. It is beyond the pale with me as far as him not understanding that we are not going to have bar rails. I know what he's talking about, people standing up with a drink. It's not going to be there.

As far as the bar is concerned, it is a 12-seat bar.

He says it's different from Daedalus and

different from Sinclair, because those two locations don't have the bar out on the roof deck.

I would submit to you that those are differences without substantive distinctions. The Daedalus deck, which I'm quite familiar with, the bar is just inside the door to the deck. I don't know where the bar is in the Sinclair. But we need a service point. It is for safety and circulation.

But having a 12-seat bar up there presents a service point where you could have control over the customers on the roof deck. So I don't think there's any particular problem with having a 12-seat bar out on the roof, where -- what, would it be different if it was just inside a door someplace? Out there would be much better as far as a control point. Also, we would be able to supply beverage to people without going

up and down stairs.

Again, there's going to be at or blow conversation level. There is going to be an eight-foot partition towards Mr. DiGiovanni's building, which will hopefully also deaden the noise.

Also, a little unusual to find a noise situation where it's office -- if it was residential, I would be much more sensitive about what could happen there, but it is an office operation.

Mr. DiGiovanni says that these new tenants want 24/7, 365. I don't know, my office building is kitty-corner to this building, and it is a five-story office building. The place is empty at 6:00. And having said that, I don't mean to diminish his concerns.

And he says in his letter at the end, most importantly, that my client is aware and

sensitive of the surrounding businesses. He has been -- my client has been impressed with these particular issues as far as noise that might come off of the roof deck and other issues as well. And if there is a problem, this board maintains jurisdiction of any particular issues which might arise.

But my client certainly acknowledges the concerns, and he's very well impressed with the concerns of the abutters as far as noise is concerned.

As far as noise is concerned, also, I mean, you have the Sinclair, which I believe is a tenant of Mr. DiGiovanni, and although they have did a lot of work, I know, on preventing and addressing the noise issue within the building, it is still a nightclub. You walk down Church Street at night, people coming out of the nightclub, they are generating noise and lots of

it.

So with that, if there are any questions that we could answer, we would be glad to try and do so.

FIRE CHIEF GERALD REARDON: Do you plan on having any kind of a canopy or something over the seating area at some point? I see the lights strung across and so forth. Do you have an intention to cover that at any point or is that something that will that remain open?

TOM BRUSH: No, I would like to keep it open. And the only idea might be some cloth or umbrellas or something to maybe diffuse the sunlight, direct sun, because there's no plans to put any type of permanent roof or barrier over it at all, and the idea, even over this service or bar area, you know, maybe have some vines or plants but the idea is to keep it open.

That particular area has just a full

view, it's a full open view, almost 300 degrees, sun comes up here and I really want to preserve the openness of the roof deck.

FIRE CHIEF GERALD REARDON: How is the food service -- I assume the food service, prep is the first floor, the kitchen?

TOM BRUSH: Yeah, that's correct.

FIRE CHIEF GERALD REARDON: How do they get all -- serve food to the mezzanine and the roof deck?

TOM BRUSH: All the food is served -- there are two stairs, one goes to mezzanine, from mezzanine up to roof, and that's how the food is brought up.

We also have an elevator. If there was a large group, or quite a bit of food, we would put a cart in the elevator on the first floor and bring it up to the third floor. It is all on grade, so you can come right out of the elevator

and service the deck.

FIRE CHIEF GERALD REARDON: Is this the same stairwell that the patrons use to gain access to the roof deck?

TOM BRUSH: Yes, it is.

FIRE CHIEF GERALD REARDON: And I assume this is fairly wide?

TOM BRUSH: It is quite wide, yeah. It is a full 48 inches. It's not a 3 -- a full 48 inch. It has plenty of room for traffic going in both directions.

FIRE CHIEF GERALD REARDON: Okay, thank you.

CHAIR ANDREA JACKSON: What current alcohol licenses does your client currently have in his name? Is it an all alcohol now or --

ATTY KEVIN CRANE: No.

The only one in his name now is the Flat Patties, which is a couple doors down from this

location, and it's just a malt beverage license. I believe it's the only one in the city that's just malt.

CHAIR ANDREA JACKSON: It's just malt? It's not wine and malt?

ATTY KEVIN CRANE: It's just malt, not wine. Evidently wine doesn't go with burgers. Also, the Executive Director I know agrees disagrees with me on that one. I don't have an opinion on it.

TOM BRUSH: There's also a big bump in the fee. The fee drops going to malt only and going to malt and wine there's a pretty big bump in the fees as well.

CHAIR ANDREA JACKSON: So just malt only is the only one you have?

TOM BRUSH: Exactly.

ATTY KEVIN CRANE: That's correct.

CHAIR ANDREA JACKSON: Ms. Lint, can you

tell me the date that the CV was approved on and then the separate date that the roof was approved on?

EXECUTIVE DIRECTOR ELIZABETH LINT: I think that was all at the same time.

CHAIR ANDREA JACKSON: I thought it was two separate --

ATTY KEVIN CRANE: There were two separate hearings. The first one was in probably January, and the second one, I believe, was in August.

POLICE COMMISSIONER ROBERT HAAS: The seating capacity again?

ATTY KEVIN CRANE: Excuse me?

POLICE COMMISSIONER ROBERT HAAS: The seating capacity on the roof is what?

ATTY KEVIN CRANE: 60.

FIRE CHIEF GERALD REARDON: The outside seats are seasonal on the public property down

there?

ATTY KEVIN CRANE: That's correct.

FIRE CHIEF GERALD REARDON: Permitted by
Public Works?

ATTY KEVIN CRANE: Yes.

FIRE CHIEF GERALD REARDON: That's a
total of 10?

ATTY KEVIN CRANE: 12.

FIRE CHIEF GERALD REARDON: The first
floor is 62. Mezzanine is 48, or did I get that
one wrong?

ATTY KEVIN CRANE: I think that's right.

TOM BRUSH: 110.

ATTY KEVIN CRANE: That's correct?

POLICE COMMISSIONER ROBERT HAAS: So it
is safe to assume, though, if we start to get
noise complaints that you would respond
accordingly?

TOM BRUSH: Absolutely. Absolutely.

Felipe and I are on premises all the time. We are there all the time.

FIRE CHIEF GERALD REARDON: Well, obviously, in terms of the 21 Proof requirement with this number, again, you have to have a crowd manager for this particular location.

TOM BRUSH: Absolutely.

FIRE CHIEF GERALD REARDON: Is the kitchen work being completely done in this renovation?

TOM BRUSH: Yes. It is totally all brand-new everything, the hoods, ansul, fire, and the sprinkler system, or the existing sprinkler system, has all been gone over and updated and we had to reroute some of the heads just to get 100 percent coverage. The scope of the sprinklers are 100 percent.

EXECUTIVE DIRECTOR ELIZABETH LINT: The backgrounds are all in order as well.

CHAIR ANDREA JACKSON: Just if I can go back, in terms of the bar that's on the roof, what is the seating capacity of that?

ATTY KEVIN CRANE: 12.

CHAIR ANDREA JACKSON: What I'm struggling with right now, it may have less to you with counsel and probably more to do with my team, my office, so when this was approved, back in roughly August for the roof, what was the seating capacity when it was approved back in August?

ATTY KEVIN CRANE: It was the same.

EXECUTIVE DIRECTOR ELIZABETH LINT: But it was just for the CV.

FIRE CHIEF GERALD REARDON: Do you have an idea as to when you hope to open?

TOM BRUSH: Three weeks. As soon as the fire escape gets fully installed, that's really the last major piece of the construction and the

rest is just some finishing, but all the mechanical and air conditioning, and the elevator was a huge project, getting that installed and built. And all the floors have been finished. Really, right now, I would anticipate three weeks to have that ready.

CHAIR ANDREA JACKSON: Any questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

CHAIR ANDREA JACKSON: Any other questions?

FIRE CHIEF GERALD REARDON: No further questions.

CHAIR ANDREA JACKSON: Are there any members of the public that wish to be heard on this matter?

Sir, if you could please come forward. If I can ask you to come on this side.

PHIL CUNNINGHAM: Sure.

CHAIR ANDREA JACKSON: It makes it easier for her to hear you.

PHIL CUNNINGHAM: Very well.

CHAIR ANDREA JACKSON: If you could please identify yourself for the record.

PHIL CUNNINGHAM: Sure. My name is Phil Cunningham, P-H-I-L, last name C-U-N-N-I-N-G-H-A-M.

CHAIR ANDREA JACKSON: Please feel free to bring a chair up if you would like to sit.

PHIL CUNNINGHAM: No, I'm fine standing.

So I work with Trinity Property Management. We -- and I'm responsible for leasing and management of 50 Church Street, which is the building which is -- directly abuts the roof deck.

I think we have a letter on record expressing our concerns, so I will make my -- or I'll attempt to make my comments brief. John

would like to have been here, but he had a conflict.

So, you know, we have two primary concerns. The first has been identified, which it is the design of the roof deck, and so we can talk about fantasy drink rails but if I look out my window and they are built there, 2, if you look on the plan that I have seen, they are labeled drink rails, so that says in my world, it doesn't turn into the realm of fantasy. I don't -- if you can go and touch and feel it and it is labeled such on a plan, that strikes me as pretty real.

And with respect to the seating that's there what I guess I have a challenge with is, why are there drink rails if there's seating there? What is the purpose of the drink rails in the current floor plan and configuration?

And let's be clear, we are all for

outdoor dining. This isn't an issue of objecting to outdoor dining per se.

As was indicated, we have an outdoor patio and roof deck at the Sinclair, we were supporters of the Daedalus license when it came up years ago. We are on record supporting outdoor dining.

But our sense is that, you know, with the configuration as it currently is that this is more of a bar atmosphere than an outdoor seating atmosphere.

I have not seen what you are looking at, so I don't know what that is.

For me, it is difficult to reconcile, you know, no other roof deck patio, as far as I know, in Cambridge, and certainly not Harvard Square, has a bar on it.

And I disagree. I actually think that's a material difference from the Sinclair roof deck

and the Daedalus roof deck. I think it creates a different atmosphere.

It makes me think of a place that I used to go to back in my younger day in Boston where it was a similar set-up like this, and after a certain hour, there were tables and seats and everywhere else, there was a bar, people went up there to drink. That was the primary purpose of it.

So the design for us is troublesome.

The second concern, which, you know, would be the case, whether it was just seating or its current configuration, although it is exacerbated by its current configuration because I think there's a greater potential for it to become a problem, is ambient music and I think -- and background noise. And I think that operators tend to under appreciate how much of a nuisance that can be for office tenants, and so you can

see the roof deck was built directly below, approximately 15,000 square feet of office space, so, you know, from my perspective having no ambient music there until 8 p.m. at night doesn't strike me as a big ask.

I don't think people are not going to go to the roof deck at Felipe's because there's no background music, so -- and I think to the extent it wants to be played later at night, that it be played, you know, at conversation level, you know, at a very low decibel.

So those are our two concerns; the design, and the sense it will be more a bar, drinking atmosphere, and that that creates a level of noise that will become a nuisance for our office tenants who are within spitting distance of the space, and then just general ambient noise until 8 p.m.

With all that being said, if the

Commission in its discretion decides that moving forward with a license in any capacity is a prudent path, our concern is that in a world where there's a violation and a cure and a violation and a cure and a violation and a cure, we get calls from tenants complaining about that and our credibility starts to go down and then the space starts to get a reputation and then it becomes unleaseable and then have been done, you know, irreputable harm.

So to the extent that there's any license -- there's any license issued in any form, that I express those concerns here clearly and state for the record the challenges of remedying it and how that gets done.

CHAIR ANDREA JACKSON: Thank you.

Any questions?

POLICE COMMISSIONER ROBERT HAAS: No.

CHAIR ANDREA JACKSON: Any questions?

FIRE CHIEF GERALD REARDON: No.

ATTY KEVIN CRANE: Could I respond to that?

CHAIR ANDREA JACKSON: Hold on one second.

I think we have someone else who wants to speak.

GARY DOYLE: My name is Gary Doyle,
G-A-R-Y D-O-Y-L-E.

I'm here as one of the owners as the property and just --

CHAIR ANDREA JACKSON: Owners of which property?

GARY DOYLE: The property -- we are the landlord, or I am one of the landlords. And just want this group to understand how proud we are of Tom and what he has done with the piece of property that was Bertucci's, and it was a mess, and it has now been turned into something that

The Square can be very proud of for a restaurant and we look forward to 20 years with his tenancy in that space.

CHAIR ANDREA JACKSON: Thank you.

Is there anyone else that wishes to be heard on this?

Counsel?

ATTY KEVIN CRANE: Violation and cure? Pure speculation. Trying to make something out of cloth. What if the Sinclair, what if the Beat Hotel, if they have violations incur, same problem. You have to look to the history of the operator.

They have not had any violations for over -- they have been in business in Harvard Square over ten years. They've had no need to cure. So throwing that out there is a like a bit of mud against the wall.

As far as the drink rails go, I would

like to know what plan that gentleman refers to when he said it was specifically designated as a drink rail.

Any plan that I have submitted and my client submitted to this board shows the chairs.

PHIL CUNNINGHAM: Is there a question as to whether or not it's labeled drink rail?

Because I have that same --

CHAIR ANDREA JACKSON: You can submit it through me, please.

PHIL CUNNINGHAM: Okay, this is the plan I have. I don't have my glasses, so you can see --

CHAIR ANDREA JACKSON: Okay, yup, I can see.

PHIL CUNNINGHAM: You can see?

CHAIR ANDREA JACKSON: Uh-huh.

PHIL CUNNINGHAM: So my question is this, which is --

CHAIR ANDREA JACKSON: Do you mind if I
circle --

PHIL CUNNINGHAM: No, no. Mark it up.
So my question is this, which is, my
understanding is this, this is labeled a drink
rail. This plan is actually, you know, again,
the most recent plan, but this is sort've labeled
as a drink rail here. This actually looks like a
drink rail, although it's not. It's not labeled
as such, but my question is this, why is there a
need for a drink rail here if there's seating
here? I don't understand that. What is the
purpose of having a drink rail here if there's
seating here? Same here. Same here. Why would
you have a drink rail there?

ATTY KEVIN CRANE: Without even looking
at the plan, I think Mr. Brush can explain that.

TOM BRUSH: I just want to -- there are
-- the perimeter of this space and of this deck,

this is elevated, it's about three or four feet off the roof, and that's to enable -- to protect the actual roof, and if the roof needs to be resurfaced or covered, so there's a -- you know, if you walked off the deck, you would drop down about three feet.

So in building a railing, we really wanted to create some depth to it, No. 1, and some substance to it. And also in terms of table service there, I'm talking about clearing plates, whatever, any kind of surfaces that we can create up there, we are doing, but this was not designed as a bar rail.

It's -- perhaps the architect at one point in one version of this, and I'm not sure what version of the plans this is right here, but we certainly are not operating this as a watering hole bar up on the roof.

Felipe's has always been about the food.

All of my restaurants are less than -- 15 percent or less of sales are alcohol. We are about the food. And this is -- anyone who is up on the deck is eating and drinking.

We are not just -- we are not a bar. We don't operate as a bar. When we sell alcohol, we're selling food.

POLICE COMMISSIONER ROBERT HAAS: Are those railings already installed on the deck?

TOM BRUSH: Yeah, there are railings up there that you can see.

POLICE COMMISSIONER ROBERT HAAS: What is the contour of the top of that railing? Is it flat?

TOM BRUSH: It is a flat surface up there. If you wanted to set something down there, you could.

But just because there's a flat surface on top of the railing doesn't mean that -- and if

you look at the seating plan, there is not -- we got tables next to sections of the railing, but certainly people who go up on the deck, and even people sitting down, may want to stand up and take a -- I mean, it's a spectacular view, it is a very wide open area and there's no reason that someone isn't going to be able to walk around, but the seating and food and service is all done at the table. There's no service at a bar rail.

POLICE COMMISSIONER ROBERT HAAS: So your total capacity on the roof is 72?

ATTY KEVIN CRANE: No.

TOM BRUSH: 60.

ATTY KEVIN CRANE: The 12 is included.
12 at the bar and 48 seats.

POLICE COMMISSIONER ROBERT HAAS: So you would never have more than 60 people on the roof at any given time?

TOM BRUSH: That is correct.

POLICE COMMISSIONER ROBERT HAAS: So you wouldn't allow people to gather and enjoy the view by standing around the rails or something like that?

TOM BRUSH: But if people who are up there who are eating --

POLICE COMMISSIONER ROBERT HAAS: But that means they won't have any seating.

TOM BRUSH: If they want to come up, they walk up on the deck, they love to see where am I, you know, and take a look, so certainly there's going to be circulation around the perimeter.

But one of the reasons to keep that depth is to really make it more of a barrier also. I mean, as I said, it's a four-foot drop if you were to step off. There's bars that go across between the posts, there's bars every four inches so someone can't slip through it, but there's

visibility through it.

And again, how that roof is operated, I don't care if it's seats, it's how the owner operates his business, that's really ultimately -- you can have just tables up there, forget bar rails, if you want to call them bar rails, and if people want to sit down at tables and drink and party, they are going to do that. It depends how you operate your business.

Felipe and I have absolutely no intention, and the other restaurants that we have operated, it just doesn't happen. It's not how we run our business. It will never happen.

CHAIR ANDREA JACKSON: So do you understand that the concern, though, that when looking at these plans, I have my glasses on and this is a challenge, it's dated December 20, 2013, that I see at least two spaces that is identified as wood railings with drink rails.

ATTY KEVIN CRANE: Can I see that,
please?

CHAIR ANDREA JACKSON: Sure.

TOM BRUSH: I think at various points the architects have -- this plan has been going on for seven or eight months, and that is not to say that at some point the designer on here is putting stuff -- putting railings around there, and he may have referred to it as bar rail on there. I'm not saying -- but the way we have set up the seating and applied and set up the license, that's not what we're doing.

This was never designed to have this thing be an open bar up on the roof.

ATTY KEVIN CRANE: First of all, as far as this plan is concerned, it shows the seats which would prevent anyone from going standing on the rail.

As Tom says, this was a working plan.

December 2013. This was before anything was ever submitted to this particular board, and the plans that we have submitted to this board never indicated this is a drink rail.

The seats are there, and the seats on the plan that we submitted to you, quite frankly, are a little bit different, the set-up is a little bit different than what this working plan has been -- wherever he got it from, has been forwarded tonight.

TOM BRUSH: There are two complete revisions on the plans that were done after this date. One, including the elevator, that was put in because there were no elevators. We didn't have the exact revisions, but we had -- there have been revisions on it, so just because it has --

ATTY KEVIN CRANE: This plans shows 15 seats at the bar.

TOM BRUSH: Yeah, this has more seats.

POLICE COMMISSIONER ROBERT HAAS: But
this is a picture of what it looks like in terms
of --

TOM BRUSH: That is correct. Yes, that's
right.

ATTY KEVIN CRANE: That's the way it
looks today, Commissioner, but the seats, when
you put the seats on, you can't get access to the
rail.

POLICE COMMISSIONER ROBERT HAAS: I think
what's got us concerned is the width of this bar
that you have around the deck and how it's gonna
be used.

ATTY KEVIN CRANE: That's right.

FIRE CHIEF GERALD REARDON: So there
won't be counter seats sitting there?

TOM BRUSH: No.

FIRE CHIEF GERALD REARDON: Patrons won't

be served at those?

TOM BRUSH: The only stools that are at bar height are at the bar. That's it. There are no other bar stools anywhere.

All the other seating is at normal dining height, which is --

FIRE CHIEF GERALD REARDON: That's the 12 at that --

TOM BRUSH: That's correct.

ATTY KEVIN CRANE: Just a final comment on what Mr. Cunningham said. My client would be willing to, on the conversation level, at or below conversation level, on the deck to have it not apply until 8:00. It's reversal of what we're usually trying to do because of being an office.

TOM BRUSH: That's fine. What's interesting is those are inoperable, sealed insulated windows in that building. I mean,

there absolutely no way -- it's a brick building with sealed insulated windows. Any sound that might come out, it wouldn't be any louder than the other operating ventilation equipment that's on the roof that's existing right now.

I mean, I really don't feel the music that we would play at or below conversation level would be no louder than the ambient noise you are getting from all the rooftop equipment that exists up on the roof currently.

PHIL CUNNINGHAM: I mean, I can understand that perception, but in reality it is quite different. You can get a fair amount of noise through there.

CHAIR ANDREA JACKSON: Counsel, if I heard you correctly, you said you would be willing to change that timing in terms of when the ambient music would be played?

ATTY KEVIN CRANE: Yes, it wouldn't be

played until 8:00, only after 8:00.

FIRE CHIEF GERALD REARDON: Do you already have a sound system purchased for that? Is it already installed?

TOM BRUSH: I have not wired speakers up to that area of the restaurant. I have not hooked up the speakers up there. These are, by the way, these are 70 volt. This is not a powerful -- it is a very, very -- strictly listening level, it's background music is all, and I would only have two speakers on the entire deck. That's it. Just two round, like eight-inch round that would on the corners of the service or bar area, and that's it.

And directly across from those is an eight-foot wall, a partition, between -- which is probably about 12 feet off of Trinity's building. So there's an actual wood barrier between the two, which I would think would do a lot to also

soften it.

And again, if there were any kind of a problem, if my neighbors complained to me, I'm the first guy the world, turn it off. I mean, I'm not out -- I'm a good neighbor and I would comply. I'm not looking to offend my neighbors.

POLICE COMMISSIONER ROBERT HAAS: If I understand what you are saying, you are going police this area to make sure it doesn't become exclusively a bar hang-out area?

TOM BRUSH: Absolutely. This area will be attended to 100 percent of the time, which is one of the reasons I know that Mr. Cunningham had indicated that Daedalus and the Sinclair don't have bars, but they are on the same level. There's no -- you don't have to go up a set of stairs to get that area. They are on the same level as their dining room and/or bar.

This is on a whole separate level. We have to have a service area from which to operate and to supervise and oversee everything going up on the deck, and there will not be a moment that that deck is open that we don't have staff up there, and you know, I mean managers up there actually regulating what is going on there.

FIRE CHIEF GERALD REARDON: You said earlier that the ratio of food service to alcohol is 85 percent food to approximately 15?

TOM BRUSH: There are a number of restaurants where it can be as high as 50 percent. You have almost a 50/50. But Felipe's has been, and even those venues that were opened up down in New Orleans, our food ratio of liquor to food sales is 15 percent, right around 15 percent average between all the restaurants.

CHAIR ANDREA JACKSON: Again, no cooking outside or anything like that?

TOM BRUSH: No.

CHAIR ANDREA JACKSON: No candlelight or no lights hanging? Lights; but no candlelight, no open flames?

TOM BRUSH: No open flames, no.

CHAIR ANDREA JACKSON: Any questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

CHAIR ANDREA JACKSON: Any other questions?

FIRE CHIEF GERALD REARDON: No further questions.

EXECUTIVE DIRECTOR ELIZABETH LINT: For the record, as Mr. Crane indicated, we do have a letter in support from Councillor Cheung saying for over ten years Felipe's has been serving servicing the City of Cambridge's citizens and others at its former Mount Auburn Street location. Operation of the former site was

without incident or any problems. They have been an outstanding operator. And he thinks this would fulfill an unmet public need without any harm.

There's also a letter from Ms. Jillson of the Harvard Square Business Association and also in support of the application.

And Frank Kramer, who says he's also in support. As a Cambridge resident of Cambridge he's actively involved in city affairs and a former business owner Harvard Square, I'm writing to express my support for this application. As the hands-on owner and operator of Flat Patties on Brattle Street and Felipe's on Mount Auburn Street for many years, Tom has already demonstrated his integrity and his ability to successfully run locally-owned businesses that contribute positively to the life of Harvard Square and the City.

And also from Dan Hogan, who is the Executive Director of Passim. He says he has deep concerns about how Harvard Square develops and would only give a positive recommendation to a business that I thought would be a positive force for the City of Cambridge.

I have known Tom for many years. I have frequented the restaurant he current owns many times, Felipe's in its old location and Flat Patties on Brattle and Crema Cafe also on Brattle. Tom runs a tight ships. He pays attention to detail and he cares about safety and operating within the rules and regulations that the city has adopted. A quick tour of his kitchen will demonstrate the care he's taken with the preparation and serving of food.

The Felipe's that Mr. Brush is developing will be a valuable addition to The Square. It's roof deck view of The Square will give many

customers a new appreciation for The Square.

That's all I have.

CHAIR ANDREA JACKSON: Can I make a motion?

POLICE COMMISSIONER ROBERT HAAS: No further questions.

FIRE CHIEF GERALD REARDON: No questions.

CHAIR ANDREA JACKSON: Based on the testimony that I have heard today, and the fact that Mr. Brush only has one other license in his name, and that being a malt only, which I didn't know we issued, I would make a motion that we approve the application for Chazumba, LLC doing business as Felipe's Taqueria, Tom Brush, manager, holder of a CV at 21 Brattle Street for an all alcoholic beverages license at 21 Brattle with the hours as previously approved under the CV license, which is 8 a.m. to 2 a.m., is that correct, seven days a week?

TOM BRUSH: That's correct.

CHAIR ANDREA JACKSON: With the outside patio only playing below conversation music from 8 p.m., and I would actually probably -- there's no residential, correct, right through there?

ATTY KEVIN CRANE: No.

CHAIR ANDREA JACKSON: So 8 p.m. to closing with a six-month review because I would like you to come back before the board in that event that there are issues with your abutters, I would like to be able to hear about them.

ATTY KEVIN CRANE: That's fine.

CHAIR ANDREA JACKSON: And in the meantime if there are issues with the abutters, if I do get a second and this is I approved, if there are issues with the abutter, I would expect you to be a good neighbor and try to work it out before coming here.

TOM BRUSH: Absolutely.

CHAIR ANDREA JACKSON: Is there a second on the motion?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIR ANDREA JACKSON: You are all set.

ATTY KEVIN CRANE: Thank you.

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APPLICATION: TOM TIPTON D/B/A OUT OF THE

BLUE TOO

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Tom Tipton d/b/a Out of the Blue Too, has applied for an antique store license at 541 Massachusetts Avenue.

Said license, if approved, will give permission to be a dealer in and keeper of a shop for keeping, purchase, storage, or sale of

secondhand furniture, bric-a-brac, art, objects, paintings, jewelry, or antiques. Applicant is also applying for an entertainment license to include light show, dancing exhibition, reading of poetry and other works, live music with application, and background music.

HOPE ZIMMERMAN: Do you guys want the floor plans?

CHAIR ANDREA JACKSON: With you is Tom Tipton?

HOPE ZIMMERMAN: This is Tom Tipton.

TOM TIPTON: Tom Tipton, T-I-P-T-O-N.

CHAIR ANDREA JACKSON: Mr. Tipton, are you the owner of Out of the Blue?

TOM TIPTON: Yes.

CHAIR ANDREA JACKSON: Ms. Zimmerman, your relationship to Out of the Blue?

HOPE ZIMMERMAN: I'm his new business partner.

Out of the Blue Gallery has had a small like 5 to 600 square foot space on Prospect Street.

CHAIR ANDREA JACKSON: Feel free to sit. If you could just speak up, that's the only thing I ask.

HOPE ZIMMERMAN: All right. On Prospect Street for 17 years he's been in operation and he has been helping the under-privileged art community for the extent of that time doing small shows, poetry readings, storytelling, basically opening his doors to anything artistic to help people give a safe place to express themselves.

He was recently pushed out of that home by the rent tripling, and then we have been basically subsidized by Morris Magar (phonetic) of 541 Massachusetts Avenue, which used to be the Blockbuster building, to move in there at a decent rent on a month-to-month basis until he

gets the licensing to tear the building down and rebuild condos, which is what he has been trying to, which is why that space has been empty so long.

What we are basically doing is the same as the old gallery has been except on a bigger scale because now we are working with 58,000 feet versus the 500.

TOM TIPTON: 5,800.

HOPE ZIMMERMAN: 5,800. Excuse me.

TOM TIPTON: 58,000 next year.

HOPE ZIMMERMAN: So what we are looking to do with that expansion is obviously we have more artists showing at a time, we have had an instant response to the community, people love that we are there, constant traffic coming in to look at the art, and we would like to have music, again, poetry readings, the storytelling that we've always had.

We've also had someone recently approach about doing a youth open mic night, which we are hoping to be able to host as well. We're gonna start youth programs teaching all kinds of art, music, and whatnot as well.

And in order to do that, we need to get our entertainment license to host all these events.

CHAIR ANDREA JACKSON: Have you received an occupancy certificate from Inspectional Services?

EXECUTIVE DIRECTOR ELIZABETH LINT: They have signed off for entertainment at the space and for selling of antiques, but they did not give any numbers.

HOPE ZIMMERMAN: The occupancy should be on the blueprint I just passed over. We have three different settings for occupancy. 300 for standing, 142 for seating, and 66 for tables and

chairs.

We don't really expect to ever get to that 300 full capacity, but it is nice to have it, but again, it is not really something that we are pushing to actually go near.

FIRE CHIEF GERALD REARDON: Is this building fully sprinklered?

HOPE ZIMMERMAN: It does not have sprinklers. If we had a springer system, he said our occupancy would be like 1,200.

FIRE CHIEF GERALD REARDON: You need a sprinkler system over 100.

TOM TIPTON: The architect gave us 290.

HOPE ZIMMERMAN: He said under 300 that you don't need a sprinkler system.

FIRE CHIEF GERALD REARDON: He doesn't make those rules.

HOPE ZIMMERMAN: No, no, no, that's just what we were told. He said he looked into it,

and that's what he found.

FIRE CHIEF GERALD REARDON: This comes under the nightclub standard, even though you are not a nightclub per se. It's occupancy.

If occupancy is over 100, tables, chairs, dancing area, music, and so forth, it comes under the statute for a sprinkler system over 100 occupancy.

TOM TIPTON: He's waiting for A3 is what he said.

HOPE ZIMMERMAN: It's 3 --

TOM TIPTON: Use group A3.

HOPE ZIMMERMAN: Use group A3.

TOM TIPTON: Regarding the things like music and such, it's that's not something we plan on doing every night.

Mainly I think it is the assembly of more than 25 people, we have the poetry readings, storytelling, we have sometimes classes.

Regarding like the music, which you would tend to find in a nightclub, we are only looking for probably Friday and Saturday and an occasional Thursday or maybe an occasional Wednesday, not something we plan on doing every night for sure.

One thing we don't want to be is a nightclub. There are plenty of those.

FIRE CHIEF GERALD REARDON: Again, the statute refers to that, but it's a broad base, so it could be -- it applies to Knights of Columbus, a broad base of things.

If you are having music, reduced lighting, tables and chairs, and so forth, over 100 occupancy, so that's -- we can take a look at that, but I just want to make you aware of that.

HOPE ZIMMERMAN: Yeah, yeah, we were misinformed then.

FIRE CHIEF GERALD REARDON: For other type uses where you are not going to have music

and low-level lighting and tables and chairs, so this may not apply, you can have more than 100 people, but it wouldn't --

HOPE ZIMMERMAN: We are always going to have a significant amount of lighting, because we have all of the art on the walls, so if we are open, it's going to be well lit, so the lighting is not going to be that kinda dim nightclub atmosphere ever, even when we do have music. I mean, obviously, we'll have a little bit less lighting in the center but it's always going to be that bright lit all the way around.

FIRE CHIEF GERALD REARDON: I just want to make sure you may, in fact, be falling under this, so I want to make you aware of it.

POLICE COMMISSIONER ROBERT HAAS: How would they verify that?

FIRE CHIEF GERALD REARDON: Well, I mean the biggest thing is entertainment, when you have

music or dancing or tables and chairs, and obviously, reduced lighting would be obviously not as bright as this, so --

HOPE ZIMMERMAN: Uh-huh.

FIRE CHIEF GERALD REARDON: So we would have to take a look at the space and review it and see.

HOPE ZIMMERMAN: Okay.

FIRE CHIEF GERALD REARDON: Generally that falls under that category.

HOPE ZIMMERMAN: So if that was the case, then our occupancy would be 100?

FIRE CHIEF GERALD REARDON: You would have to -- the capacity would have to be 99.

HOPE ZIMMERMAN: Okay.

FIRE CHIEF GERALD REARDON: Right, we'll take a look and review it, but I want to make sure that that may, in fact, apply to this particular --

POLICE COMMISSIONER ROBERT HAAS: You don't necessarily have to change your plans at this point in time. We probably just won't be able to take any action on the application tonight.

FIRE CHIEF GERALD REARDON: The difference is, if it was fully sprinklered, then you can go off that higher number.

HOPE ZIMMERMAN: I mean, on a month-to-month lease we're not really gonna be -- not that we have any money to do the work anyway.

FIRE CHIEF GERALD REARDON: Exactly, and the other thing, as you said, he's looking as short term with this in terms of developing the property, so --

HOPE ZIMMERMAN: We could be there three months or we could be there for three years. We have no idea. It is a little nerve-racking as it is.

FIRE CHIEF GERALD REARDON: Understood.

HOPE ZIMMERMAN: We were trying to get some music in there to try to get more income so we can afford to pay the rent as it is.

TOM TIPTON: A small side note in regards to music particularly in the bigger picture, music is an art, and one of the things that I've always tried to do in the gallery is bring all that art together, mix it up, and grow from there. Put all these people in the same room, artists with a poet and musician, and a lot of what has been dealt with at the previous location is a lot of people don't get the club because they don't get 50 people, 75 people.

There's a lot of good musicians out there that deserve a place to play. A lot of them are artists also.

FIRE CHIEF GERALD REARDON: I don't disagree with you.

HOPE ZIMMERMAN: I do have another question, though. So say you do the inspection, we end up being the 99 capacity, how does that work with like -- so if I am planning on putting together some craft fairs, which will be completely fully lit, middle of the day, does that still stick with that 99?

FIRE CHIEF GERALD REARDON: It probably would not.

HOPE ZIMMERMAN: It probably would not; so the tables and chairs, the 142 would still apply to that?

FIRE CHIEF GERALD REARDON: So tables and chairs, music restrictions where there's items in there and that's generally the category that it falls under. We'll have to take a look at it. I'm not sure exactly, but I just want to make sure in full disclosure that you know at this point.

HOPE ZIMMERMAN: I need to know, because like I said I have no idea because I'm going by what the people that we're working with are telling us. I'm not a lawyer, and unfortunately, we can't afford a lawyer, which is why we're here without one.

FIRE CHIEF GERALD REARDON: We have to look at exit flow, and where the exit doors are and where they lead to and all that for a large capacity.

CHAIR ANDREA JACKSON: Based on that, there are two separate applications. This was one for the antique store license and the one for the entertainment. I would think we can still act on the antique store license and continue the other, if that is the pleasure of the board.

POLICE COMMISSIONER ROBERT HAAS: Is it the pleasure of the applicant?

HOPE ZIMMERMAN: Yes. The antique store

license, the reason we applied for that is kind of just to cover all bases because according to, I think it was Chris in the Licensing Board, because we are selling art, we are protected under the First Amendment where we don't actually need a license to sell the art but we just want to have a license to sell, so we figured that the antique store license was the closest thing to what we're doing, which is why we applied for that.

He was saying that we didn't even need it but I would rather have it and not need it than the opposite.

EXECUTIVE DIRECTOR ELIZABETH LINT: Once you are under the antique license, that brings up reporting to the police department and all types of issues.

CHAIR ANDREA JACKSON: It is a whole different set of reporting.

HOPE ZIMMERMAN: Reporting what?

TOM TIPTON: What is that? A pawn shop?

POLICE COMMISSIONER ROBERT HAAS: Similar to that.

TOM TIPTON: That's not something we are interested in is being a pawn shop.

POLICE COMMISSIONER ROBERT HAAS: So are you taking anything on consignment? Are you buying property for the purpose of reselling property?

TOM TIPTON: The art would is consignment. We have various fees depending what's going, but something we never were was like somebody --

POLICE COMMISSIONER ROBERT HAAS: I mean, I thinking like family antiques?

TOM TIPTON: No, that's not something we have ever done. What might happen is, I might be a yard sale or an antique store and see

something, oh, I like that, we can probably sell that for more than I'm gonna pay for it. Out of the Blue has ever taken someone come through the door, I don't think it's ever happened, maybe once or twice, "I have this from my family's home." "Not interested."

HOPE ZIMMERMAN: We actually had someone come in yesterday that was asking to sell art that he had previously bought from other artists that he didn't want anymore.

POLICE COMMISSIONER ROBERT HAAS: You don't buy anything?

TOM TIPTON: No.

HOPE ZIMMERMAN: No. We're consignment based solely.

TOM TIPTON: We did get a request one time from somebody looking for some jewelry that had been stolen. I said they are not going to bring it here and we're not going to take it if

they did.

HOPE ZIMMERMAN: We don't resell items. We consign handmade items is what we do. But during the craft fair, like once we set up for craft fairs, there might some be people that are going to be selling antique items that are renting tables at the craft fairs, which is another reason why I was thinking the antique might be something that we need just to cover all of our bases.

CHAIR ANDREA JACKSON: Let's go ahead make a motion to continue the whole thing. We can look into it. I just don't want to, if we were to separate it out, approve you for something that gives you a whole set of reporting requirements that comes along with it that you don't need. Because you currently don't that now, is that correct, when you were on Prospect Street?

TOM TIPTON: No.

CHAIR ANDREA JACKSON: Right. So I don't want to make in more stringent and more difficult for you.

HOPE ZIMMERMAN: If we don't need more work, then I'm okay with that.

CHAIR ANDREA JACKSON: You are not doing anything different than you have been doing all these years on Prospect Street.

TOM TIPTON: Exactly.

HOPE ZIMMERMAN: No, it's just a bigger capacity is the only difference that we're doing.

CHAIR ANDREA JACKSON: Based on that, I make a motion that we continue the applications for Tom Tipton doing business as Out of the Blue Too for an antique store license and an entertainment license. Is there a second?

POLICE COMMISSIONER ROBERT HAAS: It's

continued to the next decision meeting?

EXECUTIVE DIRECTOR ELIZABETH LINT:

December 4, 10 a.m.

FIRE CHIEF GERALD REARDON: Looking at this, I mean, it almost looks like you can stay under 100 here with your seating. I mean, you could try to move --

HOPE ZIMMERMAN: With the tables and chairs, it's 66 is what he --

TOM TIPTON: Tables will probably never -- I can't envision us having any reason to put tables and chairs.

FIRE CHIEF GERALD REARDON: If you can stay at a cap of 99 on that, then we can act on it right now.

HOPE ZIMMERMAN: I'll agree to that.

FIRE CHIEF GERALD REARDON: When you talk about close to 300, that's a completely different --

HOPE ZIMMERMAN: That's just what we were told.

CHAIR ANDREA JACKSON: Want to take a look at it just to be on the safe side.

FIRE CHIEF GERALD REARDON: We'll take a look at it. But I mean, if when we're looking at it, we're looking at it as something that's a reasonable number, but a higher number is probably gonna kick in a lot -- it's exits. There's a lot of things that get changed.

HOPE ZIMMERMAN: I'm okay with 100 people.

FIRE CHIEF GERALD REARDON: I want to try to get you --

TOM TIPTON: That would be fine.

HOPE ZIMMERMAN: I would be there manning these things the whole time.

TOM TIPTON: One question, this can possibly work for the 99, I suppose, and the Fire

Department needs to come over and look anyway, I believe.

FIRE CHIEF GERALD REARDON: We need to take a look at this, yeah.

TOM TIPTON: And if it looks like it's okay for more, then we would have a higher-capacity approval at that point possibly?

FIRE CHIEF GERALD REARDON: Highly unlikely.

HOPE ZIMMERMAN: It's looking like 99 will be the final number.

FIRE CHIEF GERALD REARDON: We'll take a look, but based upon what you are telling me it, it's probably that law is going to apply to you.

TOM TIPTON: That would make us really happy and we can really move forward.

FIRE CHIEF GERALD REARDON: It looks as though you don't have that many seats.

HOPE ZIMMERMAN: The seats -- he put that

up as a potential arrangement. We don't have those seats up.

FIRE CHIEF GERALD REARDON: Right. But even if you add them up, they are only slightly over 100.

TOM TIPTON: We only have about 40, 45 chairs.

HOPE ZIMMERMAN: Do we actually have that many? I thought 30.

TOM TIPTON: Maybe 35 or 40.

HOPE ZIMMERMAN: We don't have that many chairs.

FIRE CHIEF GERALD REARDON: It is like operating hours, if you certainly are not going to need that or get to that plateau, then maybe something close to 300 --

HOPE ZIMMERMAN: Yeah, the 300 is a little high for what we have the capabilities of actually dealing with. We were actually going to

cap it at 150 even for our events and that was going to be our capacity that we were gonna cap to. We weren't even gonna go above that. This was just what the architect researched and found and gave. I'm okay with it being less for sure because there's less work for me.

TOM TIPTON: As sort of a visual, chairs, tables I don't envision us ever really using other than maybe there's some chips and dip on one. Not tables and chairs like you would see in a restaurant. Chairs are generally used when there's a reading, and for that point, it's a big wide open space and the chairs are here. Everything else is open. The chairs aren't situated in the middle where they could be an impediment if something were to happen. They are completely away from where any egress would be, either the back or the front. And when we would be doing a show regarding music or something, the

last thing you want to do is make people sit down because they become an audience. You don't want that. You want people to be able to socialize, so that -- that's just for your information on the plus side there in regards to get out of the building now.

FIRE CHIEF GERALD REARDON: That would be my friendly suggestion, and that way once we look and it appears as though everything is in order, then we could have it for the Decision hearing but that's up to the applicants.

HOPE ZIMMERMAN: So if we wait for the next hearing, which you said December 4?

CHAIR ANDREA JACKSON: Yes, for the Decision hearing.

HOPE ZIMMERMAN: For the Decision hearing; what does that mean for --

TOM TIPTON: Or we go with the 99 today.

HOPE ZIMMERMAN: I mean, we can go with

the 99 and still --

FIRE CHIEF GERALD REARDON: I'm saying we still have to look and maybe we can get that done between now and then, but I think you're going to wind up in that category.

TOM TIPTON: 99 anyway, yeah.

HOPE ZIMMERMAN: I'm completely okay with 99.

TOM TIPTON: Very happy with that.

FIRE CHIEF GERALD REARDON: Looking at your plans here, it looks like you are going to be okay, I think but I don't want to put words in your mouth.

HOPE ZIMMERMAN: I'm wondering with, like, the Stone Soup and the storytellers which have been under the 25 that we're allowed to have right now, but the Stone Soup has been getting a decent amount of attendance, and I do see them possibly growing past that 25 before that

December 4, which I'm worried about that we have to wait that long.

TOM TIPTON: Definitely be happy with the 99. The Fire Department still needs to come over and --

FIRE CHIEF GERALD REARDON: Take a look, and maybe that it won't have to apply because you are kind of a unique venue here. You are not really a traditional --

HOPE ZIMMERMAN: Yeah, yeah, we are trying to make a safe place for people, you know, to express themselves that's not in a bar atmosphere, so...

FIRE CHIEF GERALD REARDON: Now that I've confused everyone.

HOPE ZIMMERMAN: Now we don't know what we were doing.

CHAIR ANDREA JACKSON: Are we still continuing this?

FIRE CHIEF GERALD REARDON: Yes.

Regardless we have to take a look at the space.

HOPE ZIMMERMAN: Either way and then we'll go from there.

FIRE CHIEF GERALD REARDON: We have to make sure we're good.

CHAIR ANDREA JACKSON: There was a motion on the table to continue this matter until the Decision hearing and I will add to give the Fire Department time to review the space. Is there a second?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIR ANDREA JACKSON: So someone from the Fire Department will reach out to you. Is that how it works?

FIRE CHIEF GERALD REARDON: That's how it works.

HOPE ZIMMERMAN: We are safe to still have our readings and stuff?

FIRE CHIEF GERALD REARDON: Is someone generally there during the business hours?

TOM TIPTON: Yeah. Do you make an appointment? Or do you just --

FIRE CHIEF GERALD REARDON: I am going to put a special investigator on it, so during business hours we'll try. Maybe I can get Captain Cahill to go out and do this one.

HOPE ZIMMERMAN: Yeah, we are open 11 to 11. That's a pretty broad time to come by. But I'm just worried about the readings that we have been having from the old gallery.

FIRE CHIEF GERALD REARDON: The entertainment part, the readings, don't necessarily apply to this anymore, so ...

HOPE ZIMMERMAN: Okay, I just don't want to get in trouble.

CHAIR ANDREA JACKSON: Appreciate it.

HOPE ZIMMERMAN: Okay, thank you very much.

TOM TIPTON: It stands at the moment where the Fire Department basically needs to come and do their inspection before --

FIRE CHIEF GERALD REARDON: We'll have someone come out there and take a look and talk to you, yes, come out during your operating hours and we'll take a look at the place.

HOPE ZIMMERMAN: Do you keep the building inspector's sign-off sheet? Or is that something I get back?

EXECUTIVE DIRECTOR ELIZABETH LINT: No, I need them.

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DISCUSSION: LETTER FROM CAMBRIDGE TAXI

DRIVER

EXECUTIVE DIRECTOR ELIZABETH LINT:

Discussion: The Board of License Commissioners will review and discuss a letter that was submitted to the board by a Cambridge tax driver.

So Mr. Gervais has submitted several --

CHAIR ANDREA JACKSON: Can you spell his name for the record.

EXECUTIVE DIRECTOR ELIZABETH LINT:

G-E-R-V-A-I-S.

CHAIR ANDREA JACKSON: Thank you.

EXECUTIVE DIRECTOR ELIZABETH LINT: -- several letters to us requesting to hold a hearing.

CHAIR ANDREA JACKSON: Is it to hold a hearing or to appear in front of the board?

EXECUTIVE DIRECTOR ELIZABETH LINT: He --

CHAIR ANDREA JACKSON: He wants his own

hearing?

EXECUTIVE DIRECTOR ELIZABETH LINT: He wants his own hearing. So I reviewed the information and I sent him a letter saying that some of the issues that he's looking for we are in the process of drafting a proposal for.

I believe you have an Ordinance Committee meeting next week that may address some of the issues that he's raising, and I told him that we were not inclined to hold a hearing. He requested that you all discuss it and then send him yet another determination.

CHAIR ANDREA JACKSON: What are his issues?

EXECUTIVE DIRECTOR ELIZABETH LINT: It's not easy to read.

He wants to discuss the taxi school of the City of Cambridge and its administrator. He wants emergency flat rates for snowstorms,

inclement weather, tunnel closings.

He thinks hotel shuttle buses need to be defined as to where they can pick up, and last but not least, credit cards.

Then he said recent events have reminded -- I cannot read this. Brought up some important topics. He wanted a hearing in front of the Commission to discuss drug testing for drivers, radio service dispatchers being drug test, evaluating all radio services once a year to see if they are properly maintained and communication re: taking calls to Cambridge, providing service 24 hours, having a dispatch office and records of jobs, and religious symbols must be removed from inside of cabs and outside of cabs. It is offensive and against the law.

And that was the sum total.

So I let him know that credit cards were already pending.

I let him know drug testing and alcohol testing was being considered.

And every year he asks that we remove Mr. Ewing from the taxi school.

CHAIR ANDREA JACKSON: What is his reasoning for that?

EXECUTIVE DIRECTOR ELIZABETH LINT: He's never given us a reason.

CHAIR ANDREA JACKSON: Okay.

EXECUTIVE DIRECTOR ELIZABETH LINT: Just he thinks he should be doing it.

CHAIR ANDREA JACKSON: Okay. I'll leave it to my colleagues. What is your pleasure? Would you like to have him come in and explain, present?

POLICE COMMISSIONER ROBERT HAAS: I don't recall ever doing that before. Have we?

EXECUTIVE DIRECTOR ELIZABETH LINT:
He's --

POLICE COMMISSIONER ROBERT HAAS: I know who he is. I don't recall in my tenure we've ever entertained a request for someone to come in and give testimony to the board, and as you indicated too, the balance of the issues are still pending with respect -- and I assume there's going to be a public hearing associated with those matters, right, so there's an opportunity for him to speak to those issues then.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Credit cards were voted on today.

POLICE COMMISSIONER ROBERT HAAS: You can let him know credit cards are passed.

EXECUTIVE DIRECTOR ELIZABETH LINT: He

had an opportunity to be on the board of the taxi school. He was not voted on.

POLICE COMMISSIONER ROBERT HAAS: So my question is, with respect to the taxi school,

wouldn't be it be more appropriate for him to ask to speak to the board on the taxi school as opposed to coming here to the Commission since they are the ones that have oversight and regulation of the taxi school?

EXECUTIVE DIRECTOR ELIZABETH LINT: He could submit a letter telling us what it is that he's looking for, but I don't--

CHAIR ANDREA JACKSON: When you say "us," you mean "us" as in the taxi school --

EXECUTIVE DIRECTOR ELIZABETH LINT: Right. I'm not on the taxi school board.

POLICE COMMISSIONER ROBERT HAAS: So what you'd do is basically indicate to him which matters are still pending with respect to future public hearings, right, and then I would suggest before you bring him in to talk to us about the removal of person, he needs to articulate further, you know, what is his reasoning, that we

could take it under consideration, and then whatever evidence he has that supports his claims, right?

FIRE CHIEF GERALD REARDON: Why isn't this going before the taxi subcommittee?

EXECUTIVE DIRECTOR ELIZABETH LINT: Even if it did, I would have to bring that to you because the subcommittee doesn't -- we're just --

FIRE CHIEF GERALD REARDON: But shouldn't they start there?

EXECUTIVE DIRECTOR ELIZABETH LINT: He's been told there that they are not interested in pursuing what he's looking for.

FIRE CHIEF GERALD REARDON: Okay.

CHAIR ANDREA JACKSON: So was the question whether or not he was going -- you would allow him to appear before the board?

EXECUTIVE DIRECTOR ELIZABETH LINT:
Uh-huh.

CHAIR ANDREA JACKSON: So I make a motion that Mr. Gervais not appear before the board. He can send a letter of explanation. Is there a second?

POLICE COMMISSIONER ROBERT HAAS: Second.

CHAIR ANDREA JACKSON: All those in favor signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

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POLICY: LIQUOR STORES NEW OPENING HOUR

EXECUTIVE DIRECTOR ELIZABETH LINT:

Policy: The Board of License Commissioners will adopt a new policy approved by the Alcoholic Beverages Control Commission regarding the new approved opening hour for package stores.

So this is the Alcoholic Beverages Control Commission advisory under Mass General Laws, Chapter 138, Section 15 off premises retail

licensees Sunday opening time allowed at 10 a.m.

CHAIR ANDREA JACKSON: I think that the relevant piece of it is that we have to approve it?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yeah, the relevant piece is that licensees have to submit to the board, which several of them did, a change of hours application, along with a vote of the corporate -- along with a vote of the -- a corporate vote authorizing the change, the local licensing authority must approve it; however, in speaking with the executive director of the ABCC, I was told that even though we must approve it, it must be approved at a hearing.

CHAIR ANDREA JACKSON: So I guess I would like to take the position that we obviously adopt because we can't deny anyone anyway, that we just adopt it, and if anyone comes in after the fact to the counter in terms of a package store and

they want to change their hours, I don't see the need for it to come before the full board for us to vote on it, for them to have to wait for us to vote it on because according to the ABCC, we --

EXECUTIVE DIRECTOR ELIZABETH LINT: We have no choice.

CHAIR ANDREA JACKSON: We have no choice.

So I think we can do one blanket approval that we accept this policy, and if any package store comes in looking to modify their hours, based on this advisory, that it is approved at the counter by staff.

You are holding your head and you are not talking.

POLICE COMMISSIONER ROBERT HAAS: No, I'm thinking. I'm just wondering in the same context, if any other applicant came in here to adjust their hours, they would have to come before the Commission. The staff wouldn't have

the ability to make that decision.

I appreciate the fact that the ABCC is allowing stores to open at a different hour.

I'm just wondering if we want to have the ability, though, that when you have package stores coming in and asking that, I mean I suspect we could articulate reasons why we wouldn't -- so, for example --

EXECUTIVE DIRECTOR ELIZABETH LINT: No, we can't.

CHAIR ANDREA JACKSON: We can't.

POLICE COMMISSIONER ROBERT HAAS: Let me give you an example. The Prospect Liquor Store, we were having problems with people showing up at the front door and interfering with school-age children who were gathering for a school bus, that were clearly intoxicated, and that became a source of an attractive nuisance. So you're telling me somebody can come in and automatically

open the store -- I mean, the only recourse we would have is then to bring them in for a complaint matter?

FIRE CHIEF GERALD REARDON: Yup.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIR ANDREA JACKSON: Yes.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Because the way this reads, and conversations that I had, you have no choice but to allow it.

FIRE CHIEF GERALD REARDON: So you would have to approve it and then monitor, and if there's issues, you can do discipline and then --

CHAIR ANDREA JACKSON: I guess if we want to know or if the board wants to know who actually has come in to modify their hours, we can do as a ratification.

EXECUTIVE DIRECTOR ELIZABETH LINT: The ones that we have so far.

POLICE COMMISSIONER ROBERT HAAS: You

have applications already?

EXECUTIVE DIRECTOR ELIZABETH LINT: Of course. Norton Beverage, Cambridge Mall Liquors, Liquor World, Fresh Pond Liquors, Trader Joe's at 748 Memorial Drive. Whole Foods on River Street. And Sabone Market, Broadway Market. Oh, they didn't -- the one on Brookline Street, that's University -- Not University. Hanarum Corporation (phonetic) at 271 Brookline Street. They didn't put the d/b/a.

CHAIR ANDREA JACKSON: So I would propose --

POLICE COMMISSIONER ROBERT HAAS: I mean I'm just reading this third paragraph, and it basically says, "As mentioned above, this law does not go into effect until October 23, 2014. All licensees should ensure that sales of alcoholic beverages take place only on the days and hours approved by the local licensing

authority.

Licensees who fail to notify the local licensing authority about the change to their hours are prohibited from making sales at an earlier time than those permitted on the face of their license," which tells me that there still has to be a process, right, with respect to changing its time.

EXECUTIVE DIRECTOR ELIZABETH LINT: But the process is, they have to fill out the application, give us the corporate vote, we'll forward a Form 433 to the ABCC and it is done.

CHAIR ANDREA JACKSON: That's the process.

EXECUTIVE DIRECTOR ELIZABETH LINT: That's the process.

POLICE COMMISSIONER ROBERT HAAS: So let's say for the sake of argument someone is not opening as early as they probably could right

now, forget this policy change, what would they have to do to petition the License Commission to operate earlier than what they are operating right now?

EXECUTIVE DIRECTOR ELIZABETH LINT: They would have to have a hearing.

POLICE COMMISSIONER ROBERT HAAS: I'm just trying to figure out why --

EXECUTIVE DIRECTOR ELIZABETH LINT: Because it took it out of your hands.

POLICE COMMISSIONER ROBERT HAAS: Right.

CHAIR ANDREA JACKSON: Right. The ABCC took it out of our hands. With that in place now, all they have to do is submit a corporate vote and the Form 433 for us to send to the ABCC and that's it. It says we must approve. Not you may. You must.

POLICE COMMISSIONER ROBERT HAAS: Maybe just do a ratification just so we're aware of the

fact that stores have applied. I mean, so theoretically, we could ratify those applications right now, if we take a vote on this issue, right, take effect October 23. You said you got like three or four right now?

EXECUTIVE DIRECTOR ELIZABETH LINT: Nine.

I know one more is coming.

POLICE COMMISSIONER ROBERT HAAS: How many package stores do we have in the city?

FIRE CHIEF GERALD REARDON: 23.

EXECUTIVE DIRECTOR ELIZABETH LINT: No. We have 40, or 41. It is about an equal split. It is rather ambiguous the way it is.

CHAIR ANDREA JACKSON: Do you want to look at it again or ...

EXECUTIVE DIRECTOR ELIZABETH: Then we have to go back to Chiang Mai Thai. I knew he wasn't going to be able to come.

CHAIR ANDREA JACKSON: So based on the

ABCC advisory, off premise retail licensees
Sunday opening time allowed at 10 a.m., I make a
motion that the staff of the License Commission
accept said notification of change of hours along
with the corporate vote and all such
notifications then be placed on the next
subsequent agenda for ratification by the board.

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor
signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIR ANDREA JACKSON: Aye.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Chiang Mai Thai.

CHAIR ANDREA JACKSON: And going back to
Chiang Mai Thai, is that the name of it?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIR ANDREA JACKSON: What do we want to

do with that one, and my understanding was he from New Jersey?

EXECUTIVE DIRECTOR ELIZABETH LINT: I think so. He just had a conflict. I would suggest we place it on the next agenda.

CHAIR ANDREA JACKSON: That's fine. I would say that perhaps call him in addition to sending a letter.

EXECUTIVE DIRECTOR ELIZABETH LINT: Absolutely.

CHAIR ANDREA JACKSON: Give him the ability to determine if he can make it here.

So I make a motion that we continue Chiang Mai Thai, Inc., doing business as Chiang Mai Thai, Kevin Morrall, manager, for a CV license, that we place it -- continue it until the next available hearing.

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor

signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIR ANDREA JACKSON: I had one question, it is not on the agenda, but we received that request for a change of hours to go up one hour -- up one hour or back one hour?

EXECUTIVE DIRECTOR ELIZABETH LINT:

That's going -- oh, right.

CHAIR ANDREA JACKSON: That was for Cafe Art Science.

EXECUTIVE DIRECTOR ELIZABETH LINT: Cafe Art Science to open at 11 instead of 12.

CHAIR ANDREA JACKSON: And that was, if I remember correctly from the letter that came in, they were looking to change their hour from 11 to 12 because they are going to be serving at 12 and then realized they wanted to be able to serve alcohol at 11 a.m.

EXECUTIVE DIRECTOR ELIZABETH LINT: I think that's correct. They want to move it back an hour.

CHAIR ANDREA JACKSON: Move it back an hour. So my understanding is that that's an item that the board can just go ahead and approve without having to readvertise, is that correct?

EXECUTIVE DIRECTOR ELIZABETH LINT: The ABCC does not require an advertisement, and under 138, 12 we have very little say in the hours that are stated in the statute unless there's a violation and we hold a disciplinary hearing to reduce hours, if that makes sense.

CHAIR ANDREA JACKSON: Yeah.

So, I guess, my question is, can we put this on for our next agenda or --

EXECUTIVE DIRECTOR ELIZABETH LINT: I think -- I believe they also are filing another application along with it, because they added

members of the corporation, so it has to be on
regardless.

CHAIR ANDREA JACKSON: Okay. I just
wanted to at least have a conversation about it
while we were here.

That's fine.

I make a motion that adjourn. Is there a
second?

POLICE COMMISSIONER ROBERT HAAS: You
doing your ratification?

EXECUTIVE DIRECTOR ELIZABETH LINT: We
did that.

POLICE COMMISSIONER ROBERT HAAS: Where
was I?

EXECUTIVE DIRECTOR ELIZABETH LINT: You
were late.

CHAIR ANDREA JACKSON: You were late.

Motion to adjourn has been made. Is
there a second?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor
signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

(The meeting was adjourned)

ERRATA SHEET

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