

CAMBRIDGE LICENSE COMMISSION HEARING

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION HEARING

LICENSE COMMISSION BOARD MEMBERS:

ACTING CHAIR ARTHUR GOLDBERG

POLICE COMMISSIONER ROBERT HAAS

FIRE CHIEF GEARLD REARDON (Basha Cafe only)

ASSISTANT FIRE CHIEF GERARD MAHONEY

STAFF: EXECUTIVE DIRECTOR ELIZABETH LINT

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

DATE: Tuesday, September 29, 2015

TIME: 6:05 p.m.

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P R O C E E D I N G S

September 29, 2015

ACTING CHAIR ARTHUR GOLDBERG: We'll call the meeting to order.

Is anyone here recording the meeting by audio or visual means?

Okay, so that is being done.

- - -

EXECUTIVE DIRECTOR ELIZABETH LINT:

License Commission General Hearing, Tuesday, September 29, 2015, it is 6:05 p.m.

We are in the Michael J. Lombardi Building at 831 Mass. Ave. Basement Conference Room. Before you are the Commissioners: Acting Chair Arthur Goldberg, Commissioner Robert Haas, and Assistant Fire Chief Gerard Mahoney.

It will be a little out of order this evening.

APPLICATION: DUNSTER STREET RESTAURANT
CORPORATION D/B/A DUNSTER RESTAURANT
EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Dunster Restaurant

Restaurant Corporation d/b/a Dunster Restaurant,
Peter Lee, manager, has applied to transfer the
all alcoholic beverages restaurant license
currently held by Irish Crimson, LLC d/b/a
Kennedy's on the Square at 15 Dunster Restaurant.

Applicant is also applying for an
alteration of licensed premises description,
pledge of license, and entertainment license to
include music playing above conversation level
and three TVs, video screens, film projector
screens.

The proposed hours of operation are 8
a.m. to 1 a.m. Sunday through Wednesday and 8
a.m. to 2 a.m. Thursday through Saturday and the
night before a legal holiday.

The proposed seating capacity is 90.

ACTING CHAIR ARTHUR GOLDBERG: Let me just announce before we get started why we're holding the Basha Cafe matter for a little bit, and it may be the last thing we get to tonight, just because we're waiting for the Fire Chief to come for that matter since he and the Police Commissioner were the ones who heard that matter initially on August 11, but we are proceeding with the other matters.

ATTY JAMES RAFFERTY: Good evening, Mr. Chairman, Members of the Commission. For the record. My name is James Rafferty.

I'm appearing this evening on behalf of the applicant Dunster Restaurant Corporation doing business as Dunster Restaurant. Seated to my right is Peter Lee, the proposed manager, and to Mr. Lee's right is Patrick Lee. He's the older brother. Are you the older brother?

PATRICK LEE: Younger brother.

ATTY JAMES RAFFERTY: My apologies.

Mr. Chairman, you may not have had the pleasure of meeting the Lee brothers, but they are -- they wouldn't say this but I would say they represent the epitome of good licensees.

They have a number of venues in the City of Cambridge, primarily in the Harvard Square or great Harvard Square region. They are known to the commission for their operation of Grafton Street in Harvard Square; of Russell House Tavern in Harvard Square; the Park Restaurant, which was formerly the Red Line; and also Temple Bar up on Mass. Ave heading towards Porter Square. So they have developed a well-deserved representation as responsible licensees who provide a good service to their neighbors.

They enjoy a strong relationship with the Commission, they are highly cooperative, and when

opportunities present themselves, they have looked and taken advantage of them.

So the current situation involves a license, a relative young license, that's on Dunster Street, it operated as Kennedy's on the Square for about year, prior to that it was First Printer for a year or two before that, but prior to that, it was not a licensed operation. This license was transferred to that location. I believe it may have been the Ninety-Nine license. I'm not sure where exactly it came from. But it has only been on Dunster Street for two or three years, and this location happens to back up to the building that the Russell House Tavern is located and the Russell House Tavern is the building that formerly housed the Wursthau restaurant for many years. Mr. Cardulo's iconic German restaurant in Harvard Square. Same landlord, the Cambridge Savings Bank owns same

building.

Kennedy's unfortunately was not successful, they ceased operating and they have not been operational for several months for now.

So we have executed an agreement to acquire the assets, including the liquor license. We are in the midst of finalizing agreement with the landlord and the Lees intent to operate a restaurant I would say of a similar quality and caliber of their other restaurants in Harvard Square and Cambridge.

The proposal has some modifications to the floor plan but not many. I mean, the basic infrastructure, the kitchen, the layout, the location of the dining rooms, the bars is essentially unchanged.

They are extremely experienced operators. They have a very proven and credible track record as licensees in Cambridge and they are requesting

that the Commission approve the transfer of this license.

ACTING CHAIR ARTHUR GOLDBERG: Could you describe a little bit what the premises' alterations are that are being proposed?

ATTY JAMES RAFFERTY: Maybe one of the applicants can briefly testify on that.

PATRICK LEE: Sure. There are not many alterations.

I don't know if you are familiar with the space, but if you are walking in from Dunster Street, you take a left into the main entrance of the building and against that wall we're gonna put an is small oyster bar.

Beyond that, the footprint will remain the same.

ACTING CHAIR ARTHUR GOLDBERG: And there's also an entertainment license being applied for?

ATTY JAMES RAFFERTY: That's correct.

The entertainment is typical entertainment with some combination of background music at or above conversation level and I imagine we've got some televisions on the venue as well. I confess, I need to review the actual entertainment license, but that's correct. There's not an application for live entertainment, nor dancing by patrons.

POLICE COMMISSIONER ROBERT HAAS: I take it by your hours you're planning on offering all three meals breakfast, lunch and dinner all seven days a week?

PATRICK LEE: Just lunch and dinner.

POLICE COMMISSIONER ROBERT HAAS: So the 8 a.m. opening --

PATRICK LEE: I think the existing license has an 8 a.m. opening so that this transfers over.

POLICE COMMISSIONER ROBERT HAAS: So do you want to modify --

EXECUTIVE DIRECTOR ELIZABETH LINT: You have to amend the hours to be the actual hours of the operation.

ATTY JAMES RAFFERTY: I think --

PATRICK LEE: Well, I think in the license we put the hours of our operation, but I think on the existing license, it may say 8 a.m.

ATTY JAMES RAFFERTY: Well, you are gonna have brunch on Saturdays and Sundays?

PATRICK LEE: Yeah.

ATTY JAMES RAFFERTY: So the --

POLICE COMMISSIONER ROBERT HAAS: No breakfast served in the course of a week, though, right?

ATTY JAMES RAFFERTY: No.

I've found in my experience that many licensees do have that earlier opening and people

are in the restaurant, they are actively preparing, deliveries are being received and food prep is going on, so --

PATRICK LEE: Certainly there will be in the restaurant before 8 a.m.

POLICE COMMISSIONER ROBERT HAAS: But not to be served?

ATTY JAMES RAFFERTY: No, not to be served.

I think you probably would find given the nature of CV licenses that many establishments that don't serve breakfast actually have an 8 a.m. opening.

I think the laws -- the focus -- my experience tends to be more on closing, so the application does recite or contain the 8 a.m. start time in the CV license.

It provides flexibility. There are occasions when the Harvard Square Business

Association might request them to host -- I know you have in the past at their other Harvard Square restaurants, they would have an event. There isn't much call for alcohol service but there's food service breakfast.

POLICE COMMISSIONER ROBERT HAAS: I hope not.

ATTY JAMES RAFFERTY: You've never been to one of their more raucous meetings?

So that's kind of the discrepancy, if you will. I imagine the opening times on your other licenses probably reflect the 8 a.m. opening.

POLICE COMMISSIONER ROBERT HAAS: So what's your actual operation gonna be?

PATRICK LEE: Lunch and dinner.

POLICE COMMISSIONER ROBERT HAAS: Lunch will be 11:00 or 10:30?

PATRICK LEE: On weekends we would open 10.

POLICE COMMISSIONER ROBERT HAAS:

Saturday and Sunday?

PATRICK LEE: Yeah.

POLICE COMMISSIONER ROBERT HAAS: And weekdays would be 11?

PATRICK LEE: Yes. But we plan to do a significant take-out business in this location, so it could be before 11:00 that we actually have people in the premises.

EXECUTIVE DIRECTOR ELIZABETH LINT: I think that the hours that go on the license need to reflect when your service hours are.

Certainly people can be in the restaurant preparing and all of that, but there needs to be opening hours on the license.

POLICE COMMISSIONER ROBERT HAAS: It's not a big deal. It's a matter of when you will actually be operating.

ATTY JAMES RAFFERTY: I understand, and I

would say that if the Commission feels that they need to modify the start time. The application seeks 8 a.m., they do not intend to serve breakfast.

I would request the license to issued for 8 a.m. because it anticipates flexibility, but if the Commission -- so would we have a different opening time on Saturdays and Sundays than on Mondays through Friday? I guess I don't know of many licenses that carry that. I just --

PATRICK LEE: Also when we purchased the license, we're purchasing an 8 a.m. license.

When we purchased our other license in Cambridge, they were licenses that actually opened at 8 a.m. and that's what we were purchasing at the time.

The cost of this license, whatever we paid for it, would include the fact that it opens at 8 a.m.

If we sell this license down the road to someone that wants to open at 8 a.m., they wouldn't have that on the new license.

POLICE COMMISSIONER ROBERT HAAS: But you're gonna have advertised hours of, let's say, for the sake of argument, 11:00, Monday through Friday, opening time, or 10:30, whatever. And then on the weekends, because you want to operate the brunch service, it will be 10:00, you said?

ATTY JAMES RAFFERTY: 10:00 a.m.

I understand the point, and in my experience, and I wouldn't say this is the case in all licenses, but I think the vast majority of licenses have a start time earlier than when actual service begins.

That's just a historic anomaly in my experience and it does provide the licensee with flexibility in the event they wish to on occasion

serve the -- be open and serve. The CV license versus the alcohol license those hours tend to run currently rather than have separate hours. It is a single license, alcohol with food.

As I said, our preference would be to have the hours as requested. I don't believe the prior applicant served breakfast but I might be wrong. They operated with an 8 a.m. license.

To confess, I don't recall this as an issue in the past.

POLICE COMMISSIONER ROBERT HAAS: It always has been my understanding that we need to at least reflect the actual hours of operation, so --

ATTY JAMES RAFFERTY: I agree. And I think -- and I have seen this occur more regularly when people are not open for lunch.

There are some fine dining restaurants that only open at 5 in the evening because they

are geared towards that.

Obviously, we'll defer to the Commission.

But our preference would be we are acknowledging that there's no current plan to operate for breakfast and there will be a plan to operate for brunch starting at 10 a.m. on the weekends.

POLICE COMMISSIONER ROBERT HAAS: Uh-huh.

ACTING CHAIR ARTHUR GOLDBERG: Do any members of the public wish to be heard on this?

There are none.

EXECUTIVE DIRECTOR ELIZABETH LINT: Well, I think you might want to know what the film, video screens and the film projector screens are about.

ATTY JAMES RAFFERTY: I think they are TVs, the same line.

EXECUTIVE DIRECTOR ELIZABETH LINT: Oh, okay, I just want to clarify it.

ATTY JAMES RAFFERTY: So the application asks for, on the same line, tv, video screen or film production screen and we've indicated three but it is intended to be three televisions. There is a pledge to the Cambridge Saving Bank.

ACTING CHAIR ARTHUR GOLDBERG: Any further questions?

POLICE COMMISSIONER ROBERT HAAS: No.

ASSISTANT FIRE CHIEF GERARD MAHONEY: I have nothing.

EXECUTIVE DIRECTOR ELIZABETH LINT: Backgrounds are fine. I need the abutter notifications.

ACTING CHAIR ARTHUR GOLDBERG: How would you like to make a motion or do you want to discuss the opening hours issue?

POLICE COMMISSIONER ROBERT HAAS: I think it's an issue in terms of if their operation is only going to be for lunch and dinner, that those

hours should be reflected on the licenses.

That's my view.

ATTY JAMES RAFFERTY: I would just ask, point of inquiry, whether the Executive Director has a position as to what is the practice of licenses because my experience is that the 8 a.m. opening time is routinely granted on CV licenses of this nature and alcohol CV licenses, even for establishments that don't have any immediate plans to serve breakfast.

It is -- as enjoyable as it is to come here, it sometimes can be cumbersome for them if decide at some point you might wish to add a breakfast or you might host a breakfast and then to learn, well, in order to do so, you have to file an application, you have to advertise, you have to notify abutters, and we are talking about an hour of day where restaurants, there's no evidence of any conflict, conduct of restaurants

between 8 a.m. and 11 a.m. that I've heard. I'm sure there's an exception to that general statement.

But it does allow the licensee some flexibility. I don't think the public interest is compromised that even though the license reflects that, it is just -- it provides flexibility for a business to make an adjustment to serve the public if the need or the business opportunity presents itself, and that's the reason we have historically sought 8 a.m. start times for licenses such as this.

It certainly has little to do with the service of alcohol at 8 in the morning whether they are open for breakfast or not at some point, and I don't think we would -- I would not suggest it's a burden to restrict it, but I do think if circumstances were to warrant or change or -- they have been Harvard Square operators for years

and maybe Commencement Week there's a business breakfast and they might decide a week before we're gonna start holding Irish breakfast.

POLICE COMMISSIONER ROBERT HAAS: See, I think -- I would submit to you the reason why you have that process is to give public notice and the public an opportunity to comment whether or not you are going to change those hours and for a operator -- and I know these operators very well, I'm not questioning their integrity, I think they are great operators, I just said say I think if you are going to say it is going to operate, you can open whenever you want basically, even though my intention is to open for lunch and dinner because they have occasions where they may want to do something separate, then there's no notice back to the Commission and I think there's no notice to the public, and the public may have an issue with an earlier opening and you need to

give them an opportunity to comment on that.

ATTY JAMES RAFFERTY: We have. We advertised for 8 a.m. and we are here today and no one has commented about it.

There isn't any suggestion here that we would look to do this arbitrarily.

The point is, I quite agree, that the public needs to be placed on notice. So the public is being placed on notice that this restaurant may be open at 8:00, so here we are at a public hearing on transferring an 8 a.m. license from one operator to another operator.

The evidence suggests that the prior operator was not open for breakfast either, we would like to maintain that flexibility.

This is the forum, this is the opportunity for the public to comment about whether they have reservations about an 8 a.m. start time here.

The fact of the matter is that the present intention of the operator is not to serve breakfast. I don't mean to belabor the point, but this is the public notice. This is the public forum. So if there's reservations, this would be the time for them to be aired.

Conversely, if the license hours are scaled back to a later start time, they won't have that flexibility, and then we'll need to do, as the Commissioner said, to renotice and inform the public, but if we're here today requesting that flexibility, I would ask the Commission to approve it, or obviously, make a modification that you feel necessary, but I think there's ample precedent and practice throughout licenses in this city for start times of 8 a.m.

PATRICK LEE: Can I also add that in the 25 years that we have had licenses in Cambridge and Boston, I think the 8 a.m. start time was to

create uniformity within all licenses, so that people would know when it started, so that each licensee couldn't have a specific time when they opened, 8, 8:30, 10, 11, 12.

It was you either opened at 8 a.m. or you opened at -- you know, there were two -- it seemed to me there were two times.

POLICE COMMISSIONER ROBERT HAAS: I remember having conversation about operators coming in and saying that they are going to have a license for a period of time but they were only going to operate for a certain period of time, and at least while I've sat on this Commission, we've always insisted that you've gotta have a license for the period of time you plan to operate.

This is the first time I'm hearing we routinely grant a license. At least I didn't vote on any licenses. I wasn't here for that.

I'm not sure what they did prior to that situation. But I don't recall ever voting on a license that they had this wide berth of time and but they were going to only operate in a restricted period of time.

The conversation has always been about the fact your license reflects the time you are operating. That's been my understanding since I have been sitting on this board for nine years.

ATTY JAMES RAFFERTY: That's perfectly sound policy and practice. I don't disagree.

I understand that. I just think we are talking about a few hours and maybe -- so should it be 10 a.m. and then if brunch gets busy and crowds start forming at 9:45, can they be served a cup of coffee?

ASSISTANT FIRE CHIEF GERARD MAHONEY: I have a question.

So the license you purchased, the hours stated in the application are the hours on the license you purchased?

ATTY JAMES RAFFERTY: Yes.

ASSISTANT FIRE CHIEF GERARD MAHONEY: And I don't believe they served food at 8 a.m., right?

ATTY JAMES RAFFERTY: These gentlemen would know better. They were neighbors. I don't know.

They might have had a weekend breakfast.

PATRICK LEE: They didn't serve food at 8 a.m. The venue before them didn't serve food at 8 a.m., and the Ninety-Nine probably didn't serve food at 8 a.m., but it is an 8 a.m. license that we bought.

ASSISTANT FIRE CHIEF GERARD MAHONEY: I make a motion that the application be approved as submitted.

ACTING CHAIR ARTHUR GOLDBERG: I would second the motion. All in favor?

ASSISTANT FIRE CHIEF GERARD MAHONEY:
Aye.

ACTING CHAIR ARTHUR GOLDBERG: Opposed?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ACTING CHAIR ARTHUR GOLDBERG: Opposed no?

POLICE COMMISSIONER ROBERT HAAS: Right.

ACTING CHAIR ARTHUR GOLDBERG: I'm going to say no.

Any other motion?

POLICE COMMISSIONER ROBERT HAAS: I make a motion that the license for the alcohol license reflect the hours of actual operations for the operator, so whether it's 10:30 or 11:00 and 10:00 on the weekend, that's your prerogative as the owner.

You really need to advertise, and that's

always been my understanding, the hours on the license have to reflect the hours that you operate, so --

ACTING CHAIR ARTHUR GOLDBERG: We could ask you what those hours are?

ATTY JAMES RAFFERTY: In light of the Commission's vote, prior vote, then I would move -- ask to be allowed to orally amend the application to the hours to be 10 a.m. recognizing that breakfast will not be served but 10 a.m. would be a consistent time because it would allow for weekend service and earlier lunch service.

POLICE COMMISSIONER ROBERT HAAS: I don't think you need to have uniform time across the entire week.

If you plan on having lunch starting later during the weekdays and plan on doing a brunch on the weekends, I think that can be

reflected in the license.

ATTY JAMES RAFFERTY: The reason I say 10 a.m., my understanding is that lunch starts at 11.

But if you group arrived at 10:45 and wanted to be seated and the restaurant was up and ready to go, they might want to be able to do that, so to be candid, it just strikes me we're talking about an hour of the day, whether it is 10 or 11 in the morning, we are not going to see an awful lot of activity and hours do change depending on the demand, so I respect the Commission's desire to see consistency with hours of operation and actual operation, so I would ask that we -- if a 10 a.m. amendment was comfortable, acknowledging that we probably will not begin service until 11, in which case, I don't want you to have to take successive votes if that --

ACTING CHAIR ARTHUR GOLDBERG: I think

what we're asking is: What hours of operation you anticipate?

ATTY JAMES RAFFERTY: I think we have been clear on that, Mr. Chairman.

We intend to serve at lunchtime and I would say 11 a.m. Monday through Friday and 10 a.m. on Saturday and Sunday is when it is anticipated under the current proposed schedule that they will be serving food and alcohol, and what I'm asking the Commission, is in anticipation of a serving time beginning at 11, that we be given one hour of flexibility and say 10 a.m. just to accommodate the occasional instance where there might be a demand prior to the 11 a.m.

POLICE COMMISSIONER ROBERT HAAS: So why couldn't your CV license reflect the 10 a.m. opening as opposed to your liquor license?

ATTY JAMES RAFFERTY: Well, I defer to

the Executive Director as to whether we have different start times on CV licenses and alcohol licenses. They tend to be the same license. It is a CV license with alcohol.

EXECUTIVE DIRECTOR ELIZABETH LINT: We do actually have some that have different CV hours than alcohol hours, it is not the norm, but we have some.

ATTY JAMES RAFFERTY: Right. I'm going to guess the S&S serves breakfast before 8 a.m. and 8 a.m. is the statutory limit, as the Commission well knows, as to when alcohol can be served.

I'm sure there are a few places that serve alcohol -- I mean, that are open before 8 a.m. and they might have a different CV.

I really don't want to belabor the point. I apologize. We've gone on. I did not -- if either 11 a.m. -- I think the preference here, we

stated our preference, we heard the vote of the Commission, I would ask the Commission to allow us a one hour flexibility and do 10 a.m. across the board, but I want to acknowledge it is unlikely that there will be service prior to lunchtime. Lunch can be --

POLICE COMMISSIONER ROBERT HAAS: But that defeats the whole point of this conversation we just had. You want the hour but you are not going to open at 10:00, right?

ATTY JAMES RAFFERTY: Well, no, I think it is a matter of degree, with all due with respect, Commissioner. You said this wide berth, which I assumed to be three hours between 8 and 11 you had characterized as wide, so we narrowed two hours off the berth to one hour.

POLICE COMMISSIONER ROBERT HAAS: I'm not saying it in that context.

If your clients wanted to open up at 8:00

and that's reflected on the license, I wouldn't have any problem with that.

ATTY JAMES RAFFERTY: I understand that. It's probably -- the Commission should be commended for its diligence because I'm willing to bet that in other transfers in applications, this level of attention is not given to the start time.

So, at any rate, so that is correct, and I fully hear, but we're not representing, and want to be completely candid, there's no representation here that there's any immediate plan to begin serving food or alcohol at 8 a.m. during the week. The license application reflected that. We heard the Commission's vote.

The likelihood, under the current plan, is lunch and dinner, and lunch would be unlikely to begin before 11.

PATRICK LEE: So, theoretically, we could

come back to the board, if we wanted to open earlier, and we could get the 8 a.m.?

ATTY JAMES RAFFERTY: You have to make an application.

POLICE COMMISSIONER ROBERT HAAS: You would have to make application for a public hearing and then the board would consider it.

ACTING CHAIR ARTHUR GOLDBERG: So I'll make a motion that the restaurant and CV license and alcohol license be approved for 10 a.m. opening on Saturday and Sunday. 11 a.m. opening Monday through Friday.

POLICE COMMISSIONER ROBERT HAAS: I second the motion.

ACTING CHAIR ARTHUR GOLDBERG: Any discussion?

All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ASSISTANT FIRE CHIEF GERARD MAHONEY:

Aye.

ACTING CHAIR ARTHUR GOLDBERG: Aye.

ATTY JAMES RAFFERTY: Thank you.

A point of information on that Basha matter, the hearing tonight is a new hearing. I'm not sure what the reference was to the Fire Chief and the informational hearing that was held before.

EXECUTIVE DIRECTOR ELIZABETH LINT: It goes through the Chair.

ACTING CHAIR ARTHUR GOLDBERG: Before, the investigator testified on August 11, so we are considering that, but the beginning of hearing --

ATTY JAMES RAFFERTY: I don't think we can do that, Mr. Chairman, because we didn't receive a notice.

This is the first notice that's been received. This is a disciplinary hearing

alleging an unauthorized transfer of the license and failure of the manager to be on the premises.

That was not at all what was part of the informational hearing the last time the Commission heard this matter, which was a report from the investigator, who informed the Commission that he had been there on three separate occasions and the manager wasn't present.

With all due respect, that testimony, and the investigator, needs to be here today to present that testimony.

We are not gonna - - -

ACTING CHAIR ARTHUR GOLDBERG: He is here.

POLICE COMMISSIONER ROBERT HAAS: He's here.

ATTY JAMES RAFFERTY: Fine.

But my point is, with all due respect to the Fire Chief, I don't know why that hearing would have to wait for the Fire Chief to participate when, in fact, we're starting a new hearing on a new notice with new alleged violations and threats of discipline, none of which were present at the prior hearing.

I don't know why we would need to wait for the Fire Chief to conduct that hearing.

ACTING CHAIR ARTHUR GOLDBERG: Well, that is the decision, and the Fire Chief will be coming.

And we believe that is a fair and sensible thing to do given there was testimony from the investigator, you were at the August 11 meeting and made representations, so it makes sense to have the Fire Chief, who heard that, be here tonight, and we are told he will be here tonight to hear that matter even though, I agree,

it was an informational matter.

ATTY JAMES RAFFERTY: So is it the Chair's view that the testimony at the prior hearing becomes part of the record of this hearing?

ACTING CHAIR ARTHUR GOLDBERG: Well, the investigator is here and we will hear from him again tonight, so we will -- it will be a continued hearing -- I mean, it won't be.

ATTY JAMES RAFFERTY: I object to that characterization.

ACTING CHAIR ARTHUR GOLDBERG: It will not be a continued hearing.

ATTY JAMES RAFFERTY: Thank you.

ACTING CHAIR ARTHUR GOLDBERG: It will be a new disciplinary hearing but there was information presented at the informational hearing that is part of the history of this matter, and so the person who heard that was the

Commissioner and the Fire Chief.

ATTY JAMES RAFFERTY: No, I understand.

Again, I don't mean to quibble, unless I've ruined my good standing with the Commission, and they've become more annoyed with me than ordinarily, but it just strikes me that the Commission, in an informational hearing, made a determination to hold a disciplinary hearing and that hearing will be held now and I'm happy to wait for the chief.

Frankly, I --

ACTING CHAIR ARTHUR GOLDBERG: It be held tonight. We are not telling you go and come back another time.

ATTY JAMES RAFFERTY: No, no, I understand.

It is just I have a matter at 8:00 at the Planning Board. I didn't know if you thought that it was be heard by then.

ACTING CHAIR ARTHUR GOLDBERG: I don't know. We hope so.

ATTY JAMES RAFFERTY: Thank you.

ACTING CHAIR ARTHUR GOLDBERG: We can hear it when the Chief comes. We don't know exactly what time he's coming.

ATTY JAMES RAFFERTY: Understood.

APPLICATION: MIDDLE EAST RESTAURANT,
INC.

D/B/A MIDDLE EAST RESTAURANT/ZUZU

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Middle East Restaurant,
Inc., d/b/a Middle East Restaurant/Zuzu, Nabil
Sater, manager, holder of a common victualer
license and entertainment license at 472-480,
Massachusetts Avenue and 2-10 Brookline Street
has applied to expand the common victualer
license into 10-18 Brookline Street.

Said license, if granted, would increase the total capacity of the Middle East/Zuzu by 350.

The hours and entertainment would remain as currently licensed.

JOSEPH SATER: Good evening, gentlemen. So I guess we are here in front of you to ask you to extend the common victualer license into 10 Brookline Street. There's no alcohol to be served and I have 5,000 signatures --

ACTING CHAIR ARTHUR GOLDBERG: Could you state your name for the record, please?

JOSEPH SATER: Joseph Sater, S-A-T-E-R. 171 Auburn Street, No. 8.

ACTING CHAIR ARTHUR GOLDBERG: Who is here with you?

JOSEPH SATER: My sister Sonia Sater.

SONIA SATER: The address, 101 Brookline Street, Unit A.

ACTING CHAIR ARTHUR GOLDBERG: And could you spell your name, please?

SONIA SATER: S-O-N-I-A, Sater,
S-A-T-E-R.

KHALIL SATER: And my name is Khalil,
K-H-A-L-I-L. Last name Sater S-A-T-E-R.

JOSEPH SATER: We are here in front of you and we have -- I don't know, we could get a clip or binder. We have 5,000 signatures in support between City Council, legislators, and neighbors, and customers.

We have a -- and I have one green card for you, Elizabeth, which came back. We are here to get your blessing and approval.

Been in the neighborhood for 42 years doing business --

ACTING CHAIR ARTHUR GOLDBERG: Could you describe the renovations that you are planning to do?

JOSEPH SATER: What we're planning to do is open the place up. The place doesn't have enough bathrooms. It needs to have two bathrooms and it is not handicapped accessible.

So we are moving the bathroom into the pool room used to be, so it is bigger and accessible and the place used to have kinda second stories within two places. We are taking that all and opening it up, and we are cutting the bar in half to make sure for people -- for crowd control and fire to make it easier and we are opening a door for Middle East into that establishment.

So what you have in front of you, you have the drawing for the whole complex of the Middle East and the back of it you have the detail of 10 Brookline Street.

ACTING CHAIR ARTHUR GOLDBERG: Actually, the owner of this property is Sater Realty, LLC.

JOSEPH SATER: Exactly.

POLICE COMMISSIONER ROBERT HAAS: Aside from the amenities you are putting in this new area, what else are you using this area for?

JOSEPH SATER: We're just using it for food and entertainment, no liquor license.

POLICE COMMISSIONER ROBERT HAAS: There would be no liquor served on this side of the establishment?

JOSEPH SATER: Yes.

POLICE COMMISSIONER ROBERT HAAS: And how are you gonna control that to make sure folks don't go from one side to another side?

JOSEPH SATER: We'll make sure we keep somebody at the door, not to take the liquor outside.

POLICE COMMISSIONER ROBERT HAAS: So this restaurant is separated then?

JOSEPH SATER: It's totally separate.

POLICE COMMISSIONER ROBERT HAAS: I was a little confused. I thought it was all connected.

JOSEPH SATER: No. Totally separate.

ASSISTANT FIRE CHIEF GERARD MAHONEY: I see here two places that says "bar."

JOSEPH SATER: There's a main bar. It has two bars. It has one big bar and what you call extension for a bar, small bar in the area. So we're leaving that.

If you look at that, we didn't touch that area of construction. It still look like the old place. Just for financial. No alcohol in both bars. They used to serve liquor in there, but we are not going to be serving liquor in there.

ACTING CHAIR ARTHUR GOLDBERG: That's because T.T. The Bear's still has a pocket license.

JOSEPH SATER: Still have a pocket license and financially we cannot afford to keep it closed and pay the mortgage.

POLICE COMMISSIONER ROBERT HAAS: So the cuisine would be the same as served in the Middle East but no alcohol?

JOSEPH SATER: The same served, exactly.

POLICE COMMISSIONER ROBERT HAAS: Same hours of operation?

JOSEPH SATER: Yes, sir.

ACTING CHAIR ARTHUR GOLDBERG: Do any of the members of the public want to heard on this?

None.

Does the Executive Director have any information?

EXECUTIVE DIRECTOR ELIZABETH LINT:
Paperwork is all in order.

ASSISTANT FIRE CHIEF GERARD MAHONEY: I make a motion the application be approved as

submitted.

POLICE COMMISSIONER ROBERT HAAS: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in
favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ASSISTANT FIRE CHIEF GERARD MAHONEY:
Aye.

ACTING CHAIR ARTHUR GOLDBERG: Aye.

JOSEPH SATER: Thank you, gentlemen.

APPLICATION: JKFOODGROUP, LLC.

D/B/A LITTLE DONKEY

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: JKFOODGROUP, LLC, d/b/a
Little Donkey, Jamie Bissonnette, manager, has
applied to transfer the all alcoholic beverages
restaurant license currently held by Kun Myung,
Inc., d/b/a Takemura, Myung Ja Kim, manager at 18
Eliot Street.

The applicant is applying for a change of location from 18 Eliot Street to 505 Massachusetts Avenue and an alteration of licensed premises description.

The proposed hours of operation are 8:00 a.m. to 1 a.m. Sunday through Wednesday and 8:00 a.m. to 2:00 a.m. Thursday through Saturday and the night before a legal holiday day.

ATTY KAREN SIMAO: Good evening, Mr. Chair and Commissioners, Karen Simao, McDermott Quilty & Miller.

To my left, I have Mr. Jamie Bissonnette, who is the proposed manager of record as well one of the shareholders of the proposed licensed entity.

If I may, by way of background and introduction of Mr. Bissonnette, Mr. Bissonnette and his business partner Ken Oringer may be known to members of the board. They have extensive

experience in running very successful restaurants. These are award-winning chefs and restaurateurs and are excited to open their first location in Cambridge.

By way of reference, they are the operators of Toro in the South End in Boston as well as Coppa, and also Clio, all currently in Boston.

They have opened a location in New York and were actually approached by the landlord of the 505 Mass. Ave property because that landlord was looking for a very specific restaurant team to come in and operate the location there.

I'm sure the board is familiar with the address 505 Mass. Ave. It is new construction. There will be multiple offices in the building, above the building. It is part of some redevelopment going on in that area.

ACTING CHAIR ARTHUR GOLDBERG: So is

there a kitchen in there?

ATTY KAREN SIMAO: Currently not. It is under construction. It is whole new construction. Entirely new construction.

So there will be by the time they are done with construction, but today there is not a kitchen there.

So the floor plan that was submitted as part of the application is the end game once the construction is done, what that location will look like in terms of the restaurant operation, but of course, all of that development going on in the area lends itself to this idea of transferring this license to this location to meet a growing public need for restaurant service there.

And I think that's also reflected in the proposed hours of operation.

The landlord felt very strongly in its

correspondence with the community that breakfast, lunch and dinner was a requirement for this location.

And so that is reflected both in the lease, the actual lease for the property, and this application today that's before you.

There will be food served up until the last order to be placed 30 minutes prior to closing, so this is certainly a full-service food concept.

There are, of course, different menus for breakfast and lunch and dinner. And from 11 p.m. until 30 minutes prior to closing, there will also be a specific sort of post-dinner menu available, which is still very comprehensive and meaningful option, but not as extensive as the dinner option at that hour of night.

ACTING CHAIR ARTHUR GOLDBERG: I believe you submitted menus?

ATTY KAREN SIMAO: That's correct. Mr. Bissonnette has extensive experience in being involved in the management of locations in both food service and alcohol service, and so this being really his baby pushing forward this Cambridge location, he will be the point person at 505 Mass. Ave for the proposed location.

POLICE COMMISSIONER ROBERT HAAS: So you've qualified the applicant's experience as this being the first restaurant in Cambridge.

Does that mean he had restaurant operations in other places?

ATTY KAREN SIMAO: This is the first operation where he will hold a 50 percent ownership interest. However, he has been working with Mr. Oringer since -- how many years has it been now?

JAMIE BISSONNETTE: 1999.

ATTY KAREN SIMAO: Since 1999. So he has

really been Mr. Oringer's counterpart because to say right hand, isn't giving him enough credit, so counterpart in all of these restaurant operations, but this is the first one that there's a vested ownership interest versus a management role.

POLICE COMMISSIONER ROBERT HAAS: Okay.

ACTING CHAIR ARTHUR GOLDBERG: Do you know what is happening at 18 Eliot Street where the license being transferred from?

ATTY KAREN SIMAO: I do not know. I don't have that information.

EXECUTIVE DIRECTOR ELIZABETH LINT: I don't know.

ATTY KAREN SIMAO: I believe they are closed but Ms. Lint would know.

EXECUTIVE DIRECTOR ELIZABETH LINT: I don't know what is going on.

ACTING CHAIR ARTHUR GOLDBERG: Are there

any members of the public that would like to be heard on this matter?

None.

Anything from the Executive Director?

EXECUTIVE DIRECTOR ELIZABETH LINT:

Backgrounds are fine. Paperwork is all set.

ASSISTANT FIRE CHIEF GERARD MAHONEY: I make a motion to approve the application as submitted for JKFOODGROUP, LLC doing business as Little Donkey.

POLICE COMMISSIONER ROBERT HAAS: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ACTING CHAIR ARTHUR GOLDBERG: Yes.

ASSISTANT FIRE CHIEF GERARD MAHONEY:
Aye.

ATTY KAREN SIMAO: Thank you very much.

APPLICATION: T.T. THE BEAR'S PLACE, INC.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: T.T. The Bear's Place, Inc., Miles Cares, manager, holder of an all alcoholic beverages restaurant license at 10-18 Brookline Street has applied to hold said license as inactive.

ACTING CHAIR ARTHUR GOLDBERG: Hi.

KEVIN PATEY: My name is Kevin Patey.

K-E-V-I-N P-A-T-E-Y.

I am here today on behalf of Miles Cares and Bonnie Harriet Bouley. They both have medical issues happening right now, so I was asked to come. She notified the board earlier, I believe.

ACTING CHAIR ARTHUR GOLDBERG: What is your role at T.T. The Bear's?

KEVIN PATEY: Friend of Bonnie's and former employee. I was an assistant manager.

ACTING CHAIR ARTHUR GOLDBERG: Could you

just describe what you are here for?

KEVIN PATEY: I was asked to come on Bonnie's behalf because it is my understanding we need to convey to the licensing board what the status of the license is and what she's trying to do with it, if that's correct, which I believe she has notified the board that the license has been placed with a broker for sale.

It was only 60 days approximately since we were put out of business, so in the process of trying to sell these things, it takes a little time, I guess, so she's working on that along with working on other possible options of partnering up with somebody new. That sort of thing.

So it's basically been 60 days. And it was my understanding that someone needed to be here just to convey the status of the license and request that we have -- I'm not sure if we call

it an extension or a period of time for her to make that transition happen.

ACTING CHAIR ARTHUR GOLDBERG: Is there any member of the public that would like to speak on this issue?

None.

And the Executive Director?

All right.

ASSISTANT FIRE CHIEF GERARD MAHONEY: I make a motion that the application for T.T. The Bear's Place Incorporated to hold the license as inactive be approved.

POLICE COMMISSIONER ROBERT HAAS: For what period of time? Six months?

ASSISTANT FIRE CHIEF GERARD MAHONEY: For six months.

ACTING CHAIR ARTHUR GOLDBERG: So we'll review in six months?

POLICE COMMISSIONER ROBERT HAAS: They

are -- yeah, they report back within six months and if they don't sell the license, they can make application again to extend beyond the six months.

ACTING CHAIR ARTHUR GOLDBERG: Okay.

KEVIN PATEY: Can I request that it be for a longer period of time simply because she's not in the greatest of health and I'm just thinking the dead of winter right then, but that is entirely --

POLICE COMMISSIONER ROBERT HAAS: I think it is always good for the License Commission to check back to see what is going on in the terms of the activity around the sale of the license and things like that.

KEVIN PATEY: I know she's been in pretty constant communication. She's had the license for 43 years so.

ACTING CHAIR ARTHUR GOLDBERG: Yeah, this

doesn't mean that it will be revoked in six months. It's just --

KEVIN PATEY: That's great. Thank you.

ACTING CHAIR ARTHUR GOLDBERG: So I think there was a motion.

ASSISTANT FIRE CHIEF GERARD MAHONEY:

Yes.

POLICE COMMISSIONER ROBERT HAAS: I second the motion.

ACTING CHAIR ARTHUR GOLDBERG: All in favor? Yes.

POLICE COMMISSIONER ROBERT HAAS: Aye.

ASSISTANT FIRE CHIEF GERARD MAHONEY:

Aye.

APPLICATION: JYOTI AND RAJNEE FOOD CORPORATION D/B/A SUBWAY

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Jyoti and Rajnee Food

Corporation d/b/a Subway, Arun Budhathoki, manager, has applied for a common victualer license at 36 JFK Street.

Said license, if granted, would allow food and non-alcoholic beverages to be sold, served and consumed on said premises with a seating capacity of 0 and proposed operating hours from 7:00 a.m. until 12 a.m., seven days per week.

ARUN BUDHATHOKI: Good evening, everyone.

ACTING CHAIR ARTHUR GOLDBERG: Good evening.

ASSISTANT FIRE CHIEF GERARD MAHONEY: Hello.

ACTING CHAIR ARTHUR GOLDBERG: State your name.

ARUN BUDHATHOKI: My name Arun A-R-U-N. Last name Budhathoki, B-U-D-H-A-T-H-O-K-I.

ACTING CHAIR ARTHUR GOLDBERG: Thank you.

ARUN BUDHATHOKI: I'm the owner of the Subway for 36 JFK Street. I own and operate. So I'd like to --

ASSISTANT FIRE CHIEF GERARD MAHONEY: Are you currently in operation?

ARUN BUDHATHOKI: No. We didn't take it over. Right now it is Rajnee.

POLICE COMMISSIONER ROBERT HAAS: I didn't get that. Right now it is what?

ARUN BUDHATHOKI: There's Rajnee. I'm buying his subway.

ACTING CHAIR ARTHUR GOLDBERG: It is a Subway and you are buying it?

ARUN BUDHATHOKI: Yep.

ACTING CHAIR ARTHUR GOLDBERG: And there's no seating there?

ARUN BUDHATHOKI: No, there isn't seating.

ACTING CHAIR ARTHUR GOLDBERG: So it is

just take-out?

ARUN BUDHATHOKI: Yeah.

EXECUTIVE DIRECTOR ELIZABETH LINT: They don't need a license, CV license.

I don't know why -- it was explained to me that he wanted the license, but with no seats, they are not required to have a CV license.

ACTING CHAIR ARTHUR GOLDBERG: Okay, but they've applied and submitted the required documentation?

EXECUTIVE DIRECTOR ELIZABETH LINT: They did, but the seats are the tipping point.

ACTING CHAIR ARTHUR GOLDBERG: Are you operating from 7 a.m. to 12 a.m. serving -- Subway serves breakfast, lunch and dinner?

ARUN BUDHATHOKI: Yes. All three.

ACTING CHAIR ARTHUR GOLDBERG: Do you have experience operating a restaurant?

ARUN BUDHATHOKI: Yes. I've been working

at Subway, my first one is in Arsenal Mall.

ACTING CHAIR ARTHUR GOLDBERG: Oh.

ARUN BUDHATHOKI: And the second one in -- just after one mile in 260 Western Avenue, Allston. And my third one is in 981 Tremont Street. And this will be my fourth one. And I operate myself, you know, I'm involved myself. I get out seven and I'm back at ten most of the days.

POLICE COMMISSIONER ROBERT HAAS: How long have you been affiliated with Subway?

ARUN BUDHATHOKI: Since 2 -- I have been working my second job since I came to this country was Subway.

POLICE COMMISSIONER ROBERT HAAS: When did you start operating a Subway?

How long ago did you buy your first Subway?

ARUN BUDHATHOKI: 2012.

POLICE COMMISSIONER ROBERT HAAS: 2012?

ARUN BUDHATHOKI: Yep.

ACTING CHAIR ARTHUR GOLDBERG: Do any members of the public want to be heard on this matter?

None.

Motion?

ASSISTANT FIRE CHIEF GERARD MAHONEY:

Motion to approve the application submitted for Subway at 36 JFK Street.

ACTING CHAIR ARTHUR GOLDBERG: Second.

POLICE COMMISSIONER ROBERT HAAS: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ASSISTANT FIRE CHIEF GERARD MAHONEY:

Aye.

ACTING CHAIR ARTHUR GOLDBERG: Aye.

You are approved.

ARUN BUDHATHOKI: Thanks a lot.

APPLICATION: CHEF GROUP, INC.

D/B/A HANA SUSHI

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application. Chef Group, Inc., d/b/a Hana Sushi, Dao Li, manager, has applied to transfer the wine and malt beverages restaurant license currently held by Ardent Enterprises, Inc. D/b/a Hana Sushi at 2372 Massachusetts Avenue, at the same location.

Applicant is also applying for an entertainment license to include audio tape machine, CD.

The proposed hours of operation of 8:00 a.m. to 1 a.m., seven days. The proposed seating capacity is 48.

WON RA: I'm the owner. Do I need to be seated too?

EXECUTIVE DIRECTOR ELIZABETH LINT: You can, if you'd like.

ACTING CHAIR ARTHUR GOLDBERG: Sure.

ATTY MEIHUEI HU: My name is Meihuei Hu. I represent the applicant Chef Group.

Next to me --

ACTING CHAIR ARTHUR GOLDBERG: I'm sorry, could you spell your name?

ATTY MEIHUEI HU: First name M-E-I-H-U-E-I. Last name is H-U.

Next to me is the proposed manager, he's also a shareholder, Dao Li, D-A-O, last name L-I.

The other way is Weichiang, W-E-I-C-H-I-A-N-G, last name C-H-E-N.

And the current owner, I don't --

WON RA: Won W-O-N. Last name R-A.

ATTY MEIHUEI HU: We are here seeking approval of our application to transfer the alcohol license and the CV license to my

client.

Both gentlemen here are the shareholders and they both have restaurant operation experience.

Mr. Dao Li has been a sushi chef since 2013.

And Weichiang Chen has been an owner and operator at a sushi restaurant in Winchester.

And Mr. Dao Li also is TIPS certified, so he's confident in -- also in his past experience working at premises where alcohol beverages are served but he was confident that he has gained enough experience to be on his own to be able to oversee the procedure, safe alcoholic beverages service, following the proper procedure before alcohol beverages are served.

ACTING CHAIR ARTHUR GOLDBERG: Excuse me, you said he was certified. And I'm just wondering what kind of certification does he

have?

ATTY MEIHUEI HU: TIPS program.

POLICE COMMISSIONER ROBERT HAAS: You will be required to also satisfy the 21 Proof training, which is Cambridge-based training if the application --

ATTY MEIHUEI HU: If that is required, certainly he can go through that.

ACTING CHAIR ARTHUR GOLDBERG: So this is a transfer basically. It is the same location, so it is just a transfer of the license, so there's a restaurant there now?

WON RA: It is in operation, yes, sir.

ACTING CHAIR ARTHUR GOLDBERG: And you are transferring your wine and malt and restaurant license to --

WON RA: Over to the buyer, yes, sir.

ACTING CHAIR ARTHUR GOLDBERG: Okay. I would just like to note, and you may be aware of

this, that this is the same location where we had dumpster issues regarding Casella and there were rodent issues within that dumpster.

We would certainly want you to pay close attention to the dumpster outside of your restaurant and be sure that there are no ongoing rodent issues there.

Do you know or would you still plan to be using Casella for the hauler for that dumpster?

ATTY MEIHUEI HU: We have not signed any service contract with these contractors, but we'll certainly working with the current owner here to understand what the past issue were and we'll certainly hire a responsible hauler or trash hauler to meet any kind of requirement that the city may have.

Before we submitted the application, we had inspector from the health division to come

out and approve on our application, and we certainly will continue to work closely with the health inspector.

ACTING CHAIR ARTHUR GOLDBERG: Okay. And I notice that you are also applying for an entertainment license for below conversation level.

ATTY MEIHUEI HU: Yes.

ACTING CHAIR ARTHUR GOLDBERG: Okay. Is the seating staying the same?

ATTY MEIHUEI HU: Seating stays the same.

ACTING CHAIR ARTHUR GOLDBERG: Will you be serving, did you say, breakfast, lunch and dinner because you have an 8 a.m. hour of operation?

ATTY MEIHUEI HU: That was certainly just a carry-over from a current license, but I understand the previous conversation at the other hearing, if Chairman -- it more appropriate to

amend our application, we'll certainly be happy to do that.

Perhaps we can explain what you intend to do in terms of your operating hours, your opening time. On weekends, what time do you intend to open? 10 a.m.?

DAO LI: 11.

ATTY MEIHUEI HU: 11 on Saturday and Sunday. Oh, seven days a week, 11; that would be sufficient?

DAO LI: Yes.

ACTING CHAIR ARTHUR GOLDBERG: Okay.

POLICE COMMISSIONER ROBERT HAAS: So seven days a week, 11 a.m. is the opening time?

ATTY MEIHUEI HU: 11 a.m. is the opening time. 11:00 will be the opening time.

POLICE COMMISSIONER ROBERT HAAS: And they are proposed to stay open until 1:00 also at

night as well, right, 1 a.m.?

ATTY MEIHUEI HU: Yes.

ACTING CHAIR ARTHUR GOLDBERG: Is there any member of the public that would like to be heard on this matter?

None.

Anything from the Executive director?

EXECUTIVE DIRECTOR ELIZABETH LINT: No.

All set.

ACTING CHAIR ARTHUR GOLDBERG: Is there a motion regarding that we incorporate the 11 a.m. opening?

I'll make a motion that the applications be approved as amended with an 11 a.m. opening, seven days a week.

POLICE COMMISSIONER ROBERT HAAS: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ASSISTANT FIRE CHIEF GERARD MAHONEY:

Aye.

ACTING CHAIR ARTHUR GOLDBERG: Yes.

ASSISTANT FIRE CHIEF GERARD MAHONEY: And
21 Proof training.

POLICE COMMISSIONER ROBERT HAAS: Yes.
They will be notified of 21 Proof training?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

ACTING CHAIR ARTHUR GOLDBERG: Okay, you
have been approved.

ATTY MEIHUEI HU: Thank you very much.
The.

APPLICATION: EAST WEST BRIDGE, LLC.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: East West Bridge, LLC,
Henok Yared, manager, has applied for a
livery/limousine, license for 1 vehicle at 20
Lincoln Way to be able to do deliveries.

HENOK YARED: Good evening.

ACTING CHAIR ARTHUR GOLDBERG: Good evening.

Could you state your name and spell it.

HENOK YARED: My name is H-E-N-O-K
Y-A-R-E-D.

ACTING CHAIR ARTHUR GOLDBERG: Could you just describe briefly what you are applying for?

HENOK YARED: I am applying to establish my own, you know, livery service around Cambridge.

So for that reason I submit my application a couple months ago, so I'm here to hear a decision.

POLICE COMMISSIONER ROBERT HAAS: You are not planning on transporting any passengers, it is simply a delivery business?

HENOK YARED: As I'm told from the

Commissioner, there's no -- there's any license issued at that time, so I get a chance to apply for a delivery license, so if there's a chance to coming back and issue the livery license, at that time I will apply for that.

ACTING CHAIR ARTHUR GOLDBERG: Your understanding is at this time you are applying just for the delivery of packages, is that correct?

HENOK YARED: Yes.

ASSISTANT FIRE CHIEF GERARD MAHONEY:
What type of vehicle?

HENOK YARED: Van.

ACTING CHAIR ARTHUR GOLDBERG: Have you done work like this before?

HENOK YARED: I worked different kind of jobs but it's -- since three years ago, I worked as cab driver.

After that, I started working

independent -- I used to work for Uber as a limo deliver and I switched back to my own car and driving for Uber. So now I feel I'm not doing any good job, so I try to establish my own delivery to get more work.

ACTING CHAIR ARTHUR GOLDBERG: Do you have insurance?

HENOK YARED: One of the requirements to have this, you know, license from here, and then that's one of my evidence for them.

ACTING CHAIR ARTHUR GOLDBERG: You submit proof of insurance?

HENOK YARED: Yes.

EXECUTIVE DIRECTOR ELIZABETH LINT: We don't have a copy of his registration.

ACTING CHAIR ARTHUR GOLDBERG: Do you have a copy of that tonight?

HENOK YARED: My registration?

POLICE COMMISSIONER ROBERT HAAS: Uh-huh.

ACTING CHAIR ARTHUR GOLDBERG: Yeah.

HENOK YARED: Sure.

EXECUTIVE DIRECTOR ELIZABETH LINT: Is that an actual copy?

HENOK YARED: Yeah. (Forwarding).

EXECUTIVE DIRECTOR ELIZABETH LINT: Thank you.

ACTING CHAIR ARTHUR GOLDBERG: You said you have one vehicle?

HENOK YARED: Yes.

ACTING CHAIR ARTHUR GOLDBERG: And so you own the vehicle?

HENOK YARED: I own my vehicle, yes.

ACTING CHAIR ARTHUR GOLDBERG: And will you have any employees working for you?

HENOK YARED: Not right now.

ASSISTANT FIRE CHIEF GERARD MAHONEY: I'm curious, 20 Lincoln Way is a residence, correct?

HENOK YARED: Yes.

ASSISTANT FIRE CHIEF GERARD MAHONEY: So you -- tell us a little about it, you will go to locations to pick up packages and transport them to another location or packages shipped to the residence to be transported? How will this work?

HENOK YARED: You know, I try to establish -- you know, that's my home office, but there's not any package coming to my home, so I have to travel where the package is, pick up it and deliver it.

ASSISTANT FIRE CHIEF GERARD MAHONEY: To where it is going?

HENOK YARED: Yeah.

ASSISTANT FIRE CHIEF GERARD MAHONEY: And will your -- what do you envision your range of service will be? Will it be Greater Boston? Will it be --

HENOK YARED: Based in Cambridge. You

know, the -- I mean, the radius could be somewhere in Massachusetts. At this time I can't say.

ASSISTANT FIRE CHIEF GERARD MAHONEY: You will -- I get the sense that you will basically take whatever business you can get.

HENOK YARED: Yes.

ASSISTANT FIRE CHIEF GERARD MAHONEY: Initially to build up your business?

HENOK YARED: Yeah.

ACTING CHAIR ARTHUR GOLDBERG: Is the name of your business East West Bridge?

HENOK YARED: Yes.

ACTING CHAIR ARTHUR GOLDBERG: Is there any member of the public that would like to be heard on this?

None.

Anything from the Executive Director?

POLICE COMMISSIONER ROBERT HAAS: I

make a motion to approve the application for livery limousine license for pick ups and deliveries.

ACTING CHAIR ARTHUR GOLDBERG: Seconded.

All in favor?

ASSISTANT FIRE CHIEF GERARD MAHONEY:

Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

ACTING CHAIR ARTHUR GOLDBERG: Aye.

That means you were approved.

EXECUTIVE DIRECTOR ELIZABETH LINT: You will get a letter from us letting you know what to do.

APPLICATION: NUMIKOFF CONSULTING, LLC

D/B/A PRONTO CAFE

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Numikoff Consulting LLC,
d/b/a Pronto Cafe, Nodirbek Radjapov, manager,

has applied for a common victualer license at 645 Cambridge Street.

Said license, if granted, would allow food and non-alcoholic beverages to be sold, served and consumed on said premises with a seating capacity of 18 and proposed operating hours from 7:00 a.m. until 2 a.m. seven days per week.

ACTING CHAIR ARTHUR GOLDBERG: Good evening.

Could you state your name for the record?

DANIEL SURIAN: My name is Daniel Surian, S-U-R-I-A-N.

NODIRBEK RADJAPOV: My name is Nodirbek Radjapov. That's N-O-D-I-R-B-E-K R-A-D-J-A-P-O-V.

DANIEL SURIAN: We will be the new owner of the Dilara Cafe, 645 Cambridge Street, Cambridge. I'm sure you are familiar with the

location. Corner of Cambridge and Lambert
Streets.

It is an old, dark kinda ugly place at
the moment.

ACTING CHAIR ARTHUR GOLDBERG: What is in
there now?

DANIEL SURIAN: It is not -- it is a
nonoperating restaurant that was there for many
years. Maybe 20, 30 years.

ACTING CHAIR ARTHUR GOLDBERG: What was
it called?

DANIEL SURIAN: Dilara, D-I-L-A-R-A.
Cafe.

ACTING CHAIR ARTHUR GOLDBERG: The plan
here is to?

DANIEL SURIAN: The plan is to clean it
up, beautify, make it a good-looking place.

The menu we are proposing is purely 100
percent American breakfast, lunch and dinner. We

have a couple menu here.

ACTING CHAIR ARTHUR GOLDBERG: What hours are being proposed?

ASSISTANT FIRE CHIEF GERARD MAHONEY: 7 to 2.

EXECUTIVE DIRECTOR ELIZABETH LINT: 7 to 2, and I did get the letter of intent.

ACTING CHAIR ARTHUR GOLDBERG: You did, okay.

ASSISTANT FIRE CHIEF GERARD MAHONEY: So you are not the building owner, are you?

DANIEL SURIAN: No.

I also have the green cards that were sent to all the abutters.

This is also a copy of the proposed menu.

It is something that's evolving, it is in the works, and we understand that 2 a.m. may be a little late for the area.

We don't have any intention to apply for

any type of liquor, entertainment license. We will be purely sit down, take-out, delivery type of place.

ASSISTANT FIRE CHIEF GERARD MAHONEY:

This, I assume, is just your lunch and dinner menu, right?

DANIEL SURIAN: For now, yes. That's also changing but we are finalizing the breakfast.

ASSISTANT FIRE CHIEF GERARD MAHONEY:

Pizza, sandwiches, salads?

DANIEL SURIAN: Yeah. You know, with a healthy twist, you know, salads, wraps, home-cooked style foods.

Nodirbek's wife is a chef. I have a total of 17 years of experience in the food business. I'm certified food manager and I have managed three restaurants in the past. I will be working alongside Nodirbek.

ACTING CHAIR ARTHUR GOLDBERG: In
Cambridge?

DANIEL SURIAN: No. Everett and Chelsea.
I live in Charlestown.

ASSISTANT FIRE CHIEF GERARD MAHONEY:
What is your timeline for opening?

DANIEL SURIAN: As soon as possible.
Once we get the approval tonight, the first stop
will be the Board of Health and --

ASSISTANT FIRE CHIEF GERARD MAHONEY: I'm
sorry, the first stop is where?

DANIEL SURIAN: Board of Health, filed
for a food permit application and start cleaning
up, painting and need to fix floors, change some
equipment, pass the inspections.

ASSISTANT FIRE CHIEF GERARD MAHONEY:
Probably a month or so?

DANIEL SURIAN: Probably. Maybe a little
bit before, but that's about right.

ACTING CHAIR ARTHUR GOLDBERG: Is there any member of the public here to speak on this matter?

None.

EXECUTIVE DIRECTOR ELIZABETH LINT: We have had some issues with this location in the past with one of the abutters in terms of trash pick up and so that's a concern.

DANIEL SURIAN: Okay, we can pay attention to that. Good to know.

POLICE COMMISSIONER ROBERT HAAS: So if you decide that 2:00 opening is going to be too late, you know you have to come back before us to amendment your hours, right?

DANIEL SURIAN: We are willing to work with the Commissioner and City of Cambridge.

POLICE COMMISSIONER ROBERT HAAS: So we're saying if we grant the hours for 7 a.m. to 2 a.m., that you need to be open during that

period of time and you can't just arbitrarily decide that you are going to close the business early because you don't have any business. You have to come back to us and reapply for new hours.

DANIEL SURIAN: We'll do that and make the adjustment.

You mean if we want to drop breakfast for example or close at 11?

POLICE COMMISSIONER ROBERT HAAS: Uh-huh.

DANIEL SURIAN: We'll come back here and request the change of hours.

ACTING CHAIR ARTHUR GOLDBERG: Anything else from the Executive Director?

EXECUTIVE DIRECTOR ELIZABETH LINT: No.

ASSISTANT FIRE CHIEF GERARD MAHONEY:
Motion to approve the application for Numikoff Consulting, LLC, doing business as Pronto Cafe.

POLICE COMMISSIONER ROBERT HAAS: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ASSISTANT FIRE CHIEF GERARD MAHONEY:
Aye.

ACTING CHAIR ARTHUR GOLDBERG: Aye.

You are approved. Good luck.

I think we should take a recess for hopefully a short period of time. We are expecting Chief Reardon any minute and then we can take up the Basha matter.

(Short Recess Taken.)

(Fire Chief Gerald Reardon enters hearing room.)

(Assistant Fire Chief Gerard Mahoney. leaves hearing room.)

ACTING CHAIR ARTHUR GOLDBERG: Why don't we go back on the record, back in session, and if you could call this matter.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Surely.

DISCIPLINARY: BASHA CAFE, LLC.

D/B/A BASHA CAFE

EXECUTIVE DIRECTOR ELIZABETH LINT:

Disciplinary: Basha Cafe, LLC d/b/a

Basha Cafe, Sarah Shabana, manager, holder of an all alcoholic beverages restaurant license at 26 new street for alleged violations of Mass.

General Laws Chapter 138, Section 23, Rules 14, and 32 of the Rules and Regulations of the Cambridge License Commission and Rule 3 of the recommendations of the alcohol CAP and Economic Development Task Force.

This hearing is being held due to the owner/manager failure, without excuse, to attend the previously scheduled hearing on August 11, the investigator's findings that the named

manager was not on the premises on the occasions he inspected and the presence of the premises in an apparent managerial capacity of an unlicensed and unapproved individual at the times of the investigator's visits.

ACTING CHAIR ARTHUR GOLDBERG: So what I would like to do is start with the investigator. If he could come forward and state what his reports and inspection consisted of.

HENDERSON HEADLEY: Henderson Headley, Licensing Investigator, License Commission, City of Cambridge.

I have three reports that have been previously read into the record.

Do you want me to re-read them again?

ACTING CHAIR ARTHUR GOLDBERG: Yes, please.

HENDERSON HEADLEY: This investigation was completed on November 18, 2014, and it reads

"Please be advised that this establishment was investigated as instructed.

The owner/manager of record Sarah Shabana, was not present. The prospective new owner was also not present. His name is Tesfaye Andarge. Nevertheless, I spoke to Habtamu Tadesse, Tesfaye's brother. I posed various questions to him.

He stated that he will be assisting his brother in the future. According to Habtamu, ownership has not changed.

Habtamu reiterated that Sarah is still the owner of record and is in charge of all operations.

He also stated that new events were not scheduled. In addition, no DJ or other forms of entertainment were also not in future programming.

Habtamu reiterated that the prospective

new management is only in training regarding kitchen operations, Cambridge rules and regulations customer care and development and generally receiving guidance as a precursor to taking over at some point in the future.

At the time of this investigation, there were only four customers on the premises."

So that was the first investigation.

The other investigation took place on January 14, 2015.

And again, it states, "Please be advised that this establishment was investigated as instructed. The owner/manager of record Sarah Shabana was not present. However, the prospective new owner was present. His name is Tesfaye Andarge and I inquired about his ownership status. He related that Sarah is still the owner/manager of record. He advised that she stops by on various days and at different

times.

According to Tesfaye, there's no consistent day or time for Sarah's arrival to the establishment. He also asserted that she's in charge of all operations.

Tesfaye claimed that he's still in training relative to kitchen operations, Cambridge rules and regulations, customer care and development and receiving guidance as a precursor to taking over at some point in the future.

There were only six customers on the premises. There was no DJ, dancing or other forms of live entertainment observed. However, a television of Ethiopian programming was observed."

Finally, an investigation occurred on May 16, 2015. And it reads, "Please be advised that Basha Cafe establishment was investigated again

on May 16, 2015. However, nothing has changed from the previously submitted report on January 14, 2015.

The owner/manager of record Sarah Shabana was not present during my visit. However, the prospective new owner Tesfaye Andarge was present. Again, I inquired about his ownership status and he reiterated that Sarah is still the owner/manager of record.

He also advised that she stops by on various days at different times. According to Tesfaye, there's no consistent day or time of Sarah's arrival to the establishment. He also asserted she's in charge of all operations. And this last part is consistent with previous investigations.

Tesfaye claimed that he's still in training relative to the kitchen operations, Cambridge rules and regulations, customer care

and development and receiving guidance as a precursor to taking over at some point in the future.

During this investigation there were only nine customers on the premises. Again, there was no DJ, dancing, or other forms of live entertainment observed. However, as is stated in previous investigations, a television with Ethiopian programming was observed."

So this concludes basically the three times I visited and observed this location, and this was previously read into the record last time.

ACTING CHAIR ARTHUR GOLDBERG: Thank you.

Are there any questions of the investigator at this time of the Commissioners?

FIRE CHIEF GERALD REARDON: Henderson, what were the times and those dates that you --

HENDERSON HEADLEY: Generally after 10:00

between 10:00 and 12:30.

ACTING CHAIR ARTHUR GOLDBERG: a.m. or
p.m.?

HENDERSON HEADLEY: p.m. Of course 12:30
a.m. depending on the overlapping past midnight.

POLICE COMMISSIONER ROBERT HAAS: The
last two inspections you indicated that you met
with the prospective owner of the establishment
and he identified himself in that capacity to
you?

HENDERSON HEADLEY: He identified himself
as the person in training.

POLICE COMMISSIONER ROBERT HAAS: In
training?

HENDERSON HEADLEY: And he mentioned
consistently he was just there in training. He
hasn't officially taken over and Sarah was still
the manager of record.

POLICE COMMISSIONER ROBERT HAAS: And

he was very clear about the fact when you spoke to him that the current owner/manager did not show up on a regular basis, did not have a set schedule, and would come and go on occasion.

HENDERSON HEADLEY: He reiterated that she comes and goes, and she comes from time to time.

He couldn't really pin down the exact times, but he said she does show up periodically throughout the week.

ACTING CHAIR ARTHUR GOLDBERG: Okay, so Basha Cafe is here.

Would you like to come up and be heard on this matter?

ATTY JAMES RAFFERTY: Good evening, Mr. Chairman. For the record, James Rafferty appearing on behalf of the licensee.

Seated to my left is Sarah Shabana. Ms.

Shabana is manager of record on the license and manager of Basha Cafe, LLC, the owner and licensee.

We are in receipt of a notice dated August 28, and I would like, if we could, have that marked for the record. That's the notice which is informing the licensee of the violations.

We have heard the testimony of the investigator and have no factual dispute with what is contained there in the notice. The first issue identified in the notice deals with Ms. Shabana's failure to appear before the Commission at the hearing on August 11.

I'd like to begin by taking responsibility for that failure of Ms. Shabana to appear. She did receive the notice to attend an informational hearing for July 21. She received that on June 30 of this year.

I was retained in the matter the day before the hearing, but I had a conflict and I requested a continuance and the Commission granted a continuance until the August 11 date.

I was here on August 11, as was investigator Headley, and Ms. Shabana was not, and it was surprising to me she was not here, and I speculated at that time there may have been a communication error, and at that time the informational hearing proceeded without Ms. Shabana being present.

The report that was read tonight was read at that time. I've since gone back to my office and ascertained that we did not inform Ms. Shabana of the changed date. My assumption was she new about it and we let her know the continuance had been granted, so I want to begin by acknowledging my culpability and my office's

responsibility for failing to inform Ms. Shabana of that issue.

As it turned out, she had longstanding plans made and was scheduled to be on a cruise that night. So her failure to be here was not any act of negligence on her part or disrespect for the Commission.

It was, frankly, she was unaware of the hearing. I recognize that was the licensee's obligation through their agent, the Commission was accommodating my schedule, and I regret that a communication failure on my part and that of my office caused this confusion, so Ms. Shabana was not here.

So that's the first issue cited in the notice.

The second issue in the notice talks about an illegal or unauthorized transfer of the license, and I would respectfully suggest

there's no evidence before the Commission to support such a finding.

There is certainly uncontroverted evidence on three occasions Ms. Shabana was not present, and we do not dispute that. She was the manager of record, but there were a few items that I would suggest are telling in understanding the investigator's report.

The first is the few number of patrons that have been in the establishment. It was the January visit, the third in the height of the worst winter that anyone has experienced in recent memory.

The restaurant was closed regularly, lots of snow on the weekends and Ms. Shabana's appearances during the winter months were irregular at best.

She acknowledge there were few customers, there wasn't much activity. She stays in regular

contact with the employees at the restaurant. But that she certainly was not there on those evenings and she said there was serious consideration given this winter to closing the business.

On the other two occasions when the investigator reports being there, he also notes that patronage was less than ten patrons.

I'm not offering that as solution but merely as context to the irregular nature of Ms. Shabana's appearances at the premises.

There simply had not been enough business. She does have another job and she, however, is now, in light of this, and because of this, intends to be more regular and has been more regular in her presence on the premises.

We're very mindful of the obligations associated with the role of manager, the requirements associated and the duties incumbent

upon the manager, and those are responsibilities that Ms. Shabana takes seriously.

There have not been any violations during this period of time that are referred to in the report, but admittedly, Ms. Shabana has not been there on as consistent basis as I think the Commission would anticipate or expect.

The other piece of context here is the pending application to transfer this license.

There was an application filed some time ago, in October, and I noticed a communication in June from the Executive Director indicating that there hadn't been any action taken on it.

This transaction has become somewhat mired in the challenges associated with the Commission's policy involved with nontransferable licenses.

There was a point in time when the Commission had no value licenses. They then

added a stipulation a few years ago about nontransferable licenses.

Frankly, from a regulatory perspective, it presents a bit of a challenge as to what a business owner can do if they wish to sell the business and it is clearly Ms. Shabana's intention she wishes to sell the business.

We explored selling the LLC to the new operator and proposed operator. We have a contract to sell, but we have not been able to proceed on that because the transfer application would require that the operation cease conducting this business because the Commission can't approve a license in a location that currently has a license. And I would hope that at some point, and this case may prove to be the impetus, that we visit the policy of nontransferable licenses.

I can tell you in the eyes of the ABCC,

there's a license, a license is issued, and when licenses get transferred, when they get issued, I mean, in order -- it's an interesting constraint placed upon the license, which I think, frankly, conflicts the larger policy issues associated with the transfer process; namely, that the Department of Revenue has to provide a tax clearance for existing licensees and proposed licensees, and it is a very affective mechanism by which the Commonwealth collects any unpaid meal tax or any other taxes that are owed.

In a situation where the license isn't transferable, the license gets cancelled and then a new license is applied for, in which case that check, that safety check, on transfer goes away.

So it is an unusual situation, and it has complicated the ability to conduct one of these transactions.

So Ms. Shabana will be on the premises

regularly, but we are intending to bring the --
activate the transfer application.

I met with the proposed transferee and
his counsel yesterday, Mr. Goldberg, and
indicated that we need to bring this issue to a
head. Either we were -- we are going to have to
take direction from the Commission, but something
needs to happen. The restaurant has to close in
order to -- and it seems unusual to have to close
the restaurant in order to apply for a new
license.

ACTING CHAIR ARTHUR GOLDBERG: If I could
interrupt for a minute.

When you say "Mr. Goldberg," you don't
mean me?

ATTY JAMES RAFFERTY: A very good point.

No.

The Goldberg name in legal circles in
Cambridge has a long and distinguished

reputation. But there are two gentlemen, identical twin brothers, that have been toiling in the vineyards of Central Square for 50 years, the thankless job of a sole practitioner.

ACTING CHAIR ARTHUR GOLDBERG: And I'm not related to those two Goldbergs.

ATTY JAMES RAFFERTY: I'm sure that that's a regret on your part because I can assure you, if you were, you would have the benefit of a wonderful family affiliation.

But Mr. Goldberg indeed is representing the proposed transferee. We reviewed the terms of the purchase and sale agreement. We committed to advance the transfer and looking forward to meeting with Ms. Lint and your staff and determine how one can go about this issue of transferring the license.

If the conclusion is the restaurant has to close, it is burdensome, but that's one

option.

We would like to consider the sale of the LLC, which holds this license. That's regarded in some areas as a transfer as well. But we need to explore that and we're eager to explore that.

But that's the long and short of the two issues before the Commission.

The failure to appear is completely my fault, and I regret that my client has been placed in this position as a result of an oversight on my part, and I apologize to her and I apologize to the Commission for that.

The second part, as I said, Investigator Headley, he does a thorough job, his observations are acute, she was not there on the three evenings, but one of them was in the depths of a winter where there was little business.

So as the business atrophied over time,

Ms. Shabana has spent less time on the premises because there didn't seem to be as much need for her to be present.

She has telephonic communication, I believe, she tells me nearly daily. There are times she's there during the daytime when ordering is done and other business matters are attended to.

But in evening when there's only a few people in the restaurant and business is not strong, she has not been present as regularly as I'm sure the Commission would expect a manager to be.

We're going to modify that in terms of her own behavior and time on the premises in the immediate instance, and secondly, we're going to proceed with the transfer or whatever method of conveyance we are advised we should pursue.

ACTING CHAIR ARTHUR GOLDBERG: Questions?

POLICE COMMISSIONER ROBERT HAAS: So what are the typical hours now for her being present in the restaurant? What's her scheduled hours typically?

ATTY JAMES RAFFERTY: She is there.

She was there a few days a week generally during the daytime, she tells me, that in the latter part of the afternoon and she has not been there on a consistent basis in the evening for several weeks.

POLICE COMMISSIONER ROBERT HAAS: So when she was not there, who is in charge?

ATTY JAMES RAFFERTY: The other employees that are present.

I mean, she's not there -- I mean, many restaurants operate, I'm sure the Commission knows, without the manager, and we have multiple licensees with managers in multiple locations, but there's a hierarchy, and there are staff that

are responsible for opening and closing the establishment and she's in regular communication with them.

POLICE COMMISSIONER ROBERT HAAS: So you made a statement there were restaurants that don't have a manager.

ATTY JAMES RAFFERTY: No. I made a statement that there are restaurants where the manager is not -- not regular.

I was comparing it to situations where the law recognizes, and the ABCC allows, multiple managers to serve in multiple locations.

So it doesn't absolve them of their obligation and responsibility, but what I was noting, the fact that, it would not be a unique licensee to find that the manager isn't at the restaurant all hours it is operating.

And in this case, that is true. The restaurant operates on a -- as I said, it is

largely an evening operation and patronage as of late as been extremely light.

SARAH SHABANA: I can do a better job.

POLICE COMMISSIONER ROBERT HAAS: I'm a little bit troubled because your hours are typically during the daytime, your attorney just acknowledged the fact that the bulk of your business is the evening but those are the times you can't be there.

ATTY JAMES RAFFERTY: It's not -- excuse me, I want to be clear.

It is not she can't be there. The demand in her estimation, the demand -- there wasn't that much to do when there's less than ten people having dinner in the dining room and you've got two staff people, one behind the bar and two people in the kitchen, she made a judgment thing, Call me if there's a problem, and here's what we do. So we order food, we order alcohol, we meet

during the week and we discuss those things, so the level of business activity has been so light, particularly during the earlier part, the observation times in January and March, but admittedly, even this summer, but this has awakened Ms. Shabana to the fact she needs to be there on a more regular consistent basis and she has begun that and will continue to be there regularly.

SARAH SHABANA: And then the other thing with the entertainment license, when we host an event, I tend to bring in a lot of people. I mean, I believe we have had this special investigation certain times where we had 80 people plus in the restaurant, and that's -- there's plenty of business to be handled and we need hands on, staff.

ATTY JAMES RAFFERTY: And those are the nights you have been present?

SARAH SHABANA: Absolutely. And I have not had any of these in a long time.

And it also have affected the business. The last event that I was planning on having, it was a DJ and I had done a really good job marketing the event, and I had Andrea reach out to me and says, "You cannot have..."

ATTY JAMES RAFFERTY: Ms. Boyer.

SARAH SHABANA: Ms. Boyer. "You cannot have this event because of your license."

I said, "I apologize. I'm not aware of the fact that I need a special license for a DJ."

I says, "I certainly want to comply with the city wishes. I'll cancel the event." And we turned down all the business that we have already, and I did.

And this is actually what have started this whole investigation back in November. After I given her my word I would cancel the event,

then she have sent multiple time to check for the DJ. That has been multiple time and part of the report, I believe.

So that was kind've, like, another -- you know, the entertainment part is to bring crowds, especially dinner crowd, they like to listen to music, and I just felt like there's been a lot of effort to go behind these things and really market it, and it's just been kind've difficult to do.

Since we had the conversation with her, I figure, you know, it's a headache, let's just not do it. We'll discuss this later. And that was kind've why I haven't really had a big night and big crowds and big turns, so that's what happened.

POLICE COMMISSIONER ROBERT HAAS: So you made a statement earlier that you have to do a better job, what does that mean?

SARAH SHABANA: I also consult for some car dealerships.

POLICE COMMISSIONER ROBERT HAAS: No. In the context of the restaurants.

ATTY JAMES RAFFERTY: A better job, you mean you used to be there more regularly.

SARAH SHABANA: Oh, I say I need to be there more regularly. Absolutely.

I mean, I take direction. I have -- I want to comply. I want to be -- do a great job at anything I do.

I did not know that I need to be on premises like after 10 p.m.

I will make sure I am there more regularly for sure, and I can certainly do a better job of that. Have a set schedule, so if anybody wanted to come in and here's their schedule. I mean, is that something specific that I should be doing to --

POLICE COMMISSIONER ROBERT HAAS: I think our concern is, quite honestly, that you as the owner/manager need be there more regularly because, as your attorney indicated, ultimately you are responsible whether you are there or not there, right, and also I think the greatest concern is most operations have is late at night, that's typically when something can go wrong.

So who is there, who will be responsible making sure those things don't go wrong, right? So my concern is if you are just keeping your hours principally to the daytime and not doing a night business, even though it is light, you still run the risk something could go wrong and ultimately your reputation and your license is at stake.

And again, you can come in and say that, I wasn't there, so it is not my fault. We've

heard that before.

So ultimately, as long as the restaurant is open, you are ultimately responsible whether you are there or not.

SARAH SHABANA: I see.

ACTING CHAIR ARTHUR GOLDBERG: And the same thing, I'll ask the Executive Director, have we had a history of discipline at this location with this owner?

EXECUTIVE DIRECTOR ELIZABETH LINT: None whatsoever with this owner.

FIRE CHIEF GERALD REARDON: You are basically saying she has been there but her hours are irregular, so you are saying she has been showing up on a regular basis, although being not the nights that the investigations were?

ATTY JAMES RAFFERTY: Yes, she's involved and present, but it would not -- Ms. Shabana indicated she doesn't have a set schedule. She's

not there regularly.

In the latter part of the evening when the business is very light, she has, frankly, not been there, and I think as a result of the issues that have been raised in this proceeding and the prior ones, she's modified her conduct, and she's is there and will continue to be there with an eye towards transferring this because the long-term solution -- not long-term, hopefully, the short-term resolution here, she is eager to sell the business. She does have another business interest. And the restaurant has not, for a variety of reasons, has not gone in the direction that they hoped because as, you noted, there was some expectations around the entertainment license and such, so, yeah -- but she remains the manager of record and is acknowledging she needs to be there more regularly particularly with a focus on nocturnal

or evening activity.

FIRE CHIEF GERALD REARDON: Your point is tonight is that she has been showing up and just not done a good job on the late night.

You understand she has been showing up on a regular basis and this has not been a no-show situation?

ATTY JAMES RAFFERTY: Right, right. Yes. No question. That's what she tells me. She is -- I guess, the "regular basis" was throwing me because it's admittedly irregular, but yes, she -- and she's very mindful what the Commissioner noted about the obligation and responsibility of the manager, and as I said, she's very eager to honor the commitments and the trust that was placed in her by the Commission when they approved her appointment as manager.

FIRE CHIEF GERALD REARDON: As the Commissioner pointed out, even though there's a

light crowd at 10:00, there's issues in those nocturnal hours where things tend to arise.

I agree she's had no issues so far but the late night is generally a time when you need to put more presence needed.

ATTY JAMES RAFFERTY: Agreed.

SARAH SHABANA: I think I made a misjudgment based on there's no events. There's no crowds. I do apologize.

ACTING CHAIR ARTHUR GOLDBERG: Is there a motion on this matter?

POLICE COMMISSIONER ROBERT HAAS: After hearing the testimony, I believe that the culpability with respect to not being here on August 11 meeting has been explained, and I accept that explanation.

I agree that there's no tangible evidence to suggest ownership was ever transferred to somebody else, that you still, in fact, maintain

ownership, and you are the manager of record of that establishment.

The issue still remains with respect to your being present on the establishment I think more routinely than you have been, it is the one issue that is a sticking point for me.

In view of the fact that there has been no disciplinary matters with respect to your operation of the restaurant, I make a motion to place the matter on file.

And, in fact, if there's a future violation, that that matter would be taken into consideration for any future violations.

FIRE CHIEF GERALD REARDON: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

ACTING CHAIR ARTHUR GOLDBERG: And one

abstention.

ATTY JAMES RAFFERTY: Thank you very much.

SARAH SHABANA: Thank you very much.

ACTING CHAIR ARTHUR GOLDBERG: Thank you.

Do of we have minutes to approve?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes. Since we have you. We actually go back to May 19, July 21, August 11 and August 27.

POLICE COMMISSIONER ROBERT HAAS: Tell me the dates again?

May 19?

EXECUTIVE DIRECTOR ELIZABETH LINT: 7/21, 8/11, 8/27.

ACTING CHAIR ARTHUR GOLDBERG: I can vote on 8/27 to approve those minutes.

FIRE CHIEF GERALD REARDON: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ACTING CHAIR ARTHUR GOLDBERG: Aye.

Others?

FIRE CHIEF GERALD REARDON: 11th is okay.

EXECUTIVE DIRECTOR ELIZABETH LINT: The
19th and 24th.

FIRE CHIEF GERALD REARDON: I make a
motion to approve.

POLICE COMMISSIONER ROBERT HAAS: Second.

ACTING CHAIR ARTHUR GOLDBERG: All in
favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERARD MAHONEY: Aye.

EXECUTIVE DIRECTOR ELIZABETH LINT: Have
you all had the opportunity to review the
September 8?

FIRE CHIEF GERALD REARDON: I have not.

POLICE COMMISSIONER ROBERT HAAS: No.

EXECUTIVE DIRECTOR ELIZABETH LINT: You

weren't here and Gerard left.

ACTING CHAIR ARTHUR GOLDBERG: Any
further business?

EXECUTIVE DIRECTOR ELIZABETH LINT: I
don't have any.

FIRE CHIEF GERALD REARDON: Motion to
adjourn.

POLICE COMMISSIONER ROBERT HAAS:
Seconded.

ACTING CHAIR ARTHUR GOLDBERG: All in
favor?

POLICE COMMISSIONER ROBERT HAAS: Aye.

ACTING CHAIR ARTHUR GOLDBERG: Aye.

FIRE CHIEF GERALD REARDON: Aye.

ACTING CHAIR ARTHUR GOLDBERG: We are
adjourned.

(Whereupon the meeting was adjourned.)

ERRATA SHEET

INSTRUCTIONS: After reading the transcript, note any change or correction and the reason therefor on this sheet. Sign and date this errata sheet.

PAGE LINE

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		REASON: _____

I have read the foregoing transcript, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

CERTIFICATION

Commonwealth of Massachusetts

Norfolk, ss.

I, Jill Kourafas, a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of October, 2015.

Jill Kourafas
Certified Shorthand Reporter
License No. 14903
Notary Public

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