



# CAMBRIDGE LICENSE COMMISSION

831 MASSACHUSETTS AVE, CAMBRIDGE, MA 02139

NICOLE MURATI FERRER  
CHAIRPERSON | BOARD MEMBER

BRANVILLE G. BARD, JR.  
POLICE COMMISSIONER | BOARD MEMBER

GERARD E. MAHONEY  
FIRE CHIEF | BOARD MEMBER

ELIZABETH Y. LINT  
EXECUTIVE DIRECTOR

## BOARD OF LICENSE COMMISSIONERS' MEETING MINUTES

February 10, 2021 at 1:00 p.m.

***The meeting was held by remote participation through Zoom, pursuant to Governor Baker's Executive Order of March 12, 2020, suspending certain provisions of M.G.L. c. 30A, due to the COVID-19 Pandemic.***

***Meeting started at approximately 1:04 p.m.***

***Board members in attendance:*** Chair Nicole Murati Ferrer (present); Commissioner Branville Bard (present); and Chief Gerard Mahoney (present).

***Staff member in attendance:*** Elizabeth Y. Lint, Executive Director.

***Note:*** All decisions/votes were by roll call vote, and 3-0, unless otherwise specified.

1) Disciplinary SN KJ, Inc. d/b/a Beauty's Pizza, 187 Hampshire Street, Common Victualler Wine and Malt License #18674, to address whether Beauty's Pizza is in violation of: (1) Permitting disorder, disturbance, or illegality on a licensed premise, to wit, Overcapacity on the outdoor patio, in violation of M.G. L. c. 138, §§ 23 and 64 and Rules and Regulations of the City of Cambridge Board of License Commissioners Rules 2.3, 2.5, 5.1, and 9; (2) Providing unlicensed entertainment in violation of M.G.L. c. 138, §§ 23 and Board's Rule 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 10.1, and 11 and (3) Operating after the posted closing hours of the patio in violation of M.G.L. c. 138, §§ 23 and Board's Rules 1.6, 2.2, 2.5, 5.3, 6.1, 6.2, and 6.3. **[Time Stamp: 02:50]**

**Present:** Attorney James Rafferty, Jigarkumar Pirhuit, Sgt. Mochi and Investigator Tyler Bubenik.

**Documents Considered:** Hearing notice, documents attached thereto, file and record.

**Summary:** Sgt. Mochi responded to the licensed premises due to a noise complaint received through ECC. Upon arrival, Sgt. Mochi could plainly hear the music from a distance of fifty feet. Sgt. Mochi also testified there were 24 patrons on the outdoor area, and approximately 4 additional staff members in the outdoor area. He also observed they were projecting movies/videos. The license issued specified that the maximum capacity on the outdoor area was 10. Sgt. Mochi testified the staff was responsive and cooperative. Investigator Bubenik confirmed the license capacity numbers and also testified that the capacity was something that was discussed with the licensee through their renewal record. Investigator Bubenik also confirmed that upon his follow up of the complaint, the licensee was responsive and cooperative. Attorney Rafferty placed on the record there was no dispute as to the facts. In terms of the numbers, the licensee had taken over the location and failed to notice that the licensed numbers had changed. The previous operator was licensed for 28 seats outside. The current licensee applied for and was approved for an increase to 28 seats in December 2020, after this matter was brought to its attention. In terms of the noise and entertainment, the licensee was playing a video

of the location on repeat to attract clientele and the music was not being played outside but rather it was the music from inside traveling outside. The licensee reached out to the complainant, who is the neighbor abutting the patio and requested a meeting along with the management company. The licensee on its own volition has not operated in person service since the receipt of the notice of violation.

**Decision:** The Board found a violation for operating beyond the licensed capacity and for violation of the noise ordinance; it issued a warning.

2) Disciplinary Landscape Collaborative, Inc., expired Leaf Blower Permit #10704, for allegations that you or employees of Landscape Collaborative operated multiple leaf blowers within the same 10,000 square feet in violation of CMC 8.16.081.2(f) on November 21, 2020 in the vicinity of 10 Buckingham Place at approximately midday, morning of November 28, 2020 in the vicinity of 10 Buckingham Place, and on December 10, 2020 at approximately 2:00 p.m. in the vicinity of 3 Craigie Street. Additionally, the Stihl BR800X Magnum leaf blower allegedly in operation on December 10, 2020 has a manufacturer specified noise emissions rating above the maximum limit of 65 dBA in violation of CMC 8.16.081.2. **[Time Stamp: 23:42]**

**Present:** Investigator Tyler Bubenik and Jo Solet.

**Documents Considered:** Hearing notice and documents attached thereto, file and record.

**Summary:** No representative from Landscape Collaborative appeared. Resident Jo Solet testified that on November 21, 2020, Landscape Collaborative employees were operating two leaf blowers simultaneously and next to each other. On November 28, 2020, a resident submitted pictures showing Landscape Collaborative employees operating two leaf blowers simultaneously and next to each other. Investigator Bubenik testified that while on patrol on December 10, 2020, he observed Landscape Collaborative employees operating two leaf blowers simultaneously and next to each other. He also observed that one of the leaf blowers being used was a Stihl BR800X Magnum leaf blower which has noise emissions over 65 dBA. Landscape Collaborative has a record of similar violations and also failed to appear at the previous hearing.

**Decision:** The Board found three violations of operating leaf blowers simultaneously and within 10,000 square feet of each other, and one violation of operating a leaf blower with sound emissions beyond those allowed per the Ordinance. The Board issued a \$300.00 fine per violation for a total fine of \$1,200.00.

#### **ADMINISTRATIVE MATTERS**

*All the below listed matters are considered and voted upon by the Board without public testimony. Unless otherwise indicated, all the matters are decided upon by the individual review of the papers/applications before the Board members and each member votes upon the matter. The summary*

*of what is considered by the Board, unless otherwise indicated, is the identifying information of the matter as listed on the agenda.*

**[Time Stamp: 34:20]**

3) The Board will discuss the possibility of a home rule petition seeking special legislation to allow acoustic music performances of five or fewer performers with no amplification except for one mic at licensed establishments in the City of Cambridge, without the establishment being required to first obtain a license as required by G. L. c. 140, § 183A (the "Home Rule Petition") as requested by the City Council in Council Order No. O-9 of 11/16/20, and to discuss whether the Board has any concerns regarding such possible home rule petition.

**Summary:** The Board discussed the request based on the City Council Order as well as the referenced Boston pilot program. The Board discussed how the home rule petition or a program like the one in Boston would not work in Cambridge due to the City's density and mix of commercial and residential zoning. The Board raised the issue that it has already eliminated the superfluous/unnecessary entertainment categories but that acoustical music is not one of them. It raised the issues presented by zoning, the challenges in terms of managing noise complaints and enforcement, negative impacts this may have on street performers, the safety and ADA issues when something is not reviewed, and negative impacts on the community. The Board noted that it already has an accessible and non-cost prohibitive process in place to allow this type of entertainment annually or on a daily basis and which ensures public process and consideration.

**Decision:** The Board designated Chair Murati Ferrer to correspond back to the City Manager and City Solicitor the concerns expressed by the Board as to the proposed home rule petition.

4) The Board will discuss whether to consider re-implementing the emergency order adopted on 7/6/2020, to wit, adopt a temporary emergency policy due to COVID-19 to allow the issuance of one day alcohol licenses under G. L. c. 138, sec. 14 to existing alcohol licensees in order to allow them to open for a maximum of 30 days in a location which is not the currently licensed premises or contiguous thereto (i.e. a pop-up location), and all other conditions as adopted on 7/6/2020.

**Summary:** The Board discussed the impact COVID-19 had on the business community and raised that this was a creative way to assist the community within the confines of the law. The policy would be the same as the previous year.

**Decision:** Board adopted a temporary emergency policy due to COVID-19, which will expire on December 31, 2021, allowing the issuance of one day alcohol licenses under G. L. c. 138, § 14 to existing alcohol licensees in order to allow them to open for a maximum of 30 days in a location which is not the currently licensed premises or contiguous thereto (i.e. a pop-up location). Each licensee is entitled to a maximum of 30 days, regardless of the person or location, up until December 31, 2021. The license would only be for the service of malt and wine (no full liquor or liqueurs). All current rules and regulations would apply, including the new Mandatory Safety Standards for Restaurants issued by the Commonwealth of Massachusetts. There will be no license fee associated with the issuance of such licenses for this limited period and this limited purpose.

5) Minutes of January 27, 2021.

**Decision:** Approved.

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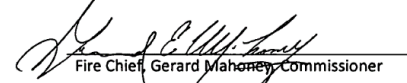
**Minutes Approved:** March 9, 2021

**Minutes Posted:** March 15, 2021

**By the Board of License Commissioners**

  
Nicole Murati Ferrer, Esq., Chair

  
Police Comm., Branville Bard, Commissioner

  
Fire Chief, Gerard Mahoney, Commissioner