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COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION DECISION HEARING

Michael Gardner, Acting Chairman  
Robert C. Haas, Police Commissioner  
Gerald R. Reardon, Fire Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

-- held at --

Michael J. Lombardi Municipal Building  
831 Massachusetts Avenue  
Cambridge, Massachusetts  
Basement Conference Room

Thursday, May 05, 2011

9:10 a.m.

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## P R O C E E D I N G S

1  
2 ELIZABETH LINT: License Commission  
3 decision-making hearing, Thursday, May 5,  
4 2011. We are in the Michael J. Lombardi  
5 Municipal Building, 831 Mass. Ave. Before  
6 you the Commissioners: Chairman, Michael  
7 Gardner, Chief Gerald Reardon and  
8 Commissioner Robert Haas.

9 We have decisions left from the April  
10 12th hearing and the April 26th hearing. Do  
11 you want to go in order from the 12th?

12 MICHAEL GARDNER: Whatever your most  
13 recent consistent practice is fine with me.  
14 Why don't you go in order.

15 ELIZABETH LINT: Then from April  
16 12th, the first matter is the Massasoit Elks.

17 MICHAEL GARDNER: Since I understand  
18 it, we have a report from the fire  
19 department --

20 ELIZABETH LINT: Correct.

21 MICHAEL GARDNER: -- on that matter?

1                   Could you just summarize that for us?

2                   ELIZABETH LINT: Yes, I have a  
3                   report from Deputy Fire Chief Bokuni ewicz who  
4                   said that due to the nature and complexity of  
5                   the findings that were heard at the April  
6                   12th hearing, it is of the opinion that in  
7                   the best interest of public and fire safety,  
8                   the above-mentioned establishment is no  
9                   longer in compliance with the exemptions  
10                  previously set forth by the Commission. It's  
11                  my belief that the above-mentioned  
12                  establishment has, on more than one occasion,  
13                  operated as more of a nightclub atmosphere as  
14                  defined by Mass. State Building Code 780 CMR  
15                  in the current life safety features and  
16                  inhouse protocols do not meet the minimum  
17                  requirements as prescribed by the Mass. State  
18                  Fire Law, Mass. General Laws Chapter 148,  
19                  Section 26G and a half for this type of  
20                  operation.

21                  MICHAEL GARDNER: Anything to add,

1 Chief?

2 GERALD REARDON: No. I mean,  
3 there's a lot of fraternal organizations in  
4 the city who are in the same kind of boat. I  
5 believe there's some dwindling membership,  
6 and some of the members who are there have  
7 been there for a long time and can't keep on  
8 working on these organizations. And I think  
9 there's the pressure to use other venues to  
10 supplant the cost of operating these things.  
11 Unfortunately the Variances and waivers that  
12 are allowed for them to operate as a private  
13 club, in this case, when they're getting into  
14 the -- again, it's a nightclub atmosphere.  
15 We're not saying it's a nightclub, but where  
16 it has music, disc jockeys and so forth, and  
17 it appears there's sale of tickets, those  
18 exemptions no longer are available to them.  
19 So at this particular time in light of what's  
20 been going on, they're not compliant with the  
21 state laws in the manner that they've been

1 operating from what we can see from the  
2 testimony.

3 MICHAEL GARDNER: And could we have  
4 a summary of what the disciplinary history in  
5 the past has been with this establishment,  
6 and in particular, if there have been similar  
7 violations in the past?

8 ELIZABETH LINT: Yes. In 2005 they  
9 were given a stern warning due to underage  
10 drinking, lack of security, and failure to  
11 apply for a one day license.

12 And then in 2008 they had a three-day  
13 suspension when someone was assaulted at the  
14 club.

15 MICHAEL GARDNER: Was that a  
16 suspension related to the assault or was  
17 there also a matter of there being open in a  
18 way that were inconsistent with their  
19 license?

20 ELIZABETH LINT: For both.

21 MICHAEL GARDNER: I would ask under

1 these circumstances ask the Commissioners to  
2 comment under these circumstances the  
3 appropriateness of something as harsh as a  
4 20-day suspension with all but five or ten  
5 days of that held in abeyance with five or  
6 ten to serve. And further warning or notice  
7 that any additional violations in addition to  
8 causing the balance of the suspension held in  
9 abeyance to be served would also result in  
10 consideration by the Commission of a hearing  
11 to revoke their license.

12 ROBERT HAAS: So, Mr. Chair, I offer  
13 a couple of observations.

14 One, I think that the Elks Club does in  
15 fact provide a lot of civic functions within  
16 the hall. I want to make sure the suspension  
17 doesn't interfere with those operations.

18 Clearly I think it's gotten to a point where  
19 their nighttime operations, the operation to  
20 be affected by the suspension cross over into  
21 what the Deputy Chief's identified as a

1 change in premises operations, and I'm not  
2 sure -- I want to make sure we send a very  
3 clear message, not just about a suspension,  
4 but that they can no longer operate this way  
5 unless they want to change the license  
6 requirements with respect to how they want to  
7 operate the function hall.

8           Clearly they're kind of in a catch 22  
9 situation where they're trying to maintain  
10 the premises by using these outside  
11 activities, but I think we've seen over and  
12 over again that this has become problematic  
13 in terms of issues relative to safety, both  
14 in terms of physical safety and the safety of  
15 the patrons going there because the  
16 establishment is not equipped to handle the  
17 types of activities in running a nightclub  
18 type of operation.

19           So I think, the suspension is fine, but  
20 I just want to make sure that they understand  
21 after the 10 days or 20 days, whatever it is,

1 they can't go back to this operation any  
2 longer. It's unsafe, and it's not conducive  
3 for what that hall has been designed for.

4 MICHAEL GARDNER: Yes. I mean, I  
5 take your comments as directly on point with  
6 respect to the need to communicate to the  
7 operators that under the present license as  
8 a club they cannot continue to do what  
9 they've continued to do by the evidence  
10 gathered at the April 12th hearing done on  
11 more than one occasion.

12 In addition to whatever action we  
13 formally take, can we be assured or advised  
14 by the License Commission staff with respect  
15 to whether we can expect any additional spot  
16 monitoring of the activities at the club?

17 ELIZABETH LINT: We can absolutely  
18 do that.

19 ROBERT HAAS: Mr. Chair, I ask that  
20 if we in fact impose a suspension, that  
21 during those days they're suspended, they

1 need to notify us in terms of what activities  
2 will take place in the nightclubs, again, so  
3 we don't interfere with the community events,  
4 but also make sure that it's consistent with  
5 the operating community event as opposed to  
6 what the suspension is designed to address.

7 GERALD REARDON: I believe we're all  
8 sympathetic to the good works that the  
9 organization does. And, again, they're in  
10 the same situation as many others, as I said  
11 earlier, fraternal organizations, the  
12 structure just is not set up to accommodate  
13 and it is a hazard, and if it's continued to  
14 use -- if it's continued use in this fashion,  
15 I believe we're only going to look at  
16 something that's going to be even more  
17 serious in terms of jeopardy of public safety  
18 there. So, unfortunately, I don't even see  
19 how they can continue to use any kind of a  
20 venue like this in the future. The place is  
21 not licensed for it in terms of its size.

1 It's not condone under law. Their Variances  
2 that are allowed to them under the law,  
3 because they don't use that kind of  
4 atmosphere because it's for members only or  
5 member supervised small -- I believe in the  
6 law when it was being written, having been  
7 part of that, it was really intended to be  
8 for a member who is present with their family  
9 to have like a wedding reception or something  
10 small. It was supervised by the club  
11 members, and the exemptions were put in to  
12 allow these facilities to still operate in  
13 that sort of function. They were never  
14 intended to be where a lot of them have gone  
15 right now. And I don't believe as they go  
16 forward, they should be allowed to do any of  
17 these type venues in the structure unless  
18 they want to bring it up to code, which is  
19 going to be very expensive and it will be a  
20 different license. So somehow as we go  
21 forward, I believe we should prohibit this

1 use in perpetuity unless it falls under the  
2 original scope of the law the way it was  
3 written for such clubs.

4 MICHAEL GARDNER: That was certainly  
5 my understanding, that what we are talking  
6 about is that they can't operate in the  
7 fashion similar to what they did in '08 or  
8 what they did on the evening this year which  
9 resulted in a police response. I guess I'm  
10 inexperienced enough to not exactly  
11 understand, Commissioner, what you mean about  
12 during the period of suspension that they  
13 advise us regarding any other activities they  
14 would be using the space for. Maybe you  
15 could elaborate on what you mean.

16 ROBERT HAAS: So, what I'd like them  
17 to do is if we identify the period of time in  
18 which their license is suspend. I don't want  
19 to preclude them from continuing to operate  
20 their civic and fraternal operations that are  
21 specifically designed to support the

1 community. I do believe that any of the  
2 operations with respect to the use of their  
3 license for any kind of membership activities  
4 and things like that, would hold true for the  
5 suspensions. I just want to be clear that  
6 we're not inevitably shutting down the club  
7 for the period of time that it's suspended.  
8 So, if in fact, they have some community  
9 event, they have another breakfast or they  
10 have another event where they're trying to  
11 support the community, I don't want to see  
12 that --

13 MICHAEL GARDNER: Stopped.

14 ROBERT HAAS: -- stopped or  
15 halted.

16 I want to be clear, because I think we  
17 want to recognize the fact that they play a  
18 very important civic role within the  
19 neighborhood, but they can't continue to  
20 operate this operation the way they are in  
21 the means of trying to raise funds to support

1 -- they're going to have to find another way  
2 to maintain the operation of that civic  
3 center.

4 MICHAEL GARDNER: Ms. Lint, did you  
5 want to make an elaboration?

6 ELIZABETH LINT: Yes. It wouldn't  
7 be unusual for the License Commission to sit  
8 down with a member of the Elks and work out a  
9 schedule whereby they could continue those  
10 civic operations, but that I would be able to  
11 see, or another member of the staff would be  
12 able to see, exactly what they have planned  
13 and then make sure that they're shut down  
14 completely unless they're doing something  
15 that's strictly for the community.

16 MICHAEL GARDNER: Would that meet  
17 your concerns, Commissioner?

18 ROBERT HAAS: Yes, it would.

19 GERALD REARDON: I just want to make  
20 sure that it's related to them that if in  
21 fact this does happen again, that you know,

1 at least from the point of the fire safety  
2 and life safety, that I would have to turn  
3 around and push for revocation of their  
4 license in perpetuity.

5 You know, we have a history here, and  
6 the history is we've had some people injured,  
7 and the preponderance for people to get  
8 severely injured in this place, there's no  
9 sprinklers, it's an older building. It's not  
10 set up for this. I have, you know, real  
11 reservations about someone seriously getting  
12 hurt in there.

13 ELIZABETH LINT: You can incorporate  
14 that into your motion.

15 GERALD REARDON: The motion? I  
16 would please. I understand the good work  
17 they do and so forth, and making people do  
18 the right thing, and making people do safe  
19 things is not a popular decision, but we  
20 don't want to look back on this and say we  
21 had a track record of events here that led up

1 to something that's very serious. I for one  
2 am not going to allow that to happen. So if  
3 it means we must revoke their license if it  
4 happens again, I think it should be related  
5 to them clearly, at least for my purpose.  
6 That's what I would have to be looking for.

7 MICHAEL GARDNER: So I'm wondering  
8 whether a 20-day suspension, all but 15 held  
9 in abeyance, the five to be served to be  
10 worked out along the schedule that Ms. Lint  
11 -- or the procedure Ms. Lint suggested, and  
12 incorporating in the notice that any  
13 additional violation in addition to the  
14 invocation of the remaining 15 days of  
15 suspension held in abeyance would also result  
16 in a hearing to consider revocation of the  
17 license. If such an outcome would be  
18 appropriate in this case.

19 ROBERT HAAS: So, Mr. Chair, just  
20 for clarification, you're suggesting now five  
21 and 15 in abeyance as opposed to 10 and 10?

1                   MICHAEL GARDNER: Well, yes, I  
2                   offered it as either way. I think in light  
3                   of the recognition of the community service  
4                   that they perform and their difficult  
5                   circumstances, a certain level of leniency  
6                   with respect to the suspension, time actually  
7                   served is not -- is supportable. I think  
8                   what I'm mostly concerned about is the  
9                   clarity of the resolve of the Commission that  
10                  this must never happen again.

11                  ROBERT HAAS: No, I agree. I'm  
12                  really concerned that at the end of the  
13                  suspension that they don't believe that the  
14                  restrictions that we've been trying to get  
15                  them to understand are lifted as a result of  
16                  the suspension being passed. In other words,  
17                  I don't want to see them reverting back to  
18                  again, another nightclub type of operation,  
19                  because clearly that's not within the  
20                  confines of their license. And I think I  
21                  just want to be sure they understand that,

1 because I think the Chief is correct. If  
2 they continue to operate like this, and we've  
3 had this conversation repeatedly, they're  
4 forcing the License Commission to consider  
5 revocation of their license, and I don't  
6 think that's going to be useful to the  
7 community at all.

8 MICHAEL GARDNER: Would it then be  
9 appropriate at the point of the next hearing  
10 of the Commission after the completion of the  
11 portion of the suspension which is actually  
12 served, that we request appropriate parties  
13 from the organization to come before the  
14 Commission to have that discussion and to  
15 hear from them about their plans going  
16 forward?

17 ROBERT HAAS: I think that's  
18 appropriate.

19 ELIZABETH LINT: So a three-month  
20 review?

21 MICHAEL GARDNER: Well, we would do

1           it -- I think what I understood the  
2           Commissioner to be saying is he'd like to  
3           have them in at a time very close to the  
4           ending of the actually served suspension. We  
5           could do a three-month review as well. I  
6           guess I'm sort of feeling like the civic  
7           purposes of the organization are valuable  
8           enough to the community that the License  
9           Commission should extend itself with respect  
10          to trying to be clear to the organization in  
11          the firmest terms possible about what is  
12          necessary for them to be allowed to continue.

13                 Motion of some form would be in order  
14                 unless there's more conversation.

15                 ROBERT HAAS: I would make a motion  
16                 to impose a 20-day suspension of their  
17                 license, five of which to be served, 15 to be  
18                 held in abeyance for a period of one year. I  
19                 further recommend that the notice clearly  
20                 indicate that they are not restricted from  
21                 having civic activities during that

1           suspension period, but must first furnish a  
2           schedule that is subject to review by the  
3           License Commission prior to holding any  
4           events during that suspension period.

5                     And further, I would recommend that the  
6           notice make it very clear that any future  
7           nightclub type operations would possibly  
8           result in a consideration of permanent  
9           revocation of their license.

10                    With an appearance before the License  
11           Commission at the end of this served period  
12           of suspension.

13                    GERALD REARDON:    Second.

14                    MICHAEL GARDNER:   Motion having been  
15           made and seconded for a 20-day suspension,  
16           all but 15 of which to be held in abeyance  
17           and numerous other conditions as outlined in  
18           the motion, having been made and seconded,  
19           all those in favor signify by saying "Aye."

20                    GERALD REARDON:    Aye.

21                    ROBERT HAAS:        Ayes.

1                   MI CHAEL GARDNER: Aye.

2                   None opposed. So the motion carries.  
3                   And the License Commission will prepare the  
4                   appropriate notice.

5                   ELI ZABETH LINT: Absolutely, yes.

6                   MI CHAEL GARDNER: Thank you.

7                   \* \* \* \* \*

8                   ELI ZABETH LINT: The Red House was  
9                   next.

10                  MI CHAEL GARDNER: And could you  
11                  remind us, for the record, the action, if  
12                  any, that we took and the action that  
13                  remained pending?

14                  ELI ZABETH LINT: Yes. At the April  
15                  12th hearing you voted in favor of their  
16                  application to alter the premises of their  
17                  private patio. And the part that was  
18                  continued was the part that -- the very small  
19                  part that would be on the public sidewalk.

20                  MI CHAEL GARDNER: And this was a  
21                  matter of a certain number of tables?

1                   ELI ZABETH LINT: Three tables and  
2 six chairs, yes.

3                   MICHAEL GARDNER: And that was  
4 deferred in part for the opportunity for  
5 further review, but also how did it relate to  
6 the Public Works Department and a permit and  
7 was there any City Council approval with  
8 that?

9                   ELI ZABETH LINT: Not as yet. Public  
10 Works would not go down and permit it unless  
11 or until some action was taken by the  
12 Commission.

13                   I did happen to be on Winthrop Street  
14 yesterday, and the tables are not there  
15 fortunately, but fence is already up.

16                   MICHAEL GARDNER: So we were  
17 provided yesterday with an electronic  
18 transmission of a photograph that appears to  
19 show the tables already set-up in the area  
20 for which we had not voted approval if I  
21 understand the photograph right; is that

1 correct?

2 ELIZABETH LINT: Yes. I think that  
3 probably the tables were put there to give  
4 you an idea of what it would look like. But  
5 they clearly were not there when I was down  
6 there yesterday. The umbrellas are on the  
7 private property, however, they advertise a  
8 beer, so I did ask Ms. Boyer yesterday to go  
9 down to tell them that is not appropriate,  
10 that they need to be removed.

11 MICHAEL GARDNER: From where did  
12 they get the authority to erect the fence?

13 ELIZABETH LINT: They did not.

14 MICHAEL GARDNER: As far as we know,  
15 there's been no approval by the Public Works  
16 Department?

17 ELIZABETH LINT: As far as I know.  
18 What I was told by Public Works that if in  
19 fact it did stay just exactly where it is,  
20 they would not necessarily have a problem  
21 with it. They're concerned with it being

1 pushed out into the street as some of the  
2 others were. And as I think I e-mailed all  
3 of you, the one that was a problem has been  
4 remedied and pushed back. So that's Public  
5 Works' concern, that they keep creeping out  
6 into the street. I think with a fence, that  
7 way that would certainly eliminate that  
8 problem.

9 GERALD REARDON: Was this staged for  
10 you to look at or for us to look at or do you  
11 know?

12 ELIZABETH LINT: I think it was --  
13 the tables were put there for you to see.

14 GERALD REARDON: Okay. So you don't  
15 believe they were used?

16 ELIZABETH LINT: No.

17 GERALD REARDON: And was the fence  
18 still there?

19 ELIZABETH LINT: The fence was still  
20 is there.

21 GERALD REARDON: It's not a

1 permanent fencing?

2 ELIZABETH LINT: No, it's not a  
3 permanent fence.

4 MICHAEL GARDNER: Okay, can you  
5 enlighten me on that? It's a movable fence  
6 on stanchions?

7 ELIZABETH LINT: It looks like you  
8 can just pick it up.

9 GERALD REARDON: And I guess the  
10 other question is Public Works wants action  
11 from the License Commission before they look  
12 at these?

13 ELIZABETH LINT: Yes.

14 GERALD REARDON: So they would not  
15 approve it before we took action on it?

16 ELIZABETH LINT: No.

17 GERALD REARDON: It's the chicken  
18 and the egg.

19 MICHAEL GARDNER: And does this  
20 require City Council approval as well?

21 ELIZABETH LINT: It does. I can

1 tell you it does look very nice when you walk  
2 down there. Except for the beer umbrellas.

3 ROBERT HAAS: So a couple weeks ago  
4 or a week ago I had called Ms. Lint and told  
5 her -- I noticed that their stone wall was  
6 being disassembled. And I was concerned that  
7 this was going to happen prior to the License  
8 Commission having an opportunity to at least  
9 consider it and make its recommendation back  
10 to DPW with respect to the use of a permit on  
11 a public way. So I'm a little bit  
12 disappointed to see the fact that this has  
13 come to fruition. I'm not too sure it's  
14 solely because they want us to have a better  
15 appreciation. I think we could have  
16 visualized it ourselves without going through  
17 this work, so I'm really concerned that this  
18 was basically thought of as a failure to  
19 comply, and we're just going through some  
20 kind of process. I am concerned about the  
21 encroachment on Winthrop Street. We did

1 notice some of the restaurants that had  
2 gotten permits, actually moving their fire  
3 boxes out onto Winthrop Street. I had spoken  
4 to the fire chief about that. To my  
5 understanding that's been rectified since  
6 then, but I think DPW is right to be  
7 concerned, that this could start a relatively  
8 precarious condition where we're going to  
9 slowly but surely see, if we're not careful,  
10 encroachment out on to that public way.  
11 Although it's a shared walkway and street,  
12 it's still a thoroughfare, and I think we  
13 need to make sure there's some clearance on  
14 that street and there isn't obstructions  
15 taking place.

16 GERALD REARDON: Well, as you know  
17 from the fire department, we are never going  
18 to agree to anyone being on the street  
19 itself. I mean Winthrop Street is a tough  
20 street to start off with. Many of the  
21 buildings that are on Winthrop Street don't

1 have direct access from the rear and so  
2 forth, so for a fire situation it's  
3 imperative that street remain clear. In the  
4 past, in my tenure, there have been a number  
5 of cases where people have asked if we were  
6 to acquiesce to having tables that can be  
7 moved. And as everyone knows, in an  
8 emergency, you can't move tables and chairs  
9 in a quick fashion. So we are just not going  
10 to agree to anything that includes the street  
11 area. As it is, it's narrow. The fire  
12 inspectors went over there last week and  
13 spoke to the other abutters who seem to have  
14 slid some items out there and encroached a  
15 little bit. It's all been taken care of.  
16 They were made aware that they cannot do  
17 that. They said it was accidental at the  
18 time, and they took care of it right away.

19 MICHAEL GARDNER: Interesting  
20 accident.

21 My understanding, Chief, is that as at

1           least this photograph presents, the fire  
2           department felt it had sufficient means of  
3           access on the street?

4                   GERALD REARDON: Yes. As long as it  
5           stays off the street itself. The right of  
6           way on the street is narrow to start with, so  
7           we're not going to allow them to take parts  
8           of the street. Obviously this being on the  
9           side, on the sidewalk area, and the fact that  
10          most of this equipment is movable is  
11          sufficient for us.

12                   MICHAEL GARDNER: Just a point of  
13          information. Who in the city would have an  
14          enforcement authority with respect to the  
15          premature placing of the fencing there? Was  
16          that us, the Public Works Department,  
17          Inspectional Services?

18                   ELIZABETH LINT: All of the above I  
19          think.

20                   MICHAEL GARDNER: Let me suggest to  
21          the Commissioners a possible course of action

1 to be, to defer this matter generally until  
2 the May 17th hearing, request the owners  
3 present themselves and explain the actions  
4 they've taken to date, and to notify  
5 Inspectional Services and the Public Works  
6 Department of apparent encroachment on the  
7 public way by means of the fence, and suggest  
8 that they inspect it and take appropriate  
9 action. That would give us an opportunity to  
10 hear from the license holder to understand  
11 better what they've done.

12 ROBERT HAAS: Have the umbrellas  
13 been rectified? Because that looks like it's  
14 up on the street now. Before it's on the --  
15 he's got Sam Adams umbrellas now up on the --  
16 these weren't there before.

17 ELIZABETH LINT: They were there  
18 yesterday. They're on the rock wall, and the  
19 rock wall is private property.

20 ROBERT HAAS: So, when I looked down  
21 and looked at it, it was down in the beer

1 garden.

2 ELIZABETH LINT: Right.

3 ROBERT HAAS: They had these  
4 umbrellas. They didn't have any umbrellas up  
5 on top of the patio. And now they've got --

6 ELIZABETH LINT: Yes. When I saw  
7 them yesterday, it was about four o'clock.  
8 And I left Andrea a voice mail to take care  
9 of it. So I would assume that she made that  
10 call.

11 ROBERT HAAS: Okay.

12 ELIZABETH LINT: And knowing the  
13 owner, I'm pretty sure if he got that call,  
14 he would have removed them.

15 ROBERT HAAS: So, Mr. Chair, what  
16 you're suggesting is that the opportunity to  
17 come back for the May 17th hearing, in the  
18 meantime restore the public portion of the  
19 Winthrop Street back to its original width  
20 until an opportunity for further review of  
21 that situation?

1                   MICHAEL GARDNER: Yes, sir.

2                   GERALD REARDON: Is that a motion?

3                   MICHAEL GARDNER: Well, I haven't  
4                   been making motions because I thought that's  
5                   sort of the protocol here is that we --

6                   GERALD REARDON: I'm asking the  
7                   Commissioner if that's a motion?

8                   ROBERT HAAS: I was getting a  
9                   clarification.

10                  I would make a motion that we schedule  
11                  the outfit to come back to the May 17th  
12                  hearing.

13                  That further discussion with respect to  
14                  the proposed expansion of the patio onto a  
15                  public way, in the meantime to restore the  
16                  public way to its full width until such time  
17                  the License Commission has had an opportunity  
18                  to hear back from the Applicant at that May  
19                  17th meeting.

20                  GERALD REARDON: Second.

21                  MICHAEL GARDNER: Motion having been

1 made and seconded with respect to handling  
2 this matter at the May 17th regular hearing  
3 of the Commission, all those in favor signify  
4 by saying "Aye."

5 GERALD REARDON: Aye.

6 ROBERT HAAS: Aye.

7 MICHAEL GARDNER: Aye.

8 None opposed.

9 You'll take care of appropriate  
10 notices?

11 ELIZABETH LINT: Certainly will.

12 MICHAEL GARDNER: As well as to the  
13 to the other organizations of the city.

14 Thank you.

15 ELIZABETH LINT: I'm going to go a  
16 little out of order.

17 ROBERT HAAS: Just before we leave  
18 the April 12th, so what's the status on the  
19 Pedals Foods that didn't show?

20 ELIZABETH LINT: I spoke to him. He  
21 had given us the address at the Food Court

1 and listed it as a PO Box instead of the mall  
2 number, so it probably went to somebody's PO  
3 Box somewhere. He hadn't gotten our notice.  
4 So he will be in I believe on the 17th.

5 ROBERT HAAS: He's not operating  
6 without a victualer's license at this point?

7 ELIZABETH LINT: I cannot confirm or  
8 deny that.

9 ROBERT HAAS: Is there a way to  
10 check that out?

11 ELIZABETH LINT: Yes, absolutely.

12 MICHAEL GARDNER: And what's our  
13 recourse if he is?

14 ELIZABETH LINT: Unfortunately it's  
15 not unusual with a food court, that sometimes  
16 happens. Sometimes somebody going in and  
17 taking over an operation and then submitting  
18 an application because they can't transfer  
19 those.

20 \* \* \* \* \*

21 ELIZABETH LINT: We go to the Red

1           Line.

2                   MICHAEL GARDNER: So, with respect  
3           to the Red Line matter, I had asked that we  
4           defer it until today because I was concerned  
5           or didn't feel I had full information with  
6           respect to the number of licensed seats that  
7           either were available on the original license  
8           or were being requested here, and hoped for  
9           the opportunity for further research and  
10          reflection.

11                   Ms. Lint, since our April 26th hearing  
12          on this, do you have any understanding of  
13          additional information?

14                   ELIZABETH LINT: Yes, if I'm  
15          correct, and I know Mr. Rafferty will correct  
16          me if I'm wrong. It's I, believe the,  
17          original license had 145 seats, 30 standing  
18          and 50 bank seats when they purchased the  
19          license.

20                   MICHAEL GARDNER: And these were  
21          purchased from the previous owner Crimson

1 Sports Club?

2 ELIZABETH LINT: Something like

3 that.

4 GERALD REARDON: The Crimson Sports

5 Bar.

6 ELIZABETH LINT: Before my time.

7 GERALD REARDON: What was the total

8 number again, Ms. Lint?

9 ELIZABETH LINT: So, originally it  
10 would have been 195 seated and 30 standing.

11 GERALD REARDON: So, 225?

12 ELIZABETH LINT: Yes.

13 MICHAEL GARDNER: And the current  
14 application is for 236; is that right?

15 ELIZABETH LINT: Yes.

16 MICHAEL GARDNER: And what I  
17 remember from a hearing at an earlier --  
18 probably in March, I think when we dealt with  
19 an expansion of the number of seats, we voted  
20 to increase the number of seats, but to hold  
21 those increased from the original license as

1 no value, no transfer. The name of that  
2 premises alas escapes me.

3 ELIZABETH LINT: India Pavilion.

4 MICHAEL GARDNER: The India  
5 Pavilion? And what day was that, do you  
6 recall?

7 ELIZABETH LINT: That I can't tell  
8 you.

9 MICHAEL GARDNER: I guess I would  
10 ask the Commissioners, assuming that other  
11 issues with respect to the expansion here  
12 into the third area, if there's any reason we  
13 shouldn't deal with the increase in licensed  
14 seats beyond the original 225, that is the  
15 additional 11 in the same manner.

16 ATTORNEY JAMES RAFFERTY: Could we  
17 be heard on that, Mr. Chairman, as well?

18 MICHAEL GARDNER: Just, please, your  
19 names for the record.

20 ATTORNEY JAMES RAFFERTY: James  
21 Rafferty, Adams and Rafferty, 130 Bishop

1       Allen Drive. Patrick Lee, the manager of Red  
2       Line.

3               I also did some research on this issue  
4       with regard to increased capacities. I  
5       reviewed a number of applications that have  
6       been heard by the Commission since September  
7       of 2008 when the cap policy was modified.  
8       It's set forth in your handbook. The cap  
9       policy now reflects that increases in  
10      capacity are no longer a cap issue. Since  
11      2008 there have been, from my review,  
12      approximately 14 either transfers or  
13      applications for increases in capacity. I  
14      couldn't find any references to the no value  
15      concept. This is -- this is an expansion of  
16      premises that -- this is an increase in  
17      capacity that also includes an expansion of  
18      the premises. The prior operator operated in  
19      a space that was smaller than this. You  
20      recall there was a prior application for a  
21      premises expansion in an increase in capacity

1 a few months ago for this licensee.

2 MICHAEL GARDNER: For the first  
3 place beyond --

4 ATTORNEY JAMES RAFFERTY: The first  
5 -- correct, the first phase of expansion.

6 And I think that square footage there  
7 is approximately say --

8 PATRICK LEE: The first square  
9 footage was 1100. The second -- well,  
10 actually closer to 900. The second square  
11 footage is 400. So this is a much smaller  
12 addition than the original.

13 ATTORNEY JAMES RAFFERTY: Let me  
14 finish.

15 My point is we now have 1500 square  
16 feet of additional licensed premises if the  
17 premises description change is approved. And  
18 we're talking about an increase in capacity  
19 from the historical use of the space of  
20 something around 10 or 15 patrons. Given the  
21 issues that the Commission is familiar with

1 in this location, particularly the unique  
2 locations of the egress, it's located in a  
3 garage and all that, is an obvious public  
4 safety benefit to having a larger footprint  
5 for this premises with additional egress.  
6 The tradeoff is approximately ten additional  
7 spaces. I am not familiar with the India  
8 Pavilion case. I understood they recently  
9 had an increase from beer and wine to all  
10 alcohol, and that certainly has implications  
11 of value. But to then operate a business,  
12 and there's no expectation in the short term  
13 that this would be sold, but at some point  
14 one has a lease, they control the premises,  
15 they have, they have a capacity, I'm just  
16 trying to envision in years to come how a  
17 contract might read for the sale of this  
18 business and this license, and carving out 10  
19 or 12 seats and suggesting that they can't be  
20 in the purchase price. The purchase price in  
21 the prior application was \$250,000. These

1 things are valued basically in liquor  
2 licenses other than their location has value,  
3 but even that has changed with the cap policy  
4 that now allows for licenses to go from one  
5 district to another. But there really, the  
6 determination in most cases is capacity and  
7 hours of operation. So two a.m. licenses  
8 tend to sell more than one a.m. licenses.  
9 We've had many licenses where we've increased  
10 with a demonstrative public need, an increase  
11 in license capacity from one a.m. to two a.m.  
12 I'm not familiar with restrictions around  
13 values on hours. I think it would be  
14 cumbersome and inappropriate for the  
15 Commission to set-up a construct here where  
16 the additional seats would somehow be  
17 separated out from the license and put in a  
18 different category. None of this discussion  
19 took place, you'll recall, a few months ago.  
20 Not that the board isn't free to revisit any  
21 issue, but it struck me as unusual at the

1           Last hearing since we were basically coming  
2           in with a bit of a repetitive petition,  
3           albeit expanded, and this issue was risen.  
4           So I would hope that the Commission could  
5           recognize two factors that are somewhat  
6           unique here, first is the expansion of the  
7           footprint that allows for better circulation.  
8           And secondly, there are the capacity that  
9           this license, under its predecessor, was 50  
10          more than it's been operating at for years.  
11          So, what has been dealt with to what it's  
12          been historically, and here I'm not good at  
13          math, but my thinking is 10 or 15 seats. And  
14          what that means for the value of the overall  
15          license is probably not a heck of a lot, but  
16          what it means transactionally and from a  
17          regulatory framework in years to come, it  
18          feels a little micromanaged from this side of  
19          the table.

20                   MICHAEL GARDNER: I guess that as  
21                   I'm trying to understand these operations

1 better and how the Commission has handled  
2 these, the concern as I understood it was,  
3 that increase in the number of seats under a  
4 license if it was a for value license, it  
5 would involve essentially an enrichment which  
6 the Commission should be concerned about,  
7 that certainly the -- under the previous --  
8 in the first phase of the application --

9 ATTORNEY JAMES RAFFERTY: I don't  
10 mean to interrupt, but this concept is new to  
11 me. The enrichment. It's not set forth in  
12 the statute. One can make the case any time,  
13 whether it's hours or entertainment is  
14 changed, if additional revenue arrives from  
15 it. The history of the cap was that the cap  
16 placed a limitation. It was adopted in 1984.  
17 It placed a limitation on the number of  
18 licenses and the number of seats contained  
19 within those licenses. And I've been -- I'm  
20 not familiar with the interest of the  
21 Commission with regard to enrichment in any

1 of the decision-making process that I've  
2 participated in.

3 MICHAEL GARDNER: I guess then I  
4 don't understand the value of the no -- I  
5 don't understand the purpose of a no value,  
6 no transfer license at all. If we weren't  
7 concerned about that issue, we'd ever grant  
8 them at all as opposed to just granting  
9 something that could then be sold.

10 ATTORNEY JAMES RAFFERTY: Well, they  
11 can be transferred, and they do transfer.  
12 And there's a history of them transferring.  
13 The purpose of the no value license, as I  
14 understood it, is that the licenses  
15 themselves are typically granted to a  
16 particular operator who has demonstrated  
17 either through his experience in operating  
18 prior to the adoption of license or a public  
19 demand for that location. You will find, if  
20 you check the record, that those licenses do  
21 indeed transfer because they are licenses.

1 How one then structures the transaction in  
2 terms of where the value is placed, in terms  
3 of good will and other things, that's the  
4 reality of the license. And so, it's an  
5 appropriate comment, the no value concept is  
6 not a non-transferable license. The ABCC  
7 doesn't recognize that limitation. I think  
8 there had been some concern expressed about,  
9 particularly in the Harvard Square area, a  
10 short-term windfall could occur. And it was,  
11 it was because other licensees or other  
12 applicants were able to obtain licenses  
13 because the price of the license was a  
14 barrier to entry. And the Commission felt  
15 that creating licenses, the whole concept of  
16 issuing a license as the Commission well  
17 knows is fairly routed in public need. And  
18 in this situation, there was a practice in  
19 the past where people would actually sell  
20 license -- well, sell seats. The Commission  
21 hasn't followed that practice in years. And

1 the whole banked concept has now gone away.  
2 If you pick up a license, it was Commissioner  
3 Barnes that eliminated that concept. There  
4 were no more bank seats permitted after the  
5 Finagle-a-Bagel license. After Wharf House  
6 license was transferred to Finagle-a-Bagel,  
7 and it was a bank, and then they sold them  
8 here. And Grendel's Den wanted to buy some,  
9 and it became somewhat of a free for all.  
10 That was the last banked concept that I can  
11 recall, and that's about ten years ago.

12 So, my point is that we -- I don't  
13 think there was a, there's a concern -- I  
14 don't think the concern here was motivated by  
15 enrichment. I don't think the cap was about  
16 enrichment. I don't think lifting the  
17 capacity limitations on licensing capped  
18 areas was about enrichment either. There's  
19 lots of licenses that have been increased in  
20 their capacity. Sometimes if -- this is a  
21 classic case where an opportunity has

1 presented itself where the space is  
2 available, the public need has been  
3 demonstrated, a better floor plan can be  
4 achieved. So you could make the case that  
5 when you approve a change of premises that  
6 results in an expansion at the premises,  
7 there's some value with some benefit to the  
8 operator as well. Historically not a -- and  
9 I don't think statutorily or by regulation an  
10 area of particular concern to the Commission.  
11 I think an orderly operation of the  
12 restaurant should be the Commission's  
13 priority, and I would suggest the expansion  
14 of this premises, and with the modest  
15 increase and with the seats in fact achieves  
16 that purpose.

17 MICHAEL GARDNER: So I guess would  
18 it, would it be your -- that that would be  
19 the -- the analysis would be the same if you  
20 didn't have the 50 banked seats and  
21 essentially you were asking to move from what

1 the license had originally been to  
2 essentially an expansion of I think almost a  
3 third, that same analysis? Just I bought a  
4 145 seat license and now want to move it --  
5 or 150, whatever the number, and now I want  
6 to move it to 236 and because the business  
7 opportunity presents itself to do that, and  
8 because it's a useful use of the space, that  
9 we should increase the number of seats by  
10 that substantial magnitude and without any  
11 concern as to what we're doing to the value  
12 of the license?

13 ATTORNEY JAMES RAFFERTY: Well, I  
14 would always suggest that there's ample  
15 precedent to say that that's exactly what the  
16 Commission has done historically. The Middle  
17 East restaurant has operated successfully at  
18 that location. I've been doing this for 20  
19 years. I've watched them go from 500 to 900  
20 seats. They took over the bowling alley  
21 below, all within a capped district. That's

1 not a criticism, but that's -- opportunity  
2 presented. So in answer to your question,  
3 yes, I would say that there's ample precedent  
4 for the License Commission to allow for  
5 increases in capacity and expansion of  
6 premises where there's a determination that  
7 the statutory requirements around public need  
8 are being met, and that adequate safeguards  
9 exist for adherence to the License Commission  
10 policies. In my view, if I were a  
11 decisionmaker here, I would suggest that the  
12 bank see issue -- it might be -- I frankly  
13 think it's largely irrelevant, but certainly  
14 if it's a factor that will allow  
15 commissioners that are introducing some new  
16 concerns around this, you know, I guess it  
17 would be up to an individual commissioner to  
18 determine the relevance of that. But I would  
19 think before one set the Commission in a new  
20 direction on this policy, there should be a  
21 review of how expanded premises and increased

1 capacities have been treated so that there is  
2 some confidence on the part of licensees that  
3 we're not dealing with arbitrary or  
4 capricious standards involving practices  
5 associated with the expansions. But I think  
6 you'll find that in most cases these  
7 expansions occur just in the way this one is,  
8 when an opportunity presents itself, an  
9 established operator has a public need, has  
10 demonstrated a reasonable track record, and  
11 the opportunities presented.

12 We are operating currently under a City  
13 Council policy that is promoting and  
14 encouraging sidewalk seating in places like  
15 Central Square and Harvard Square. I have an  
16 operator that operates the Central Kitchen,  
17 he's practically being urged by the  
18 Commission and others of putting seats on the  
19 sidewalk. I never heard a conversation of  
20 the value of those seats or what it means to  
21 his profitability. So I think that's --

1                   MICHAEL GARDNER: Those are seasonal  
2 seats.

3                   ATTORNEY JAMES RAFFERTY: They would  
4 travel with the license once they're  
5 approved. Good for eight or nine months or  
6 six months.

7                   This notion of concern around somehow  
8 -- that the Commission should concern itself  
9 with what an increase in capacity or an  
10 expansion does to the ultimate marketability  
11 of these licenses is an area, I think,  
12 fraught with danger. These licenses go up  
13 and down in value based upon need. If there  
14 are ten licenses for sale, it's supply and  
15 demand kind of thing. You'll get a different  
16 amount. But I don't think it's an area that  
17 the Commission would be able to operate on a  
18 consistent basis in the discharge of its  
19 requirements under Chapter 138.

20                   GERALD REARDON: I guess in the  
21 interest of fair disclosure, I have voted for

1 an increase in seats over my tenure here. I  
2 guess I'm the longest tenured person here.  
3 Some of the other ones including Middle East  
4 and others. My votes are predicated many  
5 times on does the increase actually make the  
6 place a safer environment? And in this  
7 particular case, again, I would have to agree  
8 that the taking over the additional space  
9 adds for more egress. It gives you more room  
10 per square feet in terms of the patrons, and  
11 for that particular reason, one common alarm  
12 system. For that reason I don't have a  
13 problem increasing this by the number of  
14 seats. Again, I think it is prudent in terms  
15 of the expansion of the space to ask for  
16 additional seats without an expansion and  
17 without some enhancements that, you know,  
18 that I guess that case would be a little  
19 harder to make on me. But in light of the  
20 fact that they're taking over both of these  
21 spaces, and I believe it's in terms of my

1 small hat, fire chief role, it makes for a  
2 safer environment, I am inclined to grant the  
3 additional 11 seats because I think it makes  
4 it better and safer for the public in  
5 general.

6 ROBERT HAAS: So, to some degree I  
7 agree with Mr. Rafferty's argument. It gets  
8 to make it somewhat convoluted if we start to  
9 pars out seats that go along with the  
10 license. I do have to correct Mr. Rafferty.  
11 We've been talking about banks since I've  
12 been on the Commission. So it's within the  
13 last four years. And I'll also say the  
14 notion of banked seats have kind of faded  
15 away in the past over time.

16 ATTORNEY JAMES RAFFERTY: My only  
17 point is I've had subsequent applications  
18 where we weren't using all the seats.

19 ROBERT HAAS: Right.

20 ATTORNEY JAMES RAFFERTY: And we've  
21 petitioned to bank them. And we've been told

1 we no longer bank seats.

2 ROBERT HAAS: Well, when I was the  
3 Commissioner, I know we talked about bank  
4 seats that was part of the conditional  
5 licenses. Maybe it wasn't your clients, but  
6 it's taken place more recently. But again,  
7 like I said it's become passe almost.

8 ATTORNEY JAMES RAFFERTY: And I  
9 think the reason is because the cap policy  
10 amendment in September of '08, the increase  
11 in capacity was no longer a cap issue.  
12 Particularly in Harvard Square. Breaking the  
13 cap in Harvard Square, you might recall, in  
14 the original cap policy, required a vote of  
15 the City Council. And in another one of  
16 Mr. Lee's establishments at Grafton Street,  
17 we did get a vote at the City Council. But  
18 when the cap policy was reviewed a few ago,  
19 that requirement was removed from cap policy,  
20 from cap District 1.

21 ELIZABETH LINT: That's right.

1                   ATTORNEY JAMES RAFFERTY: And the  
2                   concept of, there was public testimony from  
3                   the Committee about, all right, we need to  
4                   regulate the number of licenses, that's the  
5                   policy objective behind the cap; the number  
6                   of licenses for a particular area. But it  
7                   was pointed out from testimony from other  
8                   licensees when an opportunity presents  
9                   itself, and we can expand and we want these  
10                  businesses to succeed and expand, why should  
11                  we have to break the cap to get more seats?  
12                  And I think since that cap policy change, it  
13                  has been, the bank seating, the selling off  
14                  of seating, that whole aspect of licensing  
15                  has gone away in my experience.

16                  MICHAEL GARDNER: So in your view  
17                  did the purchasing of a license with 50  
18                  banked seats, were those 50 banked seats at  
19                  all a component the value of the license?

20                  ATTORNEY JAMES RAFFERTY: Sure. I  
21                  mean, the capacity of the license? Yes. I

1 mean, the license was a two a.m. license.  
2 Frankly, the bigger determination is the  
3 transferability or signability of the lease.  
4 And they're in the business of -- a few  
5 thousand dollars one way or another, not to  
6 give away trade secrets, and it's not the  
7 deal breaker. The question is how long can I  
8 be here? How reasonable is the lease? But,  
9 yes. But, at the end of the day, it's not  
10 that precise a calculation.

11 That's why I'm suggesting the delta  
12 here of a dozen seats between value and no  
13 value, in my experience would not affect the  
14 price of an ultimate -- if this license were  
15 conveyed or transferred in years to come. I  
16 don't -- it's not as though it's that  
17 straight line an equation that someone says  
18 okay, I'll pay you X per seat. We don't --  
19 licenses, as a practical matter, don't sell  
20 strictly based on a seat count as opposed to  
21 in real estate or leasing where one leases by

1 square foot.

2 MICHAEL GARDNER: I assume a  
3 200-seat license is more valuable than a  
4 50-seat license?

5 ATTORNEY JAMES RAFFERTY: Yes, you  
6 would make that assumption depending on where  
7 those seats are located.

8 MICHAEL GARDNER: Okay, thanks.

9 Could we just have a clarification as  
10 to the precise dimensions of the application  
11 so that a motion could be in order? And I  
12 think I have it as the expansion into the 400  
13 additional square feet, and the license as --  
14 I don't have that, so if you could just do it  
15 for us?

16 ATTORNEY JAMES RAFFERTY: Here's my  
17 understanding. I think it was necessary  
18 after consulting with the ABCC, even though  
19 we obtained local approval on the first  
20 expansion, they had not yet approved it. And  
21 their advice from their counsel was have

1 Cambridge bring it back and resubmit it. So,  
2 I think for purposes of this vote, we don't  
3 really acknowledge the prior expansion from a  
4 few months ago. So, the floor plan that's  
5 been submitted with the application is the  
6 existing premises plus the expanded. And I  
7 think --

8 MICHAEL GARDNER: Both sets?

9 ATTORNEY JAMES RAFFERTY: Both sets.

10 MICHAEL GARDNER: You want us to  
11 vote on both?

12 ATTORNEY JAMES RAFFERTY: Yes, I  
13 think it needs to go over as a single  
14 application containing both because the prior  
15 application is already or is on its way back  
16 here.

17 ELIZABETH LINT: Oh, it is?

18 ATTORNEY JAMES RAFFERTY: Yes. So,  
19 the license as it's currently constituted  
20 under its premises description that's been  
21 approved by the ABCC, is as the place

1 operates today.

2 MICHAEL GARDNER: Without the second  
3 -- the first of the two.

4 ATTORNEY JAMES RAFFERTY: Right.  
5 The first of the two was approved locally,  
6 was still at the ABCC when this opportunity  
7 arose. So we were advised if we pull it back  
8 -- so had the ABCC affirmed it, I think we  
9 would be filing a second change of premises.  
10 But since the ABCC had not yet ratified it,  
11 the advice we received was bring it back and  
12 send it in as a single premises description  
13 application.

14 MICHAEL GARDNER: Okay.

15 ELIZABETH LINT: So what you have  
16 now, 145?

17 ATTORNEY JAMES RAFFERTY: Yes.

18 ELIZABETH LINT: 16 patio seats  
19 taken from the inside, and 30 standing.

20 ATTORNEY JAMES RAFFERTY: And 30  
21 standing, right.

1                   ELI ZABETH LINT: And you want it to  
2 go to 206 inside. 16 patio seats taken from  
3 the inside capacity and 30 standing.

4                   ATTORNEY JAMES RAFFERTY: Correct.

5                   MICHAEL GARDNER: For a total of how  
6 much?

7                   ELI ZABETH LINT: 236.

8                   GERALD REARDON: So that's an 11  
9 seat increase?

10                  ELI ZABETH LINT: Yes.

11                  ATTORNEY JAMES RAFFERTY: Off the  
12 bank.

13                  MICHAEL GARDNER: Okay. A motion  
14 would be in order.

15                  GERALD REARDON: I make a motion to  
16 approve as indicated for the increase to 236  
17 seats which allows an increase, assuming  
18 there's the 1500 square foot premises  
19 expansion included with the egresses and the  
20 fire and alarm system and sprinkler system as  
21 one total unit.

1                   ATTORNEY JAMES RAFFERTY: So the  
2                   appli cation i s two components; an expansi on  
3                   of the premi ses and an i ncrease of capaci ty.  
4                   So the singl e moti on woul d cover both aspects  
5                   of the appli cation.

6                   GERALD REARDON: Ri ght. And then  
7                   si ngul arl y --

8                   ATTORNEY JAMES RAFFERTY: And wi th  
9                   the condi ti on that the expanded premi ses must  
10                  operate under a si ngl e fi re safety system.

11                  GERALD REARDON: So, you' re doi ng a  
12                  1500 square foot expansi on.

13                  PATRICK LEE: For the record, i t' s  
14                  l ess than 1500, more than 1300.

15                  GERALD REARDON: Okay.

16                  PATRICK LEE: Or somewhere i n the  
17                  mi ddl e.

18                  GERALD REARDON: Expansi on as  
19                  presented to the Li cense Commi ssi on.

20                  ATTORNEY JAMES RAFFERTY: Correct.  
21                  As depi cted on the pl an.



1           moti on.

2                   ROBERT HAAS: That whole thing was a  
3           moti on?

4                   Second.

5                   MI CHAEL GARDNER: The moti on havi ng  
6           been made and seconded to approve the  
7           expansi on of the fl oor pl an and i ncrease i n  
8           seati ng capaci ty made and seconded, all those  
9           i n favor si gni fy by sayi ng "Aye. "

10                  GERALD REARDON: Aye.

11                  ROBERT HAAS: Aye

12                  MI CHAEL GARDNER: Aye. None opposed  
13           so i t' s approved. Good l uck wi th your  
14           process.

15                  ATTORNEY JAMES RAFFERTY: Thank you.

16                  PATRI CK LEE: Thank you.

17                           \* \* \* \* \*

18                  ELI ZABETH LI NT: Goi ng back up. We  
19           had the Hackney appeal Adberahmane Bel kassam.

20                  GERALD REARDON: The 26th, ri ght?

21                  ELI ZABETH LI NT: Correct.

1                   MICHAEL GARDNER: What I remember of  
2 this is we had clear evidence of 13 moving  
3 violations within the past seven years in a  
4 period of operating with an expired Hackney  
5 license from February of 2010 up until  
6 approximately two months ago?

7                   ELIZABETH LINT: Correct.

8                   MICHAEL GARDNER: Some history of  
9 his driver's license being suspended during  
10 2009 and some earlier periods is a  
11 certification that he did not operate a  
12 Hackney vehicle while he did not have a valid  
13 driver's license. I don't know if we ever  
14 did any verification of that or not, but  
15 clearly he operated without a Hackney license  
16 for a period of probably more than a year.  
17 And there was some back and forth as to  
18 whether his failure to use a transponder was  
19 an actual violation under Chapter 90 or not.  
20 And his assertion it wasn't, and I believe  
21 Ms. Lint's telling us that it absolutely was.

1 And all of these matters in the record and  
2 the driver's assertion that it was in fact  
3 understood what his obligations were and was  
4 asking for a second chance.

5 ROBERT HAAS: Mr. Chairman, in my  
6 view, he has exceeded the prohibitions that  
7 would reinforce the fact that his license  
8 shouldn't be renewed, and I would vote to  
9 uphold the decision of Ms. Lint with respect  
10 to the appeal.

11 MICHAEL GARDNER: Would you have any  
12 further discussion about that?

13 GERALD REARDON: I believe the  
14 Commissioner's right. We have empathy for  
15 people coming in looking for a second chance,  
16 but I believe that our job would not be well  
17 served by someone with the driving history of  
18 this particular operator and the fact that he  
19 has operated without a license in the past.  
20 The job of the License Commission is to  
21 ensure that the public is safe and that

1 drivers, you know, perform in a manner as  
2 prescribed by the rules and regulations and  
3 clearly this gentleman has many, many  
4 violations and has proven through his actions  
5 that he doesn't deserve a second chance. I  
6 believe he's had a number of chances, and I  
7 would agree with the Commissioner.

8 MICHAEL GARDNER: So a motion to  
9 approve and uphold the action of Ms. Lint in  
10 revoking the license I believe would be  
11 ordered.

12 ELIZABETH LINT: It would be to not  
13 renew.

14 MICHAEL GARDNER: Not to renew,  
15 thank you.

16 And as I understand it, he would be  
17 free to reapply once he no longer had four  
18 violations in a seven-year period?

19 ELIZABETH LINT: Correct.

20 MICHAEL GARDNER: And it's a rolling  
21 seven years.

1 ELIZABETH LINT: It rolls, yes.

2 MICHAEL GARDNER: So a motion to  
3 approve the decision of Ms. Lint not to renew  
4 the application would be in order.

5 Is that correct, Ms. Lint?

6 ELIZABETH LINT: Yes.

7 ROBERT HAAS: We're upholding her  
8 decision not to appeal?

9 ELIZABETH LINT: No, not to renew.

10 ROBERT HAAS: Not to renew.

11 But this is his second appeal.

12 ELIZABETH LINT: First Officer Szeto  
13 makes a decision, then that was appealed to  
14 me. And then he appealed my decision to you.  
15 He has a right to appeal your decision to  
16 Superior Court.

17 MICHAEL GARDNER: Motion would be in  
18 order.

19 ROBERT HAAS: Another motion?

20 MICHAEL GARDNER: Well, we need a  
21 motion. You indicated how you vote, but I

1 think we need a motion first.

2 GERALD REARDON: I make a motion  
3 that we uphold the decision of the Executive  
4 Officer and not renew the license of  
5 Mr. Belkassam, and the decision by Officer  
6 Szeto.

7 ROBERT HAAS: Second.

8 MICHAEL GARDNER: Motion having been  
9 made and seconded not to -- to approve of the  
10 decision of Ms. Lint not to renew the license  
11 having been made, all those in favor signify  
12 by saying "Aye."

13 ROBERT HAAS: Aye.

14 GERALD REARDON: Aye.

15 MICHAEL GARDNER: Aye.

16 None opposed. So the action is  
17 approved.

18 \* \* \* \* \*

19 ELIZABETH LINT: Just to give you an  
20 update on the Bearded Pig application, that  
21 applicant is going to be withdrawing the

1 appli cation due to the neighbor concerns.

2 Do you want to take the public comment  
3 issue since this is what they're all here  
4 for?

5 MICHAEL GARDNER: Sure. At the  
6 April 26th hearing we held a hearing, an  
7 opportunity for public comment on the idea of  
8 whether or not the Commission should use its  
9 regulatory power in any way to provide  
10 regulations with respect to how the  
11 employment relationship of certain persons  
12 providing services in the hotel industry, as  
13 to whether or not we should make any  
14 regulations concerning that. We did hear  
15 from a number of people who testified at that  
16 hearing. We've received a number of written  
17 comments both before and subsequent to that  
18 hearing which are all part of the public  
19 record and would just like to express my view  
20 to my fellow Commissioners that seems to me  
21 at this point appropriate action is to

1 continue the matter generally while we both  
2 solicit and accept further written comment.  
3 I'm particularly interested in seeking  
4 comments from the Hyatt operation in the  
5 city. I'm interested in hearing more from  
6 the Public Health Commission, Inspectional  
7 Services, the Law Department on this matter,  
8 and I think there are a number of other  
9 potential sources from which we can seek  
10 inquiry that we can have come in -- or  
11 suggest themselves for some of the further  
12 written comments that we received to date.  
13 So, I'm looking for a sense from the  
14 Commissioners as to whether we would both  
15 continue to keep the matter open and also  
16 seek additional written comments.

17 ROBERT HAAS: So, Mr. Chair, I would  
18 agree. It was a very thoughtful conversation  
19 that took place both from the hotel industry  
20 and others that were supporting the notion of  
21 a -- as I understand it, a limited scope of

1 regulati on wi th respect so certai n categori es  
2 or classi fi cati on wi thi n the hotel i ndustry  
3 that be part of our regulati ons. I was very  
4 i ntri gued by that conversati on. I do have to  
5 confess that I thi nk that there' s some i ssues  
6 that I' m sti ll not comfortabl e wi th that I  
7 want to expl ore further i n terms of  
8 understandi ng any potenti al financi al  
9 i mpacts; real ly understandi ng what the  
10 landscape i n Cambri dge looks l i ke wi th the  
11 hotel i ndustry. It' s my understandi ng that  
12 most of the hotels i n the ci ty al ready hi re  
13 thei r housekeepi ng staff as regul ar empl oyes  
14 and don' t contract that servi ce out. I woul d  
15 be curi ous to confi rm that or refute that.  
16 And I al so have some concerns wi th respect to  
17 publ ic safety i ssues and the di sti ncti on  
18 bei ng havi ng trusted agents of an  
19 establ ishment and havi ng access to pri vate  
20 rooms duri ng the course of busi ness. So I  
21 woul d support your desi re to conti nue the

1 matter until I can learn more about it before  
2 I render a decision.

3 GERALD REARDON: I would agree. I  
4 have to turn around and compliment the people  
5 who showed up that night on all sides of it.  
6 I think they did a very nice job in terms of  
7 staying to the point, keeping it on target.  
8 There are questions I have as well in terms  
9 of -- although there was no specific issue  
10 for public safety as was pointed out,  
11 unfortunately the world I deal with all the  
12 time is that we don't always get out in front  
13 of things. Some of our fire laws and  
14 regulations that are promulgated are as a  
15 result of usually some serious, serious  
16 issues that actually require people to take  
17 some action, and I don't want that to be the  
18 case here. So I do as both the Chairman and  
19 the Commissioner said, have some questions  
20 on, you know, training and what it is. And  
21 this opens up a broader discussion on the --

1 on all of the hotels, motels in terms of, you  
2 know, what training is given, what levels are  
3 there, and what is in the best interest of  
4 public safety. So, I would, I would go along  
5 with the Chairman in terms of continuing this  
6 to get additional facts.

7 MICHAEL GARDNER: Without objection,  
8 we'll continue the matter generally. We have  
9 a member of the audience who would like to be  
10 heard.

11 ATTORNEY VINCENT PANICO: Yes,  
12 attorney Vincent Panico, Commissioner, can  
13 you just elaborate a little bit, I'm not sure  
14 I understood your comment on access to the  
15 rooms?

16 ROBERT HAAS: I think, I mean one of  
17 the things I think that -- I'm trying to look  
18 for areas where it makes sense to have more  
19 or greater oversight and accountability. One  
20 of the things that I found interesting was  
21 the conversation and thinking about it, that

1           you have individuals that are employees,  
2           either third-party contracts or employees of  
3           the hotel industry that do in fact have  
4           unfettered access into the rooms. By virtue  
5           of the fact that they have to go into the  
6           rooms to clean them, maintain them, and that,  
7           you know, person's valuables are in those  
8           rooms and things like that. There has to be  
9           a certain level of trust and confidence  
10          through the accountability of the management  
11          of the hotel that those issues are preserved  
12          and protected.

13                   MICHAEL GARDNER: Thank you. Do we  
14                   have other items to deal with?

15                   ELIZABETH LINT: One.

16                   MICHAEL GARDNER: Go ahead.

17                   ROBERT HAAS: We have to make a  
18                   motion. They have another question.

19                   ATTORNEY VINCENT PANICO: Has it  
20                   been continued or is there a motion?

21                   MICHAEL GARDNER: I guess I said,

1 then, without objection we'll continue it.

2 But if we in fact you think that requires a

3 motion, I'd be happy to entertain a motion.

4 ELIZABETH LINT: Absolutely.

5 ROBERT HAAS: I make a motion that

6 we continue the matter.

7 ELIZABETH LINT: Do you want to give

8 it a date certain?

9 MICHAEL GARDNER: Just continue it.

10 The motion is to continue it generally.

11 ROBERT HAAS: I mean, it's going to

12 take me a bit of a time, like I said, to get

13 some additional information. It's going to

14 put a bit of a burden on the License

15 Commission to do some of the research that

16 I'm going -- of course -- just getting a

17 better appreciation of what the landscape

18 currently looks like within the City of

19 Cambridge. For example, this is going to be

20 a wholesale turn over in terms of the current

21 practices, I want to know that. If it's

1 really not a major transition, I want to know  
2 that as well. I think it's going to help me  
3 think about the course of action we should  
4 take, because I think we have to be sensitive  
5 to those issues as well. And I really  
6 haven't quite grasped really what if any  
7 financial impacts such a regulation change  
8 would be to the industry.

9 GERALD REARDON: Second.

10 MICHAEL GARDNER: The motion having  
11 been made and seconded to continue this  
12 matter generally to obtain further  
13 information, all those in favor signify by  
14 saying "Aye."

15 GERALD REARDON: Aye.

16 ROBERT HAAS: Aye.

17 MICHAEL GARDNER: Aye.

18 None opposed.

19 So moved, the matter is so continued.

20 \* \* \* \* \*

21 ELIZABETH LINT: Veggie Galaxy.

1                   MICHAEL GARDNER: So on the Veggie  
2 Galaxy matter, we defer to today in part as I  
3 recall to give the Applicant the opportunity  
4 to clarify the exact time dimensions of this  
5 application, including the time when alcohol  
6 would begin being served and what the general  
7 hours of operation would be.

8                   Do you have information to report to  
9 us, Ms. Lint?

10                  ELIZABETH LINT: Yes, I do.

11                  Adam Penn sent me an e-mail requesting  
12 that the hours be eleven a.m. to eleven p.m.  
13 seven days per week.

14                  MICHAEL GARDNER: And that would  
15 include the serving of alcohol during that  
16 time?

17                  ELIZABETH LINT: Yes. And that  
18 would be consistent with just about all the  
19 other restaurants in the city as far as  
20 opening time.

21                  MICHAEL GARDNER: Except those that

1 open at ten.

2 ELIZABETH LINT: At ten on Sunday.

3 All five of them.

4 MICHAEL GARDNER: Any questions or  
5 comments from the Commissioners?

6 As I recall, there was some desire to  
7 move this that evening, but once it became  
8 clear that we weren't specifically --

9 ELIZABETH LINT: Yes, he was  
10 unclear.

11 GERALD REARDON: Yes, the Applicant  
12 wasn't quite solid on the times and so forth,  
13 so I would make a motion to approve as  
14 submitted.

15 MICHAEL GARDNER: Which would be  
16 eleven to eleven, seven days a week?

17 ELIZABETH LINT: Yes. And it also  
18 would be a --

19 ROBERT HAAS: New wine and malt  
20 beverage license?

21 ELIZABETH LINT: Yes. So that would

1 be -- it would have no value and  
2 non-transferable. Be turned in should the  
3 establishment close. And 21-Proof training.  
4 And can't be used as a pledge.

5 MICHAEL GARDNER: And it's all  
6 alcohol?

7 ELIZABETH LINT: Wine and malt.

8 MICHAEL GARDNER: Wine and malt.  
9 Motion having been made, but not  
10 seconded.

11 ROBERT HAAS: I'm thinking.

12 MICHAEL GARDNER: Any further  
13 discussion?

14 ROBERT HAAS: Don't you have to get  
15 a second before we get to discussion?

16 MICHAEL GARDNER: No, no. I think  
17 we can have discussion at any point, unless  
18 somebody thinks that's wrong.

19 ROBERT HAAS: I mean, I was kind of  
20 troubled because he really hadn't thought out  
21 his business plan. And simply just telling

1 us that these are going to be the hours now,  
2 I'm not sure if that's been resolved yet in  
3 my mind.

4 ELIZABETH LINT: Oh, I had a  
5 discussion with him.

6 ROBERT HAAS: And you're satisfied  
7 that he's got this pretty well thought out  
8 now?

9 ELIZABETH LINT: Well, he also has  
10 Veggie Planet on Palmer Street which operates  
11 fine.

12 ROBERT HAAS: He wasn't coming  
13 across that way during the hearing.

14 ELIZABETH LINT: Many applicants  
15 don't understand that if they write say seven  
16 a.m. to one a.m., that those are the hours  
17 that they have to be open. They think that  
18 well, I can kind of test the waters --

19 ROBERT HAAS: That's what he was  
20 saying.

21 ELIZABETH LINT: Right. So, when I

1           discussed it with him, and I said, no, you  
2           know, that's what you put on, that's what the  
3           public expects you to be open, so that's what  
4           you need to do. And he gets that.

5                        I can also tell you that I was at a  
6           meeting with the Red Ribbon Commission on the  
7           delights and something of Central Square and  
8           everyone is very excited about this place  
9           opening.

10                      GERALD REARDON: He has a very good  
11           establishment where he is right now. So  
12           obviously he's not totally new about this. I  
13           would be more concerned if he's first time in  
14           the game. He seems to be successful where he  
15           is in Harvard Square.

16                      ELIZABETH LINT: We've never had a  
17           complaint or a problem.

18                      ROBERT HAAS: I'll make a second.

19                      MICHAEL GARDNER: So the motion's  
20           been made and seconded to approve a no value,  
21           no transfer beer and wine license.

1 Do we need to specify the seats?

2 ELIZABETH LINT: You can or you can  
3 say as applied.

4 MICHAEL GARDNER: As applied for  
5 from eleven a.m. to eleven p.m., seven days a  
6 week. Motion's made and seconded.

7 ROBERT HAAS: To require the  
8 21-Proof training.

9 MICHAEL GARDNER: With requirements  
10 for 21-Proof training and the other meat and  
11 usual requirements of the Commission.

12 All those in favor signify by saying  
13 "Aye."

14 GERALD REARDON: Aye.

15 ROBERT HAAS: Aye.

16 MICHAEL GARDNER: Aye. None opposed  
17 so the license is approved.

18 Do we have any other decision?

19 ELIZABETH LINT: We do not.

20 MICHAEL GARDNER: I remember hearing  
21 at the April 26th hearing an assertion that

1 one premise was actually serving alcohol on  
2 Sundays earlier than ten a.m. I wonder if  
3 that matter was taken -- the Commission took  
4 note of that and whether there's any  
5 information or any action that's been taken  
6 so far.

7 ELIZABETH LINT: Yes. Henderson  
8 Hedley went down Saturday night and spoke  
9 with the general manager of the restaurant  
10 and --

11 MICHAEL GARDNER: Which was  
12 Henrietta's Table as I recall?

13 ELIZABETH LINT: Henrietta's Table.  
14 And they denied that they're doing that. But  
15 suggest that the more appropriate action  
16 would have been for a letter to come from me  
17 to the hotel because it's a license that the  
18 hotel holds. And my thoughts on that is once  
19 we do that, it becomes part of their record  
20 and we like to give somebody the opportunity  
21 to remedy a situation if in fact it is

1           occurring. So I would have been reluctant to  
2           send a letter to the Charles Hotel. So the  
3           message has been sent and I expect there will  
4           be no problems. And it will be monitored.

5                     And the other issue was the Winthrop  
6           Street seats which that's been pushed back.  
7           And I don't recall if there was something  
8           else.

9                     ROBERT HAAS: It struck me when I  
10          walked down Winthrop Street. I think we have  
11          to monitor that area a little bit more  
12          closely. It looks like there was some  
13          slippage with respect to the umbrellas, the  
14          advertisements on the umbrellas. As I  
15          indicated, an encroachment out onto the  
16          thoroughway with respect to moving those -- it  
17          wasn't just -- it looked like they were  
18          squeezing tables in there and moving the  
19          flower boxes on to the thoroughfare to make  
20          accommodations with the tables. So, I just  
21          want to make sure that those tables are in

1           line with the license.

2                     ELIZABETH LINT: No, they checked  
3           out. Yes, that's fine.

4                     I think the other issue was the meeting  
5           you wanted me to hold with Winthrop Street  
6           and police and DPW and all of that. And we  
7           did that on Monday. And at first everyone  
8           was thinking well, we should keep that street  
9           closed until three a.m. And Traffic and  
10          Parking was perfectly fine with that, and  
11          then by the end of the meeting they decided  
12          to keep it at two, because that way it really  
13          encourages people to move off of the street  
14          as opposed to if there's another half hour or  
15          hour that they can be kind of be milling  
16          around. And that it was impressed upon them  
17          that it's really up to them as the licensees  
18          to encourage their patrons to disburse and  
19          really move them off the street.

20                    The other concern was that if Winthrop  
21          wasn't open until three, that's going to back

1           everything up on JFK. So it's going to  
2           remain at two. They're meeting with Harvard  
3           Square Business Association to really form a  
4           plan as to gathering funds to hire a detail  
5           that covers all of them. They really feel  
6           that the police presence is a huge deterrent.  
7           I know you don't love that, but --

8                         ROBERT HAAS: No, I'm concerned  
9           about -- I mean, I'm listening to the  
10          descriptions of the number of people that are  
11          in that thoroughfare upwards of a thousand  
12          people that go back and forth in that street  
13          just to go to different establishments. And  
14          I don't know if one officer alone, standing  
15          in a crowd of people, is going to be enough.  
16          And I don't like the idea that individual  
17          establishments are hiring officers. I think  
18          their role gets a little bit convoluted with  
19          respect to are they there to serve, are they  
20          serving the license holder or are they  
21          serving in the capacity of police officer?

1 And I think it would be cleaner for us if in  
2 fact there's a pool and we make a  
3 determination of what the appropriate  
4 staffing is. And they are there to maintain  
5 order on that street and within the  
6 establishments that are associated with that  
7 street. But also reporting to the sergeant  
8 within that area as relative to the  
9 individual licensed establishment.

10 ELIZABETH LINT: Well, I think  
11 that's the understanding. And Steve Williams  
12 was very clear that certainly the officer on  
13 patrol in that area really tries to be right  
14 around there at the closing hour certainly  
15 subject to getting a call and having to be  
16 somewhere else in the city. So there's never  
17 a guarantee that that other officer is going  
18 to be there. And he wanted that to be very  
19 clear and they get it. So they're going to  
20 take that on themselves to really try to do  
21 things to keep it safer. And, you know, then

1 the other issues were around trash. And  
2 Public Works is going to look into putting  
3 more receptacles there. And just things of  
4 that nature. And then, you know, talking  
5 about send somebody out halfway through the  
6 night to sweep up the cigarette butts. It  
7 looks disgusting. And it's the front of your  
8 house basically, take care of it.

9 ROBERT HAAS: And the other stuff.

10 ELIZABETH LINT: Yes, well, it  
11 happens.

12 ROBERT HAAS: I know, but somebody  
13 has to clean it up.

14 ELIZABETH LINT: They do.

15 So from our side it was impressed upon  
16 them that they need to taken ownership of the  
17 street. If these are their concerns, then  
18 deal with it because it's really --

19 ROBERT HAAS: It's affecting their  
20 business, right.

21 ELIZABETH LINT: Yes. It's not

1 something -- they want us to condition all  
2 the licenses and say you must hire police  
3 details, and we can't do that. We can  
4 suggest that they take steps to police, but  
5 we can't tell them that you have to do that.  
6 It would automatically -- as you know, you  
7 can't always fill the details, and then it  
8 would be a license violation so it just  
9 doesn't make sense.

10 GERALD REARDON: We've added  
11 Winthrop Street to the inspectors just to  
12 double check it when they go around in terms  
13 of the encroachment issues. They took care  
14 of it last week and they said they'd keep an  
15 eye on it.

16 ROBERT HAAS: Do we have any update  
17 on the Congo or Conga?

18 ELIZABETH LINT: I think Chris got  
19 an application yesterday. I'm not certain.

20 MICHAEL GARDNER: Will that matter  
21 be on the agenda for the 17th?

1 ELIZABETH LINT: No, the 31st.

2 MICHAEL GARDNER: In the meantime  
3 it's closed?

4 ELIZABETH LINT: Oh, it's closed.  
5 Shuttered.

6 MICHAEL GARDNER: And no action we  
7 need to take then with respect to that part  
8 of it?

9 ROBERT HAAS: They clearly  
10 understand they can't reopen at this point in  
11 time, right?

12 ELIZABETH LINT: They can't anyway.  
13 They know. Yes, it's not even --

14 ROBERT HAAS: It's all set-up. If  
15 you walk passed that restaurant, all the  
16 tables are set; plates napkins. So it looks  
17 like, except for the signage, that it is  
18 still functioning. I just want to make sure  
19 they clearly understand they can't open.

20 ELIZABETH LINT: They know. They  
21 have no electricity.

1                   MICHAEL GARDNER: How can they have  
2 plates and napkins set out if they're not  
3 open?

4                   ELIZABETH LINT: They have no  
5 electricity.

6                   GERALD REARDON: These are tables  
7 inside the restaurant, not out in the street.

8                   MICHAEL GARDNER: Oh, I  
9 misunderstood you.

10                  ELIZABETH LINT: Yes, inside. You  
11 can see in. Yes, but that's not unusual.

12                  MICHAEL GARDNER: I misunderstood  
13 what you were saying.

14                  ROBERT HAAS: Plain view doctrine.

15                  MICHAEL GARDNER: Thank you.

16                         Do we know any more about the rental  
17 company? Was it Enterprise?

18                  ELIZABETH LINT: Oh, yes. I drive  
19 by there everyday. It's beautiful. It's all  
20 paved. It's lined. A letter came from  
21 Traffic and Parking that they've been working

1 with them and, you know, recognize that all  
2 that's been done. And when Western Ave.  
3 starts, then the curbing will be -- so it's  
4 really -- they have arrows pointing which way  
5 you have to park. And they really did a  
6 great job.

7 GERALD REARDON: It looks nice.

8 MICHAEL GARDNER: And who's, if  
9 anybody is monitoring enforcement there?

10 ELIZABETH LINT: Traffic and  
11 Parking.

12 ROBERT HAAS: We are, too. It's a  
13 designated director patrol activity and  
14 supervisor's supposed to check it as well.

15 ELIZABETH LINT: It really looks  
16 much better.

17 MICHAEL GARDNER: And is this in the  
18 waiting report that we're supposed to report  
19 back to the Council on?

20 ELIZABETH LINT: Not us.

21 MICHAEL GARDNER: Who is supposed to

1 do it?

2 ELIZABETH LINT: Sue. She did. And  
3 then there will be follow up.

4 The other issue was the Vinyl Clubs.

5 ROBERT HAAS: And?

6 ELIZABETH LINT: I e-mailed you. I  
7 sent you a very long e-mail.

8 ROBERT HAAS: I read it.

9 ELIZABETH LINT: Well, I wouldn't  
10 have known it. I get no response. I don't  
11 really -- from speaking to Patricia Malone,  
12 they handled it through police and fire  
13 strictly that if they're overcapacity.

14 GERALD REARDON: They're probably  
15 getting cited, written up tonight. See what  
16 happens. Tonight, tomorrow night, they're  
17 not going to be happy. It's just a  
18 convoluted thing. I mean, they're really a  
19 private club, so to speak, you know, they say  
20 they're -- but no one sleeps there so they're  
21 not a residence. There was overcrowding.

1           There was, you know, portable propane  
2 heaters. It was tents over the tops of these  
3 things. You know, it has to be -- it has to  
4 be dealt with in terms of -- before we have  
5 another problem down there as well.

6           ELIZABETH LINT: For Boston it was a  
7 lot easier for them to zero in on this one  
8 particular house or club or whatever it was,  
9 because they put up a huge thing on Facebook  
10 and Twitter that, you know, they were having  
11 this concert and it was 20 bucks at the door  
12 and there was beer and all of that. So, I  
13 thought well, let me go check out Facebook  
14 just for kicks and giggles. And so I went on  
15 and, you know, looked at the different names  
16 of the clubs. Well, they're all very clever,  
17 if you're not a member, you can't see any of  
18 the activity, which I expected. So I got  
19 nothing.

20           ROBERT HAAS: Do we join these clubs  
21 and become members and go into them?

1                   ELIZABETH LINT: Do you go to  
2 Harvard?

3                   ROBERT HAAS: No.

4                   So, anyway Superintendent Williams is  
5 in the process of arranging a meeting with  
6 the administration of the university and  
7 Captain Cahill's asked to be part of those  
8 meetings. So he's working in tandem with  
9 Captain Cahill, and we'll figure out what we  
10 can do and what we need to do in order to  
11 make sure that this public safety at these  
12 clubs.

13                  The advantage that Harvard University  
14 police has, it's the requirement of the  
15 university that if a student is approached by  
16 a Harvard University police officer, they  
17 have to produce an ID. In the past they've  
18 shut the door in our face. Is there a way to  
19 arrange to have all the university police  
20 accompany us --

21                  GERALD REARDON: But the problem is

1           that most of these, many of them are alumnae  
2           and they're not actually students.

3                     ROBERT HAAS: I understand. But we  
4           can determine that also when we get there.

5                     GERALD REARDON: The alumnae aren't  
6           going to give you an ID.

7                     ROBERT HAAS: I understand that.  
8           But a student has to produce an ID. So  
9           there's another way of getting at it.

10                    ELIZABETH LINT: If there's anything  
11           you want from our end?

12                    ROBERT HAAS: Not yet.

13                    MICHAEL GARDNER: A motion to  
14           adjourn is always in order.

15                    ROBERT HAAS: Motion to adjourn.

16                    GERALD REARDON: Second.

17                    MICHAEL GARDNER: Motion to adjourn  
18           having been made and seconded, all those in  
19           favor signify by saying "Aye."

20                    GERALD REARDON: Aye.

21                    ROBERT HAAS: Aye.

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MICHAEL GARDNER: Aye.

The ayes have it, and the meeting  
adjourned.

Thank you very much.

(The License Commission Decision  
Hearing Adjourned at 10:40 a.m.)

## C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
BRISTOL, SS.

I, Catherine Lawson Zelinski, a  
Certified Shorthand Reporter, the undersigned  
Notary Public, certify that:

I am not related to any of the parties  
in this matter by blood or marriage and that  
I am in no way interested in the outcome of  
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I further certify that the testimony  
hereinbefore set forth is a true and accurate  
transcription of my stenographic notes to the  
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IN WITNESS WHEREOF, I have hereunto set  
my hand this 12th day of May 2011.

\_\_\_\_\_  
Catherine L. Zelinski  
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