

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARING

LICENSE COMMISSION BOARD MEMBERS:

Michael Gardner, Commissioner
Robert Haas, Police Commissioner
Gerald R. Reardon, Deputy Fire Chief

STAFF: Elizabeth Y. Lint, Executive Officer

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

DATE: Tuesday, January 10, 2012

TIME: 6:10 p.m. to 8:22 p.m.

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P R O C E E D I N G S

ELIZABETH LINT: Before we get started, if anyone has a cell phone on, we would appreciate it if you would shut it off.

This is the License Commission general hearing Tuesday, January 10, 2012 at 6:08 p.m.

We are in the Michael J. Lombardi Municipal Building, 831 Massachusetts Ave., basement conference room.

Before you are the Commissioners, Chairman Michael Gardner, Chief Gerald Reardon and Commissioner Robert Haas.

If anyone is here for the application of Vertex Pharmaceuticals, that's been taken off the agenda.

DISCIPLINARY: VIJETA CORPORATION

MS. LINT: The first matter is

disciplinary. Disciplinary: Vijeta Corporation
d/b/a Prospect Liquors, Dhiru Patel, manager,
holder of an all alcoholic beverages as a package
store license at 1226 Cambridge Street due to a
police report received by the License Commission
from the Cambridge Police Department regarding
the alleged sale of alcohol to an intoxicated
person. A report was also submitted by the
License Commission Chief Licensing Investigator,
Andrea Boyer, regarding numerous issues at this
address.

A copy of both reports is available for
review in the License Commission.

COMMISSIONER MICHAEL GARDNER: So if you
would, please, all of you who are here and might
speak, please state and spell your names for the
record, beginning with you, Ms. Boyer.

ANDREA BOYER: Andrea Boyer, B-O-Y-E-R,
investigator for the Cambridge License

Commission.

OFFICER MCNEELEY. Officer McNeeley,
M-C-N-E-E-L-E-Y, police officer for the Cambridge
Police Department.

OFFICER CALLINAN: Officer John Callinan,
C-A-L-L-I-N-A-N, Cambridge Police Department.

DHIRU PATEL: Dhiru, D-H-I-R-U, Patel,
P-A-T-E-L, Prospect Liquors.

COMMISSIONER MICHAEL GARDNER: Thank you.
Ms. Boyer, could you give us what brings us here
tonight?

ANDREA BOYER: Yes, sir. Our officer
received a Cambridge police report dated
November 12, 2011 stating that Prospect Liquors,
located at 1226 Cambridge Street, had sold
alcohol to an indicated person. That police
report was given to you in your packet.

The history of this establishment
allegedly serving an intoxicated person is as

follows: In June of 2008, an investigation was started based on complaints from residents that the owner/employees of Prospect Liquors were allegedly selling to intoxicated individuals.

The main concern of the residents was that the sales were taking place early in the morning where children were waiting for the school bus across the street.

My investigation -- excuse me -- my investigation showed on June 25, 2008, between 8:32 a.m. and 8:51 a.m., nine customers went into the establishment.

I followed a male and a female on premise due to an odor of alcohol being on the male as he passed me on the sidewalk.

While on premise the male purchased a 40-ounce beer and the female purchased two nip bottles.

My findings were reported to the License

Commissioner, the Chair at the time, who was
Richard Scali, and the Executive Officer,
Elizabeth Lint.

Mr. Scali and Mrs. Lint held a meeting
with the owner and Mr. Patel on July 10, 2008 to
discuss the issues, inform the owner if any
more incidents occurred, that a hearing would be
held.

On August 4, 2008, Shawn Lowe -- excuse
me -- Officer Shawn Lowe and Sergeant Ford
submitted a police report stating that an
intoxicated person was permitted to purchase
alcohol by Mr. Patel.

A hearing was held on September 9, 2008.
And on September 25, 2008, the Board of License
Commissioners voted 3-0 to issue a stern warning
for the incident.

On April of 2011 residents contacted our
office again stating problems with selling to

intoxicated individuals by Prospect Liquors and Martin Brothers Liquors. Also, issues of urination, littering, loitering were listed as complaints as well.

Based on the list of community issues, along with the selling to intoxicated individuals, a meeting was held with Detective Donofrio, Sergeant Brown and the owner of Martin Liquors, Mr. Pabla, and the owner of Prospect Liquors, Mr. Patel, on May 25, 2011 at 7:00 p.m. at the License Commission office.

The community issues were addressed with Detective Donofrio and Sergeant Brown along emphasizing that more vehicle patrol would take place to check for intoxication issues.

After the meeting, Detective Donofrio, Sergeant Brown, and I discussed spot checks of the establishments would take place. It was reported to one of the main complainants, Mr.

Brandon Hockle, that the meeting had taken place with the owners, and the hope was for more vigilance on the establishment owner's part to address the issues.

I asked for the complainant to please call me in a couple of weeks with feedback as to whether these problems continued.

On June 18, 2011, Mr. Hockle emailed me and stated the selling to intoxicated to individuals was still ongoing.

It was discussed that the best time for me to spot check was Saturday mornings at around 11:00 a.m.

I performed checks on July 2, 9, 16 of 2011 from approximately 10:45 till 11:45 a.m. During the time of investigations, there was obvious evidence of loitering in the area by people who had consumed alcoholic beverages. Nip bottles were lying on the ground, and even some

people were still present drinking a nip and drinking out of a Skol vodka bottle, but none of the people were going onto the premise of Martin Brothers or Prospect Liquors.

In August, Mr. Hockle stated that he would collect more incidents and report back to me dates and times to have further investigation.

On September 9, 2011 at 9:30 a.m., Mr. Hockle called the Emergency Communication Department to report selling to intoxicated customers of Prospect Liquors. He stated to the call-taker that he's collecting information for the License Commission.

That report was also part of the packet.

In October 2011, Officer John Callinan addressed numerous issues in the area by speaking to locals in the area that hang out and congregate along Cambridge Street, and the Shell Station at Winsor, the Vellucci Plaza in Inman

Square. He also spoke to the representatives of Martin Brothers, Prospect Liquors, and Falalense Club pertaining to the sale of alcoholic beverages to intoxicated individuals.

His email is attached to your packet and he's here to speak.

Based on the police report dated November 12, 2011 submitted to our office, the previous violation warning in 2008, a meeting in April 2011, and the discussion with Officer Callinan in October of 2011, a disciplinary hearing should be held.

COMMISSIONER MICHAEL GARDNER: Thank you.

Officer Callinan, do you care to elaborate on anything that's been said so far?

OFFICER CALLINAN: Yes. I first would like to say that approximately ten minutes ago, prior to this hearing, I'm sitting in the back when Mr. Patel approached me and said that I was

wrong in what I observed, the Police Department is wrong in what they think happened, but the Board has the power to do what they want.

So I don't appreciate being approached in the back. And he told me he views --

(Mr. Patel interrupting and speaking at the same time as Officer Callinan.)

COMMISSIONER MICHAEL GARDNER: Sir, Mr. Patel, what we'll do here is give you a full and complete opportunity to say anything you want, but please don't interrupt the officer while he's speaking.

OFFICER CALLINAN: There were a couple people sitting next to me. I don't know if they heard exactly what he said, but I don't appreciate being approached.

I have been here 28 years and I've never had anybody approach me before a hearing and tell me that I'm wrong. He's got the right to his own

hearing.

I have been walking that beat in Inman Square since 2006. I don't know how many times the neighbors have come up and complained about people coming out of there intoxicated.

I'm not there all the time to watch it. I work from 7:00 to 3:00. Mr. Patel shows up almost every morning at 8:00. By 8:30 there's usually ten or 12 people waiting across the street in front of 1221 waiting to go in and purchase liquor.

I've made it clear, I can think of 50 times, to him or his two workers on the weekends, "Do not sell if they're intoxicated."

I have thrown people out of there that they have ready to sell to.

But to get back here to September 9th at 8:30, I got a call to respond there. There's a neighbor that observed somebody purchasing

alcohol, going down in front of his residence on Tremont Street, drinking those nips, and he said he went in and spoke to Mr. Patel. He was pretty upset.

I'm a little upset 'cuz I live in the neighborhood myself. I'm a little fed up with it.

I went in and I talked to Mr. Patel. He denied the whole thing.

He said, "You want to view my security tapes? Go ahead. I view everything from home. I watch it daily."

This has been going on for a long time, a very long time.

The Deputy Chief Jackie Albert sent me out to the liquor establishments to let the licensed premises know what the rules are pertaining to their license. I did.

I told Mr. Patel that this was the second

time within a month about the complaints we have from concerned citizens. He told me to check his tapes. He's got nothing else to say.

With that, I forwarded as a 650 email to Deputy Chief Jackie Albert, and I believe the other officer followed up a month later, too.

COMMISSIONER MICHAEL GARDNER: So from your perspective, it has been a community problem for quite awhile?

OFFICER CALLINAN: Yes.

COMMISSIONER MICHAEL GARDNER: I'm not sure I understand exactly the dynamic of the people waiting or -- what's the opening hour, if you know?

OFFICER CALLINAN: His liquor store opens at 8:30. I come on the job at 7:00.

By the time I get to Inman Square, it's like 7:20. I got a couple other duties I have to do. They come up from Somerville, they come up

from Central Square, they sit on the benches in front of 1221, the high rise.

I got three school buses every morning, they pull up for the kids. I got the homeless alcoholic sitting there doing their thing all day long. As soon as -- I should say all morning.

As soon as he opens, they file in to buy their liquor. He serves them. They walk out.

I can't say that they're drunk first thing in the morning at 8:30. I think they're waiting to get their first bottle from the night before. His claim is that they're not intoxicated.

Within an hour we're picking them up in the wagon and bringing them to the shelter. It's documented every single day, sir.

FIRE CHIEF GERALD REARDON: What is the opening time?

ELIZABETH LINT: They're licensed for

8:00, but we've had meetings with them and we requested that they not open until --

FIRE CHIEF GERALD REARDON: I thought it was 9:00?

ELIZABETH LINT: It was supposed to be 9:00.

COMMISSIONER MICHAEL GARDNER: Isn't that Martin?

POLICE COMMISSIONER ROBERT HAAS: No, it's this establishment.

ELIZABETH LINT: Both.

COMMISSIONER MICHAEL GARDNER: Okay. I mean, when I looked at the file, what I saw was a reference to Martin opening at 9:00, maybe 9:15 voluntarily.

OFFICER CALLINAN: He told me he would open at 9:15 voluntarily.

CHAIRMAN MICHAEL GARDNER: That's Martin?

OFFICER CALLINAN: Martin Brothers.

COMMISSIONER MICHAEL GARDNER: I didn't see anything in the file -- in this file about opening hours for this establishment.

ELIZABETH LINT: It wouldn't be. This was an agreement that was made at a meeting here.

FIRE CHIEF GERALD REARDON: That they wouldn't open until 9:00 a.m.?

ELIZABETH LINT: Yeah. It was not a License Commission hearing. It was just a meeting that we had with all of the package stores on Cambridge Street to try to help solve the problem.

FIRE CHIEF GERALD REARDON: But it was the result of hearings with several of them that culminated in this agreement?

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: Do we have the authority to change operating hours?

ELIZABETH LINT: Absolutely.

COMMISSIONER MICHAEL GARDNER: Officer McNeeley, do you have more to add?

OFFICER McNEELEY: Yes. Just to that one incident on November 12, 2011, I responded.

I was dispatched to a call for Prospect Liquors where an intoxicated party exit a motor vehicle with another party and entered the store.

It was a concerned resident in the area that called, I was told.

Upon responding to the store, I passed two parties who were exiting the store extremely intoxicated. I was unsure if they were ones that came out of the motor vehicle at that time.

I went in to speak to the patrons inside the store who stated to me that they had indeed come out of the motor vehicle. I stepped outside, and at that time, the two parties that I had passed in the door were walking back towards the motor vehicle.

Upon speaking to them, they stated to tell me that that was their motor vehicle. I did not witness the operation. I did speak to them, and they assured me that they would not be driving and that they would call their mother to come pick them up.

The mother showed up, and she was extremely distraught.

She said this has been going on numerous times where they've sold alcohol to their son while he was intoxicated, and that he had a drinking problem and that they were not helping.

I went into the store and I spoke to the clerk at the time, which, I believe, is Mr. Thappa (phonetic).

I asked the gentleman that -- the clerk if he knew that those parties were intoxicated. He stated to me that he did feel that they were intoxicated and that he should not have sold to

them. And at that time, I filed a Cambridge Police report that's submitted.

COMMISSIONER MICHAEL GARDNER: Did you actually see the liquor that they had purchased?

Could you verify that they had liquor?

Or, did he admit that they had purchased it?

OFFICER McNEELEY: When I passed them, they were walking out with a bag that appeared to have liquor in it, and it was in their pocket while we were talking, and they were not actively drinking it at the time.

COMMISSIONER MICHAEL GARDNER: This was on November 12?

OFFICER McNEELEY: Yes.

COMMISSIONER MICHAEL GARDNER: Which is a Saturday, I believe.

OFFICER McNEELEY: Sounds right.

COMMISSIONER MICHAEL GARDNER: Questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

FIRE CHIEF GERALD REARDON: I'm personally aware of the crowd that seems to congregate at 1221 across in the morning obviously waiting.

COMMISSIONER MICHAEL GARDNER: Mr. Patel?

DHIRU PATEL (PROSPECT LIQUORS): Yes.

CHAIRMAN MICHAEL GARDNER: We would like to hear from you.

DHIRU PATEL (PROSPECT LIQUORS): Let me say I just apologize. I know John from many years and he come to the store, and we talk and in this case, I was just kidding with him. I was not telling him seriously.

I'm sorry, John, because -- I apologize.

I was just kidding with him, you know, I was not telling him, I just kidding with him. I

wasn't telling him. I'm sorry about that.

Another thing, that incident, I was watching from my home, the whole video of that incident that happened on October --

COMMISSIONER MICHAEL GARDNER: November.

So you were watching from your home a video from November 12?

DHIRU PATEL (PROSPECT LIQUORS): I was watching right from there. The person they were looking for is Mr. Bartalone. He's from Tewksbury. He was driving the black truck. But he didn't buy anything and we didn't serve him anything. He was just giving a ride to the other guy. His name is Roy Cunha (phonetic). He bought only a six-pack and then they walk out.

They were looking for this very intoxicated guy, but we didn't serve him. He was just giving a ride to other guy.

So the person we sold was John, he comes

once in awhile, but he don't have no car and he don't drive. He just come with someone. He couldn't even go home by walking, he just come with someone in the ride, and he just come with the car to the store and store to the car.

FIRE CHIEF GERALD REARDON: I guess obviously --

DHIRU PATEL (PROSPECT LIQUORS): So, I was going to bring that video with me, but it took about two months, so I didn't save that video, but I called these two guys to come and asked them -- they're over here -- who bought the six-pack of beer. They were looking for that person intoxicated. He didn't buy nothing. We didn't serve him.

So the problem is with Police Department and that guy, nothing to do liquor store because he didn't buy nothing and we didn't serve him nothing.

The other guy comes all the time, not everyday, but once in awhile, but he was not intoxicated, and he just bought a six-pack and just took a ride with him. And the lady was telling the same information giving to the Police Department, they come everyday, that guy live in Tewksbury, he don't come everyday, that's his son. That's a fake complaint with that -- from the lady, that my son come everyday, but ask him, he live in Tewksbury. He was visiting. That's why he give him a ride, but he don't come everyday to my store.

COMMISSIONER MICHAEL GARDNER: So do I understand what you're saying is that the Tewksbury person who --

DHIRU PATEL (PROSPECT LIQUORS): Yeah.

CHAIRMAN MICHAEL GARDNER: -- was intoxicated or appeared --

DHIRU PATEL (PROSPECT LIQUORS): Right.

CHAIRMAN MICHAEL GARDNER: -- to be intoxicated came into the store with another person who --

DHIRU PATEL (PROSPECT LIQUORS): He --

CHAIRMAN MICHAEL GARDNER: Now, please let me talk here.

Came into the store with another person who you say was not intoxicated, that's somebody named John?

DHIRU PATEL (PROSPECT LIQUORS): Right.

CHAIRMAN MICHAEL GARDNER: Who doesn't drive?

DHIRU PATEL (PROSPECT LIQUORS): Yes.

COMMISSIONER MICHAEL GARDNER: And just gets a ride from the intoxicated fellow?

DHIRU PATEL (PROSPECT LIQUORS): Roy Cunha.

COMMISSIONER MICHAEL GARDNER: Roy?

DHIRU PATEL (PROSPECT LIQUORS): Roy

Cunha.

CHAIRMAN MICHAEL GARDNER: Okay. And so, it was Roy who bought the liquor and --

DHIRU PATEL (PROSPECT LIQUORS): Right.

COMMISSIONER MICHAEL GARDNER: -- so you didn't violate anything because even though he came into the store with a clearly intoxicated person, he wasn't intoxicated, and he's the one who gave you the money and received the alcohol?

DHIRU PATEL (PROSPECT LIQUORS): My employee, he didn't --

COMMISSIONER MICHAEL GARDNER: And that's your standard?

DHIRU PATEL (PROSPECT LIQUORS): Yeah. My employee, he doesn't know -- but when I was there, I don't even know this guy was with him because he was standing behind, and Roy Cunha, he bought the six-pack.

FIRE CHIEF GERALD REARDON: Was he in your store?

DHIRU PATEL (PROSPECT LIQUORS): Who?

FIRE CHIEF GERALD REARDON: Was he in your store?

DHIRU PATEL (PROSPECT LIQUORS): Who?

FIRE CHIEF GERALD REARDON: The intoxicated person, was he in your store?

DHIRU PATEL (PROSPECT LIQUORS): Yeah, he was standing behind, but the employee, he doesn't know that he was with him. And when the officer asked, "Did you serve him?" He doesn't know his last name, so he thought Mr. Bartalone, maybe his -- Roy's last name, who bought the six-pack, maybe his last name. So my employee thought I talked to him. He thought they might -- the Police Department might recognize that guy and they found the alcohol, but he doesn't know the last name. That's why he thought -- he said,

"Okay, I serve him," but the intoxicated guy was behind him. He was standing behind. He was not buying anything. I was watching him. I could have been --

COMMISSIONER MICHAEL GARDNER: Well, you weren't there to know whether the first person was intoxicated or not, were you?

You don't know if Roy was intoxicated of your own personal knowledge, you weren't there, right?

DHIRU PATEL (PROSPECT LIQUORS): No, Roy --

COMMISSIONER MICHAEL GARDNER: You weren't there, right?

DHIRU PATEL (PROSPECT LIQUORS): No, but --

COMMISSIONER MICHAEL GARDNER: Okay. So your employee told the police he served an intoxicated person.

Why shouldn't we believe your employee when he told the police that?

DHIRU PATEL (PROSPECT LIQUORS): He was not sure that Roy's last name was Bartalone. He thought his -- Roy's last name is Bartalone because we know him by Roy, you know, that's all we know. I don't even know his last name.

So, he thought they might tell --

COMMISSIONER MICHAEL GARDNER: Well, didn't he know who he served?

DHIRU PATEL (PROSPECT LIQUORS): He came in and then they found alcohol.

COMMISSIONER MICHAEL GARDNER: I'm confused.

Didn't he know who he served?

DHIRU PATEL (PROSPECT LIQUORS): He knew who he served because he --

COMMISSIONER MICHAEL GARDNER: So then he knew that the person he served was intoxicated or

not, no matter what their last name is, right?

I guess I don't understand.

Two people are in a liquor store, one of them asked for liquor, buys it, and the clerk sells it to the person. And whether they know the last name or not, the police come in --

DHIRU PATEL (PROSPECT LIQUORS): But --

CHAIRMAN MICHAEL GARDNER: Please.

The police come in and say "Did you serve an intoxicated person?"

And he says, "Yes, and I know I shouldn't have," so what's the last name got to do with that transaction?

DHIRU PATEL (PROSPECT LIQUORS): But we know that guy all the time. He comes and --

COMMISSIONER MICHAEL GARDNER: That guy, Roy Cunha?

DHIRU PATEL (PROSPECT LIQUORS): Yeah, Roy.

CHAIRMAN MICHAEL GARDNER: Yeah.

DHIRU PATEL (PROSPECT LIQUORS): And he comes with someone.

COMMISSIONER MICHAEL GARDNER: Okay. And so does Roy Cunha never come in intoxicated?

DHIRU PATEL (PROSPECT LIQUORS): Mostly not because he has --

COMMISSIONER MICHAEL GARDNER: But sometimes he does?

DHIRU PATEL (PROSPECT LIQUORS): We don't know how much his alcohol because we don't have a breathalyzer machine to check it.

COMMISSIONER MICHAEL GARDNER: Okay, so is that your standard?

DHIRU PATEL (PROSPECT LIQUORS): He comes with someone all the time. He don't drive. He don't bother nobody. He don't give any problem. He just walk from the car to the store and store to the car.

COMMISSIONER MICHAEL GARDNER: So, I mean, why shouldn't we believe that what he did was buy the alcohol for the clearly intoxicated person?

DHIRU PATEL (PROSPECT LIQUORS): Because sometimes -- that's a general question.

Sometimes people comes with tie and suit and whatever, but they drink something, but they talk perfectly, they drive perfectly, so we cannot say that how much alcohol you have, you know.

CHAIRMAN MICHAEL GARDNER: All right.

DHIRU PATEL (PROSPECT LIQUORS): We cannot tell how much Roy was alcoholic or whatever.

COMMISSIONER MICHAEL GARDNER: Well, you certainly can't tell because you weren't there.

DHIRU PATEL (PROSPECT LIQUORS): Yeah, I wasn't there, but I was talking to Roy, too, and

Roy has some health problems, so he talk like he is intoxicated.

If you want, you can talk to him. I brought him over here. I said, "Come to this meeting and just talk," because he didn't buy it.

FIRE CHIEF GERALD REARDON: Mr. Patel, I get the opinion that you seem to think that if a person doesn't drive that it's okay to be intoxicated. That's what I'm deriving from what you're saying.

You seem to be saying, as long as he's not driving, he can be intoxicated and I can sell it to him.

I have to tell you from personal experience from being there in the morning and seeing the line-up there, it's pretty evident that people are waiting, regulars that we see.

I mean, you're talking about police

officers here, and myself, been on the street for a long time. I think we have a pretty good eye of who the regulars are, who the people are who are prone to be intoxicated or extremely hung-over, and you don't need a breathalyzer to determine that.

So either you're the most unlucky person in the world, or you're serving to people who are either intoxicated or borderline intoxicated.

DHIRU PATEL (PROSPECT LIQUORS): Because this guy, he just go home.

FIRE CHIEF GERALD REARDON: I don't want to dwell on one person. There's a whole host of evidence here over the history.

Like I said, I'm up and down the street. There's a congregation of people who frequent the store, so who we know what their lifestyle is, that seems to be waiting for your store to open, 'cuz I mean -- and there doesn't seem to be as

many at some of the other stores.

Is it because it's easier to buy at your store than the other stores? That's what I'm deriving from this.

And your story really doesn't change my opinion right now that -- you're dwelling on one person, and it's okay if the person who is in the store, if they're intoxicated, as long as they're not driving, good luck to them.

I just -- that's what I'm getting from your story.

DHIRU PATEL (PROSPECT LIQUORS): Yeah, but I was just talking about Roy that's --

FIRE CHIEF GERALD REARDON: But you're dwelling on Roy.

We've got a whole litany here of things going on.

DHIRU PATEL (PROSPECT LIQUORS):
Sometimes homeless people come, right. But one

time the officer asked me there, "You didn't smell the breathalyzer" -- I meant, "the breath?"

I said, "I don't go close." I said, "I can't go close to the homeless people to take a breath."

FIRE CHIEF GERALD REARDON: Mr. Patel, you have been around a long time, so have we, on the streets.

I mean, between speech, walk, gait, there's a whole host of things that kinda lend you -- and especially if they're street people, who are lending -- who are prone to alcohol abuse, you already know probably some of them when they come through the door that they're prone to this and you shouldn't be selling to them anyway.

DHIRU PATEL (PROSPECT LIQUORS): Right. Oh, no, I refuse them, you know.

This morning one guy came in and he

wasn't walking good, right? I just refuse him and I said, "Don't come."

So, when I judge that he's not able to walk or talk, I can judge that he's intoxicated.

FIRE CHIEF GERALD REARDON: Could you try to explain to me why it seems that there are a number of people waiting for your -- sitting across from your store waiting for your store to open?

DHIRU PATEL (PROSPECT LIQUORS): I don't know what the other stores, you know, because they go everywhere and -- I have no idea.

Maybe a lot of people -- homeless people live around this area, that's why they come to the store. They go to Martin Brothers and they come over here.

COMMISSIONER MICHAEL GARDNER: I would like to hear from Officer McNeeley again with respect to this distinction between the two

people and whether or not you formed any conclusions with respect to that.

OFFICER McNEELEY: One thing I wanted to add is that the motor vehicle was parked directly in front of the door so from the view of the counter, you could clearly see the motor vehicle. I believe it's a loading zone right there that they were parked in.

And at the time when I went to speak with the clerk, I didn't know the name of either party, so when I stepped inside, I said the two gentlemen who just exited the pickup truck who came in to purchase alcohol. I never used a name.

I got the name later when I went outside and spoke to the mother who arrived to drive the pickup truck home. Apparently, she lives on Springfield Street, so that's why her son frequents that area from Tewksbury. And that's

when I got the names of the two gentlemen to add to the report.

COMMISSIONER MICHAEL GARDNER: Was one of them intoxicated, in your opinion, and the other one not?

OFFICER McNEELEY: We spoke mostly to the operator, who was Mr. Bartholomew, mostly because of the threat of him operating a motor vehicle.

Both parties appeared to me to be extremely intoxicated, they were both slurring their words, unsteady on their feet and appeared to be extremely argumentative to the point that my partner and I were making sure that we kept our distance and made sure that we could clearly see their hands.

COMMISSIONER MICHAEL GARDNER: Argumentative to you as opposed to back and forth between themselves?

OFFICER McNEELEY: Yes.

FIRE CHIEF GERALD REARDON: I would like to ask Officer Callinan a follow-up.

CHAIRMAN MICHAEL GARDNER: Sure.

FIRE CHIEF GERALD REARDON: Officer Callinan, as far as Martin Brothers, the only two you have in your beat -- is it those two, Martin and --

OFFICER CALLINAN: Yes.

FIRE CHIEF GERALD REARDON: Do we have the same problem in front of Martin Brothers lined up in the morning?

OFFICER CALLINAN: No, not at all.

I would just say, because he kept bringing up Roy, I've known Roy for over 20 years. He's a known alcoholic in the area. So for him to say he wasn't drinking that day, or he had very little is -- if you drive by, you see the line out there in the morning -- not lately because I won't allow it, you know.

I clear those corners from Inman Square to Windsor Street every morning starting at 7:15, so, hopefully, they won't be lined up anymore to get into his store because, obviously, he's the only one selling to them, and they're coming from Central Square and they're coming from Somerville.

FIRE CHIEF GERALD REARDON: Going past a number of establishments?

OFFICER CALLINAN: Yeah, just to get into his store.

And I've had this conversation -- like I say, for him to say I'm wrong and approach me here is beyond me.

DHIRU PATEL (PROSPECT LIQUORS): Oh, no, don't take --

COMMISSIONER MICHAEL GARDNER: I think we have it, Mr. Patel, that you were kidding.

Could I ask you, Mr. Patel, about what

your understanding is, if any, of an agreement you reached in a meeting at the License Commission about the time in which voluntarily you would operate your store hours. Was there such a meeting?

Did you reach an agreement with the staff of the License Commission as to when your opening hours would be?

DHIRU PATEL (PROSPECT LIQUORS): Yeah, we tried at 9:00, too. Because they have an issue that you open early, 8:30, and we even tried at 9:00. We tried at 9:00, but it's same thing, people wait half an hour then and come back again.

So, it didn't make any difference with the homeless people that come or anybody else comes.

CHAIRMAN MICHAEL GARDNER: So you --

DHIRU PATEL (PROSPECT LIQUORS): But I

don't sell --

COMMISSIONER MICHAEL GARDNER: I'm sorry.

If I could just see if I understand the situation.

At some point you came here, you agreed to start selling at 9:00, you sold at 9:00 for awhile, you didn't think there was any difference --

DHIRU PATEL (PROSPECT LIQUORS): No.

COMMISSIONER MICHAEL GARDNER: -- and so, you reverted back to 8:30?

DHIRU PATEL (PROSPECT LIQUORS): Yeah.

CHAIRMAN MICHAEL GARDNER: And did you tell anybody in the License Commission that you were going back to 8:30?

DHIRU PATEL (PROSPECT LIQUORS): We had a meeting and then we discussed about this, open at 8:30. Martin Brothers opens at 8:30. He opens sometimes late 9:00, sometimes 8:30. But I have

a delivery comes at 8:30, so we open at -- the delivery comes 8:00, 8:15, so we open at 8:30, and...

COMMISSIONER MICHAEL GARDNER: In terms of it's not making any difference, I thought that part of the issue had to do with children around school bus stops.

DHIRU PATEL (PROSPECT LIQUORS): Now there is no problem with kids or anything because nobody hang around in front of the store, nobody.

COMMISSIONER MICHAEL GARDNER: What time are the buses coming by?

DHIRU PATEL (PROSPECT LIQUORS): 8:00, 8:10. I open the store at 8:30. The school buses is all gone before that. Now --

CHAIRMAN MICHAEL GARDNER: We heard from Officer McNeeley that Roy -- I'm sorry.

We heard from Officer McNeeley that, in his view, both of the persons were extremely

intoxicated.

We heard from your clerk that he admitted to selling to an intoxicated person.

We heard from Officer Callinan that Roy is a known alcoholic, and so, it's -- it would be surprising to him if you could say that on a particular day he wasn't intoxicated. That's what I've got.

Why don't you tell us what you think.

Go ahead.

DHIRU PATEL (PROSPECT LIQUORS): You can ask him. He was not intoxicated, but the way he talks, it looks like he's intoxicated.

If he has -- if we breathlyze him, the officer might have breathalyzed him, Roy, and say, "Okay, this is what the level is, he's really intoxicated," then we can prove that he's really highly intoxicated person. I'm not talking about the driver they were looking for.

I'm talking about Roy, that we served him. He was not that --

COMMISSIONER MICHAEL GARDNER: Well, you weren't there.

DHIRU PATEL (PROSPECT LIQUORS): No.

But we --

COMMISSIONER MICHAEL GARDNER: Your clerk said he was intoxicated, the officer said he was intoxicated.

DHIRU PATEL (PROSPECT LIQUORS): The officer asked him if Mr. Bartalone was intoxicated person who served him. So, he thought Roy's last name was Bartalone so it must be -- they have to check outside and I served him, I talked to him already.

COMMISSIONER MICHAEL GARDNER: So I know you weren't there.

DHIRU PATEL (PROSPECT LIQUORS): He confused with the last name. I said, "Why did

you say I served him?"

He said, "I don't know the last name."

So I thought maybe Roy's last name --

COMMISSIONER MICHAEL GARDNER: Did you bring your clerk?

DHIRU PATEL (PROSPECT LIQUORS): He went to Nepal. I couldn't bring him over here. I don't have the video, so I brought these two guys to tell him who bought it. We didn't serve that guy who was highly intoxicated and Roy is seen everyday.

POLICE COMMISSIONER ROBERT HAAS: My question --

DHIRU PATEL (PROSPECT LIQUORS): So that's why we served -- my clerk served Roy because he's a typical guy. He don't give any problem. He just walk from the store to the car.

COMMISSIONER MICHAEL GARDNER: So you serve Roy because he doesn't get in trouble?

DHIRU PATEL (PROSPECT LIQUORS): No. He give us no problem.

COMMISSIONER MICHAEL GARDNER: So that's why you serve Roy?

DHIRU PATEL (PROSPECT LIQUORS): Right.

COMMISSIONER MICHAEL GARDNER: Whether he was intoxicated or not?

DHIRU PATEL (PROSPECT LIQUORS): No. We didn't observe that he was intoxicated. That's what my clerk told me, that we didn't -- that he was highly intoxicated person. If he's like that walking or falling down something, we could not sell, but he walked normally. Same pattern he walked in and I took it. So he said, "I didn't notice anything special that he's highly intoxicated," that's why he served.

COMMISSIONER MICHAEL GARDNER: I think the Police Commissioner has some questions.

POLICE COMMISSIONER ROBERT HAAS: So,

Officer Callinan, do you find it necessary still to move people along from Prospect Liquors?

OFFICER CALLINAN: Not in the last couple days.

POLICE COMMISSIONER ROBERT HAAS: But it has been an ongoing regular problem in the past?

OFFICER CALLINAN: Yes.

POLICE COMMISSIONER ROBERT HAAS: You don't find the same experience in the Martin Liquor Store?

OFFICER CALLINAN: No. The deputy has me down there every morning. So as soon as I leave roll call, I start from the Shell, work my way down. I would say the last four shifts, I have moved them. I don't even let them wait in line to get into his store.

POLICE COMMISSIONER ROBERT HAAS: So --

OFFICER CALLINAN: It's the same individuals. The same 12, 14 guys every morning.

POLICE COMMISSIONER ROBERT HAAS: So I
am --

DHIRU PATEL (PROSPECT LIQUORS): I can
stop all the homeless people. We can control
that. I already discussed it with --

COMMISSIONER MICHAEL GARDNER: Ms. Lint?

DHIRU PATEL (PROSPECT LIQUORS): Yeah.
We had a meeting and we discussed that I can stop
it, you know. If you want, I can stop all
homeless people not to come to my store.

POLICE COMMISSIONER ROBERT HAAS: Why did
it take a hearing to have that kind of
conversation now?

I mean, we had a conversation with you in
the past about opening at 8:30 right across with
school-age children who don't have to witness
that kind of behavior in front of your store. We
don't see any other store.

And then after you reached that

agreement, you go on back on the agreement and open back up at 8:30 again.

There's a reason why people are gathering in front of your store because they feel they can buy alcohol in your store and they're not going to be challenged, because we're not finding that in other places or liquor stores.

It's the way you run your operation. It's not up to the Police Department to have to move people along everyday because you can't control how you sell or when you sell alcohol to people. So it's not the Police Department's problem.

Now, you seem to want to blame other people for your problems. You run that store, you own that store, and it's your responsibility to manage that store in an orderly fashion, and it's your responsibility in that neighborhood not to cause the nuisance that you're causing because

you're allowing that type of behavior in the store because it's an attraction. And you can't seem to regulate it yourself and you can't seem to stand by your agreements.

DHIRU PATEL (PROSPECT LIQUORS): We can open at 9:00, it's not a problem.

POLICE COMMISSIONER ROBERT HAAS: I think 9:00 is too early.

COMMISSIONER MICHAEL GARDNER: So unless there are --

DHIRU PATEL (PROSPECT LIQUORS): We can open at 9:00 and you can observe --

FIRE CHIEF GERALD REARDON: You're missing the point here. That's not the crux of the problem.

It is part of it.

But you give me the opinion that you and your staff cannot discern the difference between an intoxicated and non-intoxicated person. And

if there's someone intoxicated, it seems to be okay.

Listening to you right now, I don't have any faith that you can run that store right now based upon your testimony.

DHIRU PATEL (PROSPECT LIQUORS): Because when they come to the store, they're intoxicated, but when they go outside and police notice them, they already drink and they get intoxicated outside.

FIRE CHIEF GERALD REARDON: Mr. Patel, we have all been in this world for a long time. And we all understand how this works. They don't get intoxicated in five minutes.

DHIRU PATEL (PROSPECT LIQUORS): No, no, they get intoxicated outside or maybe they can buy from someone else.

FIRE CHIEF GERALD REARDON: Because they probably know they can come back in your store

and get more alcohol because they're not given a hard time or challenged.

There's a reason for this. And the normal person sitting here is listening to this saying, there's a reason why these people are lined up outside your store versus some of the other stores.

DHIRU PATEL (PROSPECT LIQUORS): Nobody lined up nowadays, you can see that.

FIRE CHIEF GERALD REARDON: Because the Police Department is moving them along.

DHIRU PATEL (PROSPECT LIQUORS): As far as I know --

FIRE CHIEF GERALD REARDON: Okay. I'm done.

COMMISSIONER MICHAEL GARDNER: I guess I'd like at this point -- I think we've heard your position, Mr. Patel.

I would like to open it to, if there

are --

DHIRU PATEL (PROSPECT LIQUORS): Yeah, I
know --

COMMISSIONER MICHAEL GARDNER: Excuse me,
please.

If there are any members of the public
who would like to be heard upon this matter,
please come forward.

And that could include the persons that
you have brought, Mr. Patel.

DHIRU PATEL (PROSPECT LIQUORS): I can
open at 9:00.

COMMISSIONER MICHAEL GARDNER: Come up,
sir.

BRANDON HOCKLE: Sure.

Can I speak from here or --

CHAIRMAN MICHAEL GARDNER: As long as you
speak up, state and spell your name for the
record. We can also make a space for you if

you'd like.

BRANDON HOCKLE: Great. I'm Brandon,
B-R-A-N-D-O-N, Hockle, H-O-C-K-L-E. And I filed
a few complaints with the Licensing Commission.

First of all, I would like to thank you
in the thoroughness of your investigation to
Investigator Boyer, to Officer Lowe, Officer
Brown, and the other people from the
Cambridge Police Commission that looked into this
issue.

We're talking about one issue tonight,
one individual, and one case that you guys have
got primarily that talked about Roy now, I guess,
who I presume is a well-known local alcoholic who
buys from the store on a regular basis, but it's
pretty much the tip of the iceberg in our
neighborhood.

And I am sure that any of the officers on
the beat can tell you that the issue with

exploitative practices from both Prospect Liquors and Martin Brothers, but Prospect Liquors is a big one, selling to people who are already clearly intoxicated.

I mean, I'm not a -- I have no background in police or law enforcement, I have never run a liquor store. I find it amazing that I'm able to discern who's drunk and a regular alcoholic on our street and Mr. Patel isn't.

And the few times that we have tried, through our local neighborhood association, to work with Mr. Patel, to try to indicate to him that there are people that we know of as being problems in the neighborhood being drunk, you know, rather than taking the cooperative approach not to sell to these people, exactly the contrary has happened. Mr. Patel has taken a combative and defensive, totally obtuse approach to dealing with the problem.

And it's amazing how much of that has actually come out in tonight's testimony.

Imagine an individual, without the power of the Commission behind them, talking to this person and dealing with this issue.

You get some idea of the frustration that we have dealing with this particular business.

Our streets are pretty much littered with the refuse that comes from this store. We have to spend so many of own hours, like basically every fall, and every spring, where other people are out like mowing their lawn and cleaning the grass, we're out picking up fifths and nips up off our street to try to keep them out of the hands of the kids that are out in our neighborhood.

Our kids have to basically go to a bus stop right in front of essentially a line-up for boozers in the morning in front of Mr. Patel's

store.

I would like to think this one issue with Roy that we're talking about is like the major case of one transgression, but it's a daily issue.

And I think I have to agree with Mr. Haas that I don't think it's the responsibility of the Cambridge Police to babysit Mr. Patel's business 24/7 to ensure that he's basically being a steward of that license.

From our perspective, he's utterly malfeasant in his ability to basically run that business. He sells to whomever and whoever he wishes.

And remarkably, when I had direct one-on-one conversation with him, his absolute disdain and contempt for the power of this Commission is remarkable. He pointed to the actual individual that the officer was referring

to out in front of our Senior Center waiting in line to come in and buy alcohol, and he asked me directly to my face "How long have you lived in this neighborhood? You will be gone and I will be selling to those people long after you have left" and like almost laughed like that when he said that.

DHIRU PATEL (PROSPECT LIQUORS): I didn't say that.

BRANDON HOCKLE: Very disagreeable, a very disagreeable individual to have to deal with.

So, you know, basically --

DHIRU PATEL (PROSPECT LIQUORS): No.

COMMISSIONER MICHAEL GARDNER: If you could just wrap it up.

Please, Mr. Patel.

BRANDON HOCKLE: There's a bunch of points that I was going to make. I am glad that

you actually addressed all of them.

But the major issue that we have basically is that our feeling is Mr. Patel is treating the privilege of this license as his right and that basically we live in a cap area, there's like dozens of other individuals who would be better stewards, and much more likely to deal with us in a professional manner with this license than Mr. Patel.

Our neighborhood is trying very hard to be an attractive place for business and a safe place to raise our kids, and it's a topology of human suffering what we have set up right now.

We have the only drunk or wet shelter in North America set up in between our homes and the bottle return place where they can get cash relatively easily and then directly in between them is Mr. Patel's business and Martin Brothers Liquors.

And it's just basically setting up this never-ending parade of tragedy.

So, hopefully, you guys can do something about it, and I thank you for the work you have done thus far.

COMMISSIONER MICHAEL GARDNER: Thank you.

Are there any other members of the public who would like to be heard?

Yes?

ASHLEY SEROTTA: Hi there. My name is Ashley, A-S-H-L-E-Y, Serotta, S-E-R-O-T-T-A, and I live at 84 Tremont Street, No. 2, around the corner from Prospect Liquors.

And I first, again, would like to thank Ms. Boyer and Commissioner Haas especially for all the work that the folks on your staff have done to always respond to our request to check out the situation whenever representation there arises or the patrons of Prospect Liquors and the

subsequent actions on their behalf.

In terms of agreeing with everything that both officers and Ms. Boyer have articulated, I would like to add my agreement to that.

My request, in particular, is that we, as Brandon has mentioned, these liquor licenses are precious and sought after in our neighborhood, especially being such a high entertainment area for Cambridge. There are many other facilities around the Cambridge area that treat their liquor licenses with respect.

I think there's a spectrum of actions that could be taken, in particular, the mildest and more extreme change in his hours to either 10:00 or 11:00 because of this pattern of behavior in terms of opening hours cannot exist and become a repeat, they'll no longer find him a source for their alcohol of the day and their repeat alcohol after that. Their behaviors can

change to a different manner to wherever else in the spectrum that they can no longer be selling nips, if they should no longer have their liquor license, which, I think, would all be appropriate for the egregiousness of the violations here, and I thank you for your time in evaluating this issue tonight.

COMMISSIONER MICHAEL GARDNER: Thank you.

Any other members of the public who would like to be heard on this matter?

Mr. Patel, do you have somebody that you would like to have come forward to talk of this specific incident of November 12?

DHIRU PATEL (PROSPECT LIQUORS): Yeah, the two guys right here. I said, you come here...

COMMISSIONER MICHAEL GARDNER: You know, if there are any people here who've got direct knowledge of what happened on November 12, who

would like to speak, this is an opportunity for you to come forward.

(No one appears before the Commission)

COMMISSIONER MICHAEL GARDNER: Seeing none -- do you have anything else to say, Mr. Patel?

DHIRU PATEL (PROSPECT LIQUORS): The guy was complaining about me, I didn't say like that. I didn't make any behavior like that. I don't know how he made it up, but I'm not angry with him. I didn't say like that.

He came to the store and he says, "Give me your license. Let me take your picture." He was taking my picture, that guy, it's illegal and against the law. He was taking my picture.

He said, "Where is your license? I'm going to take that picture. I'm going to do that."

I said, "Whatever has happened on Tremont

Street, you should call the police." And i says,
"What happened? Why are you complaining to me?"
Because people coming from everywhere and they
sit down, whatever, drink whatever, you know.

If you want, you know, I can stop selling
alcohol to the homeless people, you know.

It's not a big deal, you know, I can stop
it. I told him the other day, too, you know, I
can stop it.

FIRE CHIEF GERALD REARDON: I guess I
want to qualify earlier, when you -- the word
really is "impaired."

You don't have to be intoxicated to blow
a breathalyzer, but if you act as though you're
somewhat impaired, then you're not supposed to
serve them as well.

You don't have to have a guarantee that
they're legally intoxicated.

If they're impaired and illustrate

slurred speech, unsteadiness on their feet, then you're supposed to refuse them.

DHIRU PATEL (PROSPECT LIQUORS): We always refuse them.

FIRE CHIEF GERALD REARDON: Obviously you don't.

DHIRU PATEL (PROSPECT LIQUORS): No, no, we refuse them.

FIRE CHIEF GERALD REARDON: I have been on this FOR 11 years.

You're getting to be a Frequent Flyer status being in here over these issues.

DHIRU PATEL (PROSPECT LIQUORS): If we notice that if they talking weird or walking weird, or whatever, we refuse them all the time. We don't serve to the under 21. We don't serve to intoxicated person. You notice that.

COMMISSIONER MICHAEL GARDNER: Okay.

DHIRU PATEL (PROSPECT LIQUORS): If they

get drunk outside and something happens that is beyond my control, I cannot control that.

On Tremont Street there's two guys --

COMMISSIONER MICHAEL GARDNER: Okay. We got -- we have that point, Mr. Patel, I think.

Ms. Lint, if you could review for us the prior disciplinary history, including, I understand, some suspensions for selling under age.

ELIZABETH LINT: Unfortunately, I don't have the entire past history with me, but I do recall, I believe it was in --

COMMISSIONER MICHAEL GARDNER: I think Ms. Boyer's report references some of that.

ELIZABETH LINT: Some of it, but --

COMMISSIONER MICHAEL GARDNER: But if you could just go through those most recent ones.

Ms. Boyer, are they --

(Mr. Patel interrupting and speaking at

the same time as the Chairman.)

ELIZABETH LINT: You need to stop talking when the Chairman is speaking.

CHAIRMAN MICHAEL GARDNER: Ms. Boyer, is that your understanding of what you prepared, a complete history of the recent discipline?

ANDREA BOYER: I did a recent history pertaining to service of intoxicated people, not if there was service to minors, which there's a history of that also.

COMMISSIONER MICHAEL GARDNER: I'm pretty sure the report says something about, among other things, a ten-day suspension for selling under age --

ANDREA BOYER: Not in my report -- under age, there was.

COMMISSIONER MICHAEL GARDNER: Do you recall serving a ten-day suspension in about 2008 or 2009 for serving under age?

ELIZABETH LINT: It was 2009.

COMMISSIONER MICHAEL GARDNER: Mr. Patel, do you recall that, that you had a ten-day suspension for serving under age?

DHIRU PATEL (PROSPECT LIQUORS): At that time we didn't have the ID check machine.

COMMISSIONER MICHAEL GARDNER: Do you recall that you served it?

DHIRU PATEL (PROSPECT LIQUORS): Yes.

Not I served, but my other employees.

COMMISSIONER MICHAEL GARDNER: Your agent -- your company had to serve -- your store had to serve a ten-day suspension, yes?

DHIRU PATEL (PROSPECT LIQUORS): Yes.

Because at that time we didn't have the ID check machine, but now we check IDs, but they make identical IDs, so --

COMMISSIONER MICHAEL GARDNER: Okay. All right. I got it. Thanks.

So we have a decision hearing on February 2nd. I just ask the Commissioners if they're prepared to deal with this tonight? Or, you prefer to move it to the 2nd?

ELIZABETH LINT: I would like to get all the past history unless you --

FIRE CHIEF GERALD REARDON: The past history is probably going to be relevant to anything we decide.

POLICE COMMISSIONER ROBERT HAAS: I think it would be helpful for us -- I mean, I think this is a progressive manner. I think, in light of the fact he's already served a ten-day suspension in 2009 is relevant and other warnings he got in the past.

So this is not simply a situation where, I think, it's a first -- as you indicate, Chief, once or twice before this body.

They have been through this body several

times. It has been an ongoing problem.

At this point to tell you how to run your business, I think, is wholly inappropriate. If you recognize the problem -- you have been in the neighborhood a long time. You should have been able to deal with this issue and not have the License Commission tell you whether or not you should be selling to certain persons or not.

That's not this body's responsibility. It's not the Police Department's responsibility. It's your job to manage that establishment and you're not doing a good job of it.

DHIRU PATEL (PROSPECT LIQUORS): I can solve that problem, you know, I can stop it tomorrow.

COMMISSIONER MICHAEL GARDNER: I guess I'm not sure how somebody -- I don't know if you can solve the problem of refusing to serve someone who is "homeless," I don't know if you

can do that, if you can't serve people based on whether they've got an actual home address, and I won't presume to answer that question this evening, but I guess I would like to review at least some of the options that we can be considering when we have the decision hearing on the 2nd. There's clearly -- we have authority over change of hours?

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: We have the authority to impose a suspension?

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: Do we have the authority to remove the license?

ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: Do we have the authority to limit the kinds or the packaging of the alcohol sold, for instance, the suggestion that we prohibit the selling of what are referred

to as nips, but I assume actually have a name in the business, extremely very small bottles.

ELIZABETH LINT: Nips.

It's my understanding that many years ago there was a significant problem with several of the stores in Central Square, and there was this agreement with the Commission at that time to either not sell nips, or to have them located at the back of the store, or under the counter where they were not visible, and that was imposed and it did have an impact.

COMMISSIONER MICHAEL GARDNER: Are any there other options that either Ms. Lint or my other two more experienced Commissioners think are available to us in the range of things that we could do?

ELIZABETH LINT: The standard for any of the disciplinary hearings is to condition, suspend, revoke or cancel, or otherwise impose

any conditions on the license.

COMMISSIONER MICHAEL GARDNER: I guess, Mr. Patel, echoing what the Fire Chief said and what the first public speaker, Mr. Hockle, said, is a concern I have that coming here tonight, it sounded like that what you chose to do is just simply deny what the police said and what your clerk said happened on November 12 happened.

And I guess -- you're, of course, entitled, if you don't believe it happened, to fully defend that position. But I am personally not impressed with your saying that a person may perhaps, for other reasons, sound intoxicated, but he was not really, and that to say that it was a matter of a confusion about a last name, when we have a police officer saying he thought most people were intoxicated, and we had your clerk saying he sold to an intoxicated person, and we have you watching the videotape from home

saying "No, no, Roy wasn't intoxicated." And that's a problematic defense to me because it does sound like you're not willing to consider that perhaps your store did something wrong and could do something better in the future.

DHIRU PATEL (PROSPECT LIQUORS): No.

ELIZABETH LINT: Mr. Chair, I do have the past history.

There's a letter of reprimand for selling alcohol to a minor without requesting an ID in 2006.

A warning for selling alcohol to an intoxicated person in 2008.

A ten-day license suspension for selling alcohol to a minor in May of 2009.

A three-day license suspension for selling alcohol to a minor -- there were two in May of 2009. So it was three days on the first. And then ten days on the second.

In addition to that, as has been discussed, there have been two meetings in our office. One with myself and the former Chairman. And another with myself and Ms. Boyer.

Then there was the one that we held down here with all of the package stores in that area where the agreement was made to open up later.

COMMISSIONER MICHAEL GARDNER: Okay, thank you.

So, having heard the most recent history, I'd just ask the question again to the other two Commissioners, if you would prefer to defer this matter to February 2nd or to act on it this evening?

POLICE COMMISSIONER ROBERT HAAS: I prefer to make a recommendation tonight.

COMMISSIONER MICHAEL GARDNER: So I'm -- Commissioner, this has involved your department perhaps more than any other, do you have a --

POLICE COMMISSIONER ROBERT HAAS: I make a recommendation that the license be suspended for 20 days.

I also make a recommendation that once the establishment does re-open, it has an opening hour of no earlier than 10:00. I'm almost contemplating 11:00.

And then I would also make a recommendation with respect to the placement of the smaller alcohol bottles so they not accessible in the store once the store does re-open.

COMMISSIONER MICHAEL GARDNER: I wonder, Commissioner, if you might consider it a friendly suggestion to leave all those conditions, except to move the opening hour to 11:00, with a six-month review as to whether or not -- what the conditions are and whether that has made any difference.

POLICE COMMISSIONER ROBERT HAAS: I'm fine with this.

You want the six-month review?

CHAIRMAN MICHAEL GARDNER: I'm suggesting 11:00 instead of 10:00.

POLICE COMMISSIONER ROBERT HAAS: I'm fine with that.

CHAIRMAN MICHAEL GARDNER: Instead of 10:00.

POLICE COMMISSIONER ROBERT HAAS: Okay.

ELIZABETH LINT: Mr. Chair, also, I was just reminded that according to ABCC regulations in rolling back hours, it has to be a determination of public safety reasons and not just because of this specific violation.

COMMISSIONER MICHAEL GARDNER: Right.

Well, I think the concerns that have been expressed tonight fall under my understanding of public safety.

I don't know if you feel the same,
Commissioner.

POLICE COMMISSIONER ROBERT HAAS: I
concur.

FIRE CHIEF GERALD REARDON: (Nods head.)

COMMISSIONER MICHAEL GARDNER: The record
will reflect Member Reardon nodded his head in
the affirmative.

FIRE CHIEF GERALD REARDON: I'm sorry.

DHIRU PATEL (PROSPECT LIQUORS): I have
one thing to tell you that if you want, I can --
this whole problem is --

FIRE CHIEF GERALD REARDON: I think,
Mr. Chairman, we have a motion on the floor.

DHIRU PATEL (PROSPECT LIQUORS): Because
of the homeless people that come --

ELIZABETH LINT: Mr. Patel, there's a
motion on the floor that the Commissioners are
discussing.

DHIRU PATEL (PROSPECT LIQUORS): Okay.

COMMISSIONER MICHAEL GARDNER: I'm sorry.

I gave you -- I think I have been quite lenient with respect to allowing you speak on that.

At this point, I'm not sure we actually had a motion, maybe we did, but I'll substitute and make a formal motion following the Commissioner's suggestion of a license suspension of 20 days, changing the operating hours because of the public safety concerns that have been expressed here this evening to 11:00 with a six-month review of those hours six months after re-opening.

And a requirement that the placement of the very small bottles, generally known as nips, be behind the counter, or out of view and generally away from where an individual can self-select them.

Is that a fair summary?

POLICE COMMISSIONER ROBERT HAAS: Yes, it is.

COMMISSIONER MICHAEL GARDNER: So that's the motion.

FIRE CHIEF GERALD REARDON: Do you have any feeling on the concurrent for the days suspension?

COMMISSIONER MICHAEL GARDNER:
Concurrent? I'm not sure -- you mean?

FIRE CHIEF GERALD REARDON: You want them served 20 consecutive days as opposed to --

COMMISSIONER MICHAEL GARDNER: I see.
Yeah, consecutive days. Yeah, I mean, that was my idea as opposed to like once a week or something like that. I think that's an appropriate way. So that's a motion. It's looking for a second.

FIRE CHIEF GERALD REARDON: Second.

ELIZABETH LINT: Are those days of my

choosing?

COMMISSIONER MICHAEL GARDNER: In terms of when to begin the imposition of it?

ELIZABETH LINT: Yes.

FIRE CHIEF GERALD REARDON: That's been the practice usually.

COMMISSIONER MICHAEL GARDNER: What would that typically mean, just for my education, Ms. Lint?

I mean, you wouldn't do it tomorrow?

ELIZABETH LINT: No.

I would do it at the expiration of the appeal (inaudible) to the ABCC.

COMMISSIONER MICHAEL GARDNER: So the motion has been made and seconded and the suspension to run on consecutive days as scheduled by Ms. Lint.

Are there any further discussion of the motion?

POLICE COMMISSIONER ROBERT HAAS: No discussion.

COMMISSIONER MICHAEL GARDNER: All those in favor, signify by saying "aye."

Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None opposed.

Mr. Patel, I understand this is a reasonably heavy suspension. You do have appeal rights.

If you feel there's something you need to say, that you didn't get said tonight, we would be happy to have you put it in a letter to the Commissioners.

And Ms. Boyer, and the officers, and members of the public, I thank you for your hard work in this matter.

ANDREA BOYER: Thank you.

COMMISSIONER MICHAEL GARDNER: The next matter?

APPLICATION: MYKONOS FAIR, INC.

ELIZABETH LINT: Application: Mykonos Fair, Incorporated d/b/a Zoe's, Theophilos Vallas, manager, holder of a wine and malt beverages as a restaurant license at 1105 Massachusetts Avenue has applied for an operation of premises to remove the existing wall to expand the dining area and increase of seating capacity from 82 to 114.

COMMISSIONER MICHAEL GARDNER: Good evening. If you could state and spell your names for the record.

BERNARD GOLDBERG: Yes, Attorney Bernard Goldberg, 620 Massachusetts Avenue, representing the petitioner.

THEOPHILOS VALLAS: I'm Theophilos
Vallas, T-H-E-O-P-H-I-L-O-S, V-A-L-L-A-S,
president of Mykonos Fair, Inc d/b/a Zoe's
Restaurant. Good evening.

COMMISSIONER MICHAEL GARDNER: Good
evening.

So if you could, would you tell us a
little bit about the current business and how
this plan will change things?

BERNARD GOLDBERG: Thank you,
Commissioner and members of the Commission.

This is an operation by Zoe's that's at
1105 Massachusetts Avenue, which has been in
operation for seven years. The capacity at the
present operation is 82.

And because of the lack of space on the
premises, it was necessary for Mr. Vallas, as
manager of the store, to rent a space on the
second floor of the condominium area in order to

store his merchandise.

And that was costly to him because there wasn't sufficient space as there presently exists.

The documents that I have presented to you indicate that the present location is as described Retail Space No. 2, Retail Space No. 3. And when the Retail Space No. 4, which was being operated by a restaurant, came up as an opportunity, rather than rent storage space on the second floor, Mr. Vallas decided to rent that space and use it not only for storage, but also for occupancy.

As you will note with regard to the plan that I've presented to you, the left side of the plan shows the seating arrangements, which is a seating capacity of about 82 seats.

COMMISSIONER MICHAEL GARDNER: Labeled existing area?

BERNARD GOLDBERG: Existing area, yes.

And to the right of that is the No. 4 space that he's renting, which shows the capacity of 32 seats, and the total square footage is approximately 3,000 square feet in addition to 782 square feet that represents Unit No. 4.

We have, and it was necessary, to file with the Planning Board -- the Board of Zoning Appeal, I should say -- for a capacity with regard to the new space that he was acquiring. And the Board of Zoning Appeals -- it's in the file and it was a Special Permit granting the petition and business by adding Unit 4 and removing the wall between Unit 2, Unit 3 and Unit 4 thereby increasing the occupancy from 82 seats to 114 seats.

That would require and Mr. Vallas has already looked into and will present to the Fire Department, a sprinkler system, and he believes

he can do that within the next week or two, so far as the requirements by the Fire Department.

With regard to -- we have sent out notifications to all of the tenants in the condominium at 1105 as well as notices to the apartment house on Remington Street to notify them of the hearing, and I would ask Ms. Lint if, in fact, you have heard any comment from any of the members of the condominium?

ELIZABETH LINT: I have not.

BERNARD GOLDBERG: Well, I think that they recognize the efficiency and the nature of the business being operated by Mr. Vallas at this time. You should have --

Ms. Lint, could you present to the Commission the menus that are --

ELIZABETH LINT: Yep. (Forwarding.)

BERNARD GOLDBERG: These are the menus presently being used by Mr. Vallas presenting it

to this customers, and you can note that it's not just an ordinary resume and menu, but rather one that he has spent a great deal of time on and, it presents a varied -- multi-varied menu.

With regard to the Board of Zoning Appeals, they recognize that there was no endanger to the public so far as increasing the traffic in the area. There's not many spaces, as you know, in the area surrounding 1105, as well as Remington Avenue.

I think on the area of Massachusetts Avenue, the parking area consists of 11 parking spaces, and on Remington Avenue there are two parking spaces.

Mr. Vallas has rented, for his own employees, three spaces in the condominium so as to avoid any problems with congestion.

But nonetheless, most of his traffic comes from the walking traffic. There is not

many areas in the surrounding area to accommodate any parking spaces other than the eight that I mentioned to you in and around the site of his restaurant.

COMMISSIONER MICHAEL GARDNER: Those you're referring to are metered spaces?

BERNARD GOLDBERG: Metered spaces, and I don't know how long they are metered spaces. Most of the people, as he indicates to me, are people who either live in the neighborhood, live in the condominium or come from outside and maybe walk from Harvard Square, because most of the traffic would be walking traffic.

COMMISSIONER MICHAEL GARDNER: What was the restaurant that occupied No. 4, if I have your numbers right?

BERNARD GOLDBERG: I do have that here. What was that?

THEOPHILOS VALLAS: It turned over quite

a bit in the last two, three years. It was Viva Cafe and then Tangene and it was called a chocolate shop. I don't remember the name of it.

ELIZABETH LINT: Sandy's Chocolate Shop.

COMMISSIONER MICHAEL GARDNER: Sandy's Chocolate Shop.

BERNARD GOLDBERG: This site is taking over as an addition to retail space already occupied.

COMMISSIONER MICHAEL GARDNER: I'm not sure if I'm confused, but I do remember a hearing that we had about some space in this general area that said that this has been kinda challenging space to make a go of it, whether it's the configuration or location, that's not your experience, you have been going for seven years?

THEOPHILOS VALLAS: I have. I believe that space on its own was challenging because there's no ventilation, and I basically want it

for a dining room, you know, because the kitchen
-- my kitchen would stay exactly the way it is.

FIRE CHIEF GERALD REARDON: That was my
question. You're going to leave the kitchen
where it is because that has been a challenge
with other places to try to get exhaust hoods
out.

THEOPHILOS VALLAS: We have storage in
the back and just the front of it would be dining
room. There will be no plumbing.

BERNARD GOLDBERG: No changing
whatsoever. No changes other than...

FIRE CHIEF GERALD REARDON: I have to
acknowledge, Mr. Goldberg, you mentioned there
was storage in the upstairs?

BERNARD GOLDBERG: Yes.

FIRE CHIEF GERALD REARDON: In the
nonretail area so...

BERNARD GOLDBERG: Well...

FIRE CHIEF GERALD REARDON: That might be a problem.

BERNARD GOLDBERG: That I don't know, but he's giving that up.

FIRE CHIEF GERALD REARDON: I'm glad to hear that.

COMMISSIONER MICHAEL GARDNER: So does this involve an increase in wine and beer licensed seats?

BERNARD GOLDBERG: For the 32 seats, yes, it would allow the increase to that area of beer and wine.

I asked Mr. Vallas what is the percentage of beer and wine sales and what was your response?

THEOPHILOS VALLAS: Probably less than one percent of my gross sales. My average is about \$9,000 for the year. I sell more food. I don't sell --

COMMISSIONER MICHAEL GARDNER: So your menu didn't have beverages on it? Do you have a separate beverage menu?

THEOPHILOS VALLAS: I have a separate beverage menu.

COMMISSIONER MICHAEL GARDNER: Do we know if there was a beer and wine license for any of the operations in No. 4?

ELIZABETH LINT: No. There was none.

COMMISSIONER MICHAEL GARDNER: There was none, okay.

And what is the nature of the license for the 82, is it a for value license or no value or...?

BERNARD GOLDBERG: Did you pay money for the license itself when you got it? Was it a value license or a nonvalue licence?

THEOPHILOS VALLAS: I believe when I purchased the restaurant, they separated 50,000

from the price that I paid, you know, how they separate it out?

BERNARD GOLDBERG: So it was a value license.

COMMISSIONER MICHAEL GARDNER: Do you have that? Can you confirm that or do you know that?

ELIZABETH LINT: I can confirm it. I don't have that part of the file.

BERNARD GOLDBERG: There was at that time Johnny's Luncheonette in the area where he presently is. And Johnny's luncheonette had a beer and wine license, and in the purchase of the business itself, he did pay \$50,000 for the license value.

COMMISSIONER MICHAEL GARDNER: So what's the proposal here, Mr. Goldberg? No value or --

BERNARD GOLDBERG: No, no. With regard to the extra number of seats, 32, it would be an

extension of the beer and wine license, and inasmuch as we seek to have the expansion of the license to the 32 seats, he's not paying anything for that, so it could be a nonvalue transfer or it would be a nonvalue transfer.

COMMISSIONER MICHAEL GARDNER: Nonvalue no transfer, I think, is the way I have heard it, but I don't know.

ELIZABETH LINT: It would be that the only amount that he could sell would be the original 82.

FIRE CHIEF GERALD REARDON: Have you gone to the structural engineer or anything on this? Have far have you gone with the, you know...?

THEOPHILOS VALLAS: Actually with our sprinkler, you mean?

FIRE CHIEF GERALD REARDON: Well, no, just for the removal of the walls first.

THEOPHILOS VALLAS: Yes, the building

permit is all set. There's no structure. It's not a structured wall.

FIRE CHIEF GERALD REARDON: It's a slab construction, I believe, the whole place.

THEOPHILOS VALLAS: Yes.

FIRE CHIEF GERALD REARDON: The other issue is that you're going to go up over 100?

THEOPHILOS VALLAS: Yes.

FIRE CHIEF GERALD REARDON: So you're going to come under some of those nightclub things that's going to require the sprinkler system, the crowd manager license, which is new has to be taken from your certificate. Someone has to be present any time it's open because you could get to 100 where people misunderstand that they think that because they're daily take in the morning for breakfast, there's only going to be 42 people, you are, in fact, licensed for 100, so that is in effect all the time you're open.

The other question I have is, this is obviously rental space, the alarm system -- the fire alarm system besides the sprinkler system is the plan to go off the main sprinkler for the building?

THEOPHILOS VALLAS: Yes. Actually, my space is alarmed in with the building for some reason.

FIRE CHIEF GERALD REARDON: Right.

THEOPHILOS VALLAS: The space that's four is not. I guess the condo and the retail are two different landlords. But I'm wired into the system and I guess a few of the other ones aren't. Four will be wired in and the sprinkler will be just attached to the building because the pipes come right into it.

FIRE CHIEF GERALD REARDON: The only thing you're to need, you're going to need an engineer to turn around and certify that the

numbers of heads you have and the flow is sufficient on their system to supply your system.

The other thing we're going to need is we can't have this cut up on the alarm system. If they made it all one zone of the retail place that you have, but, you know, we want to have this unified when they come in, all the spaces be on the same alarm system. You're going to remove the doors so eventually it will be considered one large space, so the alarm system has to be consistent, to cover all your space no matter how they break it up, and it has to be obviously clear when we arrive what spaces are included in the alarm.

We have situations where there's a piecemeal alarm for four and some are for one and two, and you can't do that.

So whatever it's when you do the sprinkler system, it has to be a unified alarm

and meet all the ADM and, you know, obviously the building requirements.

BERNARD GOLDBERG: Thank you for that.

With regard to the time frame as to the restaurant itself -- excuse me -- Monday and Wednesday he opens up at 7:30 to 9:00; Thursday and Saturday, 7:30 opening to 10:00; and Sunday 8:00 to 9:00.

So his hours are most reasonable. He doesn't have a restaurant that is conducive to any imbibing of amounts of liquor at all, if any, as he indicated, the one percent.

So, to that extent, I don't believe that this Board has received any complaints for the past seven years of any violations of his operation with the site as presently existing, and I don't believe that you will experience any complaints if the Board is approving of this transfer of expansion of the business as well as

a transfer of a liquor to the expansion itself.

COMMISSIONER MICHAEL GARDNER: Is the application for the same operating hours?

BERNARD GOLDBERG: Yes.

COMMISSIONER MICHAEL GARDNER: These kinds of variable operating hours are okay with us?

ELIZABETH LINT: Sure.

COMMISSIONER MICHAEL GARDNER: If our operating hours say you're supposed to be open at 8:00 a.m., then you're supposed to be open at 8:00 a.m. and not open at 11:00?

ELIZABETH LINT: That's correct.

BERNARD GOLDBERG: His menu, as you will see, has breakfast, lunch and dinner. And it's a varied menu. It's a deli, as well as multitudeness types of other foods, Greek including, and I asked him is there a delicatessen in and around the area and there's

none specifically having corn beef or pastrami or salami or whatever you may have.

In addition, he does have plentiful of Greek foods, and the only restaurant that he is aware of that sells Greek style, Greek food would be up in the Greek corner on Massachusetts Avenue up near North Cambridge area.

COMMISSIONER MICHAEL GARDNER: Any other questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

COMMISSIONER MICHAEL GARDNER: Any there any members of the public who would like to be heard on this matter?

ELIZABETH LINT: I did receive an email from Ms. Jillson on behalf of the Harvard Square Business Association and they're very much in favor of the expansion of Zoe's. She was unable to be here tonight, she had a function to attend.

COMMISSIONER MICHAEL GARDNER: Are you a member of the Harvard Square Business Association, sir?

THEOPHILOS VALLAS: Yes, I am.

COMMISSIONER MICHAEL GARDNER: Anything else, Mr. Goldberg?

BERNARD GOLDBERG: I was going to say if the Board is approving and he does want to move on as quickly as he possibly can, if the Board would approve the application tonight, he would be greatly appreciative as well I.

COMMISSIONER MICHAEL GARDNER: Thank you. Pleasure of the Commission?

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve the application as stated with the stipulation that the additional 32 seats, the expansion of the license is considered no value, nontransferable.

COMMISSIONER MICHAEL GARDNER: Subject to

all the conditions of sprinkling and build-outs?

FIRE CHIEF GERALD REARDON: Yes. I
second that.

COMMISSIONER MICHAEL GARDNER: Motion
having been made and seconded to approve the
application as submitted with 32 additional no
value, no transfer of seats, and subject to all
the conditions for build-out, are there any
further discussions?

Hearing none, all these in favor, signify
by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

Good luck to you with your plans.

THEOPHILOS VALLAS: Thank you very much.

APPLICATION: CHURCH STREET CREOLE CAFE, INC.

ELIZABETH LINT: Application: Church Street Creole Cafe, Incorporation d/b/a Border Cafe, Robert Murphy, manager, holder of an all alcoholic beverages as a restaurant license at 32 Church Street has applied for a change of manager from Robert Murphy to Richard Lowe.

COMMISSIONER MICHAEL GARDNER: If you would, just please come forward and state and spell your names for the record, tell us who you're?

RICHARD LOWE: It's R-I-C-H-A-R-D, L-O-W-E. Thank you.

CHAIRMAN MICHAEL GARDNER: Good evening.

RICHARD LOWE: My name is Richard Lowe. I'm applying for the transfer obviously, as she spoke, from Mr. Bob Murphy to myself with Border Cafe.

COMMISSIONER MICHAEL GARDNER: Are you in

the function right now or is this a perspective change?

RICHARD LOWE: Yes, sir, I am. I'm the general manager and managing partner as of October 31st.

COMMISSIONER MICHAEL GARDNER: Tell us a little about your experience.

RICHARD LOWE: 24 years in the restaurant business. I was with Outback Steakhouse for 14 years. I have owned my own restaurant for three years and I have been with Border Cafe for four months now.

COMMISSIONER MICHAEL GARDNER: And give us your impressions of the challenges and opportunities at the Border Cafe.

RICHARD LOWE: You know, the restaurant has been there for 20 years and very successful for many, many years. One of my biggest challenges is coming in behind Bob Murphy, who is

kind've a legendary figure in the community, and to come in and try to keep up with the same quality we have served previously.

COMMISSIONER MICHAEL GARDNER: You're aware of recent events about the change in establishments on Church Street, the Sinclair?

RICHARD LOWE: Is that the building above us?

COMMISSIONER MICHAEL GARDNER: That's not a nightclub, it's the concert.

RICHARD LOWE: Now, I'm not familiar with that, sir.

COMMISSIONER MICHAEL GARDNER: Okay. All right. My understanding is that we had a number of hearings that talked about problems on Church Street over the last couple of months, and some of the complaints had to do with crowd control, or line control outside of the Border Cafe, that is, people waiting to get in and blocking the

sidewalk.

What is your experience with that and what have you been doing to deal with it?

RICHARD LOWE: Well, we have -- knock on wood, we haven't had any issues, though. We have a detail officer on Friday and Saturday nights, on the busier nights, and we'd be more than happy to do it any other nights if it's deemed necessary with the business flow.

Typically, what I have seen and just from my small experience, we line -- we ask the patrons to line up along our building on the alleyway so as not to get in the alleyway to defer traffic or just to cause any traffic, so. But we have to, because our establishment -- I'm not sure if you have been in it or not -- is not the biggest in the world inside, so with the crowd control, with respect to all these things, we try to keep a certain amount of people

outside, it's more of a challenge during the colder times, so we're not over capacity and there's safety for all our guests.

COMMISSIONER MICHAEL GARDNER: Questions?

FIRE CHIEF GERALD REARDON: Maybe he would like to just give us a little history on his experience with certain serving alcohol.

RICHARD LOWE: Yes, sir. With Outback Steakhouse, I was the corporate trainer developing all across the United States. I'm from Georgia. I'm not sure if you get that twang a little bit. I came here -- I was actually the corporate trainer for serving alcohol for the bartenders at Outback Steakhouse, so I got that experience as well as Serve Safe Certified and all the other certifications that go along with it.

COMMISSIONER MICHAEL GARDNER: Cambridge has its own training; have you taken that?

RICHARD LOWE: I have not, but I plan on taking it, though, yes, sir. I've heard about it and I plan on taking it.

POLICE COMMISSIONER ROBERT HAAS: Have you held a liquor license in your name before?

RICHARD LOWE: Yes, sir.

POLICE COMMISSIONER ROBERT HAAS: You have?

RICHARD LOWE: Yes.

COMMISSIONER MICHAEL GARDNER: That was the restaurant that you owned?

RICHARD LOWE: No. The restaurant I owned actually didn't serve alcohol, I had a license with Margerita's Restaurant in Lexington and Outback Steakhouse in Burlington.

COMMISSIONER MICHAEL GARDNER: Any members of the public who would like to be heard on this matter?

Hearing none, pleasure of the

Commissioners?

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve the change -- the application of change of manager.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Motion having been made and seconded. We appreciate you coming in and even though we haven't voted yet, it's a four-month lag, we like to have this happen before it happens. We like to have people come to us to get the change beforehand. But I appreciate your making the application so we can get the paperwork straightened out.

RICHARD LOWE: My pleasure.

CHAIRMAN MICHAEL GARDNER: All those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

So you're official. Good luck with it.

And there will be a large establishment potentially opening in your neighborhood next September. So we'll, I think, probably require some coordination and conversation particularly around control out on the streets.

RICHARD LOWE: Anything I can do to help, let me know.

Thank you.

APPLICATION: PRESIDENT OF FELLOWS OF HARVARD

COLLEGE

ELIZABETH LINT: Application: President and Fellows of Harvard College d/b/a The Pub, Kim Smith, manager, has applied for a wine and malt beverages as an Educational Institute license and common victualer license to be exercised at 1585

Massachusetts Avenue. Proposed hours of operation are Monday through Friday from 4:00 p.m. to 12:00 a.m. with an occupancy of 137 (89 seats and 48 standing). Applicant is also applying for an entertainment license to include: A pool table; an audio tape machine/CD which may play music below, at, or above conversation level; two TV/video screens; radio; and compact disc.

COMMISSIONER MICHAEL GARDNER: Good evening. If you could, indeed, please state and spell your names for the record.

KIM SMITH: Kim Smith, K-I-M, S-M-I-T-H.

ALEXANDRA OFFIONG: Alexandra Offiong, Alexandra, O-F-F-I-O-N-G.

COMMISSIONER MICHAEL GARDNER: Thank you. So tell us about the plan.

ALEXANDRA OFFIONG: Thank you so much for having us.

We are here tonight requesting an alcohol license and entertainment licenses for the new pub in the newly constructed the Harvard Law School Building, Caspersen Studen Center.

This is a project that we have been years in the making in terms of an extensive community process. We have been here actually twice to receive other permits, other licenses from your body. And we're pleased that we believe this is the final license to open up the building, which just opened this week.

So the pub is one part of the -- the way Harvard engaged with the community and one of the important desires that the community expressed was to create an active building. So the way we designed and programmed the building has been to make it alive beyond a normal workday.

So we have dining, classroom, conference facilities, we have a retail store, The Coop, and

this pub is one of the integral parts to enliven the space.

So it's -- I think you have seen the floor plans. It's on the first floor within the main building, and it has a servery where we'll serve food. There's a pub area and a game room. So it's a sequence of spaces on the first floor.

FIRE CHIEF GERALD REARDON: This is on the first floor facing the Mass Ave side, so it's towards the Everett Street side -- corner?

ALEXANDRA OFFIONG: It's actually facing -- you can see this is Massachusetts Avenue and the pub is over here, so it's sorta facing town hall, it's facing south.

POLICE COMMISSIONER ROBERT HAAS: Did you say this is open to the general public?

ALEXANDRA OFFIONG: No. This will be open to Harvard University affiliates and their guests.

COMMISSIONER MICHAEL GARDNER: Similar to a number of other establishments that the university operates?

ALEXANDRA OFFIONG: Yes.

COMMISSIONER MICHAEL GARDNER: Are there any ways in which this is different than other facilities that we have given licenses to?

KIM SMITH: No. It's very similar to the way that we're currently operating the Cambridge Queen's Head Pub where it's Harvard ID'ing, beer and wine and -- yeah.

POLICE COMMISSIONER ROBERT HAAS: You were the former manager there?

KIM SMITH: Yes, I was there last month.

COMMISSIONER MICHAEL GARDNER: And is the marketing primarily law students or...?

KIM SMITH: Yes. Uh-huh. The law school community and the graduate students.

FIRE CHIEF GERALD REARDON: It's probably

one of the nicest facilities around.

KIM SMITH: It's really beautiful.

COMMISSIONER MICHAEL GARDNER: Are there any more information that you think is important for us to know?

ALEXANDRA OFFIONG: The only thing I wanted you to know is that Harvard Law School has had an alcohol license for the Harkness Commons Building, which is sort've incorporated into this building since the early 1980s.

If we are granted this license this evening, we will relinquish that permit and I think that's just an important thing to note.

COMMISSIONER MICHAEL GARDNER: Okay. And this is for how many seats, 137, occupancy?

ALEXANDRA OFFIONG: The pub has 89 seats.

COMMISSIONER MICHAEL GARDNER: And do you know the number of seats in the current license?

ALEXANDRA OFFIONG: The current license

has actually more than 400 seats. It encompasses almost the whole building. And it has more than -- it relates to more than 20,000 square feet. So, this is a reduction, a significant reduction in terms of what the license would cover going from 400 seats to 89.

FIRE CHIEF GERALD REARDON: So your occupancy would be 137, so you're over the 100 limit so you, as well, would have to have a crowd manager, familiar with the building. The building has an excellent safety system and sprinkler system.

KIM SMITH: All employees would be managed trained, TIPS trained, yes, and 21.

COMMISSIONER MICHAEL GARDNER: So these would be no value, nontransferable seats?

ELIZABETH LINT: The educational institute licenses don't work the same way.

It doesn't need ABCC approval. It's

strictly by the local licensing board and it
can't be sold.

COMMISSIONER MICHAEL GARDNER: Any other
questions?

POLICE COMMISSIONER ROBERT HAAS: No
questions.

COMMISSIONER MICHAEL GARDNER: Any
members of the public who would like to be heard
on this matter?

Yes. Please come forward and state and
spell your name for the record.

PETER BOWDEN: Peter Bowden,
B-O-W-D-E-N. And I'm -- well, my family is, I
believe, the closest neighbor across the street
at 7 Everett. Nice to meet you.

And my question is: I don't know where
the existing pub or area has been, the 400
capacity. One question I have is: Since the new
building, the construction was completed, the

walkway and driveway going to the below ground, it's really created an echo chamber so that when people walk through at night, even when they're talking at a conversation level, it sounds like they're at our bedroom windows, which has been a little disturbing. We have been getting used to it.

So, my question is -- given I'm not exactly sure where the pub is, the one with the red walls inside --

ALEXANDRA OFFIONG: Yes.

PETER BOWDEN: -- how -- at the end of the day, where are people kinda going to be flowing out of? I don't know if all the doors will be open or the whole building is still enlivened. Keeping in mind is there going to be enlivened outflow right --

ALEXANDRA OFFIONG: We can show you on the plan. So -- should I direct it to --

COMMISSIONER MICHAEL GARDNER: You can.

ALEXANDRA OFFIONG: I'll direct it this way. The main entrances to the building are on -- so, I think the driveway you're talking about is along Everett Street and here is the driveway itself.

So, the main entrance for the building are actually -- this is the main entrance and this will be the entrance that's open the latest in the night.

As people exit the pub, they will go through here, so they will be delivered into the interior of the campus very far away from the area that you're talking about.

PETER BOWDEN: Great. Thank you.

COMMISSIONER MICHAEL GARDNER: Are there any other members of the public who would like to be heard?

What are the operating hours, 4:00 to

midnight?

KIM SMITH: We're asking for the Monday through Friday, 4:00 to midnight, but upon being granted the license, we would like to have a soft opening of Monday -- I'm sorry -- Wednesday, Thursday, Friday from 5:00 p.m. to 10:00 p.m. to start.

COMMISSIONER MICHAEL GARDNER: Okay. Does that present any problem to us?

ELIZABETH LINT: No. We have actually done that in the past with Cambridge Queen's Head because during -- say, during the summer, they don't need the same operating hours, so what the manager would do is submit to me a detailed chart of when they would and wouldn't be open.

ALEXANDRA OFFIONG: Okay. And it would be the matching calendar. We can get that to you.

COMMISSIONER MICHAEL GARDNER: Pleasure

of the Commission?

FIRE CHIEF GERALD REARDON: I make a motion to approve the license as submitted, occupants of 137, 89 seats, 48 standing with the entertainment license. Aware of the -- the crowd manager license that has to be -- you have to have before opening.

COMMISSIONER MICHAEL GARDNER: All right. I will second the motion. Obviously, it's all conditional on your meeting all the other requirements that we have.

Any further discussion?

POLICE COMMISSIONER ROBERT HAAS: No discussion.

COMMISSIONER MICHAEL GARDNER: Motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: None

opposed.

Wish you well. Good luck.

APPLICATION (Continued): PUGLIESE RESTAURANT

ELIZABETH LINT: Application: Continued from December 20, 2011, Pugliese Restaurant, Incorporated, Joshua Velazquez, manager, holder of an alcoholic beverages as a restaurant license at 635 Cambridge Street has applied to transfer said license to Lizzy's, LLC, d/b/a Lizzy's, Joshua Velazquez, manager, at 635 Cambridge Street. Said license, if transferred, is for 46 seats inside and an additional 12 seats on a seasonal outdoor patio on the public sidewalk. Operating hours will be from 10:00 a.m. to 1:00 a.m. Monday through Friday and 11:00 a.m. to 1:00 a.m. Saturday and Sunday. Applicant is also

applying for an entertainment license to include darts; juke box, four TVs; a radio; and an iPod.

COMMISSIONER MICHAEL GARDNER: Good evening. State and spell your names for the record.

JOSHUA VELAZQUEZ: Joshua Velazquez,
V-E-L-A-Z-Q-U-E-Z.

ELIZABETH CANNON: Elizabeth Cannon,
C-A-N-N-O-N.

COMMISSIONER MICHAEL GARDNER: So I'm a little confused because you were here before. And I thought we disposed of what you'd asked for.

ELIZABETH CANNON: I can explain.

CHAIRMAN MICHAEL GARDNER: Okay.

ELIZABETH CANNON: So, when we first came before you, we got what we wanted, which was that we would be or he would be the manager of record for the liquor license.

In the interim, the present owner of the liquor license is Bob Salines has decided that he wants to transfer it now. He does not want to wait a year.

And I think most of that has to do with just trying to facilitate his retirement.

We have notified all the abutters, we have the green cards and we have a couple letters from the East Cambridge Business Association, I know Tim Toomey sent something and New Deal Fish Market sent something in support.

COMMISSIONER MICHAEL GARDNER: So the original action was to have you, sir, as the manager?

JOSHUA VELAZQUEZ: Right.

COMMISSIONER MICHAEL GARDNER: And then you had a plan of potentially taking over the retirement and that plan has been speeded up?

JOSHUA VELAZQUEZ: Yes.

COMMISSIONER MICHAEL GARDNER: How long have you, in fact, been operating under your general management?

JOSHUA VELAZQUEZ: For three and a half months now, but it still has been Pugliese Restaurant doing business as Lizzy's.

COMMISSIONER MICHAEL GARDNER: In terms of the ownership structure?

JOSHUA VELAZQUEZ: Yes.

ELIZABETH CANNON: Yes.

COMMISSIONER MICHAEL GARDNER: Will this change result in any -- will the change in ownership that you're proposing here result in any change in the operations?

JOSHUA VELAZQUEZ: No.

ELIZABETH CANNON: No.

JOSHUA VELAZQUEZ: No. Not particularly to the extent that we have changed the menu like we discussed the last time we met you. The

changes will be the feel of the restaurant, but beyond that, it's still -- we're not looking for any more space, we're not looking for --

ELIZABETH CANNON: Extended hours.

Nothing like that.

COMMISSIONER MICHAEL GARDNER: And you did not have an entertainment license before, is that correct?

JOSHUA VELAZQUEZ: No, we did. This is just --

COMMISSIONER MICHAEL GARDNER: You're just asking to have it transferred over?

JOSHUA VELAZQUEZ: Yes.

COMMISSIONER MICHAEL GARDNER: And the same kinds of entertainment?

JOSHUA VELAZQUEZ: Yes.

ELIZABETH CANNON: Yes.

POLICE COMMISSIONER ROBERT HAAS: So how have you found the last three months?

JOSHUA VELAZQUEZ: Entertaining.

POLICE COMMISSIONER ROBERT HAAS: In a good way?

JOSHUA VELAZQUEZ: In a good way.

East Cambridge is a very eclectic mix of people, so we have a lot of families that have been around for a long time, we have a lot of new transplants coming in, and this is kinda getting everybody to sort've come together and some people miss, you know, Robert's grandfather and some people want something different, so it's kinda trying to appease everyone, but it's been really hospitable, everyone seems to like the place.

COMMISSIONER MICHAEL GARDNER: Any other questions?

FIRE CHIEF GERALD REARDON: No.

COMMISSIONER MICHAEL GARDNER: Any there any members of the public who would like to be

heard on this matter?

ELIZABETH CANNON: Do you want to say anything, Eric?

ERIC (last name unknown/unidentified): I'm just here for moral support.

COMMISSIONER MICHAEL GARDNER: When we talked to you before, you got substantial experience with having a liquor license under your name?

JOSHUA VELAZQUEZ: Yes.

CHAIRMAN MICHAEL GARDNER: We've had no problems --

ELIZABETH LINT: No.

COMMISSIONER MICHAEL GARDNER: -- in the three and a half months?

ELIZABETH LINT: None at all.

COMMISSIONER MICHAEL GARDNER: Pleasure of the Commission?

POLICE COMMISSIONER ROBERT HAAS: Make a

motion to approve the application.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Motion having been made and seconded to approve the application as submitted, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

Good luck. Wish you well with the new venture and to your predecessor.

ELIZABETH CANNON: When are we going to see you there?

COMMISSIONER MICHAEL GARDNER: Well, I never go out.

APPLICATION: BASIL TREE, INC.

ELIZABETH LINT: Application: Basil

Tree, Incorporated d/b/a Basil Tree Catering and Cafe, Valerie Shulock, manager, has applied for a common victualer license to be exercised at 10 Fawcett Street. Said license, if granted, would allow food and nonalcoholic beverages to be sold, served and consumed on said premises with a seating capacity of 69. The hours of operation will be 7:00 a.m. to 3:00 p.m. seven days per week.

VALERIE SHULOCK: Hi.

COMMISSIONER MICHAEL GARDNER: Good evening.

VALERIE SHULOCK: Hello.

CHAIRMAN MICHAEL GARDNER: If you could just state and spell your name for the record.

VALERIE SHULOCK: Sure. I'm Valerie Shulock, V-A-L-E-R-I-E, last name Shulock, S-H-U-L-O-C-K.

COMMISSIONER MICHAEL GARDNER: Could you

tell us about what you sort've do now and how this is an addition new change and more details about it.

VALERIE SHULOCK: Sure. This is our current catering menu and this is our proposed cafe menu, which is not very professional at this point because it's still in process. But the catering business, Basil Tree, Inc, has coming up on 25 years in March. We've been in the same location in Somerville, and we're moving to Cambridge, and very ex-received about it for a number of reasons. It's a better fit for us space-wise because we have a loading lock and parking. Right now we're struggling in Somerville in that we don't have any parking and we don't have a loading dock, so this is a better fit for our catering.

And we have run a cafe before in Newton, Newtonville, and closed that business because it

was too difficult to be in two different locations, but the nice thing about this place is it's cafe and catering all in one location, and we feel like we're well prepared for that, given that we have done both.

And the catering is going to continue. We service -- actually, the majority of our business is in Cambridge, Harvard and MIT are our largest customers. Harvard was excited to hear that we would be moving to Cambridge. They like to support local businesses so that was a positive as far as they were concerned.

Met all of our business that we serve is in Boston, Cambridge, Medford and Somerville. It's not going to affect our catering business at all.

COMMISSIONER MICHAEL GARDNER: How long was -- the Newton Cafe --

VALERIE SHULOCK: That was two years.

COMMISSIONER MICHAEL GARDNER: When did it close?

VALERIE SHULOCK: Oh, gosh, three years ago, I believe. It was sold. It's now the Bread and Chocolate Cafe.

FIRE CHIEF GERALD REARDON: Is the space you're going into now, was it previously used as a cafe for the building?

VALERIE SHULOCK: Yes. Same use. We're not changing any use, it was catering and cafe. The cafe is basically part of the deal with the landlord. If you're renting the space for the catering, he wants the cafe being run for the purposes of the building. So we're not changing the use at all.

FIRE CHIEF GERALD REARDON: You're not changing the footprint and the equipment facilities, the hoods and everything else. Obviously, you know you've got to make sure that

everything is validated, cleaned and certificates and all that?

VALERIE SHULOCK: Yes. It's all valid now. We have our hood cleaning company that we use. Yeah, we're not changing any of the layout on that front. You know, we're just doing cosmetic, redecorating and painting and changing over furniture and things like that to freshen it up.

COMMISSIONER MICHAEL GARDNER: So this is an application for the cafe and the catering business? We need -- we don't need an application -- we don't license catering?

ELIZABETH LINT: We don't.

CHAIRMAN MICHAEL GARDNER: We do not, okay.

VALERIE SHULOCK: I have already been in touch with the Sanitation Department. They come out. They did like a preview before we signed

the lease because I wanted to make sure it was gonna be up to code and everything that they wanted and she was very pleased. She said we were basically good to go. I'll call her now once we, you know, but she came in and checked us out in advance.

COMMISSIONER MICHAEL GARDNER: You got all the arrangements for trash pickup and trash storage?

VALERIE SHULOCK: That's correct. That stuff is already -- I've got a contract from them, we have been using them in Somerville, they're going to be servicing us in Cambridge.

COMMISSIONER MICHAEL GARDNER: Anything else you would like to add?

VALERIE SHULOCK: I have the lease if you needed that. That was on a list of things we were supposed to have. Do you actually take the whole lease? I wasn't sure if this was to be

confidential or something, but...

ELIZABETH LINT: Yes.

VALERIE SHULOCK: And so, the only other thing I wanted to add is I don't know timeline of this, but I was told that if it's going to come out after our opening date, with permission from the current CV holder, they gave us permission to use their license until our license is approved. And I apologize, I neglected to bring a printed copy. I have it on my computer opened up, I didn't want to then leave and go back because it was tight, the parking out there. But I have it there signed, permission for us to use their license while we're a waiting for a license.

COMMISSIONER MICHAEL GARDNER: Who was the prior license holder?

VALERIE SHULOCK: AJ Culinary. The owners are AJ & Caron.

COMMISSIONER MICHAEL GARDNER: Do we have

any complaints or issues from that cafe?

ELIZABETH LINT: No.

VALERIE SHULOCK: I can fax over a signed copy if you need it.

COMMISSIONER MICHAEL GARDNER: Any other questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

COMMISSIONER MICHAEL GARDNER: Any members of the public who would like to be heard on this matter?

Seeing none, pleasure of the Commissioners?

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

POLICE COMMISSIONER ROBERT HAAS: Second.

COMMISSIONER MICHAEL GARDNER: Motion having been made and seconded to approve the application as submitted for Basil Tree Catering

and Cafe.

FIRE CHIEF GERALD REARDON: Subject to all inspections and conditions that are necessary.

CHAIRMAN MICHAEL GARDNER: Subject to all inspections and conditions that are necessary for opening, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

Welcome to Cambridge. I'd be glad to have you. We wish you well.

VALERIE SHULOCK: Thank you. I appreciate it. I'm very excited.

Just so I understand timing, then I wait for the decision date or how does that work?

ELIZABETH LINT: You just got a decision.

VALERIE SHULOCK: Okay, good. Okay.
Great, thank you. So you don't even need the
letter --

ELIZABETH LINT: Right.

VALERIE SHULOCK: So I'm good to go.
Great. Thank you.

ELIZABETH LINT: We'll just send you a
letter and tell you what fees are owed and the
inspections and so on and so forth.

COMMISSIONER MICHAEL GARDNER: Last
question: When will you be open?

VALERIE SHULOCK: The plan is February 6
or 8th. I'm making that final decision depending
on how many leeway days we need.

CHAIRMAN MICHAEL GARDNER: Good luck.

VALERIE SHULOCK: Thank you. I
appreciate it.

APPLICATION: TABLES OF CONTENT, INC.

ELIZABETH LINT: Application: Tables of content, Incorporated d/b/a Gutman Library Cafe, Meghan Garrity, manager, has applied for a common victualer license to be exercised at 6 Appian Way. Said license, if granted, would be allow food and nonalcoholic beverages to be sold, served, and consumed on said premises with a seating capacity of 122 (94 inside and 28 patio). The hours of operation will be 7:00 a.m. to 3:00 p.m. Monday through Friday.

COMMISSIONER MICHAEL GARDNER: Good evening, and if you could just please, each of you, state and spell your names for the record.

MICHAEL GOODWIN: Good evening, Michael Goodwin, G-O-O-D-W-I-N, Harvard University.

MEGHAN GARRITY: Meghan Garrity,
G-A-R-R-I-T-Y.

LINDA DEFRANCO: Linda DeFranco,

D-E-F-R-A-N-C-O, Tables of Content.

COMMISSIONER MICHAEL GARDNER: And tell us what is happening in the space now and what this proposal is and what it will be like.

MICHAEL GOODWIN: Well, as our colleagues at the Law School described, the university would like to increase the student experience across all schools, and here at the Harvard Graduate School of Education we have the opportunity we're renovating the first floor of Gutman Library, and what we're applying for is to open up a 122-seat cafe in about one-third of that space.

And the Graduate School of Education is partnered with Tables of Content to be our single source food service provider. We have a wonderful relationship with them, and we look forward to keeping it up and be able to provide those students, faculty, and staff an excellent experience.

COMMISSIONER MICHAEL GARDNER: As I see this, you're not asking for an alcohol license?

MICHAEL GOODWIN: No.

COMMISSIONER MICHAEL GARDNER: Do you have a plan to stage in alcohol later, or is this your vision of this is the dining but without alcohol?

MICHAEL GOODWIN: At this time it would be dining without alcohol because the upper floors are the library. We still want to be able to provide students with educational resources as opposed to more social resources, so at this time, it would be food only.

COMMISSIONER MICHAEL GARDNER: Would you draw any conclusions between the department -- the School of Education and the Law School with respect to that issue?

MEGHAN GARRITY: We're just smaller.

FIRE CHIEF GERALD REARDON: Was there

a -- was there a cafe in the Gutman previous?

MICHAEL GOODWIN: No.

FIRE CHIEF GERALD REARDON: No snack bar on that? It wasn't anything like that?

MICHAEL GOODWIN: No. Just vending machines.

COMMISSIONER MICHAEL GARDNER: Sir, what sort of food service envision be, just how extensive a menu?

MEGHAN GARRITY: It will be open from Monday through Friday from 7:00 to 3:00, just breakfast and lunch. Hot the entries at both meal periods. We've got about four stations on our line. We'll have a saute station, a grill, pizza station and a sandwich bar with an independent salad bar in the middle. It's basically a deli, cafeteria, college-style menu.

COMMISSIONER MICHAEL GARDNER: So this is envisioned to primarily serve the students at the

school?

MEGHAN GARRITY: The students and staff. We'll have a security guard at the front door similar to the Law School checking ID's as they come in. It's really just open to the community.

COMMISSIONER MICHAEL GARDNER: So any members of the Harvard Community can use it?

MEGHAN GARRITY: If they have an ID, correct, yeah.

FIRE CHIEF GERALD REARDON: I know you're doing a retrofit over there, so they will build out this space with all the necessary cooking equipment?

MICHAEL GOODWIN: Yes.

FIRE CHIEF GERALD REARDON: This is going to be on the ground level?

MEGHAN GARRITY: First floor.

FIRE CHIEF GERALD REARDON: It overlooks Appian Way or is it Abigail?

MEGHAN GARRITY: No. It's right across from the School of Education or the School of Continuing Ed. So there's that small dead-end street parallel -- perpendicular to Brattle.

COMMISSIONER MICHAEL GARDNER: Could we hear a little bit about what is the Tables of Content or Content.

LINDA DEFRANCO: It starts as of Tables of Content, and after you have eaten our food, it's Tables of Content. We have been in business for 19 years. From 1995 to 2005 we operated the food service in the Midtown Hotel on Huntington Avenue. We did breakfast, lunch and dinner for about four years, and we then we just served breakfast and lunch for the remaining six years of that lease.

We then moved to Roslindale off of Belgrade Avenue, where we have about a 10,000 square-foot commissary, and we do catering

throughout New England, and Harvard is our major account. We do a lot of socials, weddings and things of that nature and we do -- the rest of it's corporate. Corporate is our largest volume of business.

COMMISSIONER MICHAEL GARDNER: So is the Midtown Hotel the closest operation to this sort of noncatering.

LINDA DEFRANCO: Yes. Where we served breakfast and lunch, there was a cafe.

COMMISSIONER MICHAEL GARDNER: And this is your first experience with Harvard actually operating a premises for them?

LINDA DEFRANCO: No. We're doing their premise now, we're doing their food service.

MEGHAN GARRITY: We have a small cafe now where all the food is prepared off site at the commissary kitchen and it's brought in. It's a third of the size.

FIRE CHIEF GERALD REARDON: Most of your catering comes out of the Roslindale facility?

LINDA DEFRANCO: All our prep, yes.

FIRE CHIEF GERALD REARDON: Is some of that prep done and shipped into here, too?

LINDA DEFRANCO: It depends, yes.

FIRE CHIEF GERALD REARDON: Some will be done on site and some may be augmented by the --

LINDA DEFRANCO: Yes, absolutely.

COMMISSIONER MICHAEL GARDNER: But you will have a full kitchen?

LINDA DEFRANCO: Correct, yeah. We're excited.

FIRE CHIEF GERALD REARDON: Fryolators no, right?

MEGHAN GARRITY: There will be one Fryolator on the line. Not in the back, though.

FIRE CHIEF GERALD REARDON: That kicks it up a notch. Make sure you get all your ducks in

a row.

COMMISSIONER MICHAEL GARDNER: So what you're saying is there are substantial fire inspection or safety issues?

FIRE CHIEF GERALD REARDON: Fryolators have much more arduous concerns if there's hot oil and the flame. And the hood system gets a little more intricate depending if you're using a Fryolator or not using a Fryolator versus just a standard hood system, exhaust system, so...

COMMISSIONER MICHAEL GARDNER: And the managers out of Tables of Content are familiar with Fryolators?

LINDA DEFRANCO: Our kitchen staff is. We have a Fryolator in our commissary, so we deal with all the hoods and all the inspections and everything.

COMMISSIONER MICHAEL GARDNER: Any other questions?

POLICE COMMISSIONER ROBERT HAAS: No
other questions.

FIRE CHIEF GERALD REARDON: No.

COMMISSIONER MICHAEL GARDNER: Any
members of the public who would like to be heard
on this matter?

I make a motion to approve the
application as submitted subject to all the
conditions of inspections.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Motion
having been made and seconded, all those in
favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed.

So, we wish you well.

MEGHAN GARRITY: Thank you very much.

COMMISSIONER MICHAEL GARDNER: You do business here already, but welcome again to Cambridge.

LINDA DEFRANCO: Oh, I appreciate it. Thank you so much.

CHAIRMAN MICHAEL GARDNER: You made the right move.

APPLICATION: AREA FOUR OPERATING, LLC

ELIZABETH LINT: Area Four Operating, LLC d/b/a Area Four, Michael Leviton, manager, holder of an all alcoholic beverages as a restaurant license at 500 Technology Square, has applied to extend their closing hour on Thursdays, Fridays, Saturdays and the night before a legal holiday from 1:00 a.m. to 2:00 a.m.

MICHAEL KRUPP: My name is Michael Krupp, K-R-U-P-P, I'm Michael Leviton's business partner. He's the manager on record.

Unfortunately, he couldn't make it tonight, he had a family emergency. I had a similar emergency, but I made it.

COMMISSIONER MICHAEL GARDNER: We appreciate your effort.

MICHAEL KRUPP: Thank you for having me this evening, Members of the Commission.

COMMISSIONER MICHAEL GARDNER: Tell us a little bit about how long you have been in operation so far, what some of the challenges and also the rewards of it have been and why you're making this application now.

MICHAEL KRUPP: Absolutely. So we're Area Four, located in the Area Four neighborhood of Cambridge.

We opened at the end of May of this past year, 2011. As one of the first restaurants to be part of this new movement towards the Kendall Street Area Four neighborhood. It has been an

exciting adventure so far. The focus on what we do there is everything comes out of a gas wood hybrid oven. We also have an on-site coffee shop and cafe with a big focus on -- with a new restaurant on both wood burning pizzas, as well as fresh from the oven skillet prepared foods.

What sort've separates us from other restaurants, and one of the reasons that I'm asking for this potential extension is our business model is slightly different from many of the restaurants.

My business partner, Michael, who's not here tonight, owns a restaurant called Lumiere out in West Newton, he has been there for over 13 years. He's six times. His focus, as well as mine is sourcing ingredients locally, doing as much in-house as possible. All the baked stuff is prepared in-house, the mozzarella is made fresh everyday for the pizzas. And in the end

what that means is our food costs are much higher than a traditional a restaurant. We don't use any products from Cisco. We don't use any frozen products, with the exception of fish, that has to be frozen just by law.

But given that our -- part of our concept is to make sure that we can offer this locally sourced food at a reasonable prices. Our landlords have been very gracious.

Alexandria who owns all Technology Square has been very gracious with their tenant improvements to us, as well as their lease, which certainly helps us do business, but given the larger ratio of food costs, liquor, specifically beer and wine is what we sell most of, just by nature has a higher markup than food.

So my purpose is twofold, from a strictly business standpoint is to help out my bottom line because, as we have seen, it's more expensive to

do business the way we do it, and to be perfectly honest, we're not willing to sacrifice the quality of our ingredients or beliefs in order to offer a lesser-quality product.

On the flip side, as I'm sure everybody in the room that is aware, there is a big move of restaurants in the neighborhood. The Technology Square area is all commercial businesses. There is a residential, one block over to us, but they're all commercial abutters, and there is a big push to get more and more people into this area to expand the commercial businesses of Cambridge.

We have gotten feedback from many of our guests who love what we do, but, unfortunately, given that we only have a 1:00 a.m. license on the weekends right now, many people do eat food with us, but they are not -- to be honest, our business decreases greatly after 10:00 p.m. and

it's not just us. It's us and Catalyst is adjacent to us that also experiences it.

But, again, the other restaurants aren't dealing with the food cost issues we are.

With the extension of the license, our hope is that we would be able to serve food later as well. There is no late night options on that side of the street. All of the late night options are on Massachusetts Avenue dealing primarily with the MIT undergraduate student body, cheap pizza, cheap burritos, et cetera, et cetera.

What we do do a lot of business with MIT, our business is mostly focused on the graduate students, as well as the MIT professors as a whole.

Our alcohol program right now, while it is a full license, we really focus on beers and wines. All of our beers are local beers, again,

keeping with our philosophy, we don't have any two dollar Bud Lights, it's all within the New England area.

And our wine program we have at least the Boston area's first totally sustainable wine program where actually none of our wines are bottled, they're all from a tap system similar to a beer system, but it saves on packaging and it also allows for a better price point for both us and our guests.

So, it's a unique combination. It's just a business where we're trying to do the right thing from all aspects, and we're just hoping that we can do so a little later on the weekends to make the Area Four neighborhood a little bit more of a destination for those not in the immediate area.

FIRE CHIEF GERALD REARDON: Is this the former Carrie space.

That's Catalyst. This is called Loma Asena (phonetic). They were there before we were. It was a quick-serve Italian.

ELIZABETH LINT: The other side?

MICHAEL KRUPP: Yeah. We're on the other side. It's along that park. It's next to Mexicali Burrito, there's a 7/Eleven right there. That's where we are.

Business has been good. But we can certainly use the benefit of a later license. It's a noticeable dropoff in business in the evening times.

FIRE CHIEF GERALD REARDON: You seem to have got good rate insurance?

MICHAEL KRUPP: I'm very proud of what we got. We have been in business for eight months. Zagat, the National online, rated us top 11 new restaurants in Boston. We're listed as top ten business restaurants in the country.

Boston Globe has listed us top in the top 50 restaurants as has Boston Magazine, Improper Bostonian, pretty much every local publication. We have been on Chronicle, we've been on a bunch of TV.

And on a personal note, I have been personally pushing for more development of the area for our neighborhood, and I have huge proponent of what is happening in the area, and I think it's really exciting as someone who is a former Cambridge resident and left the Massachusetts area for awhile, it's kinda shocking for me to see what's happened to that neighborhood. It's exciting. It's really, really exciting. Even when I was a kid, there was nothing over there.

So we're trying to do our part with that, and promote the area and just honestly promote good business practices.

COMMISSIONER MICHAEL GARDNER: Any questions?

POLICE COMMISSIONER ROBERT HAAS: The application mentions night before legal holidays, so it's not your typical Sunday with Monday a holiday, but there's all legal holidays referred to?

MICHAEL KRUPP: We -- presently we are not open for dinner on Sundays. We're not open on Sundays with the exception of the coffee shop. We're looking to move towards bunch and some dinner service, but this would not be a Sunday extension. Hypothetically speaking if New Year's or Thanksgiving fell on -- no, that's on a Thursday.

We would like the opportunity to stay open on the weekends with special permission granted on occasions such as New Year's, we're not asking for an indefinite extension.

POLICE COMMISSIONER ROBERT HAAS: So you wouldn't open on Sunday then, if a holiday was on a Monday?

MICHAEL KRUPP: I'm sorry. I wasn't clear. Presently our license does allow us to have until midnight on Sundays. We are not asking for an extension for Sundays.

POLICE COMMISSIONER ROBERT HAAS: Even if Monday is holiday?

MICHAEL KRUPP: Correct. We are simply asking on special events, such as New Year's that we can petition individual --

COMMISSIONER MICHAEL GARDNER: The Wednesday before Thanksgiving is that or the Tuesday before July 4th when it falls on a Wednesday?

MICHAEL KRUPP: To be perfectly honest with you, they're not traditionally great nights for business. I would be more than happy to

accept an extension on those, but I'm not asking for it at this time.

COMMISSIONER MICHAEL GARDNER: So it's for Thursdays, Fridays and Saturdays?

MICHAEL KRUPP: Yes.

COMMISSIONER MICHAEL GARDNER: I guess the night before a legal holiday, are you really saying you just want that done on an exception basis because I got confused about the by-play between you and the Commissioner.

MICHAEL KRUPP: I'm sorry. My apologies because, again, it was sort've last minute switch out between myself and Michael, I'm not sure what he applied for.

ELIZABETH LINT: I can clarify. When someone applies for a 2:00 a.m., we generally grant it for Thursdays, Fridays, Saturdays and the night before a legal holiday. That's our terminology, that's what we do.

MICHAEL KRUPP: That's exactly what I'm asking for then. Thank you.

COMMISSIONER MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: Tell me what you do on Sundays before a holiday?

MICHAEL KRUPP: Presently we're not open.

POLICE COMMISSIONER ROBERT HAAS: What are you going to do now if Monday is a holiday what are you going to do on Sundays?

MICHAEL KRUPP: Realistically, we'll probably be closed by 10:00. I mean, we don't get a big Sunday business right now or we don't anticipate getting a big Sunday business.

Moving forward, assuming the Commission does allow us to be open on Sundays should the need arise that there's an opportunity for us to be open later, I would certainly like to be open.

POLICE COMMISSIONER ROBERT HAAS: It

doesn't work that way, does it? You can't opt in and opt out if you're going to open? If you're making an application to be open certain Sundays prior to the --

ELIZABETH LINT: But if he was not open on Sunday, then that wouldn't apply.

MICHAEL KRUPP: I'm not asking --

ELIZABETH LINT: Let's say the holiday is Tuesday --

POLICE COMMISSIONER ROBERT HAAS: No, I get that.

ELIZABETH LINT: -- he would be open Monday. But he doesn't have --

POLICE COMMISSIONER ROBERT HAAS: I'm talking about between Sundays and Mondays.

ELIZABETH LINT: Well, if he doesn't have Sunday hours, then he can't be open.

POLICE COMMISSIONER ROBERT HAAS: So you have no Sunday hours right now?

MICHAEL KRUPP: Presently, no. We're --

COMMISSIONER MICHAEL GARDNER: But you're licensed from Sundays?

MICHAEL KRUPP: Licensed for Sunday only till midnight as per a regular night.

COMMISSIONER MICHAEL GARDNER: You're thinking about starting a brunch, afternoon --

MICHAEL KRUPP: Indeed, yeah.

CHAIRMAN MICHAEL GARDNER: -- Sunday operation?

MICHAEL KRUPP: And I'm sorry, sir. Is the question whether it's Sunday or Monday?

CHAIRMAN MICHAEL GARDNER: The only question I had --

MICHAEL KRUPP: I'm sorry.

POLICE COMMISSIONER ROBERT HAAS: I'm looking at the wording on the application, typically the way when I sees these applications, it simply says Thursdays, Fridays, Saturdays and

Sundays prior to a legal holiday, and the way I'm reading this is that --

COMMISSIONER MICHAEL GARDNER: I think it says and prior to a legal holiday. I don't think it puts a Sunday in there.

ELIZABETH LINT: It doesn't put Sunday.

POLICE COMMISSIONER ROBERT HAAS: It doesn't put Sunday in there at all.

ELIZABETH LINT: No.

COMMISSIONER MICHAEL GARDNER: I don't think so.

POLICE COMMISSIONER ROBERT HAAS: That's what I'm trying to figure out.

ELIZABETH LINT: Because we don't grant 2:00 a.m.'s on Sundays unless it's the night before a legal holiday.

COMMISSIONER MICHAEL GARDNER: We're sorry to have confused you. We confused ourselves.

ELIZABETH LINT: Totally.

FIRE CHIEF GERALD REARDON: I have the same problem with the commissioner a lot so don't feel bad.

MICHAEL KRUPP: If I'm not allowed to be open until 2:00 a.m. on a Sunday regardless of whether it's a holiday or not, I certainly won't be.

If you tell me that Sundays you're not allowed to be open to 2:00 a.m. regardless of the license than I obviously won't be. I don't mean to confuse anybody. I'm sorry.

COMMISSIONER MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

COMMISSIONER MICHAEL GARDNER: Any there members of the public who would like to be heard on this matter, please come forward.

JOE STROMER: My name is Joe Stromer,
S-T-R-O-M-E-R. I'm here because quite frankly
I'm a fan of the restaurant, and what they offer
there is something that you can't get at that
hour anywhere else in the area.

Central Square obviously has many
businesses, but the type of place to get this
quality of food is not open that late, or you
have to go to places that are sort've younger
crowds, maybe undergraduate sort've student
crowds and the quality of food isn't as good.

So, I would appreciate the opportunity to
have somewhere to go to get great food late night
that is actually a little more adult and a little
more conversation level atmosphere.

COMMISSIONER MICHAEL GARDNER: Okay.
Thank you.

MICHAEL KRUPP: I would appreciate the
opportunity.

ELIZABETH LINT: I have a letter from Councillor Toomey in support of the application. Area Four is very popular Kendall Square restaurant. It's played a major role in adding vitality to the area on weekends and evenings. He feels an extension of the license will allow them to continue to bring the foot traffic that is desired in Kendall Street.

COMMISSIONER MICHAEL GARDNER: Do you get much of your business from Area Four residents?

MICHAEL KRUPP: It depends on what you mean, because, quite honestly, the daytime population is sort've a transient Area Four office worker or the biotechs. So our lunch business, yes, it's the office workers. Evening time is a combination of Area Four, central across the bridge. I wouldn't say that it's very specific to Area Four, but I would say that one of the nice things about what we do is that we

draw from across the Metro Boston area.

To be frank, we do not have a large population from the housing development adjacent to us. To be fair, I think that our price point is a little higher on the restaurant side, but we have on the cafe side more during the daytime, I'll say that.

COMMISSIONER MICHAEL GARDNER: Thank you. Pleasure of the Commission?

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

ELIZABETH LINT: Do you have your abutters' notifications?

MICHAEL KRUPP: Everything was given to the --

ELIZABETH LINT: I have the receipts, I don't have the green cards.

MICHAEL KRUPP: She didn't give you the green cards. Awesome. Then I do not. I do the

receipt from the post office, but I'll get you
the green cards. I'm sorry. My manager --

ELIZABETH LINT: That's fine.

COMMISSIONER MICHAEL GARDNER: Do I
understand there's been a motion made to approve
the application?

FIRE CHIEF GERALD REARDON: Correct.

POLICE COMMISSIONER ROBERT HAAS: On the
condition of the green cards?

FIRE CHIEF GERALD REARDON: Subject to
the conditions and requirements set forth.

POLICE COMMISSIONER ROBERT HAAS: Second.

COMMISSIONER MICHAEL GARDNER:
Commissioner, any public safety concerns about
opening until 2:00 a.m.?

POLICE COMMISSIONER ROBERT HAAS: No.

COMMISSIONER MICHAEL GARDNER: Motion
having been made and seconded to approve the
application as submitted subject to proof of the

green cards, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

Good luck. Wish you well with your operation.

MICHAEL KRUPP: Thank you, sir. If I was able to, I would jump for joy right now.

Can I drop those off to you?

ELIZABETH LINT: Absolutely.

MICHAEL KRUPP: Thank you very much. I do invite you all to please come in and join us when you have an opportunity.

FIRE CHIEF GERALD REARDON: That fresh made mozzarella is tempting.

MICHAEL KRUPP: It's really good.

ELIZABETH LINT: So the last application

is Clover. I have seen Ayr Muri popping in and out through the course of the evening, so...

COMMISSIONER MICHAEL GARDNER: Well, do you want to take a two-minute break and do a room check, or should we just -- we have other businesses to do.

ELIZABETH LINT: We have the ratifications and the minutes as well.

RATIFICATIONS

So Ratifications: Medallion 161, 68, 166, which was a stock transfer, and then 166 which was a refinance, 67, 52, 117, 102 and 113.

POLICE COMMISSIONER ROBERT HAAS: Looks it order. I make a motion to accept.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Motion having been made and seconded to accept the ratifications approved by the executive director,

all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

Is there any to peculiarness to the approved "at the desk" by the executive director? I'm just not sure about what "at the desk" means.

ELIZABETH LINT: That's what we call it. It's like if somebody applies for a particular entertainment license that doesn't need approval the Commission, we approve it at the desk.

COMMISSIONER MICHAEL GARDNER: These you approved at the desk, but then you give them to us anyway.

ELIZABETH LINT: Just to accept. It has always been done this way. I don't know why.

COMMISSIONER MICHAEL GARDNER: Okay. Do you have a list of minutes?

ELIZABETH LINT: I do. So the three of you were here on October 4, and those need to be accepted, as October 18, November 1, November 15 and January 3rd. That was all of you.

COMMISSIONER MICHAEL GARDNER: So I haven't read January 3rd yet, it just came in.

ELIZABETH LINT: I read it.

COMMISSIONER MICHAEL GARDNER: I would make the motion to approve all of the ones that we three were at, which Ms. Lint read, with the exception of January 3rd.

ELIZABETH LINT: Did I say October 18 also?

COMMISSIONER MICHAEL GARDNER: You did.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Any debate? Discussion?

POLICE COMMISSIONER ROBERT HAAS: No.

COMMISSIONER MICHAEL GARDNER: Motion to

approve the minutes that Ms. Lint listed, and you have those, ma'am? Do you have what she said?

THE REPORTER: I do. I do have the dates.

CHAIRMAN MICHAEL GARDNER: All right. Thank you.

ELIZABETH LINT: Then -- oh, sorry.

COMMISSIONER MICHAEL GARDNER: Approved and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

So the minutes are approved.

ELIZABETH LINT: Then October 27 and December 20, that would be the two of you, not you.

COMMISSIONER MICHAEL GARDNER:

Commissioner Haas and myself.

Motion to approve those minutes for
October 27 and December 20.

POLICE COMMISSIONER ROBERT HAAS:

Second.

COMMISSIONER MICHAEL GARDNER: Motion
having been made and seconded to approve the
minutes of October 27 and December 20, those in
favor, signify by saying "aye" of those who can
vote.

POLICE COMMISSIONER ROBERT HAAS: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

Chief Reardon did not vote, so those minutes are
approved.

ELIZABETH LINT: We're up to date. I
will go take a look.

(Short Recess Taken.)

COMMISSIONER MICHAEL GARDNER: So just to
remind everybody, we have scheduled a meeting of

the Commission on January 12 at 2:00 p.m.

ELIZABETH LINT: Correct.

COMMISSIONER MICHAEL GARDNER: With the exception of going into executive session, so we will convene here.

Any other business before the Commission this evening?

ELIZABETH LINT: I have none.

COMMISSIONER MICHAEL GARDNER: Motion to adjourn is always in order and non-debatable. I don't think it's debatable. That's what Brad Kenny, Chairman of the Army Board always said.

FIRE CHIEF GERALD REARDON: Make a motion to adjourn.

COMMISSIONER MICHAEL GARDNER: Seconded.

A motion have been made and seconded to adjourn at approximately 8:22 on the evening of January 10, 2012, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed. So we're adjourned.

ATTACH TO THE LICENCE COMMISSION HEARING OF

1/10/2012

ERRATA SHEET

INSTRUCTIONS: After reading the transcript of the Poles and Conduit Meeting of 11/1/2011, note any change or correction and the reason therefor on this sheet. DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet

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I have read the foregoing transcript of the License Commission Hearing of 11/1/2011, and except for any corrections or changes noted above, I hereby subscribe that the transcript is an accurate record.

CERTIFICATE

Commonwealth of Massachusetts
Suffolk, ss.

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

This transcript of the Cambridge License
Commission proceedings of 1/10/2012 is a true and
accurate record of the proceedings to the best of
my ability.

IN WITNESS WHEREOF, I have hereunto set
my hand this 12th day of January 2012.

Jill Kourafas
Notary Public
Certified Shorthand Reporter
License No. 149308

My Commission expires:
February 2, 2017

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