COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARING

LICENSE COMMISSION BOARD MEMBERS:

Michael P. Gardner, Chairman Superintendent Christopher Burke Gerald Reardon, Fire Chief

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

DATE: Tuesday, March 19, 2013

TIME: 6:07 p.m.

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PROCEEDINGS

EXECUTIVE DIRECTOR ELIZABETH LINT:

Before we get started, if anyone has a cell phone

on, we would appreciate it if you turned it off.

This is the License Commission General Hearing, Tuesday, March 19, 2013 at 6:07 p.m.

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

Before you are the Commissioners:

Chairman Michael Gardner, Superintendent

Christopher Burke and Fire Chief Gerald Reardon.

If anyone is here for the matter of Delta Kappa Epsilon, that's been continued to April 19 and Classic Cab has also been continued to April 19.

DISCIPLINARY: VIJETA CORPORATION D/B/A PROSPECT LIQUORS

matter this evening is disciplinary, the Vijeta
Corporation doing business as Prospect Liquors,
Dhiru Patel, Manager, holder of an all alcoholic
beverages as a package store license at 1226
Cambridge Street due to violation of the License
Commission's disciplinary and revocation hearing
decisions on January 10, 2012 and October 9,
2012, respectively. On February 27 and March 6
of 2013, Prospect Liquors sold alcoholic
beverages before their allowable opening time of
11:00 a.m.

is here for this matter, please come forward and have a seat, and then I'll ask you to state and spell your last names for the record, and also, to indicate your affiliation.

Ms. Boyer, why don't you begin?

ANDREA BOYER: Thank you, sir.

CHAIRMAN MICHAEL GARDNER: State and spell your name for the record and just give us a chance to...

ANDREA BOYER: Yes. Andrea Boyer, chief licensing investigator, for the City of Cambridge, B-O-Y-E-R.

DAVID HAGEMEYER: David Hagemeyer. I'm an attorney and I represent Mr. Patel. And my last name is spelled H-A-G-E-M-E-Y-E-R.

DHIRU PATEL: Dhiru Patel, owner of Prospect Liquors.

COMMISSIONER MICHAEL GARDNER: Ms. Boyer.

ANDREA BOYER: Thank you, sir. Please be advised that I've been requested to periodically check Prospect Liquors to be sure that they're not violating the disciplinary decision which was not to open for business before 11:00 a.m.

During a few checks the door had been unlocked as the owner stated that deliveries were being made which he's allowed to accept in accordance with the disciplinary decision.

I asked Mr. Chris O'Neil from the License Commission Office to assist me in an investigation to be sure that the owner,

Mr. Patel, was not selling alcoholic beverages while opening for deliveries before 11:00 a.m.

Mr. O'Neil and I arrived in the area of Prospect Liquors at approximately 10:13 a.m. on Wednesday, February 27 of 2003.

Mr. O'Neil was able to buy a bottle of Kahlua priced at \$19.99 from the owner,

Mr. Patel, at approximately 10:16 a.m. I have the bottles if anyone wants to see them after we adjourn the hearing.

Another investigation of Prospect Liquors took place on March 6, 2003 at approximately

9:12 a.m.

During the investigation, Mr. O'Neil was able to purchase 24 ounces of Red Stripe Lager.

Mr. O'Neil requested a receipt for the transaction and was given one.

It was attached to the report that I submitted for you today. Also, the bottle has the price tag and the packaging is being kept if you would like to see it.

COMMISSIONER MICHAEL GARDNER: Okay. Do you have those things?

ANDREA BOYER: I do.

COMMISSIONER MICHAEL GARDNER: Why don't you both show them to Mr. Hagemeyer and show them to us.

ANDREA BOYER: This is the bag that was placed and the receipt is attached. I put them in plastic because they tend to lose the ink if you don't put them in the plastic.

And here is the bottle of Red Stripe with the tag. That was the second purchase that was made.

COMMISSIONER MICHAEL GARDNER: And this was approximately at 9:12 a.m.?

ANDREA BOYER: Yes, sir. The first purchase was put in the brown/black bag and then the brown bag and has the green price tag also.

COMMISSIONER MICHAEL GARDNER: Is that the original packaging, the bags?

ANDREA BOYER: Correct.

 $\label{eq:commissioner} \mbox{MICHAEL GARDNER:} \quad \mbox{And tell} \\ \mbox{us where you were at the time.}$

ANDREA BOYER: The first time I was around the corner because I have investigated

Mr. Patel several times, and I didn't want him to see my truck or myself to tip him off.

The second time I was parked across the street and watched Christopher go in and out.

COMMISSIONER MICHAEL GARDNER: How soon after the sales did you have a conversation with Mr. O'Neil?

ANDREA BOYER: Just as soon as he was done, within a couple minutes he was back in the car.

commissioner michael Gardner: And tell us what, if any, conversations you have had with Mr. Patel or anyone else affiliated with Prospect Liquors regarding the prohibition on opening or selling before 11:00 a.m.

ANDREA BOYER: Mr. Patel previously was given warnings for not abiding by the disciplinary decision for selling two Bud Lights -- two Bud Light cans of beer on November 21st at approximately 10:07.

At that time the Executive Director

Elizabeth Lint clarified for Mr. Patel that if

any other sales took place after that, his

package store license could be revoked.

COMMISSIONER MICHAEL GARDNER: Did you have any conversations yourself?

ANDREA BOYER: I did. I don't have the exact dates of those.

COMMISSIONER MICHAEL GARDNER: Give me a summary of what you remember of those conversations.

ANDREA BOYER: Just basically trying to explain to him the rules and regulations of the disciplinary decision stating that, you know, you're not supposed to be open, and that's -- I think -- I apologize -- but, Elizabeth, I think that it's in the documents -- that I had the conversation with him during the prior violation when he actually had someone in the back room consuming alcoholic beverages on the premise.

So between that conversation, after that and then with Elizabeth, it's been at least three

times that I explained the rules and regulations to him --

COMMISSIONER MICHAEL GARDNER: Okay.

ANDREA BOYER: -- or the decision, I should say.

COMMISSIONER MICHAEL GARDNER: And I note $\label{eq:main_section} \text{Mr. O'Neil is present in the audience.}$

Why don't you just come forward,

Mr. O'Neil, and I'll have you identify yourself

for the record. You can pull up a chair if you'd

like.

CHRIS O'NEIL: Chris O'Neil,
O-apostrophe-N-E-I-L.

COMMISSIONER MICHAEL GARDNER: What is your job with the License Commission?

CHRIS O'NEIL: Administrative assistant.

COMMISSIONER MICHAEL GARDNER: You were present here this evening when Ms. Boyer gave her summary of the events?

CHRIS O'NEIL: I was, sir.

COMMISSIONER MICHAEL GARDNER: Is there anything in what she said that you regard as inaccurate or incomplete?

CHRIS O'NEIL: No, not at all.

COMMISSIONER MICHAEL GARDNER: So describe to us, as best you remember, your interactions in Prospect Liquors.

there was February 27, I believe. It was
raining. I walked in and kind've made small talk
because I walked -- the Kahlua bottle was right
to the left, right when you walked in the door.
I just kind've said, "It's horrible weather,"
grabbed a bottle, went up to the counter. He
rang it in. I didn't have to show my ID or
anything, which is good because he probably
would've recognized my name. I left.

COMMISSIONER MICHAEL GARDNER: And the

"he," was it Mr. Patel who did the sale?

CHRIS O'NEIL: Did the sale both times.

COMMISSIONER MICHAEL GARDNER: All right.

Go ahead.

CHRIS O'NEIL: Came out and gave the bottle to Andrea. She asked if I got a receipt. I said no.

And then we went back in on March 6. She told me to get a receipt, if possible.

That's when I went in and I walked directly past Mr. Patel, who was behind the counter, and kind've was perusing the cooler, grabbed a bottle of Red Stripe, went to the counter.

Again, I was not carded. Purchased the Red Stripe, and I asked for a receipt, and I was given one.

And then I came back out to Ms. Boyer's car and gave her the bottle and the receipt.

either of you -- during these two dates, did
either of you see any activity with respect to
deliveries or any other kind of transactions
going on that would have explained why the doors
weren't locked and you were able to walk in?

CHRIS O'NEIL: I believe there was a truck parked in front the second time we went there, March 6, but I didn't see anyone else inside.

COMMISSIONER MICHAEL GARDNER: So you saw no active deliveries going on?

CHRIS O'NEIL: No. No two-wheel cart or anything like that.

COMMISSIONER MICHAEL GARDNER: How about you, Ms. Boyer?

ANDREA BOYER: The first time I was around the corner, so I don't know if there was anyone one else or what occurred.

COMMISSIONER MICHAEL GARDNER: So, I guess, Mr. O'Neil, did -- was there anything about what you observed that would you've led you to believe that the store was not just simply open for business?

CHRIS O'NEIL: No. I mean, especially seeing that he didn't say anything when I walked in. I made a point to make eye contact to see if he would say "We're not open yet, come back a little later," but he didn't.

COMMISSIONER MICHAEL GARDNER: And the door was unlocked?

CHRIS O'NEIL: It was open.

COMMISSIONER MICHAEL GARDNER: All right.

Anything else either of you would like to add or
think would be important for us to know?

ANDREA BOYER: Yes. Thank you, sir.

When I delivered the letter for the hearing notification of the hearing, it was

10:00 a.m., around that time frame, and I specifically stated to him, I said, "I see you're open for business before you're supposed to be at 11:00."

He said, "I'm allowed to be open. I did it for three months. It's okay now."

And I said, "No, it's not."

And I had him sign the receipt letter I hand-delivered and I left.

COMMISSIONER MICHAEL GARDNER:

Approximately what date did you deliver that to him?

ANDREA BOYER: I think it's in the file.

EXECUTIVE DIRECTOR ELIZABETH LINT: That would've been March 13th.

ANDREA BOYER: Thank you.

COMMISSIONER MICHAEL GARDNER: Thank you.

Mr. Hagemeyer.

DAVID HAGEMEYER: I just have a couple

questions for Mr. O'Neil.

COMMISSIONER MICHAEL GARDNER: Okay. Through me?

DAVID HAGEMEYER: Through you, yes.

I was wondering if you could ask

Mr. O'Neil whether when he went into the store on

February 27 and on March 6 if there were any

other customers present.

COMMISSIONER MICHAEL GARDNER: You heard that question, Mr. O'Neil?

CHRIS O'NEIL: I did.

COMMISSIONER MICHAEL GARDNER: Go ahead and answer.

CHRIS O'NEIL: The first time I don't remember. The second time I just remember someone walking in as I was at the counter leaving. I don't know -- it wasn't a delivery person, they didn't have any paperwork or no hand cart, but I obviously think that it was a

customer, but I didn't see them purchase anything or stay long enough to see.

COMMISSIONER MICHAEL GARDNER: Do you remember if they were still in the store when you left?

CHRIS O'NEIL: They were. They were coming in as I was finishing up my purchase of liquor.

COMMISSIONER MICHAEL GARDNER: Thank you.

Anything else, Mr. Hagemeyer?

DAVID HAGEMEYER: Just a question for Ms. Boyer. I would like to -- when she was there on March 12, were there any other customers in the store at that time?

ANDREA BOYER: No, I didn't notice another customer in the store at that time.

COMMISSIONER MICHAEL GARDNER: What time again was that, approximately?

ANDREA BOYER: I think it was

approximately in the 10:00 range.

COMMISSIONER MICHAEL GARDNER:

Mr. Hagemeyer, anything else?

DAVID HAGEMEYER: Yes, Mr. Chairman.

Mr. Patel is in the process of transferring the license, or has an application pending to transfer the license for the Prospect Liquors.

The attorney for the buyers is present tonight as well as the buyers. There has been prices agreed upon, a purchase and sale agreement has been executed, financing is nearly complete and there's a lease in the process of being negotiated between the buyer's attorney and the owner or landlord of the building.

Mr. Patel is eager to sell the establishment. And it would be my understanding that the Commission is eager to have a new owner of that establishment.

In order to sell the store, Prospect
Liquors, there has to obviously be a license and
some sort of force in effect; in other words, not
revoked or cancelled.

And we're not here to necessarily dispute the facts of the allegations that Ms. Boyer and Mr. O'Neil have testified to. But we're here to ask that the matter be continued in some way, even with a suspension so that the proposed sale can be completed.

And my understanding is that that matter is on the agenda. And, as I said, the parties to that matter are here.

That's basically our position.

COMMISSIONER MICHAEL GARDNER: Okay

Do you have anything to elaborate on Mr. Patel's statement to Ms. Boyer that he'd served his three months and so it was okay for him to be open again early?

DAVID HAGEMEYER: In my conversations with Mr. Patel, he has indicated that he had problems understanding how long the 11:00 opening time would be in force and effect.

COMMISSIONER MICHAEL GARDNER: How long it had been in force and effect?

DAVID HAGEMEYER: Yeah, whether it was.

He understands that it went in force and effect

at the hearing of January 2012, but I don't think

he understood that that was still in force and

effect or if that was something that had expired.

EXECUTIVE DIRECTOR ELIZABETH LINT: I would be happy to address that.

DAVID HAGEMEYER: That's one of the conversations that I had with Mr. Patel.

COMMISSIONER MICHAEL GARDNER: If

Mr. Patel had any problem in understanding that,

I think those were your words, what steps, if

any, did he take to clarify his understanding?

DAVID HAGEMEYER: He told me he has spoken with at least two lawyers. I don't know who they are. And that they either would not or did not clarify that and...

COMMISSIONER MICHAEL GARDNER: Did he seek clarification from Ms. Lint or anybody at the License Commission as to the length of the Commission's order to restrict his sales to begin at 11:00?

DAVID HAGEMEYER: Not that I have knowledge of, Judge, but -- I mean, Mr. Chairman.

COMMISSIONER MICHAEL GARDNER: That's not gonna happen.

DAVID HAGEMEYER: Not that I have knowledge of, but I know she had conversations with my client.

COMMISSIONER MICHAEL GARDNER: All right.

Ms. Lint, could you just inform the Commission,

summarize for us, the conversations that you have

had, if any, with Mr. Patel about the matter of his opening time?

believe Mr. Patel came into the License

Commission once -- no, I take that back -- two or three times after the -- I think it was the September decision -- asking me to speak to the Commissioners to allow him to reopen.

He also gave me several letters asking me to allow him to reopen. I told him he could not open earlier than 11:00 a.m.

At the time he was represented by

Attorney Van Dam who called me on three occasions saying that he was calling at the request of his client, Mr. Patel, and could I -- is there any way that that decision could be changed. And I advised him it absolutely could not, that it was the decision of the Commissioners that 11:00 a.m. was the opening, that if there were any

revocation, and that I can see no reason why he didn't understand it, because we went over it over it and over it and he was represented by counsel.

COMMISSIONER MICHAEL GARDNER: This matter was heard in September of 2012 and also January of 2013, is that --

FIRE CHIEF GERALD REARDON: October of 2012.

EXECUTIVE DIRECTOR ELIZABETH LINT: October.

COMMISSIONER MICHAEL GARDNER: October of 2012, but we were back -- we were here twice, weren't we?

EXECUTIVE DIRECTOR ELIZABETH LINT: That's correct.

COMMISSIONER MICHAEL GARDNER: And the second time was on the drinking in the back room?

ANDREA BOYER: Yes.

COMMISSIONER MICHAEL GARDNER: Is that --

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

memory of that event is pretty -- was clear that we were very clear with him that 11:00 was the start time, and there was absolutely no discussion about that having any limited duration or time period.

And I think there was pretty extensive testimony as to the community reasons why we wanted a 11:00 a.m. given the disruption of school children and others in the community were feeling from the sales and the clientele who were participating in the sales in the early morning.

Fellow Commissioner Reardon has handed me a copy of the letter of March 12, 2013 to

Mr. Patel that includes the following summary:

"On October 9, 2012, the Chairman made a motion

to revoke the license of Prospect Liquors on January 15th, 2013. During this time, Mr. Patel was allowed to operate his business in accord with the decision of January 10, 2012 and September 18, 2012. He is not to be open until 11:00 a.m. and he is to keep the nips out of sight. He is to continue to serve the suspension days. This delayed revocation was to give Mr. Patel time to seek a suitable buyer for his business considering his hardship. This revocation is based on Mr. Patel's long and troubled disciplinary history with the Commission. His actions were a direct and intentional disregard of the License Commission's rules and the law.

A serious violation occurred less than 24 hours after being reminded by Ms. Boyer what his responsibilities were. The motion was approved two to nothing."

And then there's a summary of some -- the prior disciplinary action.

Before we consider anything else,

Attorney Hagemeyer, do you want to give Mr. Patel
the opportunity to make a statement?

DAVID HAGEMEYER: If I could just make one more point, Mr. Chairman. The petitioner for transfer of ownership was filed with the Alcoholic Beverages Control Commission on January 26 of 2013, which seems to be consistent with the history as outlined by the letter of March 12th, wherein he was allowed to continue to operate so that he could seek a suitable buyer of the business.

FIRE CHIEF GERALD REARDON: I guess, counsel, you're picking out one of the parts you believe that he conformed with, but nothing else.

DAVID HAGEMEYER: Well, I'm not disputing the allegations that Ms. Boyer or Mr. O'Neil --

I'm not disputing the testimony. But, I mean -so consequently, I'm here to try to get to the
next stage of transferring the ownership of the
license, and I guess if I were to comment on the
allegations, I haven't heard any evidence or
anyone complain of people hanging around the
front of the store in the morning, or any of the
prior problems that were outlined in the
January 12th of 2012 letter.

And to my knowledge, I haven't heard any evidence that he didn't at least comply with the order that the nips should be out of sight, so I don't think that allegation is being made that he didn't conform with those requests.

COMMISSIONER MICHAEL GARDNER: If either

Ms. Boyer or Mr. O'Neil want to comment on the

nips issue, I would be happy to hear anything, if

you have it.

CHRIS O'NEIL: No, no comment on the

nips. I was just going to point out that nothing has been filed with the Alcoholic Beverages

Control Commissioner as the attorney stated.

EXECUTIVE DIRECTOR ELIZABETH LINT: It's strictly in our office at this point.

COMMISSIONER MICHAEL GARDNER: In

terms of the byplay, you hear Mr. O'Neil, who

handles this kind of paperwork for the

Commission, indicates that nothing, in fact, has

been filed with the ABCC, and Ms. Lint has

indicated that all the material is with us.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

COMMISSIONER MICHAEL GARDNER: And is January 26 an approximately accurate date?

EXECUTIVE DIRECTOR ELIZABETH LINT: I'll tell you.

DAVID HAGEMEYER: If I misrepresented it --

CHAIRMAN MICHAEL GARDNER: No, that's

fine.

DAVID HAGEMEYER: -- but I'm not really familiar with the transactional --

COMMISSIONER MICHAEL GARDNER: I regard it as a harmless error.

DAVID HAGEMEYER: Okay, thank you. Because I was just basing it on what I have in front of me.

COMMISSIONER MICHAEL GARDNER: But I would like to talk to Mr. Patel and hear from him because after all, you are the license holder, you're the person who the Commission in the past deemed was an appropriate and responsible party to hold the license.

Over a number the years there's been many concerns expressed by community members, by representatives of the Police Department and others, about the manner in which your store was managed. And the Commission has had you before

it now several times on that issue, and took the step of -- in addition to suspending your license, to actually be open for some time, took the step of restricting your sales to begin at 11:00 a.m., and I'd like to hear from you when you've been open, what time you've been open during 2013?

DHIRU PATEL: Actually, I was opening

11:00 all the time, but I leave the door open

just for the delivery guys, but I forgot to lock

it. At the same time, I didn't sell to any bad

people, like homeless people or anybody, you

know.

COMMISSIONER MICHAEL GARDNER: You didn't serve any people, like homeless people or anything, is what I understood you to say? Is that right?

DHIRU PATEL: That was the main concern, that nobody in the morning, no drunk people or

homeless people. That was the main concern of opening at 7:00 is what I understood, that nobody should serve homeless people before. And I had problem with -- like nobody was coming and homeless people was not there.

I took some pictures and give them to Elizabeth that there's no line of homeless people. Nobody comes there. And everything was clear.

And I requested my attorney how long I had to keep it this way because I'm losing my business doing a half-hour late opening and I don't have any homeless people problem. I was requesting my attorney, I was requesting with Elizabeth, too, and I was trying to figure it out that how long I had to hold it like this. And then I say this more than three months I'm doing that.

COMMISSIONER MICHAEL GARDNER: I'm sorry?

DHIRU PATEL: It's more than three months
I was opening at 11:00, and I wasn't sure how
long I had to keep it.

So just a few days ago, like that person came, and other than that, I didn't serve nobody.

Honest to God, I didn't serve nobody before 11:00 in December, January.

On holidays I opened at 11:00. And I request to Elizabeth to know that, request with Attorney Van Dam that are holidays cleared, can I open early, like 9:00, like everybody else open, but he give me -- made a call and he said, "No, Mr. Patel, Elizabeth says no."

So I was losing my business opening at 11:00 and I decided to sell it out. That's when I told Andrea when she came. I said, I'm selling my business out. I would like to -- I would like to do move as soon as possible from here."

So I was trying to sell my business and

my attorney right here represent that, he would like -- I would like to move out from here and here is the buyer and I would like to transfer the license, if possible. I'm requesting you to make the sale and let me get out from here.

COMMISSIONER MICHAEL GARDNER: So did you understand the Commission order to be that you -- before 11:00, you couldn't sell to the homeless or to drunks, but you could sell to other people?

that, because I couldn't exactly figure it out
that why I had to open before 11:00. But I
understood from the first meeting there was too
many homeless people lined up, but that's why I
had to open late, but that problem was solved
because I raised the price way higher, so nobody
comes there, and I took pictures at 8:30 everyday
like 15, 20 days, I took picture everyday, and
there was nobody there, 9:00 or 8:30. I give

that picture to Elizabeth. And I don't have that problem.

So, as far as I understand, the problem we had it a long time ago, but that's been solved.

COMMISSIONER MICHAEL GARDNER: The problem we had a long time ago has been solved is what you just said?

DHIRU PATEL: Yeah. And nobody come there.

COMMISSIONER MICHAEL GARDNER: When you talked to your attorney, Mr. Van Dam, he made it clear that the 11:00 rule was still in effect, didn't he?

DHIRU PATEL: Yes.

COMMISSIONER MICHAEL GARDNER: And when you talked to Ms. Lint, she made it clear that the 11:00 rule was still in effect, didn't she?

DHIRU PATEL: Yes. But I wasn't sure how

long that was the concern. I was confused that three months is over now.

COMMISSIONER MICHAEL GARDNER: Who told you it was only in effect for three months?

DHIRU PATEL: I was telling Van Dam that it's three months that I open up, how long I had to keep it, but he didn't exactly told me.

COMMISSIONER MICHAEL GARDNER: Van Dam didn't tell you that you had to keep it open -- you couldn't open before 11:00 going forward?

He didn't tell that you the 11:00 rule was still in effect?

DHIRU PATEL: He didn't tell me how many -- how long I had to keep it like this.

COMMISSIONER MICHAEL GARDNER: Uh-huh. Okay.

DHIRU PATEL: And then I was at the same time in the process of selling it out. I would like to sell this business.

COMMISSIONER MICHAEL GARDNER: As far as

I can understand it, the only defense to this

violation is "Well, I'm selling anyway, so let me
sell."

If a sale were not pending, I -- we have -- we'd still have the same violations to deal with it, and we'd still have the fitness of the licensee to concern ourselves with.

And at this point, I don't necessarily see at all that the fact that you're attempting to sell the business and have made apparently some substantial progress in that regard changes your status as a license holder who has consistently and flagrantly violated the rule of the Commission with respect to opening time. And I guess I would say recklessly given the fact that you were trying to sell out that, that you, as best I can tell, simply decided you would interpret the Commission's decision your own way,

which is don't sell to drunks or people who look
like they're homeless. But if a respectable,
apparently middle class person like Mr. O'Neil
walks in, you're free to sell to them.

And that -- I don't believe there was any confusion on your part with respect to what the Commission order was.

And I'm very disappointed and disturbed that you so flagrantly violated it.

Other comments or questions from any other Commissioners?

POLICE SUPERINTENDENT CHRISTOPHER BURKE:
Well, I would certainly agree with you,
Mr. Chairman. In both instances, I would the
credit the testimony of Ms. Boyer and Mr. O'Neil.

I think clearly there's been a consistent pattern of violations since 2006, and when I look at the enormous amount of resources that the city and the License Commission has put towards

Prospect Liquors, I'm concerned.

I'm also concerned about the potential hazards created by these violations and the impact on the neighborhood, and the fact that Mr. Patel could not abide by the 11:00 a.m. restriction really gives me no reason to believe moving forward that anything would change.

From the letter dated March 12, 2013 that was delivered in hand, clearly it lists the past history of disciplinary actions, and it's notation of the license revocation in 2012 for violations of Chapter 138, Section 15, which was stayed until January 15th of this year.

I think in January 15 of 2013 has come and gone. My comment.

COMMISSIONER MICHAEL GARDNER: Thank you.

FIRE CHIEF GERALD REARDON: I'd say that this has been an ongoing saga with Mr. Patel. I personally don't think Mr. Patel has ever been

forthcoming with us in terms of the issues.

He seems to take no responsibility whatsoever every time it happens. It's always someone else's fault, it's a misinterpretation.

And when you were here in October, you begged us for another chance because your license was going to be revoked.

And we gave you that chance. And it was eloquently clear what the rules and regulations were regarding this time that you had to get rid of the license and sell it if you had a chance.

You told us of your hardship at home and stuff. We had empathy for you. We gave you yet another chance that you probably didn't deserve back then, but it was the right thing to do, I believe, to give you a chance.

And you flagrantly just threw it back in our faces.

You have no regard to what this Board

tells you. None. And you repeated it over and over and over, and I don't see any reason why you should retain this license.

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

EXECUTIVE DIRECTOR ELIZABETH LINT:

Seeing none --

Mr. Chair, I had a conversation with Councilor Toomey today who just wanted to express to the Commissioners his grave concerns with this operator at that location and feels that he's

definitely harmful to the community.

COMMISSIONER MICHAEL GARDNER: Thank you.

Well, I think both Commissioner Reardon and Commissioner Burke have summed up some of the varies serious concerns we have with how you have handled the privilege of holding this license,

Mr. Patel. And I, for one, am persuaded that it

is time for the Commission to act with respect to your license.

So I will make the motion that the license for a package store, for Prospect Liquors be revoked immediately.

POLICE SUPERINTENDENT CHRISTOPHER BURKE: Second that motion.

COMMISSIONER MICHAEL GARDNER: Is there anything about that that's unclear or you think could be improved, Ms. Lint?

EXECUTIVE DIRECTOR ELIZABETH LINT: I think that's pretty clear.

COMMISSIONER MICHAEL GARDNER: Before we vote anything, is there anything you would like to say, Mr. Hagemeyer?

DAVID HAGEMEYER: The alternative that I would suggest is my client would implore you to consider suspending the license.

In order to transfer the ownership, he

has to have a license to do it with, and we're very, very close to consummating that sale.

And while I certainly acknowledge the Commissioners, what you gentlemen have said, it's -- there's a matter financial consideration, too. And if he's permitted to get out of this, then he would leave and not be financially destroyed by the process.

And that's what he's -- that's really -- I think as you, yourself, said, that's certainly what he has taken substantial steps towards accomplishing.

So I would just ask one more time, rather than revoke it, could it be suspended? I understand some matters were continued until April 19th, and I don't know if that matters, if that would be an appropriate request on my part, but if the matter could be -- if the license could be suspended until the 19th, so that to

just let the sale go forward. By that period of time then at least Mr. Patel can leave and not be financially ruined by -- I mean, there's certainly an investment on his part that did take place, and I understand you, gentlemen, what you're saying, but by the same token, I don't hear any allegations that at least the problem of homeless people and people hanging around in front of the stores at least -- I mean, that problem doesn't exist anymore.

And as I said, Brother counsel is here with the buyers who are ready to -- just need a couple more things in place to go forward, and I believe they're on the agenda as well. That's what we request.

COMMISSIONER MICHAEL GARDNER: Thank you.

My concern about that is we can -- if we have

this set of facts and there's no buyer in the

wings, we would take a particular action. I

think, based on the history and the fact that there may be a buyer in the wings, in my view, doesn't change the responsibility of the Commission to take the action it deems appropriate with respect to a current license holder and the status of that license.

EXECUTIVE DIRECTOR ELIZABETH LINT: If I could add, not to add fuel to the fire, but there had been an application to transfer the license prior to the one that's on the agenda this evening, and an investigation showed that

Mr. Patel was trying to transfer the license to his brother, so that he would still be able to work in the store.

It was made clear that that was not going to be acceptable. We don't know if the individuals that have a purchase and sale now are related as well. There are concerns with one of them not being a Massachusetts resident. So I

have no confidence that this actually is going to happen based on the application that I have seen.

COMMISSIONER MICHAEL GARDNER: Well, thanks for that clarification.

DAVID HAGEMEYER: Can I say something?

COMMISSIONER MICHAEL GARDNER: Yeah, go ahead.

EXECUTIVE DIRECTOR ELIZABETH LINT: I think Ms. Boyer could add information to that.

COMMISSIONER MICHAEL GARDNER: Go ahead, Mr. Hagemeyer.

DAVID HAGEMEYER: What I was going to say was reference to what Ms. Lint just said, the people are here and their attorney is here to address the floor. So I think it would be appropriate -- I mean, I understand what Ms. Lint is saying regarding some allegations regarding a prior attempt, but, I mean, this attempt is on the table at this period of time. And if there's

problems with -- my understanding is that the person who -- the residents issue was something that was being addressed and certainly counsel here would deal with that allegation.

COMMISSIONER MICHAEL GARDNER: I guess, I have a hard time understanding why it is necessarily relevant to our decision with respect to whether this license holder is entitled to hold this license at this time based on this behavior.

And so, I think -- at least I have to look at it in that regard because if there were to be a sale or a transfer, he could only sell or transfer something he was entitled to hold and have and transfer, and I do have concerns that his behavior has been such to demonstrate that he's, in fact, not a fit person to hold the license, and so I'm -- I will call for the vote on my motion.

thing, counsel. Back again, to reiterate in October of 2012, the vote was taken to revoke his license. At that particular time, Mr. Patel explained hardships and everything involved, we gave him the benefit of the time involved to get there. He was completely and clearly aware of what the limitations were that his license was on the line.

And the reason we're here tonight is because of the actions of Mr. Patel, that he recklessly took after that.

So it's -- I just want to make sure for the record that, you know, this is where we are at. His last chance was basically given to him last October, and, you know, here we are down the road, six months plus or so, and he can't maintain what he knew would've been the loss of his license. I want to make sure that everyone

understands that.

ATTY VINCENT PANICO: Mr. Chairman, can I be heard?

COMMISSIONER MICHAEL GARDNER: All right.

Well, I have given members of the public the opportunity to be heard before. Nobody stood up.

If you now want to address the Commission as a member of the public, I'm happy to have you do so.

ATTY VINCENT PANICO: What happened subsequently --

COMMISSIONER MICHAEL GARDNER: Just please come forward. I think we have seen you before. We would like you to please state and spell your last name for the record and identify yourself.

ATTY VINCENT PANICO: My name is Vincent Panico, P-A-N-I-C-O, I'm an attorney and I represent that respective buyer, and I understand

your comment, your most recent comment, you don't see the relevancy of it, but I would like to address the Board as to the nature of this buyer, whether he is a resident of Massachusetts, whether has any connection with Mr. Patel. He does not. He is a resident of Massachusetts, as the Board will later hear us, we would like to be heard. I understand it's not relevant what you're deciding on.

COMMISSIONER MICHAEL GARDNER: Okay.

Just for clarification, I would like the record to show that my motion to revoke the license is based upon Mr. Patel's actions during 2013 when he violated the 11:00 opening order, but also related to the previous violations that were heard last October as part and parcel of a pattern of ongoing violations and disregard for Commission orders, which were put in place to deal with serious community problems.

The motion having been made and seconded, all those in favor, signify by saying "aye."

FIRE CHIEF GERALD REARDON: Aye.

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

Any opposed? None opposed.

The motion carries three to nothing to revoke the license of Prospect Liquors.

Mr. Patel, I am sorry for this, but --

DHIRU PATEL: Let me sell the store out.

Please. Because I would like to get out from

here. Please let me sell the store out. My

right --

COMMISSIONER MICHAEL GARDNER: I think the Commission has taken its action subject obviously to your rights of appeal.

DHIRU PATEL: Please, I would like to sell the store and we have a buyer and I'm just

waiting for that as soon as possible.

COMMISSIONER MICHAEL GARDNER: I do wish you could have just followed our instructions for the time period you continued to hold the license.

Yes, Mr. Hagemeyer? Go ahead.

DAVID HAGEMEYER: Would the Commission be rendering a written decision?

EXECUTIVE DIRECTOR ELIZABETH LINT: I will.

COMMISSIONER MICHAEL GARDNER: Yes. Good luck. Thank you very much. You'll hold onto the evidence.

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes,
I will.

RATIFICATION: 2046 RESTAURANT CORP. D/B/A SPIRIT

EXECUTIVE DIRECTOR ELIZABETH LINT:

Ratification: 2046 Restaurant Corporation doing

business as Spirit, Christopher Fitzsimons,
manager, holder of an all alcoholic beverages as
a restaurant license at 2046 Massachusetts Avenue
has applied for a change of d/b/a from Spirit to
The Dubliner Pub.

We didn't ask Mr. Fitzsimmons to come in.

It's the same owners, same everything. They just changed the menu, brightened up the place a little bit and wanted to kind've rebrand.

COMMISSIONER MICHAEL GARDNER: Are there any members of the public who would like to be heard on the matter of 2046 Restaurant

Corporation doing business as Spirit changing their name to The Dubliner Pub?

Seeing none, I'll make the motion to approve the change of name from Spirit to The Dubliner Pub.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Motion

having been made and seconded, any comment?

Seeing none, all those in favor, signify by saying "aye."

POLICE SUPERINTENDENT CHRISTOPHER BURKE: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed, so the motion is approved.

APPLICATION: CAMBRIDGE LODGING, LLC D/B/A HOTEL MARLOWE

EXECUTIVE DIRECTOR ELIZABETH LINT:

Cambridge Lodging, LLC doing business as Hotel

Marlowe, Richard Colangelo, manager, holder of an

all alcoholic beverages as a hotel license at 25

Edwin Land Boulevard has applied for a change of

members of the LLC.

COMMISSIONER MICHAEL GARDNER: Good evening. If could you be so kind as to say and

your spell your name for the record and identify yourself.

ANDREW UPTON: Good evening, Mr. Chairman and Members of the Board, Andrew Upton,

U-P-T-O-N, representing the Hotel Marlowe and

Kimpton, K-I-M-P-T-O-N, Hotel Group.

COMMISSIONER MICHAEL GARDNER: Just tell us what this is about, sir.

ANDREW UPTON: This is essentially a change of officers, because the licensee entity is a single purpose LLC, it has no officers, it only has a parent company, which is also a single purpose LLC, which has no officers. We had to go up two levels to find actual people that are in the corporation.

COMMISSIONER MICHAEL GARDNER: What is the single purpose?

ANDREW UPTON: To hold a liquor license. This one was formed 15 or 20 years ago. That's

how they did it then. And in order to achieve transparency to the Board and the ABCC, we want to disclose when there's an officer change at some level.

So essentially the grandparent level on the licensee, Mr. DePatie remains and will be joined by Mrs. Miles and Mr. Rowe, and Ms. Leondakis and Mr. Margalit and Mr. Latour will be leaving. It's a change of officers in the corporation.

COMMISSIONER MICHAEL GARDNER: These are officers of the corporation that holds the -- that owns the company which owns the company which holds the license?

ANDREW UPTON: Yes, exactly right. And these people are San Francisco. It's a hotel company that owns 37 hotels across the United States. There's no impact on the management, the floor plan, the licensed premises, the menu, any

aspect of the hotel.

COMMISSIONER MICHAEL GARDNER: The

manager of record stays the same?

ANDREW UPTON: Yes.

COMMISSIONER MICHAEL GARDNER: Anything

else? Any questions?

POLICE SUPERINTENDENT CHRISTOPHER BURKE:
No questions.

FIRE CHIEF GERALD REARDON: No.

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

Is there anything else we need to know, Mr. Upton?

ANDREW UPTON: I don't think so. The ABCC requires it and we tried to put all the papers in order.

COMMISSIONER MICHAEL GARDNER: Did all these changes actually happen years ago and

you're just getting around to it or is this an imminent change --

ANDREW UPTON: No, they were relatively recently. They also own a hotel in Boston called 90. We had that one probably six weeks ago.

COMMISSIONER MICHAEL GARDNER: I make a motion to approve the change of members of the LLC as described in the application.

FIRE CHIEF GERALD REARDON: Second.

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

POLICE SUPERINTENDENT CHRISTOPHER BURKE: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

So good luck to the new members.

ANDREW UPTON: Thank you very much.

APPLICATION: L'IMPASTO, LLC

L'Impasto, LLC, Riccardo Passini, manager, holder of a wine and malt beverages as a restaurant license at 2263 Massachusetts Avenue has applied for an increase of capacity from 20 to 24 seats.

EXECUTIVE DIRECTOR ELIZABETH LINT:

COMMISSIONER MICHAEL GARDNER: Good evening.

Again, if you would be so kind as to state and spell your name for the record?

Panico, P-A-N-I-C-O. I'm the attorney for L'Impasto, and that's the sole reason he has filed this application, to increase his seating capacity by four seats.

And I don't know whether you remember when we had the original hearing on this license, the room was packed with 75 to 100 people all in support of his license.

He has a good -- he would've been here tonight. He is the cook, so if he had to come, they would have had to close it down. The other three people have lost a night's pay.

COMMISSIONER MICHAEL GARDNER: And just briefly tell us a little bit about the nature of the establishment and also how it is that he's, in fact, able to add four seats.

ATTY VINCENT PANICO: There's really -- the room has the capacity of 24 seats.

CHAIRMAN MICHAEL GARDNER: And was it just a mistake that he didn't apply for 24 earlier or what has changed?

ATTY VINCENT PANICO: The only thing that's changed is his business has been so good that he could use those extra seats.

COMMISSIONER MICHAEL GARDNER: He can fit them in?

ATTY VINCENT PANICO: He can fit them in,

yes.

COMMISSIONER MICHAEL GARDNER: Is this a zoning issue?

COMMISSIONER MICHAEL GARDNER: From everybody?

executive director elizabeth lint: The only issue that we have is in some areas the application says L'Impasto, LLC and in other places it says L'Impasto, Inc, so we need --

ATTY VINCENT PANICO: LLC.

EXECUTIVE DIRECTOR ELIZABETH LINT: Well, we need you to amend the paperwork. We can't do that.

ATTY VINCENT PANICO: I'll do that.

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

Seeing none.

Is there a floor plan in place? Do we have a floor plan that shows the change?

ATTY VINCENT PANICO: I believe there's a floor plan with 24 seats somewhere.

COMMISSIONER MICHAEL GARDNER: Is this a no value license?

ATTY VINCENT PANICO: This is a no value license.

COMMISSIONER MICHAEL GARDNER: We would like to have a floor plan on file.

ATTY VINCENT PANICO: I'll bring in one.

COMMISSIONER MICHAEL GARDNER: I'll make a motion to approve the change from 20 to 24 seats.

FIRE CHIEF GERALD REARDON: Second.

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

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

So good luck to him in filling the other four seats. And it's all, of course, contingent on your getting the LLC incorporated language straightened out and also filing a floor plan with us.

Thank you so much.

APPLICATION: VIJETA CORPORATION D/B/A

PROSPECT LIQUORS

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Vijeta Corporation doing business as Prospect Liquors, Dhiru Patel, manager, holder of an all alcoholic beverages as a package store license at 1226 Cambridge Street has applied to transfer said license to Shanti

Liquors, Incorporated doing business as Prospect Liquors, Mahesh Rai, manager at said address.

COMMISSIONER MICHAEL GARDNER: Good evening, Mr. Panico. I think we can take note of who you are by now.

ATTY VINCENT PANICO: Thank you. My client, Mahesh Rai, R-A-I. Could you tell us your address, please?

MAHESH RAI: My name is Mahesh Rai,

R-A-I. I live in 68 Summer Street, Malden 02148.

COMMISSIONER MICHAEL GARDNER: Thank you.

So, Mr. Panico, in light of the action we took earlier this evening, which I believe you happened to be here for when we revoked the license of the business doing business as Prospect Liquors, we're -- of course, that's subject to his appeal rights, but where do you see this matter now?

ATTY VINCENT PANICO: That's an

interesting question. Until they get a final adjudication on your suspension/revocation, I think the license is still alive.

And if we hope for the best possible world here, there would be a transfer in the meantime, and the city could remove its revocation. That's the best we could hope for.

can't speak for my fellow Commissioners, but I think we can -- Mr. Hagemeyer certainly laid out the option of our delaying action on this, this evening, and you heard from us our thinking that you can't sell what you shouldn't own, and by Mr. Patel's behavior, unfortunately, we reached the conclusion that he shouldn't hold the license, so it shouldn't be his to sell.

ATTY VINCENT PANICO: You're saying he's losing the license because of his behavior?

EXECUTIVE DIRECTOR ELIZABETH LINT: You

don't lose it.

COMMISSIONER MICHAEL GARDNER: With respect to whether or not a license is lost, I'll leave that for another day.

But I guess the issue for your clients is are they dealing with a counterparty who's got something of value for sale?

ATTY VINCENT PANICO: Well, initially, I would -- that's the question I would ask the Commission. Are we talking about something that no longer exists?

COMMISSIONER MICHAEL GARDNER: Well, I don't want to be too hypothetical here, but we have taken our action. You know, assuming there's an appeal to the ABCC, we'll defend the appeal.

We have been very clear. We don't think

Mr. Patel should be a license holder for the City

of Cambridge, and I think that we've taken the

point of view that the fact that there may have been a pending sale is essentially irrelevant to that analysis.

ATTY VINCENT PANICO: Mr. Commissioner -Mr. Chairman, in the process of the appeal for
some reason the ABCC overturns the Board, and
there's a buyer waiting to pick it up
immediately, would be that a practical course of
action?

COMMISSIONER MICHAEL GARDNER: I don't think I want to speculate about matters beyond my kin or have the Commission engage in any speculative hypothetical consideration here.

I think, at least from my point of view, there's now no action before us. The application for Shanti Liquors to purchase or have the license transferred is by the action of the Commission earlier this evening moot, and so, there really is, I don't think, anything more for

us to do on it.

Should the Commission's decision be overturned and the license reinstated to

Mr. Patel with or without conditions, then that would be a set of facts we'd deal with.

I think the Commission is very clear on record as wanting Mr. Patel to liquidate.

FIRE CHIEF GERALD REARDON: Counsel --

ATTY VINCENT PANICO: You're fed up with Mr. Patel. He was given every practical break possible and he just ignored it, but can I ask --

FIRE CHIEF GERALD REARDON: Counsel, have you considered applying for a new license?

ATTY VINCENT PANICO: No, but I think it's a good idea.

FIRE CHIEF GERALD REARDON: I'm not sure where that's going to lead to, but that's an option open to you.

ATTY VINCENT PANICO: That's a

possibility.

COMMISSIONER MICHAEL GARDNER: I won't speculate or advise.

will be a long road because I'm sure there will an appeal to the ABCC. If they uphold your decision, then I'm sure there will be an appeal to Superior Court, so we're talking easily a year, easily.

COMMISSIONER MICHAEL GARDNER: In the meantime, does he get to stay open?

EXECUTIVE DIRECTOR ELIZABETH LINT: No.

COMMISSIONER MICHAEL GARDNER: Unless there's something else, Mr. Panico, I'll move on to the next matter.

ATTY VINCENT PANICO: No. I thank you for your time.

COMMISSIONER MICHAEL GARDNER: Thank you very much, sir.

To the applicant, we appreciate your interest in the City of Cambridge.

APPLICATION: PANERA, LLC D/B/A Panera Bread

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Panera, LLC doing business as

Panera Bread, Michael Spirdione, Manager, has

applied for a common victualer license to be

exercised at 174 Alewife Brook Parkway. Said

license, if granted, would allow food and

non-alcoholic beverages to be sold, served and

consumed on said premises with a seating capacity

of 90. The hours of operation will be 6:30 a.m.

to 9:00 p.m. seven days per week.

COMMISSIONER MICHAEL GARDNER: Good evening, sir.

MICHAEL SPIRDIONE: Good evening.

CHAIRMAN MICHAEL GARDNER: Would you be so kind as to state and spell your last name for the record and describe your affiliation with

this application?

MICHAEL SPIRDIONE: I'm Michael Spirdione, S-P-I-R-D-I-O-N-E. I'm affiliated with Panera Bread, LLC as the area manager.

COMMISSIONER MICHAEL GARDNER: And tell us about the Panera's plans for 174 Alewife Brook Parkway.

MICHAEL SPIRDIONE: Panera Bread's plans are to open a third restaurant in the City of Cambridge over at Fresh Pond Mall, and we will serve our usual foods as bakery, coffee, soup, salad, sandwiches and standard nonalcoholic beverages.

FIRE CHIEF GERALD REARDON: Do you know who was the previous occupant of that?

MICHAEL SPIRDIONE: I do not. I just recently became affiliated with this market; sorry.

COMMISSIONER MICHAEL GARDNER: Should we

expect that whatever is in Fresh Pond Mall would look very similar to the kind of operation that other Panera Breads have in the area?

MICHAEL SPIRDIONE: Absolutely.

CHAIRMAN MICHAEL GARDNER: And do you know how deliveries will be handled and how refuse or trash handled?

MICHAEL SPIRDIONE: Trash, it's in our lease agreement that we do have two of our own receptacles in the back of the facility there.

Deliveries; in regards to deliveries to ourselves, it's designed to be received through the back door of that building. We actually have two back doors in that facility.

COMMISSIONER MICHAEL GARDNER: Are you familiar with the physical layout yourself?

MICHAEL SPIRDIONE: I am somewhat.

COMMISSIONER MICHAEL GARDNER: Is there anything about the layout which presents any

particular challenges or issues that might be of concern with respect to litter and noise, inconvenience to the general public or other tenants in the area?

MICHAEL SPIRDIONE: Not that I'm aware of. We're in the center of the strip mall, so we're pretty much surrounded by retail co-tenancy and not any public in the immediate area.

FIRE CHIEF GERALD REARDON: So this storefront area is the one that goes from the front to the rear?

 $\label{eq:michael spirDione:} \mbox{ It does. We extend}$ to the extent of that.

CHAIRMAN MICHAEL GARDNER: Any questions?

EXECUTIVE DIRECTOR ELIZABETH LINT: We

have some homework -- just housekeeping issues.

MICHAEL SPIRDIONE: Abutters.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Abutters and it's 174 Alewife, but the

application says 200, so that needs to be fixed.

MICHAEL SPIRDIONE: Okay. I apologize for the confusion on the address application.

174 is correct. I thought someone from our office was working on that. I'll follow up on that.

EXECUTIVE DIRECTOR ELIZABETH LINT: You have the abutters.

MICHAEL SPIRDIONE: I do have the abutters' information. There was one returned as undeliverable.

COMMISSIONER MICHAEL GARDNER: Give us, if you would be so kind, something of your sense of the Cambridge market and Panera, whether you think this is going to be the last one, or what is attractive about Cambridge, what brings you here and what, if any, challenges are there for you in Cambridge in general and in this location in particular.

MICHAEL SPIRDIONE: The Town of Cambridge has been --

COMMISSIONER MICHAEL GARDNER: We're a city.

MICHAEL SPIRDIONE: I apologize. The

City of Cambridge has been very good to Panera

Bread. We have a Harvard Square location just up

the street here on Mass Ave. We have a location

over in Porter Square, both of those have done

quite well, and Porter Square has been in

existence for about a year and a half and Harvard

Square for just about a year next month.

The location over in Fresh Pond is

definitely a different marketplace compared to

those previous two locations, but the traffic

counts, the density of population over there, the

traffic with the Alewife T station and then the

day-to-day use traffic of the Fresh Pond Mall is

definitely going to provide, what we think to be,

an adequate amount of traffic and volume for that location over there.

In regards to the future, I'm not sure that we have any future plans at this time for the City of Cambridge itself.

COMMISSIONER MICHAEL GARDNER: Or certainly ones you would be willing to share.

MICHAEL SPIRDIONE: In all honesty, none at this time that we're actively pursuing.

COMMISSIONER MICHAEL GARDNER: About how many stores -- I'm not sure I know much about Panera generally. Are you kind've New England based or are you more national than that? About how many stores have you got around the area?

MICHAEL SPIRDIONE: Panera Bread nationally is involved in 1600 locations between the continental US and Canada.

Home base is split up a little bit between Massachusetts. They have a home office

in Needham and St. Louis, Missouri.

And Panera Bread in Massachusetts has approximately some 60 locations. There's a couple franchise groups in the market as well, Panera, LLC.

COMMISSIONER MICHAEL GARDNER: And to be clear, this will be owned by?

MICHAEL SPIRDIONE: Panera, LLC.

COMMISSIONER MICHAEL GARDNER: The other two in Cambridge are also not franchises?

MICHAEL SPIRDIONE: Correct. They're all owned by LLC market.

COMMISSIONER MICHAEL GARDNER: Do you have a practice of developing a corporate-owned store and then turning it over, or selling it off to franchisees, or is that something we should expect?

MICHAEL SPIRDIONE: The relationship has actually been the reversed.

What has been the most recent actions of Panera is they have been buying out franchisees and taking corporate ownership in a lot of markets.

We absolutely don't anticipate at this time any of these being relinquished to franchise groups.

CHAIRMAN MICHAEL GARDNER: Thank you.

Other questions?

FIRE CHIEF GERALD REARDON: This location then would have to be a complete retrofit?

MICHAEL SPIRDIONE: A hundred percent gutted, yeah.

FIRE CHIEF GERALD REARDON: Obviously, you need signoffs.

MICHAEL SPIRDIONE: Yep.

FIRE CHIEF GERALD REARDON: Do you use fryolators in that business?

MICHAEL SPIRDIONE: No fryolators.

of the new kitchen hood ordinances in

Massachusetts? We just did some recently under

those and so forth and so on.

MICHAEL SPIRDIONE: Correct. There's a very reputable contractor who has done work in the City of Cambridge for Panera Bread in hopes that we will have -- not hopes, but to make sure we don't have any.

FIRE CHIEF GERALD REARDON: So how long do you think it is before you get the build-out done and all that?

MICHAEL SPIRDIONE: Our anticipated CO date at this time is the 29th. So just about ten days is our anticipation.

I stopped by there yesterday to access the construction process, and at this point, that is our intent.

COMMISSIONER MICHAEL GARDNER: So

renovation is well along?

MICHAEL SPIRDIONE: Very well along, yes.

COMMISSIONER MICHAEL GARDNER: What if we said no?

MICHAEL SPIRDIONE: I think we would --

FIRE CHIEF GERALD REARDON: Go across the street to Cheddar's and see if they want to open a second location.

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

Seeing none, I'll make the motion to approve the common victualer license for 174

Alewife Brook Parkway for Panera Bread for a seating capacity for 90 and the hours of operation will stay.

FIRE CHIEF GERALD REARDON: We should just throw in subject to all the final inspections and signoffs.

CHAIRMAN MICHAEL GARDNER: Yes.

FIRE CHIEF GERALD REARDON: Second.

COMMISSIONER MICHAEL GARDNER: Motion

having been made and seconded, all those in favor, signify by saying "aye."

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

Welcome to Cambridge a third time. Good luck with the operation.

MICHAEL SPIRDIONE: Thank you.

APPLICATION: IFIXYOURI CORP.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Ifixyouri Corp, Emery Walker,
manager, has applied for a secondhand goods
dealer license at 100 Cambridgeside Place. Said
license, if granted, would allow dealing of rags,

junk, old metals and secondhand articles.

CHAIRMAN MICHAEL GARDNER: Good evening.

If you would be so kind as to state and spell

your last name for the record, your affiliation

and tell us about the business.

EMERY WALKER: My name is Emery Walker, that's W-A-L-K-E-R. I'm the chief of operations as well as the regional manager for Ifixyouri Corporation.

COMMISSIONER MICHAEL GARDNER: Tell us a little bit about Ifixyouri Corporation.

years ago in Florida, in the West Palm Beach area, to be exact. It started with me and three of my other friends who were all laid off in the same period of time, and kind've just fell into the business kind've really. We're all engineers.

We started fixing phones for our friends,

cars and eventually got our first storefront

about three years ago in Lake Park, Florida. As

far as there, we now have five stores down there

as well as two stores up here and a mailing

center currently doing more build-out on stores

that should be opening within the next

month-and-a-half, two months.

And then plans to open four to five more before the end of the year.

COMMISSIONER MICHAEL GARDNER: What's the nature of the business?

EMERY WALKER: We fix Smart phones, computers, tablets and also business solutions, so schools, businesses, law firms, stuff like that, they all come to us and tell us "Hey, I broke the screen on my iPhone" or "We have problems with networking" and stuff like that.

COMMISSIONER MICHAEL GARDNER: I'm not

sure why this is an application for a secondhand good dealers license.

EMERY WALKER: It's solely out of the Cambridgeside Galleria. We're just trying to figure out ways now -- being chief of operations, part of my job is to try to figure out ways to generate different forms of revenue, and also to figure out ways that we can try to support the future.

One way throughout the Cambridgeside

Galleria is the buying and selling of used

devices. The only thing that they have there is

a kiosk that is in the food court that you can

actually plug in and sell it to someone, yet,

there's no one actually to sell you a phone.

The only people that do sell phones are the major carriers. I'm not trying to sell new telephones with contracts, we're trying to sell used phones that are out of contract.

COMMISSIONER MICHAEL GARDNER: So you're going to fix phones?

EMERY WALKER: Correct.

CHAIRMAN MICHAEL GARDNER: And you're going to sell used phones that you fixed or that you get in trade?

EMERY WALKER: Yes.

COMMISSIONER MICHAEL GARDNER: Will you be selling things besides phones?

maybe a couple laptops. We haven't really decided to go into that region quite yet, it's only because it's far more complicated in terms of warranties and things like that.

COMMISSIONER MICHAEL GARDNER: You don't intend to sell rags?

EMERY WALKER: No.

CHAIRMAN MICHAEL GARDNER: Junk?

EMERY WALKER: No, none of the above.

CHAIRMAN MICHAEL GARDNER: Old metals?

EMERY WALKER: I doubt it. I mean this license is wide open so you might as well try to capitalize on whatever.

FIRE CHIEF GERALD REARDON: There's a market for reclaimed metal.

EMERY WALKER: Well, the thing about it is the Cambridgeside Galleria is not exactly the most accepting of doing things like that especially when you have a lease there as well.

COMMISSIONER MICHAEL GARDNER: Do you have your lease?

EMERY WALKER: Yes. And the amendment and a letter from the mall stating we are okay to do this.

FIRE CHIEF GERALD REARDON: So you will be purchasing used phones, too, as part of this?

EMERY WALKER: Yes. Then we also, in terms of purchasing phones, we check ESNs as well

as IMI numbers, which are specific to whatever carriers they use. That way we can check to see if a phone has been reported as stolen, lost or anything of that sort, because we just don't deal with things like that because it just complicates matters.

In terms of the check-in for people for buying and selling the phones, we check their ID, we take a copy of their ID. They have to fill out forms and then sign it, so therefore, they are responsible for the statements that they said as well.

COMMISSIONER MICHAEL GARDNER: I wonder, Superintendent, does Cambridge have much history of concerns about secondhand stores being fronts for stolen goods?

POLICE SUPERINTENDENT CHRISTOPHER BURKE: We have in the past. Also some concerns related to the theft of phones.

What are your safeguards in place with respect to verifying whether the ID is valid or what type of ID is acceptable?

EMERY WALKER: We do two forms of IDs.

For out-of-state IDs, we ask for a backup, like a credit card or something as well, and we photocopy that and keep that all on record.

In terms of them signing off and stating that is their actual device, like they have to fill out a form, they have to give the signature, and so, they have to sign and print their name and it has all their statistics in terms of their height, weight, hair color and stuff like that, so that way, we can verify that has been worked -- has been done properly.

In terms of verifying with the phone companies, we actually have relationships with AT&T, Verizon, Sprint and T-Mobile to check and make sure that the phones have not been reported

stolen. And if they have been stolen, we either report it to the police themselves or go through the company.

FIRE CHIEF GERALD REARDON: Who do you run the ESN numbers against?

EMERY WALKER: We run it with the company. Like, we actually have numbers that we call, direct lines for them, and we say, "Hey, like this is the IMI number for this specific serial" --

FIRE CHIEF GERALD REARDON: You run the IMI and you know who the carrier is, and then you turn around and do the ESN against the carrier?

EMERY WALKER: We don't do a transaction without having known that, otherwise, it ends up being more of a complication for ourselves.

FIRE CHIEF GERALD REARDON: Have you run into any that you found the -- have been corrupted?

have been stolen and then people just come and try to sell it to us. We then, being in the Cambridgeside Galleria, people will come to us and be like "Hey," you know, and then we'll be like, you know, "We can't do anything with this." Technically we have to call security.

run into any that have been corrupted?

EMERY WALKER: Absolutely.

FIRE CHIEF GERALD REARDON: They're fairly easy to tell.

EMERY WALKER: Because you're just trying to make a phone call. You pop in a SIM card or whatever the carrier may be.

FIRE CHIEF GERALD REARDON: I'm talking about some of the sophisticated ones who actually try to alter ESNs and try to actually do --

EMERY WALKER: In all honesty, you can't

get really get past the serial number, no matter what.

FIRE CHIEF GERALD REARDON: Right.

EMERY WALKER: That's real --

FIRE CHIEF GERALD REARDON: I mean high-end people who actually, you know, actually --

EMERY WALKER: There are --

FIRE CHIEF GERALD REARDON: -- you're not going to find that on the street level.

EMERY WALKER: We haven't really found anything like that at least on that level. And then if they are, they're usually in business for themselves, you know, beyond us.

FIRE CHIEF GERALD REARDON: And you bought all the equipment and tools. Do you do glass replacement as well?

EMERY WALKER: In terms of the Galleria, we do glass replacement on site, specific phones,

in terms of like tablets and computers and stuff like that, that's all done in our Back Bay location on Newbury Street.

FIRE CHIEF GERALD REARDON: How quickly can you replace an iPhone glass screen?

EMERY WALKER: 30 minutes. I have been doing too many of those for too many years.

FIRE CHIEF GERALD REARDON: Just out of curiosity, what is the charge on that?

EMERY WALKER: For a 4, it's \$79.99, for 4S, it's \$89.99. Since you and I have now become personal, we could work out a little bit of a deal.

POLICE SUPERINTENDENT CHRISTOPHER BURKE: You can't do that.

COMMISSIONER MICHAEL GARDNER: Believe it, it's not worth his pension for that.

EMERY WALKER: No, no, not in terms of that. Everybody gets a discount. You know me,

see me on this level, I always try to take care of people.

COMMISSIONER MICHAEL GARDNER: So am I to understand you're already operating doing your repair business at the Galleria, but you're not doing your resale of secondhand goods yet?

EMERY WALKER: That is also correct. We have been there since the beginning of September now.

COMMISSIONER MICHAEL GARDNER: How has Cambridge been a place to do business?

down because it's our first kiosk venture. We're trying to figure out what can be done, the organization, how do you run a pulley. So, you know, it's really just trial and error, experimentation and, you know, what works for us. You'd be like, you know, like I said earlier, this is an area we haven't capitalized upon, and

we would like to do so by being able to buy and sell phones there.

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

Seeing none, I'll make the motion to approve the secondhand goods dealer license for Ifixyouri Corporation for Cambridgeside Galleria as described in the application.

FIRE CHIEF GERALD REARDON: Second.

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

POLICE SUPERINTENDENT CHRISTOPHER BURKE: $\label{eq:aye.} \mbox{Aye.}$

FIRE CHIEF GERALD REARDON: Aye

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

So, welcome to the rags, junk, old metals

and secondhand articles business in the City of Cambridge.

EMERY WALKER: Appreciate your time. Have a good-night.

APPLICATION: BOSTON TACO, LLC D/B/A

THE TACO TRUCK

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Boston Taco, LLC doing business as

The Taco Truck, Gregory Vasey, manager, has

applied for a vendor/peddler license to operate a

mobile food truck on private property at 1 Oxford

Street. Applicant would be permitted to be on

said property from 11:30 a.m. to 9:00 p.m. seven

days per week.

COMMISSIONER MICHAEL GARDNER: Anyone here for Boston Taco?

Seeing none, you will just contact them and find out?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

APPLICATION: TOPSFIELD BAKESHOP, INC. D/B/A THE WHOOPIE WAGON

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Topsfield Bakeshop, Incorporated doing business as The Whoopie Wagon, Rainer
Bandereck, manager, has applied for a vendor/peddler license to operate a mobile food truck on private property at 1 Oxford Street.
Application would be permitted to be on said property from 11:30 a.m. to 9:00 p.m. seven days per week.

COMMISSIONER MICHAEL GARDNER: Good evening.

Please state and spell your last name for the record and identify yourself, your affiliation with this application.

RAINER BANDERECK: Rainer C. Bandereck, B-A-N-D-E-R-E-C-K. So the Whoopie Wagon is a mobile food truck that basically goes to various

college campuses, office parks, bar mitzvahs, weddings, things of that nature to distribute seven varieties of whoopie pies.

The concept was started about six years ago at the Topsfield Fair. We did it as a test run for about three days, thinking that we're only going to be selling about 100 pies a day. That 100 pies turned into 700, and thus, we're making our movement into the mobile truck business as well as selling them out of the bakeshop and at the Topsfield Fair and other venues throughout New England.

COMMISSIONER MICHAEL GARDNER: I'm sorry.

My experience is relatively limited.

Would you describe to me what a whoopie pie is?

RAINER BANDERECK: A whoopie pie basically is basically a New England treat that is basically two round discs of cake that has a

whipped filling on the inside, which we use a highly whipped butter cream, and we have seven varieties that we offer to our guests.

COMMISSIONER MICHAEL GARDNER: Are these individual servings or is the pie big enough to serve more than one?

RAINER BANDERECK: They're individual.

We actually have three sizes: We have the regular size, we have a student size, which is very popular with the colleges and universities and we do the minis, which we sell as a box of 12, or we also have them available for weddings and birthday parties.

COMMISSIONER MICHAEL GARDNER: I interrupted you.

RAINER BANDERECK: That's okay.

FIRE CHIEF GERALD REARDON: So were you previously -- is this going to be over the underpass at Cambridge Street or are they going

to move them out to Oxford Street?

RAINER BANDERECK: I think they're going to be moving them onto that long area on Oxford Street.

FIRE CHIEF GERALD REARDON: Have you been previously there before they started doing the construction work?

RAINER BANDERECK: I have not. We were asked to spend a couple times at the business school over on the other side of the river.

FIRE CHIEF GERALD REARDON: It's another town across the river.

RAINER BANDERECK: Right, exactly, exactly. But we haven't had the opportunity to be in Cambridge yet.

COMMISSIONER MICHAEL GARDNER: What is your understanding of what is going on there at 1 Oxford Street?

I see we have application for somebody

else who didn't show up tonight. Do you expect any number of trucks there or --

RAINER BANDERECK: I --

COMMISSIONER MICHAEL GARDNER: And I take it you're not moving? That's the location you're going -- although it's a mobile truck, you're going to be in one fixed location during --

RAINER BANDERECK: For the duration of the event or time frame and then move on, yes.

My understanding is that, yes, there may be other food trucks there selling goods to the public as well.

CHAIRMAN MICHAEL GARDNER: Ms. Lint, do you want to fill us in?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes, there will be the Taco Truck, Five Guys Burgers and Fries, Grilled Cheese Nation, Lobsta Love, South End Chef and the Whoopie Wagon.

COMMISSIONER MICHAEL GARDNER: Is there

enough space?

FIRE CHIEF GERALD REARDON: Yeah, some of these applicants were previously there prior to this over the underpass area of Cambridge Street.

It's under construction right now. With the new redesign of that area, I think they're going to move them out more to the right. But the Science Center sits right there, so they're just actually moving to the Oxford Street side.

COMMISSIONER MICHAEL GARDNER: So the private property, this is all Harvard-owned?

FIRE CHIEF GERALD REARDON: Yes.

COMMISSIONER MICHAEL GARDNER: You have been dealing with the university?

RAINER BANDERECK: I actually worked for Harvard Dining Services for a number of years and have worked for them previously.

COMMISSIONER MICHAEL GARDNER: And where do you -- my guess is you don't make the

pies in the wagon, but you get them --

RAINER BANDERECK: That's correct. We basically have a main commissary in Topsfield, the main bakeshop, they're produced there and refrigerated. We have cases in which we put them into, which are washed and sanitized appropriately, and then we have these ice blankets that we put inside of the service vehicles to keep them cold during transport.

COMMISSIONER MICHAEL GARDNER: And what kind of packaging are they in, if any, and what are your litter control plans?

RAINER BANDERECK: So basically what happens is we dispense them out of, again, washable and sanitized containers. We use wax paper to take them out of the container and put them in the wax sandwich bag, reminiscent of the 1950s and kinda of keeping nostalgia alive with the product and the appearance of it.

As far as the trash control and things of that nature, we would have receptacles, which we would have by the truck, too, for folks that would need to deposit their litter.

COMMISSIONER MICHAEL GARDNER: We have the authority to like have the conversation with Harvard if they're going to have all these things there to make sure they're doing something about litter?

EXECUTIVE DIRECTOR ELIZABETH LINT: We have done that. It's an ongoing program. So it's not been an issue with Harvard.

FIRE CHIEF GERALD REARDON: It's been quite successful.

COMMISSIONER MICHAEL GARDNER: Anything else to add?

RAINER BANDERECK: No. There's no cooking. There's no equipment onboard that would need fire suppression or things of that nature.

FIRE CHIEF GERALD REARDON: You obviously are using ice blankets, so you're not running a generator or anything like that?

RAINER BANDERECK: That's correct.

FIRE CHIEF GERALD REARDON: You don't use propane for anything?

RAINER BANDERECK: No.

RAINER BANDERECK: Chocolate, chocolate chip, red velvet, fun-fetti, which is a vanilla cake with sprinkles, pumpkin, gingerbread and I think that's it for now.

COMMISSIONER MICHAEL GARDNER: I just realized I did need to ask this question, there's no trans fats, are there?

RAINER BANDERECK: That's correct.

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

heard on this matter?

Seeing none. Do we have any issues here about restaurants in the area within the prescribed distance?

EXECUTIVE DIRECTOR ELIZABETH LINT: No.

But this started out as a temporary pilot, so to speak, on the overpass, and then it was successful so they -- Harvard wanted to continue it basically.

COMMISSIONER MICHAEL GARDNER: When will you open?

RAINER BANDERECK: I think tentatively the first event is March 1st and I want to say April 27th.

EXECUTIVE DIRECTOR ELIZABETH LINT: That sounds right.

COMMISSIONER MICHAEL GARDNER: Do I understand it that although this says 11:30 to 9:00 seven days a week, in fact, your business

model is to be doing events based presence?

RAINER BANDERECK: Primarily. I think we could've opted for the one day at \$10 per day, but I think it would be more beneficial for us as a business to generate the license for the year and potentially have more opportunity to sell.

COMMISSIONER MICHAEL GARDNER: We wouldn't expect you there seven days a week or even five?

RAINER BANDERECK: No.

COMMISSIONER MICHAEL GARDNER: Is that an issue for us in terms of the way we talk to some of the businesses?

EXECUTIVE DIRECTOR ELIZABETH LINT: It's really not because -- it's difficult, but because it was something that Harvard wanted and we looked at ways to make it --

COMMISSIONER MICHAEL GARDNER:

Economical?

EXECUTIVE DIRECTOR ELIZABETH LINT: -- economical and convenient.

FIRE CHIEF GERALD REARDON: Viable.

To keep it viable, that it didn't make sense to have something like this coming in, let's say, there turned out to be lots of events, and they have to spend the money every time for a one-day, it's a lot of paperwork.

FIRE CHIEF GERALD REARDON: Burdensome.

EXECUTIVE DIRECTOR ELIZABETH LINT: It's very burdensome. So it made sense to do it this way. This way, they have all the signoffs and all the inspections.

COMMISSIONER MICHAEL GARDNER: So I'll make a motion to approve the application for the Topsfield Bakeshop doing business as The Whoopie Wagon for vendor/peddler license for a mobile food truck on private property as described in

the application.

POLICE SUPERINTENDENT CHRISTOPHER BURKE: Second.

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

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

So, again, welcome to Cambridge.

RAINER BANDERECK: Thank you very much, appreciate it.

EXECUTIVE DIRECTOR ELIZABETH LINT: We have the radio dispatch applications, and unfortunately, there's seems to be some confusion, only two have shown up. So I'm wondering if because we changed the date for some

of them if there was a little mixup and I will contact all of them.

COMMISSIONER MICHAEL GARDNER: So why
don't we have the -- it looks like about six or
seven applicants here -- six, I guess, one which
we know is continued, Classic Cab, right?

EXECUTIVE DIRECTOR ELIZABETH LINT: One was continued and the two that are here are Checker and Star.

COMMISSIONER MICHAEL GARDNER: So why don't we start with Checker because that's first on the list of those who are here.

APPLICATION: TAXI MANAGEMENT INC. D/B/A
CHECKER CAB

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Taxi Management Incorporated doing business as Checker Cab, Walid Nakhoul, manager, has applied for a Taxicab Dispatch Association

Permit to be exercised at 103 Fulkerson Street.

COMMISSIONER MICHAEL GARDNER: Good evening.

Would you be so kind as to state and spell your name for the record?

WALID NAKHOUL: Walid Nakhoul, W-A-L-I-D, last name N-A-K-H-O-U-L.

COMMISSIONER MICHAEL GARDNER: And tell us about Taxi Management, Inc.

WALID NAKHOUL: As Ms. Lint just stated,

I'm the owner of Checker Cab. You know it's a

taxicab management cab. And I've been owner

there for some three and a half years come

April 1st. We operate 25 cabs in City of

Cambridge. I have multiple dispatchers. We are

open obviously 24 hours. And I'm on the ACT

Program, the Accessible Cambridge Taxi.

So when people call, for example, for cabs, we dispatch all the operators to take the call and dispatch through a radio, on the air.

And then we actually put every call that we take over the phone. Everything will be on record. For example, let's say, you call for a cab, we dispatch a cab to pick you up to take from you A to B and then something wrong or you leave something, at least we know, for example, which cab, you know, had you at the time, you know.

And also everything during -- hard time, for example, snow emergency or things like that, I park the cabs in the Cambridge Galleria Mall to get them off the street.

And like what happened last month when we had the blizzard and the government put a band on driving, I notified the Commission that we shutting down. We closing because nobody can drive and we park the cars in the Galleria, so we keep them clean.

And that's, you know, about it. And we dispatch everything and then -- I'm in the

process also to change the dispatching -- the way of dispatching, I'm gonna do through computer, but I was trying to make a deal with the company.

I put it off to next fall because of contractural issues regarding -- because now, I have a different contract with a different credit card company and then I have a contract with GPS and I want to bundle all into one, and I couldn't because some conflicts are going to be overcome next fall.

So once I'm through with those contracts,

I'll be free and then I'll be having a new

system, complete system with the GPS that comes

with the car and meter.

FIRE CHIEF GERALD REARDON: So you just dispatch from 103 Fulkerson Street?

WALID NAKHOUL: I don't, but, you know --

FIRE CHIEF GERALD REARDON: Correct. So is the radio located at 103 Fulkerson Street?

WALID NAKHOUL: I believe so and the

antenna. It's in Malden.

FIRE CHIEF GERALD REARDON: It's in Malden.

WALID NAKHOUL: It's in Malden.

FIRE CHIEF GERALD REARDON: Is that

Industrial Communications?

WALID NAKHOUL: It's on top of the hospital.

FIRE CHIEF GERALD REARDON: Malden

Hospital?

WALID NAKHOUL: Malden.

FIRE CHIEF GERALD REARDON: We have your

license number on Page 2, this is probably --

WALID NAKHOUL: This is the radio which is actually FCC license.

FIRE CHIEF GERALD REARDON: Well, the FCC license number --

WALID NAKHOUL: This is the radio. I

just put it down radio, okay? When I talk to you on the radio, you can talk to me, you can hear me, but other drivers cannot hear you talking to me. They can't hear me talking to everybody.

FIRE CHIEF GERALD REARDON: Yeah. It's one way, semi-duplex. That's a traditional cab.

WALID NAKHOUL: Yes.

FIRE CHIEF GERALD REARDON: Your FCC license number would not be this number. It would be like WBNQ 454 or something.

WALID NAKHOUL: I copied on the license when I put on the application.

FIRE CHIEF GERALD REARDON: Can you send us a copy of the license?

WALID NAKHOUL: Yeah, of course.

FIRE CHIEF GERALD REARDON: We just need to see what the license is and what the radiofrequency is.

WALID NAKHOUL: Yeah, no problem, I can

do that. I can give to Ms. Lint.

EXECUTIVE DIRECTOR ELIZABETH LINT: Tomorrow we have a meeting.

WALID NAKHOUL: You want to have meeting, okay.

FIRE CHIEF GERALD REARDON: You probably have a very small antenna on the building.

WALID NAKHOUL: I'm trying to remove it,
you know, and find a place in the City of
Cambridge. I already found one, but I'm thinking
it will cost a lot of money to remove it. I'm
thinking I'm gonna change the system anyway, so
I'll keep that radio as backup in case the
computer is down because you always need to talk
to the drivers, you know what I mean, because you
always need two of them, you know what I mean?

FIRE CHIEF GERALD REARDON: The drivers have to two radios and an old one, though?

WALID NAKHOUL: So, I figured, you know

what, since I'm gonna change it, I mean, why
waste the money to keep it the way it is and
then, you know --

FIRE CHIEF GERALD REARDON: Where were you considering moving to?

WALID NAKHOUL: Museum Towers. It's a good location. I'm still -- I'm still -- you never know, I may change my mind and move it there, too, because that's a tall building and it's in Cambridge and it gives better frequency, better coverage, you know.

FIRE CHIEF GERALD REARDON: Do you own the equipment in Malden?

WALID NAKHOUL: Yeah.

FIRE CHIEF GERALD REARDON: So you own the repeater and all?

WALID NAKHOUL: Yes. When something goes wrong, I call usually All Com because we bought the system from All Com. They usually go there.

First of all, they come, the officer, to see if the problem is here or there. So sometimes they send two people, one here and one there.

FIRE CHIEF GERALD REARDON: Before you go to Museum Towers, you're going to have to deal with me because our stuff is down there, too, with the city.

WALID NAKHOUL: Actually they -- I saw a lot of antennas there. I think it's a good location. But, you know, I may. Even if I change the system, I may remove the antenna. At least if something goes wrong with it, I can call All Com or whatever, you know, to try to fix it. At least it's a short distance, you know what I mean?

FIRE CHIEF GERALD REARDON: You need to slow down.

COMMISSIONER MICHAEL GARDNER: Mr. Pilz,

I wonder if you would just give us some more

background on the regulations that you drafted,
and I believe we've adopted with respect to
dispatch operations, what the -- what your
principal goals were in terms of those
regulations, and the ways in which this applicant
and its current operations fits with that, and
then I would like to hear from both you and the
applicants with respect to whether there's
anything in the regulations that present any
issues.

COREY PILZ: Thank you. Corey Pilz,

P-I-L-Z. And at its regularly scheduled hearing

on November 2, 2012, the Board of License

Commissioners voted to amend the Cambridge

taxicab rules and regulations to adopt a permit

system for dispatch associations.

Just as a reminder, dispatch associations are permitted by the City of Cambridge to ensure the general public maintains adequate access to

Cambridge licensed taxicabs. And we have defined a dispatch association, regardless of the means in which they dispatch taxicabs, meaning if they dispatch through a website, a mobile phone application, a text message service or a similar means, they still need to obtain a permit from the License Commission.

Our goals in passing these regulations were really three-fold. One is we wanted to put all of the different types of dispatch associations, not just the radios, on equal playing field and subject them all to one coherent body of regulations.

The second thing we wanted to do is build in more consumer protections and different feedback mechanisms that came out of our taxicab survey.

And the final one was to gain more information from the industry so that you all

could better adequately regulate it.

With that said, we had three specific concerns when we were drafting these applications: One was the standard emergency response plan that each of the businesses were put in place; two, was their policy for accommodating persons with disabilities in terms of accessing the means of dispatch; and also, the final one was a description of employee training procedures to ensure compliance with the rules and regulations in the sense that, you know, when someone was to call a dispatch association, they wanted to make sure that the person they're talking to was knowledgeable about the Cambridge taxicab industry.

So that's our background on the regulations.

In terms of what Classic had submitted for their application.

EXECUTIVE DIRECTOR ELIZABETH LINT: Not Classic, Checker.

COREY PILZ: Checker. Excuse me,

Checker. Mr. Nakhoul had discussed his emergency

response plan in terms of how he communicates.

And I think he gave a fine example with the

blizzard that we had.

In terms of his policy for accommodating persons with disabilities, Mr. Nakhoul does maintain a TGY telephone line which is accessible to other people. He also holds the City's Accessible Cambridge Taxicab Contract.

I do not believe he dispatches through a website or any other means at this time, but he may be exploring that.

And, finally, in terms of his employee training procedures, he does subject his dispatchers to a course and a guide and a training to make sure they are knowledgeable

about the industry. So I don't think he has anything that's going to conflict with the regulations.

COMMISSIONER MICHAEL GARDNER: So one of the things that we were concerned about when we promulgated the regulations was getting the cooperation of dispatch organizations in terms of sharing certain information with us about volumes so that we could better understand the industry and the business here. And we didn't get a lot of feedback from business owners when we put these out for public comment.

I wonder if you, in fact, had a chance to look at our regulations and can assure us that you intend to cooperate with respect to sharing the kind of information we're asking for?

WALID NAKHOUL: I would do so. Any time

Ms. Lint ask me for something, I would be more

than happy to provide any information that she

requires.

at every taxicab subcommittee meeting. He's very agreeable. If there are ever any issues, any problems, anything good, bad, no matter what, Wally is always very available to us.

COMMISSIONER MICHAEL GARDNER: And the -I'm sorry to be always reminding of sort've the
primer information, but in the past the dispatch
associations have not been licensed by us?

have not. I wanna say in the vicinity of 15

years ago, the Commission passed a policy order

that dispatch regulations would be promulgated

and they sat and they sat and they sat.

COMMISSIONER MICHAEL GARDNER: Until Mr. Pilz arrived and --

EXECUTIVE DIRECTOR ELIZABETH LINT: No, I did and told him to do it.

(Laughter.)

COMMISSIONER MICHAEL GARDNER: Well, that went without saying.

 $\label{eq:fire_chief} \mbox{FIRE CHIEF GERALD REARDON: That was} \\ \mbox{before my time.}$

CHAIRMAN MICHAEL GARDNER: So the matter before us is whether or not to approve this application for a permit?

EXECUTIVE DIRECTOR ELIZABETH LINT:
Correct.

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

Seeing none, any other questions, comments or concerns?

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

I did have one question. Could you expand a

little bit about the ACT Program and what

provisions there are with respect to disabled

individuals with service animals?

If a disabled individual has a service animal, does it require a van or a regular car?

WALID NAKHOUL: No, any cab. Unless that person is handicap in a wheelchair, they need a van so they can get in. But if the person is just like, say, you know, blind but they can walk, and they have a service dog, it doesn't matter, any cab, whether it's a sedan or van whatever. It's against the law for any driver to refuse it.

POLICE SUPERINTENDENT CHRISTOPHER BURKE: Thank you.

COMMISSIONER MICHAEL GARDNER: Anything else?

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

COMMISSIONER MICHAEL GARDNER: So subject to your submitting a copy of your license to

Ms. Lint, are there any other technical issues, Chief, that --

FIRE CHIEF GERALD REARDON: No.

Are you familiar with the term "narrow banding?"

WALID NAKHOUL: I'm sorry?

FIRE CHIEF GERALD REARDON: Are you familiar with the term "narrow banding," the radio that -- the FCC requirement that we required? I don't know what your frequency is, but it was required to be done in the first of the year.

WALID NAKHOUL: I'm not familiar with that.

FIRE CHIEF GERALD REARDON: Okay.

WALID NAKHOUL: Maybe I could always ask All Com about it.

FIRE CHIEF GERALD REARDON: You can ask Mr. Boudreau.

WALID NAKHOUL: Okay.

FIRE CHIEF GERALD REARDON: We'll get a copy of the license and go from there.

COMMISSIONER MICHAEL GARDNER: The

license will have the frequency?

FIRE CHIEF GERALD REARDON: Yes.

CHAIRMAN MICHAEL GARDNER: All right. So

I'll make a motion to approve the application of

Taxi Management, Inc doing business as Checker

Cab for a Taxi Dispatch Association Permit.

POLICE SUPERINTENDENT CHRISTOPHER BURKE: Second that motion.

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

POLICE SUPERINTENDENT CHRISTOPHER BURKE: $\label{eq:approx} \text{Aye.}$

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed.

I guess congratulations, you are our first officially permitted taxi dispatch association member.

WALID NAKHOUL: Thank you very much.

CHAIRMAN MICHAEL GARDNER: We are very hopeful that this helps kind of regularize the business.

WALID NAKHOUL: And I'm trying to improve as much as I can. As I said, I have been only an owner for three and a half years so -- you know what I mean? I'm taking it slow. I want to walk normally. I don't want, you know, to take a bigger step than that and then I'm gonna, you know, fall.

Hopefully by the end of the fall, I'll have a new system, and then, as Corey mentioned probably we're gonna use some apps and catch up with the technology and stuff.

COMMISSIONER MICHAEL GARDNER: Good luck with the new plan.

WALID NAKHOUL: Thank you very much. Have a great night. See you tomorrow.

APPLICATION: MBIG TRADING, INC D/B/A STAR TAXI

EXECUTIVE DIRECTOR ELIZABETH LINT: MBIG

Trading, Incorporated doing business as Star

Taxi, Tibor Hangyal, manager, has applied for a

Taxicab Dispatch Association Permit to be

exercised at 700 Memorial Drive.

COMMISSIONER MICHAEL GARDNER: Good evening.

If you would be so kind as to state and spell your last name for the record and just identify your affiliation with Star.

TIBOR HANGYAL: The last name is $\label{eq:hangyal} \text{H-A-N-G-Y-A-L, first name Tibor, T-I-B-O-R.}$

Been in Cambridge for many, many years, 1980s, and worked at Magazine Shell and went out

on my own. At one point I had 12 taxicabs. Ming decided to retire, I took over Magazine Shell. And a few years back when we had all kinds of problems with the handicap not being serviced properly and taken care of, and some of the overwhelming problems of dispatching and independent drivers and drivers not getting the jobs that they were assigned, that's when I decided to start Star Taxi so there would be an extra number to call for customers that were not happy with Checker or Ambassador, who I was with at the time, and basically just keeping it very low-key.

We have anywhere from five to ten cabs
that work with us, and I don't charge radio dues,
it's just matter of having an extra number out
there for the customers when the big guys can't
handle them and can't service them correctly.

COMMISSIONER MICHAEL GARDNER: Okay.

TIBOR HANGYAL: We use the Nextel service, Sprint/Nextel, which is becoming problem-some. Since Sprint bought Nextel, the two-ways are not really sufficient to keep the drivers happy, so they're using more and more cell phones, which I don't particularly like.

So we're starting to do the research into what kind of computer-generated programs we can use and apps.

FIRE CHIEF GERALD REARDON: So right now you're using the Nextel system to push the talks and you're running into trouble with frequencies that are gone and so forth?

TIBOR HANGYAL: Yes.

FIRE CHIEF GERALD REARDON: Because the City of Cambridge is taking a lot of them.

TIBOR HANGYAL: There's a lot of interference. When you need it the most in rush hour, it's very hard to understand the drivers,

so...

nationwide movement of rebanding that's changing frequencies around, so there's fewer and fewer frequencies. And I believe -- actually, I know Nextel is going to discontinue the type of push-talk service that you presently operate on.

TIBOR HANGYAL: Right.

FIRE CHIEF GERALD REARDON: And that's why it's dwindling, so...

TIBOR HANGYAL: They're not giving us any customer service, so we're starting to realize this is where it's going.

FIRE CHIEF GERALD REARDON: I don't

believe they're going to stay in that

push-to-talk business. Sprint does have

something on a different band. I don't know how

well it will work for you, but it's something you

will have to look into in terms of --

COMMISSIONER MICHAEL GARDNER: You don't

have a radio-based system at all?

TIBOR HANGYAL: No.

COMMISSIONER MICHAEL GARDNER: And your plan is to move to cell phones and maybe some sort of computer process?

TIBOR HANGYAL: Yes.

COMMISSIONER MICHAEL GARDNER: So that would be like some app for a cell phone?

TIBOR HANGYAL: Yes.

COMMISSIONER MICHAEL GARDNER: And,
Mr. Pilz, if you could just remind us again,
that's all consistent with our regulations?

COREY PILZ: Depending on which application he partnered with, they may also require a permit from the Board.

One of the issues we're quickly discovering all the applications out there do a certain extent of what we call dispatch. We have

been reviewing them on a case-by-case basis as they come in. For example, one application merely puts you into contact with the company and the company continues and does all the dispatching. It's just a form of communication.

Another application actually carries out the entire transaction. They send the request to the company, the company then dispatches the cab and the transaction occurs through the application itself. Those are ones that we're requiring to have a permit for.

TIBOR HANGYAL: It's a whole can of worms for this researching and it's changing. It's changing rapidly.

EXECUTIVE DIRECTOR ELIZABETH LINT: Everyday.

COMMISSIONER MICHAEL GARDNER: So it makes sense for you to be in touch with our office in terms of any plans you've got, business

plans to make sure that they --

FIRE CHIEF GERALD REARDON: I guess presently what you're doing is you -- are you supplying the Nextel units --

TIBOR HANGYAL: Yes.

FIRE CHIEF GERALD REARDON: -- for the cab drivers?

TIBOR HANGYAL: Yes.

FIRE CHIEF GERALD REARDON: So they're all being paid by you?

TIBOR HANGYAL: Magazine Shell foots the bill.

FIRE CHIEF GERALD REARDON: You pass out the phones at night to each cab?

TIBOR HANGYAL: Each cab has its own phone.

FIRE CHIEF GERALD REARDON: They're all paid for by -- you just assign it to the cab and they just keep it in the cab?

TIBOR HANGYAL: Yes.

COMMISSIONER MICHAEL GARDNER: I'm sorry.

I'm not sure if I understand it. Do you actually

own and operate a number of cabs yourself or the

business --

and -- from being in the taxi business full-time previously, I want to keep my finger in it just in case Shell boots me out of there and don't want my services no more, but they just signed a three-year lease again, so I'll be around a little bit longer.

COMMISSIONER MICHAEL GARDNER: You advertise a phone number, is that it, and they call you?

TIBOR HANGYAL: Basically just by the website, and just having presence and in the phone book and the numbers on the cab alone.

COMMISSIONER MICHAEL GARDNER: Okay.

Basically you think the business is sort've spilled over from when the larger operations can't supply somebody, or you may have some customers who go to you first, I suppose?

Program was something that I proposed and then city hall says "No, no, you can't do it that way. It has to be put out for bid," and that's when it started. I started Star Taxi just because of that and tried to give the big guys a little competition because otherwise neither one of them had any interest of servicing the handicap. And my brothers's in a wheelchair himself, so this is kind've partial to my heart. That's why I don't charge radio dues or anything at this time.

COMMISSIONER MICHAEL GARDNER: Mr. Pilz, any issues here?

COREY PILZ: If you could just -- you just have the one telephone number? Do you have

a TTY number tied to the, you know --

TIBOR HANGYAL: No, just the one number.

COREY PILZ: I think that would be our only concern in terms of accessibility at this point in time.

TIBOR HANGYAL: I do have another number that bounces over if one is busy. That's just a secondary number that I don't advertise.

COMMISSIONER MICHAEL GARDNER: But the TTY number, is what we're interested in everybody having that, is that our expectation?

COREY PILZ: Yes. If they're primarily operating by a telephone.

FIRE CHIEF GERALD REARDON: You have a main number and a hunt number that it dumps to when it's busy?

TIBOR HANGYAL: Yes.

COMMISSIONER MICHAEL GARDNER: Well, we would like you to explore that.

TIBOR HANGYAL: Yes.

COMMISSIONER MICHAEL GARDNER: And then report back.

TIBOR HANGYAL: Okay.

don't know if you've had a chance to look at the regulations that we passed last fall, but we are expecting wanting the dispatch associations that hold our permits to be cooperative and sharing certain amount of statistical data with us in terms of volumes, which are outlined there, and so we're hopeful you'll be cooperative in that regard.

TIBOR HANGYAL: Definitely.

COMMISSIONER MICHAEL GARDNER: Other questions?

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

COMMISSIONER MICHAEL GARDNER: Are there

any members of the public who would like to be heard in this matter?

Seeing none, so I'll make the motion to approve the application of MBIG Trading, Inc doing business as Star Taxi for a Taxicab

Dispatch Association Permit exercised at 700

Memorial Drive, place the condition that you be -- do the exploration and be in communication with the License Commission regarding the TTY telephone line.

TIBOR HANGYAL: Okay.

FIRE CHIEF GERALD REARDON: Second that motion.

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

 $\label{eq:police_superintendent_christopher_burke:} $$ \text{Aye.}$

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed. So the motion carries, and you're the second of the license dispatch operations in the city, so thank you for your corporation.

RATIFICATIONS

EXECUTIVE DIRECTOR ELIZABETH LINT: Okay.

Ratifications, all refinances. Medallion 44,

230, 225, 135, 90 and 134.

action here would be to accept these, right? So

I'll make the motion to accept the ratifications

approved by the executive director, but request

that she check to see that the double on 230

means that somebody got left off. So that's the

motion.

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

I will second that motion.

COMMISSIONER MICHAEL GARDNER: Motion

having been made and seconded, all those in favor, signify by saying "aye."

FIRE CHIEF GERALD REARDON: Aye.

POLICE SUPERINTENDENT CHRISTOPHER BURKE:

Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed, so the ratifications are accepted.

And is there any other business before us?

EXECUTIVE DIRECTOR ELIZABETH LINT: There is not.

COMMISSIONER MICHAEL GARDNER: Our next meeting is when? Is it the 2nd or the 9th?

EXECUTIVE DIRECTOR ELIZABETH LINT: I

believe it's the 9th. It's the 9th.

COMMISSIONER MICHAEL GARDNER: We're

here the 9th and 23rd?

EXECUTIVE DIRECTOR ELIZABETH LINT:

That's correct. I know Commissioner Haas will not be here on the 9th.

POLICE SUPERINTENDENT CHRISTOPHER BURKE: I'll be back on the 9th.

EXECUTIVE DIRECTOR ELIZABETH LINT: I saw that come through today, and I will not be here on the 9th, but I will find an able body for you.

COMMISSIONER MICHAEL GARDNER: All right.

Motion to adjourn is always in order.

POLICE SUPERINTENDENT CHRISTOPHER BURKE: Second that motion.

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

POLICE SUPERINTENDENT CHRISTOPHER BURKE: Aye.

FIRE CHIEF GERALD REARDON: Aye.

COMMISSIONER MICHAEL GARDNER: Aye.

None opposed. So we adjourn at

approximately 8:07.	

CERTIFICATE

Commonwealth of Massachusetts

Norfolk, ss.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of March 2013.

Jill Kourafas
Certified Shorthand Reporter
License No. 14903
Notary Public
My Commission expires:
February 2, 2017

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CAMBRIDGE LICENSE COMMISSION GENERAL HEARING 3-19-2013

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