COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

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

<u>STAFF</u>:

Elizabeth Lint, Executive Officer

-- Held At --

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

Tuesday, November 15, 2011

6:06 p.m.

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PROCEEDINGS

ELIZABETH LINT: Okay. We are going to begin.

This is the License Commission General Hearing, Tuesday, November 15, 2011, it's now 6:03 p.m. We are in the Michael J. Lombardi Building, 831 Massachusetts Avenue, basement conference room.

Before you are the commissioners: Chairman Michael Gardner, Chief Gerald Reardon, Commissioner Robert Haas, and for one matter, Superintendent Christopher Burke.

> So we'll take that one first. MICHAEL GARDNER: Yes.

ELIZABETH LINT: Application

continued from October 4th and October 27th of 2011. Tariff H Jeff of doing do date of birth St. George Delivery a request for a livery license at 398 Ringe Avenue, Unit 2.

MICHAEL GARDNER: Good evening. Sir,

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if you would, again, please state and spell your name for the record.

MR. JIFARA: It's Terefe Jifara, T-E-R-E-F-E, J-I-F-A-R-A.

MICHAEL GARDNER: So you were here, as I recall, sir, on October the 4th, and we delayed any action on your application at that point.

And then at the conclusion of the meeting we had at the end of October, when you weren't on the agenda but you had appeared, we asked you to come back tonight to update us on your business plan; there having been some questions that we had at the time of the initial application on October the 4th.

So could you just review for us the steps you have taken to prepare for this and, in particular, describe to us the ways in which you intend to generate business and what specific arrangements or plans you have with respect to airport or Massport deliveries.

MR. JIFARA: Okay. Today I have a better understanding for the airport. Everything goes through Massport, and I have to have a Massport permit to operate and deliver in the museum on airport business. Like I also have to have a million dollar minimum insurance, to insure the vehicle to operate on the airport, Massport. Massport also has to be on my insurance, insured as a second to my property. And in order for me to pick up a passenger that was prearranged for me, I have to have -- I have to go to the limo pool and pay the certain fee, which I believe is \$3, and wait for my passenger to arrive and go to the terminal I have to go to pick up a passenger.

MICHAEL GARDNER: And what is your understanding about, on the Cambridge end, in terms of your either transporting people or packages, what are the rules there? MR. JIFARA: Well, I did learn that I have to have one or another. If I have to transport passengers, I have to have that certain permit. If I have to deliver packages, I have to have a separate permit. So I choose to go with the passenger, which will be -- Massport has seven criteria -seven separate items with limo delivery or delivery which is -- which I'm going to pick the limousine service.

And in terms of Cambridge, I have to have a reservation to pick up anything, any person, minimum of eight hours pre-arrangement to pick up.

MICHAEL GARDNER: And so what's your business plan for generating the awareness for you to actually get those customers?

MR. JIFARA: I actually ordered business cards that I'm going to distribute. And I have learned that Google has the website, AdWords, they have the multiple options, paperclips or monthly fee, which I'm still learning or studying which one I will go for. And also another website called One and One. They also charge monthly, which is my future plan to go with one of them.

MICHAEL GARDNER: And if you could, sir, since it's been now a number of weeks since we met with you last, tell us the kind of experience you have had in anything close to this type of business in the past?

MR. JIFARA: I have driven taxicabs in Boston before. And I, even though it's a different type of pick-up and drop-off, the taxi drivers can stay by the hotel, by the taxi pool in the airport, they can pick up any time; there is no reservation that I learned from previous times.

MICHAEL GARDNER: Thank you. Any other questions? CHRISTOPHER BURKE: Where are you in the process with Massport? MR. JIFARA: I picked up my application and I have called three different insurance companies to get a quote, which I got a quote. I contacted a car dealer, which I received a price. I ordered my business cards. And I'm almost ready to go.

CHRISTOPHER BURKE: Now, is part of your approval contingent upon you having delivery approval from this Commission?

MR. JIFARA: Right.

CHRISTOPHER BURKE: And you have a clear understanding that you can't just go to hotels and wait for fares?

MR. JIFARA: Yes, I have a clear understanding now. Thank you for giving me more time to better study. Actually, I got more ideas.

GERALD REARDON: I think that the real issue is that you understand that the regulations, as applies to Cambridge delivery, is different from hackney, and you can't just pick up at hotels, you just can't pick up fares without prior reservations.

The issues with Massport are Massport's issues, I just want to make sure we're clear with that, what you can and can't do in the City of Cambridge.

MR. JIFARA: I understand everything.

MICHAEL GARDNER: And remind us again, sir, about the parking? Where will you be parking?

MR. JIFARA: I have a parking spot that belongs to me right in front of where I live, which I actually sketched out here (indicating).

(Paper handed to Ms. Lint.) MICHAEL GARDNER: So this is off-street parking in a lot? MR. JIFARA: It is, yes. MICHAEL GARDNER: Any there any members of the public who would like to be heard on this matter? (No response.)

MICHAEL GARDNER: Ms. Lint, is our Decision Hearing this month on the 22nd?

ELIZABETH LINT: November 22nd at 10:00 a.m.

MICHAEL GARDNER: The pleasure of the Commissioners?

GERALD REARDON: I make a motion to approve, subject to the necessary paperwork.

Did you all the background -- is it all there?

ELIZABETH LINT: We have it.

CHRISTOPHER BURKE: Well, it does appear that Mr. Jifara has appeared and has an understanding of what his obligations would be. I would second that motion and support that.

MICHAEL GARDNER: I think the way in which I would feel most comfortable in supporting that is if it is also subject to a six-month review to have you come in and talk to us a little bit about how the business is going, the challenges you've had, and the successes that you've had.

GERALD REARDON: That's fine. Make a motion to have a six-month review.

CHRISTOPHER BURKE: I would second that motion.

MICHAEL GARDNER: So the motion having been made and seconded to approve the granting of the livery license subject to a six-month review, which will put this in the area of March, I believe.

All those in favor, signify by saying "ave."

GERALD REARDON: Aye.

CHRISTOPHER BURKE: Aye.

MICHAEL GARDNER: None opposed. So the license is approved subject to that condition and making sure you've got all of the requirements as required by Ms. Lint.

MR. JIFARA: Thank you.

MICHAEL GARDNER: Good luck. CHRISTOPHER BURKE: Thank you. (Whereupon, Superintendent Christopher Burke is now leaving the conference room.)

MICHAEL GARDNER: And we've now been joined by Police Commissioner Robert Haas, who will be present for the rest of the meeting; Superintendent Burke having been present when the previous matter was first heard in early October.

* * * *

ELIZABETH LINT: Application for 50 Church Street Realty Trust, as a foreclosing approved pledge holder of the all alcoholic beverages as a restaurant license currently held by H2 Ventures, Inc., at 50 Church Street is petitioning to involuntarily transfer said license to Bowery Cambridge, LLC, doing business as The Sinclair, Joshua Bhatti, manager. Said license, if transferred, is for 175 seats inside, 52 seats on a seasonal private outdoor patio, and 525 standing. Operating hours will be from 8:00 a.m. to 1:00 a.m. Sunday through Wednesday, and 8:00 a.m. to 2:00 a.m. Thursday through Saturday and the night before a legal holiday. Applicant is also seeking an entertainment license to include dancing by patrons; live musical instruments and/or vocalists with amplification; audio tape machine/CD playing music below, at, or about conversation level; five TVs; and comedy show.

MICHAEL GARDNER: Is there anyone from the audience who would like to be heard?

Please come forward and state and spell your names for the record and identify you're affiliation.

JAMES RAFFERTY: And good evening, Mr. Chairman, members of the Commission.

For the record, my name is James Rafferty, R-A-F-F-E-R-T-Y, I'm an attorney with the law firm of Adams and Rafferty located at 130 Bishop Allen Drive in Cambridge.

I am appearing this evening on behalf of the applicant, Bowery Cambridge, LLC.

Seated to my right is James Glancy, G-L-A-N-C-Y. Mr. Glancy is the manager and sole member of Bowery Cambridge, LLC.

And seated to my left is Joshua Bhatti, B-H-A-T-T-I. Mr. Bhatti is the proposed manager of the licensed premises.

MICHAEL GARDNER: Thank you. So, if you could, would you be so kind as to give us a historical summary of developments with this property and the prior license, and then describe what the plans are.

JAMES RAFFERTY: Surely. Thank you. This is an application that seeks an involuntary transfer of the license that existed at that location. It's an involuntary transfer because there was a pledge holder on that license and the licensee defaulted in its payments and ceased operating. And the Commission, some time ago, recognized the pledge holder, and the control of the license now is with the pledge holder pursuant to the pledge process.

So the pledge holder happens to be the landlord. So the landlord, who has owned this space for generations, it's a family-owned real estate company. Historically, it had been a licensed premises for decades. And, depending on how good people's memory is, it was the Black Rose, it was the Atrium years ago in the '70s, it was the Black Rose. Probably in its most recent memory it was transformed as the Brew Moon, a brew pub in the late '90s, it operated successfully there, then sold to an operation called Rock Bottom.

Rock Bottom operated, again, as a brew pub and they had a relatively short-lived

tenure there. And then, when they closed, some operators from that came in and stepped up and operated an establishment called Phatt Boys, P-H-A-T-T, Boys; and for a variety of reasons they were not successful.

And since -- and, in fact, it's the Phatt Boys entity is the corporation that owned the license, they are the ones that had the pledge, and as a result of the foreclosure under the pledge, the landlord obtained control of the license.

So as an active space, I would estimate that the Phatt Boys' operation terminated. And the landlord is present tonight; he could give you better dates than myself. I'm going to guess it is almost two years since Phatt Boys operated as an active space, as an active entity at that location.

It is an interesting location. It's had certain challenges in terms of being successful. And the landlord recognized that. And one of the principal challenges was that it has a limited street presence on Church Street, it's an interior space or it had been historically. And the way that you had historically accessed the space is to come up through an entrance into an office building, a ramp-style entrance, and it was about a hundred yards in from the street.

I'm sure the Commission is familiar with the site. The front store front has been operating now successfully for many years as Dato Tee (phonetically spelled).

And in the lower level of this building is another licensee, Fire and Ice.

But the Phatt Boys' space was -- you had to go into the courtyard and into the office building to access that space.

MICHAEL GARDNER: So was the space right across from where the elevators are up at the ramp, you know, like a half a floor up from street level? JAMES RAFFERTY: Yes, that's where the space is. And until recently, that was the only opportunity to access the space.

Approximately a year ago, the landlord, recognizing the need to change and re-orient the space provided with some street presence, and also deal with the fact the space was dominated by some very large volume, about four or five stories high, that was -had challenges associated with heating and cooling.

So it was a place that worked well for the brew pubs; they had, up on catwalks, the large tanks that beer got brewed in and the like. But it was a challenge to create any sense of intimacy in the place and it was also a challenge to heat and cool it, particularly the cooling requirements.

So there were a few changes made to the building. The landlord, in anticipation of finding appropriate tenants, so the landlord filed an application with the Board of Zoning Appeals about a year ago, and it had three major components.

The first one created a new street entry at 52 Church Street. So as you face the building, as you are looking at Dato Tee, the Fire and Ice and former entrance was to your left up the ramp. To the right of Dato Tee is the new plaza with a staircase that provides direct access.

And if you'll know notice on the floor plan, you'll see that's the principal entrance of this space now. It will be directly from the street and up this staircase and into a foyer.

The second element in that change was the space. The front space in the former restaurant space was a one-story space, and the second floor of that space was office space. And that office space was converted into or made a part of this space, (indicating), and so it allows for this to be a two-story space on the restaurant side.

At the same time, the area between the building and the front building was filled in and, as a result, there is a terrace outside on the second floor space.

Below that space is Fire and Ice. And the Commission might recall within the past year that they approved a change of premises to allow for an additional room, and that infill would take the place.

I apologize, this is confusing, but the floor plan does tell the story.

The real change that happened is there's a new entrance. And then in the large space, a ceiling was introduced at -- how many feet would you say?

AUDIENCE MEMBER: Maybe 20 feet.

JAMES RAFFERTY: We have Harry Wheeler, the architect, and he could answer a whole range of questions about the design and building code compliance and the like. But the space now has a ceiling in it and a mezzanine was created.

So, in essence, the application seeks an approval of a change of premises. And these alterations to the building probably resulted in an increase of space of approximately 7,000 square feet. I think the prior licensed establishment was in the 7,000 square-foot range. The size of this space is about 15,000 square feet. And that's all in the back of the house, the kitchen, that's everything.

So the application seeks to do three things: One is to transfer the license, the ownership of the license, from the foreclosing pledge holder to the new operator, Bowery Cambridge, LLC, and the transfer application documents are on file.

The second aspect of the application is to --

GERARD REARDON: How many seats is that?

JAMES RAFFERTY: The proposal? How many seats in the prior license or how many seats --

GERALD REARDON: The transfer from the foreclosed, is that 175?

ELIZABETH LINT: 304.

JAMES RAFFERTY: The former license is 304. So there is the transfer element of it. There is the change of premises that I just described, which is the two-story mezzanine space and now the two-story restaurant space. So it represents a square footage increase in the 7,000 square foot range.

And the third aspect of the application is the increase in capacity. And the capacity increase here is going from -the prior licensee had a capacity of slightly over 300. This applicant seeks to have 175 seats, largely located in the restaurant, and then the opportunity for standing of 525 in the performance hall. And I think that's what distinguishes this application, of course, is the introduction of what is a new use as part of this operation. So The Sinclair -- and Mr. Glancy is eager to share with you his vision for it.

But those three mechanics now, a transfer, a change of premises, and an increase in capacity, the concept here is for a two-story restaurant, full service restaurant, open all year round. And adjacent to the restaurant, as part of the experience, is a concert hall. A venue that will accommodate live musical performances.

And that is the business in which Mr. Glancy has developed some expertise in.

The Bowery Cambridge, LLC, gets its name from Bowery Presents, which is a company that Mr. Glancy owns and operates in New York City. He has a number of venues in and around the Northeast, Philadelphia and Portland, Maine, New Jersey, and also certain Burroughs in New York.

And I asked Mr. Glancy to bring some photographs so you can appreciate what those venues look like. And this would be the caliber of the space that's being created in the performance space.

So the restaurant itself has a rather traditional restaurant layout.

MICHAEL GARDNER: Are these photos from other sites?

JAMES RAFFERTY: Yes, other venues being operated; and Mr. Glancy can share the distinctions with you.

But suffice it to say that I think the temptation here might be to consider this large number and the large space as a nightclub, and it's different from a nightclub, it's very different from a nightclub. And Mr. Glancy and Mr. Bhatti will share that with you.

It's a venue where ticketed performances occur; meaning, that this is not a nightclub where a band shows up and you get overwhelmed by a certain number of people you don't know who's coming.

This is theater-like. Over 80 percent of the patrons purchase the tickets in advance. There is a box office located on the premises. You need to have a ticket to enter. They only sell tickets up to the capacity of the venue. So it's not a case of someone standing at the door with a clicker and counting how many go in and how many go out. It's a venue that will allow for musical acts that appear in other venues owned by the sister entity to appear here. And it really represents a return of some live musical performances to Harvard Square. Some letter writers have noted that since the House of

Blues left, we really don't have much in the way of live entertainment.

I think by way of analogy, it has certain similarities to the Zero Arrow Theater where the Oberon has a capacity during the Donkey Show of about 350 people. In that experience, people are simulating a New York disco. There is active -- it is a nightclub performance art. It's occurring on the edge of the Square, near residences, and it contributes to the vitality of the Square. And Mr. Glancy can tell you what attracted him to this location.

But we've had some conversations. I've talked to certain people and, frankly, I think the numbers had certain people concerned and they expressed to me "What is this like?"

And I'd like to have Mr. Glancy tell you a little bit about this because I don't think there is an exact parallel here to the Square. But I do think there is a distinction between this and what might be seen as a nightclub type use. I think it would be important for the Commission to understand that.

So maybe you could share a little bit about how this operates, what your experience is in this operation, and how you see this working.

JAMES GLANCY: As Jim said, the restaurant would be opened 360 days a year. We'd be open for lunch, open for dinner. We have a menu that is served into the evening. The restaurant would have its own identity. People, we would hope, would go there to have a great meal or meet someone for a beer. Irrespective of whether there was an activity going on in the concert hall.

The concert hall, we would also rent the concert hall out for private events. And our definition of a private event may be a wedding, a Sweet 16 Party, a product launch, a club at Harvard renting it for an activity or a meeting, those kinds of things.

As Jim said, it's not to be rented out to third-parties for them then to present a public event.

The concerts that we would promote, we would promote. And it's an important distinction. There are venues that basically are open for anyone to come in and rent and then they put on the event, whatever that event is, it could be a musical event or it could be a DJ, and they are not invested in the establishment.

All the places we operate or book at -- again Portland, Maine, several in New York City, New Jersey, we just opened a place in Philadelphia back in September -- all of those are places that we operate, that we book, we know exactly what's going on. We are invested. We signed a very long term lease. We'll be making a very significant capital expenditure to bring it up to what you see in those pictures. This is not a dingy rock club, this is a concert hall. This is a place where we are proud. We are proud to have a great patron experience. We are proud to have the artist have a great experience. That is what Bowery Presents' name has been built on, that reputation.

The venue itself, we are estimating will probably have 200 shows a year. Our peak times of the year are the fall and the spring; winter and summer is slow.

It could be as few as one or two shows a week or, in the prime time, four or five shows a week. The typical performance shows runs, generally speaking, something like, the doors to the concert hall would open at 7:00; at or around 8:00, a supporting act would go on; the opening act usually plays half-hour, 40 minutes; sometimes there is a second opening act that would also play 40-45 minutes; the headliner comes on; the headliner usually plays between 60 and 90 minutes; and that's it.

So you are talking about 7:00 doors open, and shows ending usually 1100, 11:30, 12:00 at the latest, is the norm.

We follow what the community wants in terms of if their fans like an earlier door time and an earlier ending time, say on a Sunday night, that's what we'll do. If people like a slightly later time on a Friday or Saturday night, then that's what we'll do. We very much follow what the fans want and what's expected in the community.

The restaurant will be open after the show. So our hope is that people will stop on the way out and have a bite. We hope that they frequent all the great restaurants in the square, if they are not going to our place, that's fine.

And, again, I guess what we

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continually focus on is being a good neighbor and being somewhere where we are wanted and hearing what people have to say, and that's from Brooklyn to New Jersey, from Portland to Philadelphia.

And that what's we've been able to accomplish and it's a brief overview of what we hope to do.

MICHAEL GARDNER: So I'm trying to imagine what the experience is like in the concert. I see there is 525 standing seats in the area. So everybody goes in and listens to the music standing up and dancing? You are not sitting and listening to music?

JAMES GLANCY: You are not sitting --

JAMES RAFFERTY: With a few exceptions in the mezzanine. But the vast majority of people stand. I think it's a generational thing. I asked Mr. Glancy the same thing.

MICHAEL GARDNER: It may be indeed be

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a generational thing.

JAMES GLANCY: The ticket price runs probably in general from \$15 to \$25 or maybe \$15 to \$30. The people are absolutely there to see the artist on stage. Again, it's a big different from a nightclub. And people will come in, check their coat, they may or may not get a drink, and then they tend to stand and watch the show next to their neighbor. In terms of dancing, it would be probably more apt to describe as moving as opposed to kind of a ballroom dance or something that happened many years ago. But, yes, it's very much a standing experience.

In the mezzanine, there would be tables and chairs on the perimeter where people would be, usually guests of the band would sit there. There would be some chairs, but the main floor would very much be an all-standing situation, almost always.

JAMES RAFFERTY: If you look at the

floor plan, given the size of the space, it has a single bar and there is no waitress service. And I had a conversation with Mr. Bhatti as well about the fact that if you arrive there early, you may get a drink. But once you establish your position and your site line, as you are close to the opening act for which you paid \$25 or \$30, you don't leave that spot and go back to get a drink because the spot wouldn't be there when you get back.

So the estimate on the per person expense, I think Mr. Bhatti estimated because he did some analysis, would be in the --

MR. BHATTI: The \$8 to \$10 range per head.

MICHAEL GARDNER: You are talking about a bar tab?

JAMES GLANCY: A bar tab, exactly. JAMES RAFFERTY: As opposed to an average nightclub in the \$20 to \$25 range in terms of what an average patron in a nightclub might spend.

So the emphasis, or the point we are trying to emphasize, is the experience with these acts that are well-known, is that it's not quite like intermission at the theatre. I don't want to suggest it is that constrain. But the bar activity is very secondary to the performance. You might go out afterwards, but the performance is the primary reason you are there.

But if you think of sheer numbers and the size of a bar, there is a couple of bartenders working and in a sold-out show there's 500 people, there just isn't -- and you arrive a few minutes before the show or a half-hour, and once the act starts, there is little in the way of service activity at the bar.

MICHAEL GARDNER: Well, there is intermission?

JAMES RAFFERTY: Between acts there

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are, yes. But, I mean, the bar is there and people will certainly drink.

MICHAEL GARDNER: So to be successful here, you need an all alcohol license or is beer and wine --

JAMES RAFFERTY: We need the license that's at the premises, which is what they are purchasing, which is an all alcoholic license. And it's all operated -- the restaurant and this venue are all operated off the single license.

MICHAEL GARDNER: I understand. But is the -- in addition to the 175 and the 525, there is also the 52 seasonal outdoor patio -those are additional seats, right?

JAMES RAFFERTY: Yes. The breakdown is 52 on the patio, those are seasonal; 53 in the second floor dining room; 46 on the first floor dining room; 22 in the mezzanine, so that's a total of 175 seats. So the 175 seats -- MICHAEL GARDNER: Includes the patio? The outdoor -- that part I didn't understand that.

JAMES RAFFERTY: Right. It's a single premises, single license. So the seating capacity reflected in the application reflects the seating in the restaurant as well as the seating -- admittedly only 22 seats in the mezzanine section. The standing is 525 and contemplates I think 25 standing in the two bars in the restaurant. There is a bar on each floor in the restaurant. And typically in a capacity situation, you want the ability to have someone waiting for a table to be able to stand at the bar while they are waiting for their table to be prepared. And then the other 500 capacity is in the music venue.

MICHAEL GARDNER: Is it 25/25 and 500? That's 550, I think?

JAMES RAFFERTY: No, it's 25 and 500. MICHAEL GARDNER: So 25 between the

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two bars?

JAMES RAFFERTY: 25 between the two bars and the restaurant, and 500 in the performance hall, for a total capacity of 700.

The point being, is the performance hall, when there are no performances, would not be occupied. So then the space operates more in its restaurant mode as a 175 seat restaurant. That is certainly the way it operates at lunch time and certainly the way it would operate on those evenings when there is not a performance occurring in the performance hall.

MICHAEL GARDNER: So the expansion of the number of seats on the license, I think we've had some conversation or conversations about this before, and I haven't always exactly understood it.

Are you looking for 396 no value/no transfer seats to be added on to the existing 304 person for-value license? JAMES RAFFERTY: Without -- the no-value seats is not a concept that I completely understand at this point.

MICHAEL GARDNER: Well, are you proposing a 700 for-value seat license?

JAMES RAFFERTY: You'd have to define "for value."

MICHAEL GARDNER: Well, that you can sell.

JAMES RAFFERTY: Well, we have a license today that has 304 seats attached to it. We are seeking to increase the capacity of the license. The CAP policy used to restrict increases in capacity. So, yes, the application -- were the application to be approved, what was a 304 capacity license would become a 700 capacity license.

What restrictions would apply to the subsequent transfer, I would only say there aren't too many places you could go in Harvard Square or elsewhere with that capacity. So if the feeling of the Commission was that there should be some limitation on a subsequent transfer away from that location, if that was the Commission's judgment as to how to deal with the increase, I would only say that the increase in this license is occurring as a result of the music -- the concert hall. This concert hall is not easily replicated.

So I would say, if the Commission found that conditions associated with the concert hall warranted an increase, and that a future user of the license, if they were to transfer in that location would have to replicate those, I guess. I could certainly understand that.

And I'm not being evasive. I just think this notion of value versus no-value seats -- I don't know what one does with no-value seats, how that gets treated.

ROBERT HAAS: So I think this might

help clarify the Chair's position, this comes out of the whole notion of bank seats and things like that. And being able to bank seats and then subsequently sell those seats in addition to the license and things like that. So I think that's where the whole notion of --

JAMES RAFFERTY: But in my experience, that is now passé. I'm not familiar -- there is no market for bank seats. When the -- historically, the capacity was a function of size, building size.

When the CAP policy was adopted, the CAP policy placed a limitation on seats that had not existed prior to the adoption of the CAP policy. The CAP policy has since been amended such that increases in capacity are no longer CAP related issue.

Since that time, and I believe it was two or three years ago, I'm not aware of the concept of bank seats. I haven't done it; I have seen anyone sell or buy seats; I don't know why someone would buy seats.

If the space can accommodate those numbers and public safety issues are addressed and building codes and other egress issues are satisfied, it seems to me the Commission makes a determination on capacity as it would in non-CAP areas. In non-CAP areas, this notion of value versus non-value never existed.

We have sections of the city that are not covered by the CAP policy. My understanding of the amendments to the CAP policy a few years ago was that capacity is now treated in CAP districts the same way as it is treated in non-CAP districts.

ROBERT HAAS: So, hypothetically, if the license were to go for sale, it is more about the ability to buy an all liquor license as opposed to how much seats are associated with it.

JAMES RAFFERTY: Well, there is no

question that each has a factor. But I think when you are at this type of capacity, I think there are some unique characteristics associated with this capacity that the Commission could be well within its exercise of its judgment to say that that capacity is associated with a music venue as opposed to "We don't want a 700 capacity nightclub" following on the heels of which could create of whole different experience in terms of what the impact would be.

MICHAEL GARDNER: Can you give us some sense about the typical style or types of music or acts you would be booking.

JAMES GLANCY: The appeal to a usually a college, post-college, into people in their, I would say, their 30s or 40s is the typical age. Contemporary music, rock and roll. A lot of the acts we are booking would be the types of acts that would be playing at the folk festivals, the things that appeal to the top 40 crowd, or a public radio crowd, doing classic rock. The audience is kind of across the spectrum.

MICHAEL GARDNER: And in terms of our trying to understand it better, how would you describe any differences in operation or the types of acts that are booked here compared to your other locations? And maybe if you could just think about a currently operating location that you think in your vision of it, would be closest to what you would plan for here.

JAMES GLANCY: Music Hall in Williamsburg, which you have pictures there of a venue in Brooklyn. And very similar in terms of the types of artists that are booked, very similar in terms of united activity in that room compared to here.

MICHAEL GARDNER: Is that about the same size as this?

JAMES GLANCY: It's a little larger,

it's about 650. But yes, it's about a very similar size.

MICHAEL GARDNER: And does it have an all alcohol license?

JAMES GLANCY: It does.

MICHAEL GARDNER: Can we learn

something about it by visiting a website?

JAMES GLANCY: Absolutely.

ROBERT HAAS: How long has it been in operation?

JAMES GLANCY: That opened in September of 2007.

MICHAEL GARDNER: Do you have any experience in Massachusetts?

JAMES GLANCY: We have an office in Massachusetts; we opened it in April of 2010. Josh runs the office. We have a booking arrangement for the Royale in Boston.

An important distinction between this and the Royale is we don't operate the Royale. The bar is theirs. The security is theirs. That is very much a nightclub. We have the exclusive contracts, we do live concerts there.

So that similar in terms of types of bookings that we do there, but different in the sense that the operation is not something that we do.

MR. RAFFERTY: I think, if I may, that's an important distinction because there have been experiences, and I know that the Commission is aware of, where promoters have made arrangements with restaurant operators and nightclub operators where they are totally divorced from one another.

And the promoter comes in and the promoter has a one off act and will, through any means possible, spread the word and wants to put as many people through the door as possible, to get what they get, which is typically compensated by the admission fees. And the operator is happy to get the revenue that flows from the food and beverage sales.

What distinguishes this operation, was that they contract the whole operation. They book the act, they control the venue. So there is not a separation between promoter and operator. So it's a controlled venue, it's a relationship building -- it's not a one off relationship.

The Bowery is going to be a presence in Harvard Square; they want to attract the range of visitors to Harvard Square, to use either the restaurant, the concert, or for opportunities than the club is for, it could set up and seat a reasonable size wedding or some other type of event on a Sunday afternoon when maybe there isn't a show. So it's a full-on operation as opposed to a promoter just coming in.

I think the other thing, too, there is a history with some of these promoters that they overwhelmed by who shows up. "We didn't know, you know, X, Y, Z band showed up and they have a following, there were 150 people at the door, and the guy at the door was overwhelmed.

And here, it's a ticketed event. If you show up and you don't have a ticket, you don't get to go in. It's just like the theater. And they only sell 500 tickets, they don't sell 600 tickets. Their experience is about five or ten percent of the people don't show up for a variety of reasons when they've purchase a ticket.

But they have the ability to control the number of people that come here, when they come there, based on the scheduling, and most importantly they are able to create an operation where they have a very attentive policy to how they treat either using wristbands and floor people to make sure that if an under-age person is there for the performance, that they don't get alcohol. The servers or those bartenders work for the Bowery. So it's a total operation.

And Mr. Bhatti is responsible for the training of the wait staff, the bar staff, the staff in the music hall, it all operates as a single entity.

I think, historically, we've seen some incidents that have led to hearings here where the promoter and the restaurant operator just aren't on the same page. That's not the case here.

GERALD REARDON: How is the Bowery in terms of security, bookings --

JAMES RAFFERTY: Yes. Everyone is an employee at the Bowery.

JAMES GLANCY: And we have also promoted shows around town. The Orpheum, the Wang, Symphony Hall, Berklee, Somerville, a couple in Northampton. So we probably promoted shows at a dozen places mainly around Boston. MICHAEL GARDNER: And the Fire Chief was just asking for further elaboration on the staffing.

MR. BHATTI: The staffing, top to bottom, is all employees of our company. It's not third-party security, it's not third-party bar staff. Everyone falls under our payroll under my direction, with the management staff after that. You know, everyone ultimately answers to us as the owner/operator of the venue as opposed to a third-party vendor.

GERALD REARDON: So is it your intent that the Bowery runs the restaurant itself, or would you turn around and bring in another type restaurant? Or the thought that there would be a new --

JAMES GLANCY: You know, we'll -absolutely, it will be our operation. It wouldn't be a third-party coming in that -- I don't know what the word is, "licensee" --We'll be running it. We've been interviewing chefs and we're pretty excited about the direction we are going in.

GERALD REARDON: So this would be a new restaurant, new name, new location?

JAMES RAFFERTY: Yes. Not Sinclair. MICHAEL GARDNER: Mr. Bhatti, could you describe your experience in both managing a restaurant and/or an all alcohol premises, whether it be a nightclub or --

MR. BHATTI: Sure. My latest expertise is working on the concert side of things. I'm the primary talent buyer. I operate the office here in Boston. I have previous restaurant and bar experience on the alcohol side, both at national chains like a Bertucci's, as well as when I lived in Washington, D.C., I worked at a fine dining restaurant that had a capacity of 175 for dining and an 80 person lounge.

And they had a sister location next door that was 1,000 person nightclub that was

on the bar side.

MICHAEL GARDNER: And what was your level of responsibility including being the manager or record?

MR. BHATTI: I was not the manager of record at those places.

In the lounge side, I oversaw some bar operations, but I was not the manager of record.

MICHAEL GARDNER: So if you could, just describe how high up you were?

MR. BHATTI: Mid-level. I would be in charge of, you know, inventory, managing the liquor orders or -- not the orders, but the inventory as the liquor came in. I wasn't in charge of closing out the bar at the end of the night. I was in charge of locking up at the end of the night. I guess like an assistant manager or a third key holder something like that.

ROBERT HAAS: So events, aside from

the concerts, you mentioned a wedding or other parties, how do you control now the thing that you are representing that won't happen, in terms of outside promoters or outside entities coming in and running the operation differently than if you were actually running your concerts where you were selling tickets?

And I'm confused about the wedding piece. I mean, we are not talking about any seating capacity in this area, so I don't know how that would be appropriate for a wedding setting.

JAMES RAFFERTY: Well, I think we would propose an alternative floor plan. I think it would operate the equivalent of a hotel ballroom. If you wanted to have an event, it is going to be their wait staff, it's going to be their kitchen, their food, and they could set up with -- I think the estimates from our architect --

MR. BHATTI: 175.

ROBERT HAAS: So it would be an additional 175 seats in that area where you only have the 500 standing?

JAMES RAFFERTY: Correct. Instead of the standing, you could set up seating to accommodate that amount. And I think there are some photos that suggest that.

But I think it's not the principal business, but particularly during the day or with the academic institutions around town, it's a venue that I believe, during the slower times, that people may chose to rent more as a function hall.

ROBERT HAAS: So if we were to rent it as a function hall and wanted to bring in outside entertainment, how do you control that?

JAMES RAFFERTY: No different than when a band shows up to play at wedding in a hotel. I mean, they have to be approved by them; they oversee the operation. It is very much a hotel-style feature. "Bring your wedding band to your wedding." And that's what -- it is their security, it is their wait staff, it's their management who is running the event.

ROBERT HAAS: So you wouldn't let an outside caterer come in to an event like that?

JAMES GLANCY: We would be open to that. He would be open to it. Any rental would have a contract, so they'll discuss the nature of the event and there are definitely things that are red flags for us. Being in the business, you know, if someone is misrepresenting what they are doing and we have a signed contract with exactly what they are doing --

ROBERT HAAS: So, typically, I mean, you mentioned that spring and fall would be the peak seasons. But what are you typically seeing as the number of nights you'd be running concerts as opposed to using the event -- either it's going to be vacant or it's going to be rented out to another entity?

JAMES GLANCY: In the month of October it could be -- you know, October is usually our busiest month. We would want it to be active as much of that month as we could; you know, say, a minimum of 25 times, and as close to 31 as we could.

And we always look at July and August as one month and July and February as one month. So maybe six or eight or ten events in July and the same number in August.

And I'd say in March, April, May, you are probably in the high teens to low 20s.

MICHAEL GARDNER: Could you describe how you do identification checks or card checks for the concert?

MR. BHATTI: Each patron coming in is asked for identification, regardless of whether they are 21 or not or underage. So everyone has a verified ID. So it's not "I'm 18. I don't have an ID, can I still come in?" Then it's, "No. You have to have proper identification at the door."

And we typically wristband any patron who is over 21.

MICHAEL GARDNER: So does this happen at the ticketing place?

MR. BHATTI: At the entrance to our venue. You don't want them in your venue -you want to be able to control access to the venue. So we'll have staff there to verify the ID as you are coming in to the concert.

If you are over 21, you'll get a wristband. If you are under 21 -- we operate it both ways where you'd get a stamp on both hands marking that you are under 21, a distinctive stamp, or you don't get a wristband -- you never get a wristband, but we have done stamping or not stamping depending on the location.

Once you enter the venue, our staff

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is always trained and told that they always check for a wristband and verify if the person has a wristband off. It comes down to diligence on our security staff. Again, that's where it comes down to it's important to have security that report to you directly. It is our business that we invested in, so it's the last thing that you would want to do is put that license in jeopardy. So it comes down to diligence on the security staff.

We have posted security at certain places. But there is also a number of security who float through the venue and digitally monitor the drinking, and making sure that anyone who has a drink in their hand has a wristband. And anyone who has a drink in their hand that has a stamp on their hand, it's a non-alcohol beverage. If you have a Diet Coke as opposed to a rum and Coke, it is served in different glassware so that you can identify it easy, and it makes it a little easier on our security staff. And it really comes down to security being on their toes.

So as patrons entering, you look for certain things in past experience. If someone is coming in and one friend is 20 and one friend is 21, it is on your staff to make that mental note, that person -- that's where you are in riskier situation. You have to watch that drinks are not passed back and forth. And it is very important to just be extremely diligent to police that inside the venue.

MICHAEL GARDNER: So what would you estimate as to the number of staff you would need for a full capacity 500 crowd, both during the concert, and then talk a little bit about the outflow, the concert is going and the people are going out into the street.

MR. BHATTI: Sure. You know, each show has unique needs. Certain shows you'll want to be up on security; others less, just depending on the age of the crowd. If you know where your breakdown is going to be age wise. But I'd say somewhere range of eight to ten staff who are working as -- you know to monitor that.

And on the outflow, basically our plan has floating staff members. The door staff remain at the door all night, they never move from that location. The floating staff that are inside monitoring as people start to exit. You then move some that staff outside onto the -- as the exiting out of the venue --I don't know if any gentlemen have gone by the location, the entrance is setback off the sidewalk so there is space as patrons are coming out and our staff is there helping answer questions, address any concerns, look form any potential issues that could arise. But directing people, you know, "the T is in that direction"; "the taxi stand is in front of the Mass. Avenue in that direction." You know, "The best way is to kind go over there

in the parking lot" or wherever else just to kind of help with the flow of people. So as people are exiting the show -- you know, we are not looking for an exodus of people not knowing where to go. It's very clear signage, you know, "the MBTA is this way."

We see a lot of our patrons, especially the college-age ones, taking the MBTA, using the T to come in. And part of having our concerts end when they do so to ensure that many people can grab that last T out of Harvard Square at around 12:30, so we always want to make sure that people have that option; we don't try to have them rely on cabs or driving. And it's just vigilantly keeping an eye on the neighborhood and trying to be a good neighbor overall to the businesses and abutters in the area.

MICHAEL GARDNER: Does anyone have any questions?

ROBERT HAAS: No.

MICHAEL GARDNER: It took me a while to think of what it's called, but can we expect like "mosh pits" here? Is this the kind of place where -- I'm just trying to understand what we can expect these people who are standing for three hours to be doing. And I couldn't remember what a mosh pit was called.

ROBERT HAAS: What is it?

MICHAEL GARDNER: Well, the people throw themselves, they get up in the air and move their bodies over their heads through the crowd.

JAMES GLANCY: That is as good a description as any.

The type of music that we book, there isn't moshing. I think, to answer your question, people are literally standing in one spot watching the show, between acts, they go to the bathroom, walk around a little bit.

But as Jim says, people are trying to

protect their spot and stay where they are. And if they got there early, they want to make sure when the headliner comes on they have their spot.

MICHAEL GARDNER: You don't have any "Who" type stampedes to the stage?

JAMES GLANCY: No, no. Heavens, no.

MICHAEL GARDNER: How do you control for that? You know, the problem about general seating at some points in terms of crowd control, and we've had difficulties in other parts of the country in terms of crowd behavior because there is not assigned seats. Here it sounds like there is not assigned spaces.

So what's your experience with jockeying and pushing and all that?

JAMES GLANCY: Again, I think a lot goes to the type of music that it is. And I think the capacity of the concert hall is much different than if there is three or four or five or six thousand people waiting to get into big arena and they hear something and --

You know, our crowd isn't going to start queuing up at 2:00 in the afternoon to be the first people in the venue. It's not about that.

MR. BHATTI: Characteristic of a larger -- I mean, in one of our venues, it's a 3,000 person venue in New York, and that's on a popular showing. Yes, they are people queuing up a couple hours before the show, and that's a different operation there. There, there is always a crowd control barricade which keeps -- you know, there a stage and then there's some space and then another barricade and the security is between the stage and the audience.

JAMES GLANCY: Regardless of the show, right?

MR. BHATTI: Any show. If it's a solo acoustic act, there is a barricade there

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with a staff behind it. You tone it down for certain shows. But that's what is more characteristic in a larger type area where you need that.

Typically venues in the 700 and less range, if you're not booking heavy metal bands, anything heavy, it's not industry standard to have a barricade in there.

You have security at either side of the stage watching the stage, watching the patrons. Again, identifying early on if you see patrons starting to act unruly, you want to pull them aside right away and say, "Hey, you do that again, your night is going to be over here. We'll ask you to leave."

I really hesitate -- we never say "bouncers." I hesitate to say "security." The patrons are your customers. And it is very important that you if set a level of expectation of them entering the venue, it is unbelievable how often they live up to it. If you set a welcome and friendly environment, -my biggest pet peeve of walking into other music venues is when you walk in and that doorman is a bouncer, and it sets an attitude right away with you.

We try to be friendly, welcoming, set expectations clearly. If you are under 21, it is implicit that you can't drink, but we state it clearly: If you trying to possess, consume or purchase alcohol, you will be asked to leave.

And that way, if you do catch that person who is under 21, we can pull them aside and say "We explained to you the rules, you didn't follow them. You are putting our liquor license in jeopardy. We have to ask you to leave. "

MICHAEL GARDNER: What's your experience in other venues with drug use? MR. BHATTI: Minimal. Again, it comes down to security controlling that access, controlling that at the front door.

I think past are the days of the '80s where, you know, you are seeing a lot more drug use in music clubs; but it is slim to none, I would say.

JAMES GLANCY: The "no smoking" in venues has really made that part of the job a lot easier. So if someone lights up, it doesn't matter what they are smoking, it is not allowed. So, again, you are out of there.

GERALD REARDON: Quick question, maybe for the architect. The 525 standing, do you know what the square footage would allow?

I know what you are asking for, but based upon the calculations --

MICHAEL GARDNER: Sir, if you could, just state your name for the record.

MR. WHEELER: Sure. My name is Harry Wheeler, W-H-E-E-L-E-R.

GERALD REARDON: Do you have a floor plan that I could look at? It doesn't have to be exact but predicated on 525 --

HARRY WHEELER: There are two -there is a mezzanine level, which is included in that 525, between the stage viewing area on the ground floor and the mezzanine level and the second floor, there is a total of just under 700 feet or less by code, and that's calculated by square feet, which is standing room only, that's everywhere somebody could stand.

Now, there is additional square footage allowed in front of the bar where there might be some stools that's in addition to that. But just the standing room area is just under 700 people.

GERALD REARDON: So you're significantly less than what was potentially allowed by the ?

JAMES RAFFERTY: By the building code. We did meet in advance of the meeting with the deputy and lieutenant of fire prevention this week just to test out all of Mr. Wheeler's assumptions and means of access and egress and the sprinkler and fire suppression and all those techniques.

And it was determined by the staff that the significant issues associated with fire safety and life safety were being addressed.

MICHAEL GARDNER: So could you describe for us the means of egress from the space? And we've got it in front of us, but if you but walk us through it.

HARRY WHEELER: Sure. There is a main means of egress which is the 50 Church Street address --

MICHAEL GARDNER: That's the stairs at the bottom?

HARRY WHEELER: Correct.

MICHAEL GARDNER: And so you'd have to wind your way through several rooms to get out? HARRY WHEELER: Well, there's -- upon entry into the main entrance, there is a wide corridor as I approach the ticketing area. Then there is just a left turn and you are in the main viewing area. So that's one wide corridor all the way. So that is a primary entrance, which is also under the new building code the primary means of egress.

The secondary means of egress is just towards me on the plan. There is that double door which is just north on the plan, which is a vestibule right there (indicating), that door goes into the hallway now which has the ramps, which is a rated excess access hallway for the office building where all the tenants jump out onto (indicating).

MICHAEL GARDNER: The shaded area? HARRY WHEELER: The shaded area of the ramp.

JAMES RAFFERTY: That is the area in front of the elevator bank.

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HARRY WHEELER: Now, we are in compliance with the fact if that the primary means of egress is blocked or barricaded or just by people, that secondary means of egress can handle the same amount that the primary means of egress can. So those two means of egress comply.

There is also a stairwell just more towards you now, south of that double door (indicating). It's a small rectangular that is running up and down on the page, that is an existing stairwell that goes down into a lower level door, which exits out into a public alley. So those are the three means of egress that we are using for the space.

The length of travel is all appropriate for distances between egresses, and also a minimum distance. And the space is fully sprinkled.

ROBERT HAAS: So this little bottleneck right here as you come into the ticketing area and make that left, and it looks like two or three steps?

HARRY WHEELER: There is two or three steps and then there is also a six-foot ramp. So that whole space is 12 feet in width, which is, for this type of capacity going to a six-foot door by code, we really need to maintains six feet. And we have a minimum of twelve feet. I think at the entryway it extends out to 15 feet.

And in review with the lieutenant yesterday, we pointed out that our capacity for all of our egress codes and stairwells, we went by the code requirements, which, in the building, a space of this size can accommodate 905 people, and we are only requesting 700. So we are 205 people under what we are providing for egress capacity, door-with and so forth.

GERARD REARDON: For the record, this is what we call a conceptual review, which is

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not the actual, final review, but whether or not meeting under the new building code and the fire codes that the plan submitted in the end, the potentially worked, the footprint given --

HARRY WHEELER: Correct.

GERALD REARDON: It's not a final sign-off on anything, but just to make sure that this is, in fact, a conceivable floor plan.

HARRY WHEELER: Correct.

JAMES RAFFERTY: There are certain assumptions embedded in the plan that allowed us the opportunity to test those assumptions with the fire department this week and they found them to be valid.

MICHAEL GARDNER: Is there any factor here in terms of other uses in this general space, the office building, Fire and Ice, Dato Tee, other people around -- I don't know if they were a building-wide problem, there would be people from other sources going out to some of these same areas, has that been factored in?

HARRY WHEELER: I can address the building egress and maybe Josh can address from a security standpoint how they limit that interaction.

The landlord is present; we met with his staff, who has provided us the data for were these other offices and Fire and Ice exit into and out of.

We have taken their loads into account when we have calculated the exit doors.

So if we calculated for the egress capacity of Fire and Ice and also the tenant capacity coming down that stairwell and out that main door at 50 Church Street, so that's all taken into account so we know we can accommodate their occupant load as well as our load exiting the building.

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GERARD REARDON: Did you happen to do a combined percentage of exit for --

HARRY WHEELER: For the entire building?

GERALD REARDON: No, for the combined exit.

HARRY WHEELER: No, we did not, but we could definitely provide that upon final review.

GERALD REARDON: In terms of if the exit floor is "X" predicated on the size of the door, assuming both loads together, what percentage of exit flow do we have?

HARRY WHEELER: We did do the math, it's not on the plan because we did have to add one door on the 50 Church Street side to go from two doors to three doors. So there is that. So we did do the math, but it's not indicated on these plans.

So from an occupancy exiting the building, we are comfortable with the numbers

and the capacity.

Josh, do you want to --

JAMES RAFFERTY: Do you have anything more to add?

MICHAEL GARDNER: I think you were here when Mr. Rafferty said that he estimated that the expansion was from about 17,000 to 15,000 square feet. I was just wondering if that fits with your understanding of what the new configuration would be?

HARRY WHEELER: Yes. I think the atrium and so forth, I think actually our occupancy is less than that.

MICHAEL GARDNER: How many square feet for the concert area itself?

HARRY WHEELER: So for the standing -- and I'll do some quick math because we have had it all broken out in separate areas.

For the stage platform viewing area, just where the people can stand, it's 2,223

square feet. The stage itself is 410 square feet. The total combined area on the ground floor for the tables and chairs is 760 square feet. The back of house mechanical, kitchen, bar support, about 1600 square feet. All occupancy loads for those appropriate uses entitlement load is 905 and that is just for the first floor.

MICHAEL GARDNER: Who ever is most appropriate to talk about sound and the noise volume control?

JAMES RAFFERTY: Just the landlord has stringent requirements on that so that the sound -- the building is occupied. The other use in the building are office tenants. And the perimeter walls of this music hall are actually -- the abutting users are often tenants, so there are stringent sound intenuation requirements being imposed by the landlord to prevent sound from leaving -- not even leaving the room, let alone going

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outside.

So we have very extensive -- it's a high -- it's a significant requirement in the lease, and it's a big piece of the build-out of space, and significant attention will be paid to that.

MICHAEL GARDNER: Could you just talk a little bit about supplies coming in and the control of rubbish and general sanitation.

MR. RAFFERTY: Right. The building is serviced from an alley. There are loading docks, or loading bays in the back of the building. There is a driveway between this building and the abutting building that occupies the space down from the corner of Brattle Street.

And when you come down that driveway, which is in the area, it abuts the area where the new stairway is. Loading for a variety of commercial and restaurant uses occurs back there. It is where, historically, the restaurants that have been there for decades have loaded and will continue to serve as loading for this restaurant.

MICHAEL GARDNER: And what would you expect to be the trash load out of the concert area, of any significant or not?

MR. BHATTI: It's mainly out of concert venue you are talking about. Cups and bottles are all recycled. So it's not a significant -- you know, how many bags of trash will go out each day or night? Not a significant amount of trash.

MICHAEL GARDNER: Are you serving with glass in the concert area?

MR. BHATTI: Plastic is usually preferred. Some of the venues have moved to a corn starch alternative -- an alternative to plastic. But, yes, it is software, not things that can be broken, thrown or otherwise --

MICHAEL GARDNER: You used the word "glass" at one point in distinguishing between the Diet Coke and rum and Coke. So I'm a little confused with that.

MR. BHATTI: Yes. The whole drinking container. I'm not sure what it is.

MICHAEL GARDNER: Anything else to add now Mr. Rafferty?

JAMES RAFFERTY: No. I trust they are not file, but there a number of letters of support from local people. And there are also letters from agencies and neighbors of some of the other venues attesting to the type or the caliber of operation, the quality of their interaction with community groups and abutters.

ELIZABETH LINT: Not those.

MICHAEL GARDNER: I looked at the file this afternoon and I didn't find any.

JAMES RAFFERTY: Those were from community groups, one from a neighborhood group in New York City.

ELIZABETH LINT: I believe all of the

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letters that I received today, both in support of the application and opposed to the application, I forwarded it to you. The only one that did not come via e-mail that had not been forwarded to you was from Mayor Maher, who was in support of the application.

MICHAEL GARDNER: And we'll now open the matter up for public comment.

And I see Councilor Reeves here. Do you care to speak on this issue? And then we'll go to general members of the public.

And would you please state and spell your name for the record.

KENNETH REEVES: My name is Kenneth Reeves, Cambridge City Council.

I want to support of the application because I think we have come to a time when we have to understand that Cambridge is a destination, and if we want it to remain a competitive destination, we have to join the rest of the destinations in what we offer. We need today have a City of Cambridge, where if you take a late night flight and land here, you can't go out to eat because everything closes early -- for reasons that don't seem to be easy to understand.

If I go to Washington D.C. or San Francisco and I get off the plane at 10:00, I have unlimited options. Here we seem to not believe that we should have later night venues of any type.

I'm sort of describing the problem as I see it. And I think something like the Bowery, this proposal, is part of the solution as to what is an over-arching problem. The residential neighborhoods in Washington, D.C., various venues are open for food all night long; all night Friday nigh, all night Saturday night, and nobody died. It just happens. It is well managed, the operators know what they are doing, and it offers -- and Washington is very comparable to Cambridge in that it's an international city, it's a student city. That's what we are. And we were not competitive with other places like Austin, Texas, for example.

Austin's government joined with the business community and decided that it would become an epicenter of music programming, and they have 200 venues for music, which is encouraged by the government and in partnership with the government.

So they have this annual festival called South by Southwest, which really determines what happens in the music industry international. South by Southwest now is about 30 percent internationally.

But in Harvard Square, I know there are those who would raise an eyebrow at anything called a nightclub in Harvard Square. However, one of the largest nightclubs in the country, if not the world, the House of Blues was born in Harvard Square, and born in a most unusual spot I might say. And has the most unusual support given what normal tendencies have been in that area.

The House of Blues has gone on from Cambridge to become a multi-unit enterprise across the country and with a very large venue. And when they came back they went to Boston with a great big venue.

I can think of very few places in Harvard Square that one could go -- when we have a student center -- with nowhere to go to dance, literally; except that there is a little dancing at the Red Lion which is now expanding, and a little dancing at OM on a given theme night, either eastern European or other specific groups.

I think Cambridge can do better than that. I think to have a national operator who has venues all over the place -- my Godson, who is a CRLS graduate -- will never be coming back to us, one of his favorite venues in the

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Williamsburg section of Brooklyn that is operated by this operation.

And I also know that there is a letter from the owner of Newbury Comics, who has an interest in a Cuban restaurant from the same Williamsburg area, who responded favorably in support despite the competition.

So I would never seek to tell you what to do, but I do want to say that we have discovered -- I read in Central Square, looking at what it is, Central Square turned out to be, among other things, a significant music venue where most of the students who are at Berklee College of Music had their first look at an all Asian restaurant. Suddenly an all Asian restaurant is going out of business. It might come back, we hope. But to know that we are an important part of the kind of musical ecology.

The Middle East is the epicenter and heart and sole of this, which is another multi-night music venue.

The thing I like about this proposal is you have an excess of 250 plus live music events which are supported by local musicians. The Middle East is where every Berklee graduate seems to also play at some time. The Middle East doesn't have a long lease; it could go away.

So the city has a very of fragile evening culture in the city. And I think the License Commission should be aware of these connections.

I must say that I'm very pleased that we have a new place, which is a wonderful new facility which I hope will have more music, too.

I think this is a good thing for Cambridge. I think Trinity Properties is a reputable operator, I don't think they have ever had any trouble there. They have had some significant things there, they had redone the building. I would invite you to go and look at the building. It's one of the best spaces in the city, it has one of the most beautiful rooms in the city, nobody even knows about and it's there. And I'm hopeful at some point they will do more with it.

But this restaurant space is to consist of a large atrium, which is quite magnificent, and which is unexpected.

So thank you for listening. And I know you'll give it your best consideration, and you're reporting to the Council in December on the red ribbon, and we have a lot have to say about food and entertainment in the city.

But just how New York City is in Cambridge and Central Square. And how New York City will never be finished, and Central Square will never be finished, but there are certain aspects that we want to continue to amplify and improve and that's the direction of it.

Harvard Square, the Mayor of Somerville and I had a wonderful back and forth this year about whether Harvard Square had become a shopping mall. And I pointed out to him that Harvard Square is where everything begins. The Origin store began there, the House of Blues began there. Any number of now national things began there. We can't say that the Bowery began there, but they must have.

That's all I have right now. So thank you.

MICHAEL GARDNER: Thank you.

The next person, will you please come forward and state and spell your name for the record.

JOHN CLIFFORD: My name is John Clifford, C-L-I-F-F-O-R-D. I live at 55 Pasadena Avenue in Cambridge.

I want to speak in favor of this

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application. I think it's a great asset to Harvard Square and to Cambridge. And also I've been to the Bowery ballroom, the Music Hall in Williamsburg. It's my son that is Ken's -- Ken is a Godfather to my son. And I am extremely impressed by the operation at the Bowery ballroom. I was extremely impressed with the security, neatness, cleanliness. And who I heard there Chick Correa, Chris McBride, and those are first class, number one, jazz artists throughout the world. They play all over the world.

My son took me to the Music Hall in Williamsburg, and as most of you probably know, Williamsburg has been revitalized and it has all types of restaurants, bars and things. It's a very good operation.

My son tells me, he is 26, that there is never any trouble, never any problems in these operations, and security is very, very tight. And I could see that for myself from someone who used to own a nightclub, a restaurant/bar, a music venue place.

So this would be a great addition and I urge you to accept their application.

MICHAEL GARDNER: Thank you very much.

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

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

MARK JAQUITH: My name is Mark Jaquith, J-A-Q-U-I-T-H, 213 Hurley Street.

This could be just what Mr. Reeves said. This could be the most fun thing to happen to Harvard Square. It is very much larger than anything we've had in the City of Cambridge as long as I've been here, going on 40 years.

JAMES RAFFERTY: You never made it to Faces in those 40 years?

MARK JAQUITH: You know, I never made

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it to Faces. No, that wasn't me. I was an Oxford Alehouse guy. But I was not one of those people who broke windows, which there were a fair amount of.

And based on just the size, the fact that closing times are proposed for 1:00 and 2:00 a.m. after the T has shut down, I would like to see Commissioner Haas' outfit present some data, some sort of predictions that these groups spilling out onto the street are going to, in fact, be well-behaved. One can hope they will and whatnot.

And the other thing would be the fire access. Church Street is tight. Can you get there with crowds?

Also from the Harvard Square Business Association as a group, or the Harvard Square Defense Fund, being a revived group of neighbors that is in and around Harvard Square.

And I would urge the Commission not

to make a decision on this until some of these things have been answered and presented to the community and the City Council, and the folks who have had more of a chance to discuss this and get back to you.

MICHAEL GARDNER: Could you describe how close your residence is to this space?

MARK JAQUITH: My residence is in East Cambridge. I am here because I am the outgoing president of a group called the Association of Cambridge Neighborhoods, where we discuss development matters across the city.

And so it has sort of become one of the things that I do is to advocate for the neighborhoods, et cetera.

Another thing that occurred to me is, if there are barriers in the street/sidewalk that is going to affect the neighboring businesses as well. Just another thing to consider. Again, this could be the greatest thing ever, but there are certain cautions that come to mind.

And one question: Pyrotechnics are not allowed?

GERALD REARDON: No, they are not allowed.

MICHAEL GARDNER: For the record, the Fire Chief said they are not allowed.

Anyone else?

Please come forward and state and spell your name.

PEBBLE GIFFORD: My name is Pebble Gifford, and I live at 15 Hilliard Street, a block from this locus. And I used to be head of the Harvard Square Defense Fund. And we probably spent 15 years as a group on the issue of liquor licenses in Harvard Square. Because when we formed, Harvard Square was a dangerous place, especially at night.

And I'm sure there are people in this

room that will recall there was absolutely no control over the liquor licenses; they were pretty much handed out pretty freely, and nighttime was a pretty scary proposition.

And on our side of the Square, there are a lot of older people; there were then and still are. And we hear from people that were scared to go down there at night; scared to come out of a movie theater at night; scared of some drunks coming from some establishments.

I must say that the rules and laws of serving liquor were not enforced in those days as they are now. It's better now. But it was not a good scene. So we set about doing what we were asked to do by the then Commission, which was to do some research and studies and reports. And we determined what the problems were and how they could be addressed.

And the Commission of that day, to their credit, set about a staff writing up new

guidelines for Harvard Square, it was called the CAP Policy. And it was so popular with the residents that it was soon adopted citywide. So it wasn't big CAP, but it was each area that was a cap. And I have the records of that if you would like to look at them. It would maybe not be a bad idea to go back to some of those policies.

For instance, there was a limit on the number liquor license in the CAP area. If you wanted to buy a new liquor license, you bought it from within the CAP areas. So there wasn't a constant increase in liquor licenses.

And you couldn't increase the occupancy of the license under this CAP policy. If it bought a license that had 200 seats, that's what you had.

And I think one of you mentioned this issue of, "Can you imagine the value of somebody who kept the license for 300 occupants and it increased to over 700, what we've given him in value?" That's quite a
nice thought, maybe I'll go into the business.

But back to some of these restrictions that we had. The feedback we got, mostly from residents, is that they worked well. And the Square had sort of a little different atmosphere and it was a nice place to live.

At first I was troubled by these patio licenses, because they were uncontrolled. But now they are and I think they are a plus to the Square and I think they are being well administered and increase some of the sidewalk activity.

One of the main premises of the policy, and it applies to this place, is that no bars, no place to go, could open just strictly.

And one thing I'd like to ask these applicants, "Can we see their menu, please? What they plan to serve and when?" And I've heard mention that the shows would end anywhere between 11:00 p.m. and 12:00 a.m. But if they are open until 2:00, what are all these 500 people in the hall going to do? Can they continue to drink? Is the operation going to continue to serve them food? Is that policy out the window? The bars can continue to serve liquor but not food? That would be very unfortunate because that was the situation when we came in.

And the last thing the Commission seemed to think that was one of the big problems they constantly had to deal with. The time for drinking before they poured out into the street and no food. And it caused havoc and fights and vandalism and cars being vandalized.

I don't know if you remember Sage's Market, I do. There wasn't a month that would go by where Charles Sage wouldn't have a broken window from people coming out of the

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Oxford Alehouse. And that was one of the big offenders at the time.

So we, the residents, were very happy with the new character of the Square; there with plenty of places to eat and you could get something to drink up until 2:00 a.m. And I didn't hear very much about people getting off planes and not being able to eat anywhere. But maybe Council Reeves knew of those people.

But the opposition to those restrictions on the liquor licenses came from the politicians and the city council and the city manager. They didn't like to have the Commission saying no to an operation like this that represented business to them. I don't know what it represented. It represented having a good time in Harvard Square.

And they would appear here and testify in favor, both pro and con, but mostly pro the operation of these premises. And in all due respect to Councilor Reeves, I never

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heard him testify about the impact of these premises on the residents, people like myself and others, who pay the taxes and have to put up with these if they are not well run or if they do cause trouble. And we have to exert a major effort to get anything to change, to get regulations imposed that would limit some of this behavior. And I would like to see more of that coming from the councilors.

And granted, there are tourists, we are very popular, we are one of the top destinations in the country. But there are also city residents who pay taxes and live here and want to enjoy their life and go to the Square with their children, even at night. There are so many ice creams shops now you can't resist the Square at night.

So to be worried about the drinking problem, I don't think is fair to the residents.

I would suggest that this hearing be

continued for the very simple reason that when this hearing was noticed for October 27th, that was approximately a week before the election. Every one of the people that I know in our group were working on the election. And then we had a long weekend.

We tried to set up a meeting, Mr. Rafferty and I -- when was it? Monday? It was just too hard; people weren't focused, and they had no time to get focused. And we had no material.

I came down here to look at the file and it was out. I don't know where it was, but it was out. I was hoping to see it before the meeting tonight. And that's why I would like to see a set of floor plans to show people. I would like to know about acoustics and, like I said, the menu.

So if you could continue this, we could get more interest because we would be able to tell people about this. I don't think Cambridge has ever seen anything like this.

I do suggest you all look at the website, Bowery Presents; it's got many, many web sites. Bowery Presents New York, Bowery Presents Boston, Bowery Presents Philadelphia. It's all these cities. And it's quite an interesting showing on this website, all of the details.

But there is one group called the -it begins with the "F" word, "F" and "uckers" and it's a sadomasochist crowd. These are singing groups that perform in these places and they seem to go all in the Bowery Presents premises and they rotate around. And they're here one night, and in one of their other premises another night. That's fine. But I'm not sure -- oh, there was a group in Arab dress. I have nothing against that, but was that just trying to be provocative or was that just another group. And another group, I forget his name -- the guy we just killed? JAMES RAFFERTY: Osama Bin Laden? PEBBLE GIFFORD: Osama Bin Laden. They had a group standing out in front of a replica of his bunker in Afghanistan. I'm saying: What's the connection between this group and Bin Laden?

So I do hope you'll look at the site because it does give you a distinct idea of the flavor.

And I don't think -- I mean, I've never seen anything -- a chance of getting to Harvard Square -- that connotates more bad vibes from the residents than this point of view.

What else? There was a situation -the Blue Room did well because they got away with removing their tables and chairs after 10:00 and just served those who had money. There was an attempt to prevent that from happening. I don't know because I didn't go there that often, so I don't what happened. And the parking, I don't know whether the T is going to be closed or open. But if it's about the same time this place is opened, we've got a problem right there. Because how are these people going to get out of Harvard Square in Cambridge? I can't imagine 500 people emptying out of Church Street at anytime.

And that's another question. Why do they want to open at 8:00 a.m.? It says on the license that they will open at 8:00 a.m.

And correction, Mr. Rafferty, it says, those 50 seats are in addition to the 175 seats; those 52 patio seats.

So there is 175 inside and 52 outside, in addition, so that brings the total of people there at any point in time up to 750 by my count. I mean, it just boggles the mind.

Where do these people go? How do they get out of the Square? Which is the point I'm trying to make. Most restaurants are not open until 2:00 a.m. I go to all the restaurants at one time or another and they stop serving after 10:00, and they don't have big bar scenes. I think you can get at the bar a hamburger.

What are these people going to do if they are hanging around with a glass in one hand and no table and no chair, and sitting there for two hours waiting to go home? I don't get it.

If they are just drinking, we have got problems, enormous problems, if that's all they do because the music has stopped.

So the three things they are applying for are the transfer, the number of licenses, the 304 occupants and they are going to 750, that's a pretty big increase.

The other point is, there is nothing there right now with 300. So they are going from zero to 750 on Church Street. There is no operation now and there hasn't been any.

Mr. Rafferty went through the list of places that have been there and he said the last one was Phatt Boys. When did they close?

MICHAEL GARDNER: About two years ago.

ELIZABETH LINT: 2006.

PEBBLE GIFFORD: So there's has been nothing there -- is this the license that's being acquired?

MICHAEL GARDNER: Yes.

PEBBLE GIFFORD: It is. And that was the 304 person license. So two years there has been zero.

MICHAEL GARDNER: It's actually been longer by our records. Ms. Lint estimates that it closed in 2006.

PEBBLE GIFFORD: So that's six years in which there has been zero patrons going in and out of that place. We are going to go from zero on Church Street, double parking, which form two narrow lanes, to 705.

How is the city going to prepare for that? I think you'd have to have a traffic detail out there, a police detail out there. This isn't New York City. This isn't Philadelphia. This isn't Time Square.

This is one corner of a small square. Cambridge only has 100,000 people. Are we going to compare ourselves to New York, the population of New York City or any of these other venues? I don't know their population, but they couldn't be as small as this section of Harvard Square, let alone the city.

It would seem to me that that is not rational. It doesn't make sense to allow a place to go from 300 to 700 and, in fact, go from zero to 700.

And the idea that there isn't a neighborhood here, there aren't residents here is bull. Farwell Place is occupied by residents, it's one small block away from Church Street. And the only thing between them and Church Street is this parking lot.

And this parking lot has caused many problems over the years. First of all, it's where a lot of people, after drinking, like to go and they urinate, they throw-up.

The woman who was coming in to testify broke her arm yesterday, but she sent a letter. Professor Ouellette, they have it.

And she can describe to you in detail the nightmare; they wake up in the morning and there are beer cans in the backyard, there's this and that.

So they finally got Harvard to put up a higher wall. And the Oxford Alehouse left, and the Border Cafe has been leased and it doesn't seem to be causing any problems. They can hear the music at Farwell Place from Trinity Properties' premises. I guess it's not so offensive that they have objected to it. But this is a residence. I'm half a block -- one and a half blocks one way. Cambridge Street, it's all residential. Story Street is pretty much residential all on one side. And then you get into Hawthorne, which it is all residential. You're on Brattle -you can't say anything about it.

And this place is going to be very, very close to our residents. A change of the -- I'm a little mixed up about how many square feet are being added and for what purpose?

And I have just a few more things for you.

MICHAEL GARDNER: I wonder,

Ms. Gifford, if --

PEBBLE GIFFORD: One more thing. I know.

The previous Commission worked with the student public health and did some very, very comprehensive reports on the correlation between the number of liquor licenses in the

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city and in the neighborhood, especially with the college nearby.

What was the -- and it showed the direct correlation between the increase and the incident of crime, alcoholism, vandalism, serving underage people, violence in the street.

Massachusetts has one of the densest (sic) concentrations of liquor licenses in the country. Isn't that amazing? Per population. And Cambridge is the densest (sic) city in the Massachusetts for the liquor license.

So we are well served in Cambridge by the convenience of getting a drink. I don't think we have to worry about anybody here going without a drink. Maybe between 2:00 and 8:00 they can't get one, but they can go home and get one.

MICHAEL GARDNER: I think we have that point.

Anything else that you'd like to sum

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up with?

PEBBLE GIFFORD: I hope all of you get a chance to look at these reports that have been done and to no benefit. And I've read them and they are very interesting.

Do you have them?

ELIZABETH LINT: No. I'll make a note.

PEBBLE GIFFORD: Thank you very much. MICHAEL GARDNER: Thank you.

Anyone else? Would you come forward please and state and spell your name for the record.

ESTELLA JOHNSON: My name is Estella Johnson, and I am the Director of Economic Development for the City of Cambridge.

And I'd like to come in support of this petition. I have been working in the City of Cambridge for ten years and I've worked in a lot of other different cities around the country, and I'm very surprised at the number of entertainment venues -- the lack of entertainment venues that are here in this particular city.

When you go to other cities -- I've done studies as it relates to these other cities as well. We took a look at some cities that were very similar to Cambridge in terms of population and demographics. And Cambridge really has a lack of venues for the population that it serves.

We have a very high number of young people who come here to go to school; and who stay here beyond their school years and raise their family's here, and there's very little for them to do in the city as compared to some other places.

We looked at Berkeley, we looked at Austin, Texas, and Atlanta's Buckhead, and a couple of other cities just trying to get some sense of how Cambridge stacks up in terms of entertainment venues as it relates to those venues, and it really does not.

MICHAEL GARDNER: Has any of this been published or written up in any papers?

ESTELLA JOHNSON: No. Actually, there's been some articles I can get for you that will talk about the various entertainment areas.

MICHAEL GARDNER: Perhaps in the interests of time, if there are materials, you could submit them to Ms. Lint.

ESTELLA JOHNSON: Yes, I'll definitely do that. But I just want to say that we do have a very young population and we have plenty here for people who are my age and older, things for us to do; I mean, the kinds of things that we like to do, like have nice, quiet evening.

But for the young population, there's very, very little for them to do, except for the things that are happening in Central Square and we could really stand more of that. We find that the students actually leave Cambridge and go over to Boston looking for entertainment. So we are hoping to be able to keep them here.

And I'm very much in support of this, and I'm also happy to hear that this group is going to create some jobs, which we absolutely do need here in the City.

So I'm very hopeful that you will approve this petition and allow more -- in fact, this is in line with the City Council's goals. They have asked for more entertainment venues, and so we wanted to be able to provide that for our residents and our population there. So I'm in support of it and I hope that you do approve it.

MICHAEL GARDNER: Anyone else?

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

MR. SCHALL: My name is John Schall, S-C-H-A-L-L, I'm the owner of Fire and Ice in Harvard Square. My business is directly below this proposed venue and I'm very much in support of it.

Now, in addition, I also live at 19 Hilliard Street, two houses down from Ms. Gifford. And both, as a resident who spends very little time going anyplace in his car, I'm really looking forward to this venue as a resident. And also as a business owner, as a restauranteur in the square, it's a tremendously positive benefit to the Square to have a live music venue that brings in really great acts, sort of class acts.

And, you know, to have 300 or 400 or 500 people one night, both coming before the event and after the concert looking for places to eat and be entertained is a really positive thing for the Square.

And it's a great thing for me, and I'm really looking forward to it. And as a resident, I think it's great. All of the -- sort of -- that building has been adapted so it really fits that venue, as well as the Fire and Ice venue. So I think the structural issues have been dealt with. And I'm really looking forward to it as a business owner.

And just because I'm located close to it, I think all of the restaurants in the square are going to benefit greatly from this venture.

So that's all I just wanted to say, both as the Fire and Ice's owner and as a resident on Hilliard Street, I'm looking forward to this. I also have a letter on file.

MICHAEL GARDNER: Thank you very much. We have that letter.

Any other members of the public who would like to be heard on this matter? MR. TEAGUE: I'm Charles G. Teague, T-E-A-G-U-E.

MR. TEAGUE: Pebble Gifford is a hard act to follow. I just wanted to reiterate her request for some deliberation here because it seems rather extraordinary that she hasn't -that her group hasn't even gotten a walk-through, and it just seems so many things about this that don't add up.

If Councilor Reeves accepts this, but their subway runs all night. And this is a destination, this is not a resident. We are not going to walk over in from Hilliard Street and fill in the room. It's obvious that people are going to drive, and there is no other way around it.

And that doesn't -- all these things don't make sense. In the old days -- I miss the small venues like Jonathan Swifts or the original House of Blues. The original House of Blues went away because the modern business model of music is what these guys are doing. And so there is a mass of venues and they rotate the people through, and they have a floor of the same size, and the House of Blues, and said we will go to Lansdowne Street is a really big spot with lots of parking lots.

And I think the time has come and gone for this in Harvard Square. And I was really rather amazed that the woman from the city here said there is no entertainment venues when there's three right around the corner, there's the Lobe and Sanders Theater, there's just a different kind of entertainment. Hundreds of them.

But if you go over to the Holyoke Center, and look at the Harvard listings for theaters, there's six or seven performances every night just within walking distance. And that's what it is.

I mean, you know, perhaps this is for the new Kendall Square. But for Harvard Square it just doesn't add up much.

And speaking of not adding up, I'm really surprised that you can go and build more floor space and then go "I have more floor space and so give me a bigger liquor license for free." That's a remarkable achievement.

And, finally, the -- well, not finally, but the weddings is definitely -that's those people aren't going to just saunter over from the neighborhood and go to get married. That strikes me as a really bad idea.

And this whole thing is just critically dependent upon on the operation, the daily operation of the staff. This could be fabulous if the staff is on their game 100 percent every day. But, you know, the Patriots lose games every now and then and so, like, you know --

So it seems to me that if things slow

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down and get -- and if this were going to happen, it would have to be a really clear and firm set of restrictions.

The 2:00 a.m. is -- after the subway -- I just don't know how you can -that just doesn't make sense.

There is a whole series of things here where we are asked to just go along with this wonderful painted vision. And I would like to, but I think that the time has come and gone for Harvard Square.

MICHAEL GARDNER: Thank you very much.

Any other members of the audience that would like to be heard?

HEATHER HOFFMAN: I'll apologize for my invoice, you might have guessed that I have a cold, and I sucked down two cough drops so I would be able to speak.

MICHAEL GARDNER: I would ask you to be --

HEATHER HOFFMAN: My name is Heather Hoffman and I live at 213 Hurley Street, and I will speak very briefly.

I'm here as the as co-president of the Association of Cambridge Neighborhoods. We have not had an opportunity to meet on this, so we don't have a position. So what I will do is state our general position on especially large developments in neighborhood and, that is, that there should be more outreach to the neighbors.

I've been an active member of the East Cambridge Planning Team for many years, and Mr. Rafferty is a frequent speaker. And I can assure you that he can do an excellent presentation to neighbors, and I hope that he will and I hope that this Commission will want him to. Because it, as many people have said, this might be a fantastic thing. I hope it is. But the neighbors should, at the very least, should have a chance to ask some questions, see it, and get a better sense of what's going on before they wake up and discover, large crowds coming to concerts several nights a week.

Thank you.

MICHAEL GARDNER: Thank you very much.

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

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

MS. JILLSON: Good evening. My name is Denise Jillson, J-I-L-L-S-O-N. I'm the executive director for the Harvard Square Business Association. I'm here to speak in favor in this application.

There are a couple of things. One is just absorbing several hundred people. You know, we receive about eight million visitors a year in Harvard Square. So I would suspect that absorbing several hundred people 200 nights out of year is not going to be a big issue for us in terms of the T, the cabs, parking -- it's just not going to be an issue.

Estella spoke to the initiative by the City of Cambridge. I'd like to speak specifically to the Harvard Square initiative that Estella Johnson did sort of oversee several years ago where she -- for about a period of 14 and 18 months, held a series of meetings that brought in all of the stakeholders so close in the neighborhood.

The Harvard Business Association, the Harvard Square Defense Fund, you know, students, property owners, business owners, all came together in very public meetings and talked about all of the things they would like to see happen in Harvard Square; and that included things like the infrastructure, support systems that we are seeing right now, new sidewalks, roads repaired, new lighting, that sort of thing, they wanted way funded maps, they wanted better press for Harvard Square, they wanted to make sure that we had more unique stores, they wanted way finding maps, they wanted more entertainment, more foot traffic to support the infrastructure.

There are over 400 business establishments of which 80 percent are locally-owned, independent. That is an enormous infrastructure to support. And we can only support it by having more foot traffic and more people, more reasons to bring people to Harvard Square.

As you all know, you can stay home and purchase anything you want. So what we have to do is have experiences, create experiences for people to come into the Square, have a good experience, stay, go to the book stores, go to the unique boutiques, stay overnight at the hotels, park at garages, so we can support that infrastructure.

We are right now 98 percent occupied.

That is incredible in these times. And the reason for that is these experiences, street performances, all of the book stores, the author readings, you know, all of the things that are going in the evening in the Brattle theater.

And, you know, you just look around at all of the restaurants that are working incredibly hard to make sure that the standards for good food and good service are met so we can support that infrastructure. That's what it's about.

So we are doing everything that we have been asked to do in terms of making sure it's a good experience.

There has been mention of a patio scene. It came out of this Commission several years ago where we increased the ability for people to have a better experience by offering them an adult beverage. We haven't had any problems. And the last think is, I did have an opportunity to speak with the property owner that owns the property right beside Oberon and, just to find out, you know, have there been any problems with Oberon to seat maybe 350, that's what's it like at night because they do have people that lineup.

And the owner is Jenny Nathans and she couldn't be here tonight because she's here with the historical society. To her knowledge, there have been no problems except the occasional litter on the sidewalk when the Donkey Show gets out at 11:00 p.m., at 37 Mass. Avenue, which is a fairly large apartment complex.

And she has friends there and there have also been no complaints relative to people getting out after the show.

So we are absolutely in support of this. We want more of it, not less. We are down to very little space, so we can't create a whole lot more of this, as you all know, but look forward to the Bowery Boys.

The operation is incredible, we've checked it out, and I think that, you know, their Trinity Property Management people, it's an incredible operation, and one that would never, I think, do anything that would put Harvard Square in the position to be compromised in any way.

So thank you very much.

MICHAEL GARDNER: Thank you.

Is there any other member of the public who would like to speak on this matter?

PEBBLE GIFFORD: How do we go about getting this document?

MICHAEL GARDNER: Ms. Gifford is asking a question that probably didn't get picked up. We'll deal with that afterwards.

Anyone else? Please come forward and state and spell your name for the record.

PATRICK LEE: My name is Patrick Lee,

L-E-E.

MICHAEL GARDNER: Go ahead.

PATRICK LEE: I have owned and operated several restaurants in and around Harvard Square since 1996. I think that was around the time frame that the House of Blues closed. We have all kind of felt since that time that the Square was missing something like this.

I think since the early '90s and probably the '80s a lot of entertainment venues, restaurants, bars, they have changed a lot. And I think this might be an example of an experienced concert venue that is going to be great for the Square and not going to cause problems. It is really going to be an asset, so we're in full support.

MICHAEL GARDNER: Thank you.

Any other members of the public who would like to speak on this matter? Please come forward and state and spell your name for the record.

JOHN DiGIOVANNI: My name is John DiGiovanni, D-i-G-I-O-V-A-N-N-I. Trinity Properties. I won't speak on the issue of being in favor, it's probably obvious. But what I do want to submit to the Commission is simply that we took a lot of time in deliberating on who we would lease the space to. There were several operators who were interested. And we want you to know that after what is about a year's process in reviewing proposals and operating, we came up with this group.

And we are, I hope, as concerned as you about the operator and how they execute their plan.

We want to know that you have the proper belief and there are a number of provisions there that I think demonstrate that they need to adhere to all of the rules of the City and then some. So we are really concerned and I hope you know that. And I just want you to know that after a lot of time, including visiting their operations in New York, sometimes with them, other times without them, having independent verification about how they operate, that's how we came to this conclusion.

We recognize that this is significant. But we also think it's a terrific addition to Harvard Square and we expect it to be great for the community.

Thank you.

MICHAEL GARDNER: Thank you very much.

Any other members of the public who would like to be heard on this matter? Seeing none.

I have a couple of follow-up questions.

If we could have some further

description of the menu and also the times when you would expect food to be served.

I'd also be interested in learning what you envision for what happens in the concert space after the concert is over? In particular, with respect to continuing to serve or not, and whether, as Ms. Gifford said, you'll have people standing around for two hours drinking.

JAMES RAFFERTY: All of these questions we discussed among ourselves, and I can report to you that the experience described to me by Mr. Glancy is that within 15 or 20 minutes of the conclusion of an act, the patrons leave. Sometimes they might buy a CD or a T-shirt from the performer and then they leave.

But part of the attraction of operating a restaurant is the expectation that the restaurant will stay open late, will serve food, and that will be one location they might go to, or, if it's around 11:00 or 11:30, they'll have other opportunities to go to other locations in the square.

So once the music stops, it does not morph into a nightclub; patrons do not remain on the premises, the performance is over.

As you will recall, Mr. Glancy gestured earlier in the hearing when he went like this (indicating), I think he was suggesting that once it is over, people will leave.

Do you want to add anything to that aspect of it?

JAMES GLANCY: The house lights come up, the band starts to break down their equipment. At that point, the people have been standing for a couple of hours and they are not looking to linger. The DJ doesn't come out. It is "I'm going to get my coat, finish my drink, I'm going to use the bathroom and then I'm going to leave." We actually find that it starts to happen even before the end ever the concert that often people will start to leave, they'll want to be first to the parking garage, first to the coat check. So as the band starts their encore, it's not uncommon for the room to start to thin out 10 to 15 minutes before the end of the show, and then it kind of flows naturally another 10, 15 or 20 minutes after the show.

So we don't have the experience of any kind of significant activity after the show.

GERALD REARDON: So we would assume at the bar the service would close prior to the end of the show?

JAMES GLANCY: Yes, exactly.

Pebble GLANCY: Can I ask you

something?

MICHAEL GARDNER: No, you can't,

Ma'am.

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(Asking question.

MICHAEL GARDNER: Ma'am, he said no.

The question was: Would the bar service end before the concert ends? And his answer was "yes."

JAMES RAFFERTY: Could you speak to the restaurant, and your vision for the restaurant in collaboration with the chef.

JAMES GLANCY: So the restaurant area will remain open, and that bar will remain open. So in terms of continuing to serve, we absolutely will. That will be in the restaurant and, as we've said before, the restaurant will stay open serving food not just alcohol.

MICHAEL GARDNER: And could you describe briefly the menu.

JAMES GLANCY: Sure. I thought we had provided the menu.

MICHAEL GARDNER: Well, we haven't seen it. I haven't looked at it.

JAMES GLANCY: Sure. A combination of -- we describe it as American food. Appetizers, you know, upscale sandwiches hamburgers, that kind of thing. Price points there probably in the \$9 to \$12 range, and then entries in the \$16 to \$20 range. Desserts.

MICHAEL GARDNER: Okay. How important is it to your success that you have a 2:00 a.m. close?

JAMES GLANCY: It's important. As described before, the concert hall generally is going to be done between 11:00 p.m. and 12:00-ish.

There may be a random occasion where an artist may want to play later than that and we would like that opportunity to present that artist if that happens.

And, certainly, for the restaurant, I hope that we'll become a place for people to be eating at 11:00, 11:30, 12:00, 12:30.

JAMES RAFFERTY: I just note for purposes of deliberation by the Commission, the entertainment license is obviously a significant component of this. And the Commission obviously has within its judgment the ability to establish different hours around the entertainment license.

So if the entertainment license particularly as it applies to the concert hall, if you are not going to have anything going on in there after 1:00, maybe the entertainment license could end at that hour.

I think the notion of the restaurant being successful, there are a number of 2:00 restaurants, and particularly in a place where there is going to be a number of people in the building and at 11:00 or 11:30 they are going to be looking for a place to eat or something, to have the opportunity to have those patrons go right and remain at the venue, so that's the reason for the 2:00 time on the restaurant side.

MICHAEL GARDNER: Thank you. I think that you were all present here for some requests for some speakers for more time, more opportunity for dialogue between you and neighborhoods. I'd be interested in your take on your time table. And I will tell you that the Commission's schedule is that we have a decision's hearing at 10:00 on November 22nd, and the next scheduled hearing of the Commission is not until December 20th.

ELIZABETH LINT: Correct.

MICHAEL GARDNER: So in terms of -- I don't think we are going to vote on this up or down tonight; I'd be surprised if we did.

JAMES RAFFERTY: And I would as well. I would say only that there was effort on my part to communicate. I did have conversations with Ms. Gifford. We did a have meeting scheduled that got changed as recently as yesterday. Between now and November 22nd, I would be happy to meet with Ms. Gifford.

I think it is fair to say that we have different views of Harvard Square. And I have great respect for Ms. Gifford, I've know her a long time. But we go back to things like the Starbucks on Church Street, where the Harvard Square Defense Fund opposed it and appealed the decision of the Board of Zoning Appeals that granted a special permit, which I then litigated in the superior court because that Starbucks was going to be a terrible thing for Church Street.

I was here for all the deliberations and the patio seating. It's pleasant to hear now that it seems positive.

I think what I'm saying is that I'm happy to share information. I have no illusion that we arrived at a position where Ms. Gifford's view of the Square is consistent with an operation like this. She -- I find it ironic that people speak to citizens for groups that do or don't exist. And then those that are elected by citizens to come here and speak are somehow dismissed as not representing the citizens. I'm a big fan of representing government. We ever talked to people at every level if city government. I'll be happy between now and November 22nd to take Ms. Gifford and whoever she would like to have join us through the space and make Mr. Bhatti available.

We were hoping we could do that today. Its a unique space and I think she would benefit, or people wanting to get a complete understanding of this, would benefit from seeing this space. And I know that, Mr. DiGiovanni, we'd make ourselves available to provide such a tour and to answer any questions between now and the 22nd.

MICHAEL GARDNER: Thank you. Any other questions from any of the other

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Commissioners?

ROBERT HAAS: It was raised about the coordination between the T schedule and your operations at the terminal with people having the ability to get down to the Square.

JAMES RAFFERTY: Well, the short term disruption of the T is only through March. And to get this approved, the action here will then follow a period of review at the ABCC. The build-out for this expense is about nine months.

So with the hope that we could get some approval early in the year at the ABCC, this wouldn't look at opening until the fall of '12, nearly a year from now.

So the short-term impact of the T construction will have ended at that point.

But the vast majority of these venues, people don't come by motor vehicle. They probably take cabs and the T. I don't know what the basis for the speakers here who said that everyone is coming here by car.

I would estimate that a fair number of people that come here don't even own a car so. I don't know how someone can sit here and make that assertion when they live up in North Cambridge and simply tell you that everybody is coming by car.

This is an industry where young people come, and they come from all over urban locations, and public transportation is available until 12:30.

And I know you coordinate getting people and letting them know with the apps and everything else when the last train is. But these shows will be well over before 12:30.

MR. BHATTI: We do have, in the past year and a half of doing shows and ticketing, we have quantitative evidence with -- we can actually -- all of our ticket buyers you know what zip code they are purchasing from. So as opposed to saying, everyone is coming by car, we can say actually everyone is coming from these districts.

When we were looking at this property before, we looked at our ticket buyers of the year-to-date at that point and 60 percent were coming from Cambridge zip codes.

MICHAEL GARDNER: The ticket buyers to where?

MR. BHATTI: For Royale, the nightclub that we operate concerts at. So all of the tickets we were selling for that, maybe 60 percent were coming from Cambridge and Somerville, the Cambridge/Somerville zip code.

MICHAEL GARDNER: This is the Boston location?

JAMES RAFFERTY: Yes. The theater district. But there they only -- you will recall from the testimony- they promote --

MICHAEL GARDNER: Yes, I got that. Yes, we have that.

JAMES RAFFERTY: Okay.

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MICHAEL GARDNER: Is there anything else you'd like to say?

JAMES RAFFERTY: No. Thank you.

MICHAEL GARDNER: Motion to defer this matter until the November 22nd -- yes, we'll take it under advisement until then.

ROBERT HAAS: Mr. Chairman, excuse me. Before you make that motion, I just need you to know that I'm not going to be here on the 22nd of November. But you are free to move forward with it, but I'm not going to be available on that date.

MICHAEL GARDNER: I will accept a motion for November 22nd, given the importance of this issue, and I will not necessarily promise a decision on November 22nd.

We won't have Commissioner Haas here. But I would like to have it taken under advisement for consideration on the 22nd.

GERALD REARDON: I make a notion to take it under advisement at the November 22nd

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

GERALD REARDON: Aye.

ROBERT HAAS: Aye.

None opposed. So the ayes have it for the 22nd.

We are going to take a five-minute break at this time.

(Brief recess.)

MICHAEL GARDNER: Back on the record.

It is approximately 8:32.

The next item on the agenda,

Ms. Lint.

* * * * *

ELIZABETH LINT: Application BMR-Rogers Street, LLC, at 301 Binney Street, has applied to amend their current flammables license to include an additional 4 gallons of Class 1a; 150 gallons of 1b; 1 gallon of 1c; 22 gallons of class 2; 18 gallons of class 3; and 5.6 pounds of flammable solids. The existing license includes 5,030 gallons of gasoline in the tanks of cars, 2,640 gallons of class 1b, and 377 gallons of class 2.

MICHAEL GARDNER: Good evening. I appreciate your patience, please.

For the add. Your affiliation with the application and, also, if you can describe the existing garage arrangement.

CAITLIN GAMACHE: My name is Caitlin, C-A-I-T-L-I-N, Gamache, G-A-M-A-C-H-E. I work for Koonz McKenney & Associates, which is an engineering firm in Cambridge, we're representing the owner, who is Biofeel, they have an existing lab building with underground parking. The existing license is current through April 30, 1212. And they have 503 cars. And the lab tenants make up the existing flammables on the property.

They have a new tenant moving in this January of 1212 on the first floor. They are

undergoing the tenants to get out right now and that's why they are amending the license because it will expire on April 30th and a new tenant will get their own permit once they occupy the space. But they the building owner would like to amend the license.

ROBERT HAAS: In anticipation of them moving in?

CAITLIN GAMACHE: Yes. They have a signed agreement. The space is under construction.

GERALD REARDON: The ground level, right?

CAITLIN GAMACHE: Yes, the first floor.

GERALD REARDON: So the garage and so forth is under BMR-Rogers, LLC.

CAITLIN GAMACHE: Yes, the entire building.

GERALD REARDON: And then there is a list for Ironwork Pharmaceuticals

(phonetically spelled).

CAITLIN GAMACHE: Yes. Then we also attached the license from 2009, 2010, and the current license and just listing what their --

GERALD REARDON: And so the new tenant is?

CAITLIN GAMACHE: They haven't disclosed that information on the first floor. They provided the amount of flammables that they will be storing.

MICHAEL GARDNER: So could you describe -- since all these classes include -some of them include lots of different kinds of substances, if I read the documents right. Can you be any more specific about what actually would be stored there?

CAITLIN GAMACHE: The new tenant provided a list of actual chemical and what the breakdown is of that. I mean, all of the amounts that they plan to store within their tenant space are under whatever would be allowed by the state building code. Some of the numbers sound large, but they are not, they are not harmful, it's just the quantities that there are.

GERARD REARDON: So the new tenants alone, if they could be a stand-alone, which they can't, but if they were a stand-alone they wouldn't require a license?

CAITLIN GAMACHE: Correct.

GERALD REARDON: And the flammable solid, is that a sodium?

CAITLIN GAMACHE: They have a long list.

GERALD REARDON: And, obviously,

prior to this operation, they have to undergo another inspection?

CAITLIN GAMACHE: Yes.

GERALD REARDON: And the lab inspection by -- so obviously this is a biochem research lab?

CAITLIN GAMACHE: Yes.

MICHAEL GARDNER: So I guess if this is BMR-Rogers making the application, correct? CAITLIN GAMACHE: Mm-hmm.

MICHAEL GARDNER: And so for business reasons, you are not identifying the tenant now, but you understand that BMR-Rogers is the one who is accepting responsibilities for this change, it's your license?

CAITLIN GAMACHE: Mm-hmm.

GERALD REARDON: Well, it is actually a dual use. BMR-Rogers has to get a license because the totality of the storage exceeds the state regulation to require a license. All the tenants have to have their own flammable permits that expire every year on April 30th. So the storage -- they are actually both on the hook, so to speak.

MICHAEL GARDNER: Do I understand, however, that the numbers are so small that it isn't that --

GERALD REARDON: If this tenant was

coming in on their own, they would not require a license from the License Commission.

However, because the way state laws have changed several years ago, what was happening is that buildings would have a license and the licensee would be carrying the license for everyone in the building. And because there is no inspection or follow-up with the License Commission for the storage and handling, the state has changed the method so that each entity has to have a flammable permit, which means they get inspected and the permit expires every year on an annual basis. So there is better checks and balances.

So when the license kicks in, is when the totality of all those people in that physical address eclipses a certain amount, then the building owner is also required to have a license on top of all the individual flammable licenses.

ROBERT HAAS: Anticipated occupancy

again is when?

CAITLIN GAMACHE: January.

ROBERT HAAS: And so we can expect the tenant to come in then, and then, as the Fire Chief would indicate, then make their application?

CAITLIN GAMACHE: They'll make their own application.

GERALD REARDON: They'll make their application with the fire department. And because of the labs, they will get the inspection for the fit-out, for the flammable storage, and they'll also get an inspection as the laboratory as well.

MICHAEL GARDNER: Do you anticipate that the building owner is going to have to take any steps given the new things that are coming to insure safety -- is there anything that the building owner will have to do differently?

CAITLIN GAMACHE: No. The tenants

are responsible for they're own space. But all the storage quantities are less than what the building code requires. So there's no extra rated cabinets or anything extra that they do.

MICHAEL GARDNER: So I guess my only concern is that the people that are really responsible here are the lab, and we don't know who they are.

But I will defer to you as to whether or not it's appropriate to say this is premature, but let's see who is actually coming forward or not.

GERALD REARDON: Well, they are amending their license, but it does not mean that they automatically get storage for flammables. They can amend the license to have this amount, but when the laboratory tries to go online, they are going to need to have the flammables permits as well, which would require an inspection. ROBERT HAAS: So, in other words, for the sake of argument, the tenant comes in and it's different from what's been identified, you could put a stop on it at that point in time?

GERALD REARDON: Correct.

There is also issues in terms of laboratory safety that have to be addressed prior to, and residential and air health safety and welfare person who is on call, what do they do with the hazardous waste, where is their manifest, how do they take care of it, how is it handled, how is it stored, there is a whole litany that goes with this that follows it up.

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

None heard.

Anything else that you'd like to add? CAITLIN GAMACHE: No. MICHAEL GARDNER: Pleasure of the Commission?

ROBERT HAAS: I make a motion to approve the application.

GERALD REARDON: Seconded.

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

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: And none opposed.

And you do understand that it is

still subject to the permit requests?

CAITLIN GAMACHE: Yes.

MICHAEL GARDNER: Thank you very

much.

CAITLIN GAMACHE: Thank you.

* * * * *

ELIZABETH LINT: Clarification. The Greek American Political Club of MA,

Incorporated. Nicholas Dalamangas, Manager, holder of an all alcoholic beverages as a restaurant license, 2:00 a.m. closing, at 288 Green Street for clarification of your total capacity by each floor.

The reason this was put on, Mr. Chair, is when we had the hearing for the basement restaurant, we were looking through the file. And the way that the license was written, did not accurately reflect the capacity of all the floors. So we wanted to put it on the record of what the capacity of each floor is.

MICHAEL GARDNER: Okay. We have somebody hear. If you could, please state and spell your name for the record.

NICKOLAS DALAMANGAS: Nickolas, N-I-C-K-O-L-A-S, Dalamangas, that's D-A-L-A-M-A-N-G-A-S.

MICHAEL GARDNER: And could you just state your affiliation.

NICKOLAS DALAMANGAS: I'm the manager of the Greek American Political Club.

MICHAEL GARDNER: Ms. Lint, do you want to report what you have on the record?

ELIZABETH LINT: Yes. So what the license should read is for the club itself, 150 on the first floor and 257 on the second floor. Their license wouldn't reflect the 150 in the basement because that's going to be a separate license for the other restaurant.

MICHAEL GARDNER: I'm sorry. The number on the second floor is what?

ELIZABETH LINT: 257.

MICHAEL GARDNER: Do you agree with that?

NICKOLAS DALAMANGAS: No. That's why we are here. Originally, the understanding was that we had about 340 on the second floor and 200 on the first floor.

So, now, with the exception that they are going to take 100 on the first floor, and

then the club wanted to give them another 50 from the second floor. So that would make it 100 on the first floor, 150 on the basement, and 300 on the second floor. We have -- did I say that correctly?

ROBERT HAAS: It sounds like -- it sounds like your numbers went up on the second floor and down --

ELIZABETH LINT: It sounds like the numbers went down on the first floor and up on the second floor.

NICKOLAS DALAMANGAS: We have 4200 square feet in the whole building. The second floor where our income is coming from. And you guys were kind enough to allow us access to that.

The membership right now, it consists of 160 members, and we never have collectively but 40 members.

We put out a big event to just get all the members together, special people from Greece, dancing and all that stuff, and we barely got 120 to show up.

Last week, we have a free dinner and everything for the people with dancing and everything, and only 60 people show up.

The only time that the members will show up is every two years on election and they will not be together at the same time.

So if we are going to maintain the income that we have on the third floor -- the capacity on the first floor is just for the people to gather and socialize and discuss politics and blame each other. But if we need an event to happen, we also have the second floor, and we can move any time the huge number that we have on the second floor.

So if we are going to take any numbers away, we are not asking to give us more people, but if we are going to take any numbers away, we would like it to be from the first floor and not from the second floor. So if we have 352, 57 -- 557, I believe, right? The whole capacity of the building is 557?

ELIZABETH LINT: Well, it depends. On the second floor, it technically is 257 with tables and 340 without tables.

And then 150 on the first floor.

NICKOLAS DALAMANGAS: Okay. So if we are going to have a total for the building, it's 557?

GERALD REARDON: Yes, that's correct.

NICKOLAS DALAMANGAS: And we take 150 to give it to the first floor -- to the basement, I'm sorry -- and then 100 to the first floor, that's 250. That still leaves 300 people for upstairs for the second floor.

MICHAEL GARDNER: Our concern is we don't know, since the license was for 257 seated, whether you can, in fact, handle 300 seated? So you can do 300 and something standing -- GERALD REARDON: First of all, the restaurant was for 150.

ELIZABETH LINT: The restaurant was for 150. But that's really not --

GERALD REARDON: Right. So we have to take that out of mix and you can't change that.

ELIZABETH LINT: He is not asking to change that.

GERALD REARDON: He mentioned the hundred.

ELIZABETH LINT: That was just saying that --

ROBERT HAAS: Well, the conversation was, I think the numbers were combined as someone pointed out and we are trying to break them out trying to understand what's on the second floor and what's on the first floor.

And, I guess, there was an understanding that the Political Club would be willing to reduce the number by 50 -- not a transfer, but just reduce the number by 50, which I'm assuming would be coming from the first floor?

ELIZABETH LINT: Right.

So correct me if I'm wrong, instead of just taking the 50 from the first floor -and of course the concern was that a large number of people in the building, so that it would go down to 257 on the second floor.

But I think Nickolas is saying that if it went to 100 on the first floor and kept it at the 300 on the second floor, so that the number is still the same, but it's just the spread -- is that what --

NICKOLAS DALAMANGAS: The distribution.

GERALD REARDON: So it would be 307 on the second floor, 100 on the first, and the restaurant would be separate at 150?

ELIZABETH LINT: That's correct. The restaurant is separate, it doesn't enter in

here.

MICHAEL GARDNER: And in terms of the 307 on the second floor, is there any distinction here between seated and not seated? Because our license originally was 257 and I don't know whether or not that is accurate?

ELIZABETH LINT: I can address that issue. It is 257 if there are tables; then it would go to 307 with no tables.

MICHAEL GARDNER: So you understand that. I don't think we feel like we want to make it 307 with tables, I mean, based on the information we've got right now?

ELIZABETH LINT: We cannot do that. NICKOLAS DALAMANGAS: But we can do 257 with tables and keep that, that's fine.

GERALD REARDON: So we'll still be at 307 total, the second floor, 257 tables; and 100 on the first floor; and the restaurant separate at 150?

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NICKOLAS DALAMANGAS: YES.

GERALD REARDON: Are there any members of the public who would like to be heard on this matter?

Seeing none. Are there any other questions?

Seeing none.

Are we prepared to vote on this this evening?

ROBERT HAAS: Yes.

GERARD REARDON: I'll make a motion that we clarified the -- because on our side of the street all the loading is a big issue to us, and specifically what each floor was rated for. So I would make a motion that we list the first floor at 100 seats, the second floor at 257 seats, and an additional 50 standing, for a total of 307. So that comes from the first floor.

ROBERT HAAS: My understanding, quite honestly, was that you could either have a

seating arrangement or a standing arrangement. The way you make the proposal, it sounds like you have 257 seats plus another 50 people standing. So I think there is two arrangements here.

GERALD REARDON: Well, I guess the arrangement I'm trying to say here, was that when they don't have tables that they could have --

ROBERT HAAS: So the way you want to amend the license, as I understand it, you want to amend it from the first floor where the Political Club is to 100 seats, and on the second floor it's 257 with seats or 307 without seats, right?

MICHAEL GARDNER: Completely without seats.

ELIZABETH LINT: Yes.

GERALD REARDON: We can't mix and match, correct?

ROBERT HAAS: No, but the way I heard

MICHAEL GARDNER: Okay. You've appropriated that amendment from Commissioner Haas?

GERALD REARDON: Mm-hmm.

MICHAEL GARDNER: I'll second the motion as amended.

Any discussions? None.

MICHAEL GARDNER: Are you clear, sir, as to what we are doing?

NICKOLAS DALAMANGAS: Yes, sir.

MICHAEL GARDNER: And that fits into your businessman plan of what you need?

NICKOLAS DALAMANGAS: Yes.

ELIZABETH LINT: And I did report that I did meet with Nickolas and other members of the club and that we had discussions and that we all understood what was happening.

NICKOLAS DALAMANGAS: We are constantly working together.

ELIZABETH LINT: We keep in very close touch, and he is very good about calling with questions and concerns and all that.

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

ROBERT HAAS: Aye.

GERALD REARDON: Aye. None opposed So the motion passes.

I wish you well in your continued effort to keep an important institution vital. NICKOLAS DALAMANGAS: Thank you.

* * * * *

ELIZABETH LINT: Informational, Tom Tipton and Emily Magleby have applied for an antique store license at 106 Prospect Street. Said license will give permission to be a dealer in and keeper of a shop for the keeping, purchase, storage or sale of second hand furniture, brick or brac, art objects, paintings, jewelry or antiques.

And are they here?

Well, I can report after the last hearing, that I had Ms. Boyar get in touch with Mr. Tipton and she informed him that he could not have changed the use of the venue without having come to a hearing; that the sign could not have been changed; and that it needed to be restored to the way that it was. And I noticed that the blue sign is up.

MICHAEL GARDNER: So I remain confused about this. I get the point about the name or the business. And I don't know about any issue about ownership. But as I reviewed the license, the existing license is for the keeping, purchase and storage or sale of second hand brick or brac paintings, jewelry or antiques. That is what is in our license. So I'm not sure I understand what the issue is.

ELIZABETH LINT: Well, forget the ownership issue. If these people were coming in, it's because they were changing the name, changing the ownership, and changing the general tenure of the business.

Right now it's an art gallery. And the chapter and section is very broad, so that what it goes under. But they can't just go in and change the sign, change the nature of the business, and not come before you.

MICHAEL GARDNER: I guess I understand why they can't change the name of the business or the sign. I'm not sure if they have a license for all of these things, that they can't operate under that license? That I don't get.

ELIZABETH LINT: They can't. It would be a new license.

AUDIENCE MEMBER: (Makes a comment from the back.)

MICHAEL GARDNER: We won't take any speakers unless they come up and state their name and identify themselves for the record. DEBORAH PRIESTLY: My name is Deborah, D-E-B-O-R-A-H, M. Priestly,

P-R-I-E-S-T-L-Y. I am the 50 percent owner of the Out of the Blue Art Gallery.

MICHAEL GARDNER: I know you were here before. If there is anything that has changed since you were here the last time for you to report to us?

BARBARA PRIESTLY: We are a nonprofit organization, I don't know if that was established the last time we were here.

MICHAEL GARDNER: Have there been any developments with respect to the operation or ownership of the business since you were here last?

BARBARA PRIESTLY: Any new

developments?

MICHAEL GARDNER: Yes.

BARBARA PRIESTLY: I have talked with Tom Tipton. The young girl he was involved with was highly unstable and they were not forming the business together that they said they were going to form.

MICHAEL GARDNER: No. For your understanding is the application is off?

BARBARA PRIESTLY: I'm assuming he is telling the truth.

MICHAEL GARDNER: Okay. The applicant not being here, is there any reason for us to take anymore information on this?

ELIZABETH LINT: No.

ROBERT HAAS: So did he destroy the application or is he just not showing up?

ELIZABETH LINT: We did file it.

ROBERT HAAS: You did file it?

ELIZABETH LINT: We did.

ROBERT HAAS: So he just hasn't done anything at this point?

ELIZABETH LINT: Right.

MICHAEL GARDNER: So what's the appropriate motion?

ELIZABETH LINT: You can place it on file. You can take no action.

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ROBERT HAAS: Has the business been restored to its proper license to operate license now?

BARBARA PRIESTLY: It doesn't have a license right now. It is operating month to month.

ELIZABETH LINT: It has a license.

ROBERT HAAS: But it's operating properly under it's current license now?

ELIZABETH LINT: As far as I've been told.

GERALD REARDON: It's back to the original sign?

MICHAEL GARDNER: Well, it's a different sign, but it's the same name.

AUDIENCE MEMBER: I have the paperwork if you want to see the original license as an art gallery.

MICHAEL GARDNER: So I make a motion to place the application on file.

AUDIENCE MEMBER: Could I ask you a question?

MICHAEL GARDNER: You have to state your name for the record and spell it.

RICHARD ODOM: I was about to do that.

MICHAEL GARDNER: I made a motion, I'd like to see if there is a second.

> Motion having been made and seconded. Now, I'll recognize you, sir.

RICHARD ODOM: My name is Richard

Odom, O-D-O-M. I'm a resident of Cambridge and an affiliate of Out of the Blue Gallery for the last 12 years. And what I wanted to ask is, I'm not sure what the motion encompasses, and I'm not sure if after the motion is over and the vote is over, if the Out of the Blue is restored to its original license as an art gallery.

MICHAEL GARDNER: We are not doing anything with respect to what happens to the

business. The matter that was -- there was an application to make a change. We are taking no action on that application. So the existing license remains in effect.

RICHARD ODOM: Thank you so much. That's what I wanted to know.

MICHAEL GARDNER: Any further discussion?

ROBERT HAAS: I have one question.

So I imagine we wanted to check the times to make sure we don't find the business slipping back to --

ELIZABETH LINT: I drive by there all the time.

MICHAEL GARDNER: Okay. All those favor signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: So the motion carries. None opposed. We'll place the matter on file. Sorry to cut you short, but I think we have the information that we need.

* * * *

approved at the desk by the Chairman/Executive Officer:

ELIZABETH LINT: Ratifications

Refinance of 162;

Sale of 234, then a finance of 234;

Refinance of 151, 45, 81;

Stock transfer of 54, and a finance of 54;

All paperwork is in order.

ROBERT HAAS: Motion to accept ratifications.

GERALD REARDON: Seconded.

MICHAEL GARDNER: Motion having been made and seconded to approve the ratifications from the actions of the Executive Director.

All those in favor, signify by saying "aye."

ROBERT HAAS: Aye. GERALD REARDON: Aye. 172

MICHAEL GARDNER: All ayes. None opposed. So the ratifications carry.

Is there any other business before us?

ELIZABETH LINT: We don't have anything.

GERALD REARDON: Motion to adjourn.

ROBERT HAAS: Seconded.

MICHAEL GARDNER: Motion to adjourn having been made and seconded at approximately 8:53 on the evening of November 15, 2011.

All those in favor, signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: All ayes. None

opposed. We are adjourned.

(Whereupon the Hearing was adjourned at 8:53 p.m.)

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS SUFFOLK, SS.

I, Evelyn M. Slicius, a Certified Shorthand Reporter and Registered Professional Reporter, the undersigned Notary Public, certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that the testimony hereinbefore set forth is a true and accurate transcription of my stenographic notes to the best of my knowledge, skills and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of November, 2011.

Evelyn M. Slicius Notary Public Certified Shorthand Reporter License No. 127193 My Commission Expires: May 15, 2013

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