

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARING

LICENSE COMMISSION BOARD MEMBERS:

Michael P. Gardner, Chairman
Robert C. Haas, Police Chief
Gerard R. Reardon, Fire Chief

STAFF: Elizabeth Y. Lint, Executive Director

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

DATE: Tuesday, January 8, 2013

TIME: 6:05 p.m.

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P R O C E E D I N G S

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

That rear door is to remain open at all times.

This is the License Commission general hearing, Tuesday, January 8, 2013 at 6:08 p.m.

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

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

APPLICATION: PLAZA DELI, INCORPORATED

We are going a little out of order tonight. The first matter will be the application continued from December 18, 2012,

Plaza Deli, Incorporated doing business as Discovery Cafe and Plaza Catering. Gerald Walba, manager, has applied for a common victualer license to be exercised at 157 6th Street. Said license, if granted would allow food and non-alcoholic beverages to be sold, served and consumed on said premises with a seating capacity of 22 inside and 4 outside seasonal seats. The hours of operation will be 7:00 a.m. to 5:00 p.m. Monday through Friday.

CHAIRMAN MICHAEL GARDNER: Please come forward. And I'd ask you to state and spell your name for the record and identify yourself.

GERALD WALBA: Gerald Walba, W-A-L-B-A.

CHAIRMAN MICHAEL GARDNER: Please have a seat. So, tell us a little about your plan and your experience in the business and the nature of the operations.

GERALD WALBA: It's breakfast, lunch.

It's open now. We don't have seating yet. It's a typical cafeteria. My experience is over 30 years. I've owned restaurants since 1979, and all the same type of operations, and that's about it.

CHAIRMAN MICHAEL GARDNER: So, are there other restaurants you currently own and operate?

GERALD WALBA: Yes.

CHAIRMAN MICHAEL GARDNER: And just give us some sense about where they are and what they are.

GERALD WALBA: One's in Boston. It's a cafeteria at Channel 7 News. And we have a catering operation that's behind the Discovery Cafe in Cambridge on Binney Street.

CHAIRMAN MICHAEL GARDNER: You've been in the business for over 30 years?

GERALD WALBA: Yes.

CHAIRMAN MICHAEL GARDNER: So, the prior

establishment that was in there didn't seem to make a go of it, and, you know, there was speculation about the location, the business plan. Just give us some sense about how it is you think you're going to be able to operate there.

GERALD WALBA: Sure.

CHAIRMAN MICHAEL GARDNER: Which, as I understand it, is at the corner of Binney and 6th?

GERALD WALBA: Right, exactly.

CHAIRMAN MICHAEL GARDNER: Near where he works?

GERALD WALBA: Exactly, right next door. I mean, you know, I think the area, first of all, is growing. There's a couple new buildings coming up. So, it's an up and coming area. But our building is -- I mean, I'm sorry. Our business is driven by catering, corporate

catering, you know, law firms, brokerage firms, et cetera, police stations. And that drives our business. It's a tremendous catering facility. The restaurant, you know, we expect good things. As a matter of fact, we've already seen good things. It's exceeded expectations at this point.

CHAIRMAN MICHAEL GARDNER: That's purely on a take-out basis?

GERALD WALBA: Yes.

Finally, I'd say that, you know, I didn't know a whole a lot about the people before that I have seen a couple of their operations. We feel ours is more traditional and geared towards the working people and I think that's, you know, really what will drive the success.

CHAIRMAN MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: No

other questions.

FIRE CHIEF GERALD REARDON: No questions.

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

Seeing none, pleasure of the Commission?

POLICE COMMISSIONER ROBERT HAAS: Make a motion to approve the application as stated.

FIRE CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded to approve the common victualer license as described here, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So, welcome to this spot in Cambridge.

GERALD WALBA: Thanks very much. Hope I

see you soon, too.

APPLICATION: SWISS TRADERS, INCORPORATED

ELIZABETH LINT: Swiss Traders, Incorporated, doing business as Hoffa's of Harvard Square, Bernard Imhof, manager, holder of an all alcoholic beverages as a restaurant license at 114 Mount Auburn Street (closed) has applied to transfer said license to Conductor's Restaurant, LLC, Darren Messina, manager. The transferee is applying for a change of location from 114 Mount Auburn Street to 112 Mount Auburn Street. The proposed hours of operations are 7:00 a.m. to 1:00 a.m. Sunday through Wednesday and 7:00 a.m. to 2:00 a.m. Thursday through Saturday and the night before a legal holiday. Alcohol cannot be sold before 10:00 a.m. on Sundays and 8:00 a.m. Monday through Saturday. Proposed capacity is 133 seats inside and standing for 45.

CHAIRMAN MICHAEL GARDNER: Good evening.

If you all would please state and spell your names for the record and identify your role here.

JAMES RAFFERTY: Good evening,

Mr. Chairman and 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 offices at 130 Bishop Allen Drive in Cambridge.

I'm appearing this evening on behalf of the proposed licensee, Conductor's Restaurant, LLC.

Seated to my right is Mr. Darren Messina, M-E-S-S-I-N-A. Mr. Messina is the proposed manager of the establishment.

And to Mr. Messina's right is Attorney Peter Diana, D-I-A-N-A, and Attorney Diana represents the landlord and the property owner, which is another LLC, which is an associate of Carpenter Company, which is the owner and

operator of the Charles Hotel.

CHAIRMAN MICHAEL GARDNER: And so, if you would be so kind, Mr. Rafferty, to kind've give us a sense of the history of the license and why it's been inactive, for how long and what the current plan is.

JAMES RAFFERTY: Well, this license has been inactive for a few years. It's a license of longstanding in Harvard Square. I'm sure some people can remember Cronin's back in the '50s and '60s. In the '80s, it was Chili's. The family that owned the building, the Hoffa family, opened a restaurant themselves there. But about three or four years ago, the building was sold and a joint venture was formed between the ownership of the Charles Hotel and Bullfinch Companies, and an approval was obtained from the Planning Board to construct an office building on that location. And the expectation was that the ground floor of

that building might accommodate a restaurant use. Those plans have yet to be acted upon.

In the meantime, the ownership interest of the project, of the proposed -- the site, has been consolidated into a single owner, which is the Carpenter entity that now controls the entire site.

They have elected to transfer -- applied to transfer the license to the Conductor's building. The Conductor's building is a unique structure. It's a historical structure, a source of great attention has been given to it by the Historical Commission, and, in fact, the Historical Commission has approved the demolition of the existing Chili's building conditioned on a complete restoration of the Conductor's building.

The Conductor's building has a unique footprint. It really has been unoccupied now for a number of years. It was the facility that

train operators would sit in when Harvard Square was the end line -- end of the line for the Red Line.

And even prior to that, it's a two-story brick structure that is seen as a very important piece of the history of Harvard Square.

So, the construction build-out here will occur in two phases. There will be nearly a year's worth of effort to restore the building to a habitable or occupiable condition as well as to a complete re-enhancement of the facade. There's an architectural historian that's working with the property owner and the Historical Commission.

You can see by the floor plan that the proposal here -- it's rather narrow -- is to create a two-story space with a lounge-type space on the ground floor and seating, dining, more of a formal style dining room on the second floor.

The hotel has elected to proceed with

this aspect of the project at this time because they don't feel the need to wait for the rest of the development so the balance of the development may occur.

CHAIRMAN MICHAEL GARDNER: This is the office building you were talking about?

JAMES RAFFERTY: This is the office building. This would be -- these buildings about what's called the bus way. The area in front of the hotel that runs from Bennett Street out to Mount Auburn Street that is only used by the MBTA. The function that the Conductor's building used to perform actually now takes place in a trailer that's been rather permanently there for the better part of a decade.

But the transaction preceded this involved the acquisition of this property from the MBTA by the Carpenter entity. So, it's now privately controlled under private ownership.

The exception is there is a transformer at the back of the site, so a lot of unrelated information, but suffice it to say, that it was always envisioned and planned and approved as a two-structure construct.

The Conductor's building was a stand-alone project, and the office building would be a new structure sitting on the site on the other side of the bus way. The bus way needs to remain because it continues to serve as an important staging area for the buses and trolleys that service Harvard Station.

But the decision was made. The license has been inactive. The Hoffas were eager to sell it and had been looking for a buyer. And the hotel ownership, Carpenter through Mr. Diana's client, Mr. Freadman, decided that they would begin the first phase of this project.

Mr. Messina is a long time colleague at

Carpenter. He has an extensive experience in the hospitality and restaurant industry and the hotel industry. He would be serving as the manager.

As I said, the construction period that will precede this will be at least a year, and then the finer details of the restaurant will begin to emerge as the construction is concluded.

CHAIRMAN MICHAEL GARDNER: It's possible still that the license, in fact, wouldn't be used again for another year or two half.

JAMES RAFFERTY: Well, the building in its current condition would not allow for any occupancy, right. So, that is true, that the license would --

CHAIRMAN MICHAEL GARDNER: How long has it been inactive so far? Do you have that precisely or an estimate? Less than 48 months? More?

JAMES RAFFERTY: I would think --

ELIZABETH LINT: Probably close.

JAMES RAFFERTY: Yeah. But that would distinguish it from an inactive license. I mean, it would have a location and a location under construction. So it would no longer be an inactive license. It would be assigned to that location.

CHAIRMAN MICHAEL GARDNER: And visually just help me where the new space is in relation to what I can envision is the Chili's space.

JAMES RAFFERTY: Well, it's across the bus way. It's a building. It's a thin narrow building that runs from Mount Auburn Street to the back side of Bennett Street and it's up against the Harvard Motor Inn.

CHAIRMAN MICHAEL GARDNER: So, it's essentially on the -- is it on the Harvard Square side of Mount Auburn as opposed to the Mount Auburn Hospital side?

FIRE CHIEF GERALD REARDON: No. It's on the Mount Auburn Hospital side. If you come out of the bus way and face that side, it's to the left.

JAMES RAFFERTY: If you're facing down the bus way with the hotel in front of you, it's on your left-hand side, and it's abutting the hotel that has the surface municipal parking lot, and it stood in that location for 100 plus years.

And the restoration of that building has been a desired land use objective for several years now for the Historical Commission because -- and these gentlemen can give you greater details -- but it's in serious decline. It has been unoccupied, there's no heat, there's no water other than the water that penetrates through the building.

CHAIRMAN MICHAEL GARDNER: Do you need to have like approval of the Historical Commission

for this change?

JAMES RAFFERTY: Oh, yes. Well, we've already --

CHAIRMAN MICHAEL GARDNER: Do you have all that?

JAMES RAFFERTY: We have the approval. Not for the change, but any exterior alterations to the building. So the work involved in the restoration of the building is very meticulous and is the subject of great oversight by the Historical Commission. They want masonry repointed. They don't want you to -- the windows and treatments, it's a very detailed restoration. It's not a renovation in the technical sense, it's a restoration. If the facade gets restored and then once the exterior facade is restored, then the fit-out of the interior space would occur.

So the restoration on the facade work

could begin in several months, I would assume, but at the end of the day, it will be a unique venue, both in size.

This company has some expertise. They've developed the Liberty Hotel in Boston where they took the Charles Street jail and have turned it into a functioning and successful hospitality venue, restaurant hotel. They have some level of expertise in creating spaces.

The caliber of this venue would be consistent with the offerings in the Charles Hotel. I think it's fair to say it's envisioned as an amenity for hotel guests and an enhancement to the overall options of dining and entertainment options in Harvard Square.

So there was a lot of enthusiasm about this project final getting started, and hopefully, at some point in the not too distant future, the other portion of the project will go.

CHAIRMAN MICHAEL GARDNER: Do we have similar spaces, Ms. Lint, or anyone, where essentially a bar or land function is separate from the restaurant function by floors? I don't recall.

JAMES RAFFERTY: I mean -- pardon my interruption. There's no relationship between the two entities other than the fact that they're neighbors. I mean, the entity here is called Conductor's Restaurant, LLC.

They have shared ownership, if you will. Some of the interests in the hotel may have an interest in this LLC, but this is not --

CHAIRMAN MICHAEL GARDNER: My understanding was when you were describing the physical layout here, there was a lounge on the first floor and the restaurant on the second floor all in the Conductor's building.

JAMES RAFFERTY: Right.

CHAIRMAN MICHAEL GARDNER: Did I misunderstand? I'm asking about that.

JAMES RAFFERTY: Whether we have any two-story venues?

DARREN MESSINA: There will be food on --

JAMES RAFFERTY: There would be food in the lounge.

DARREN MESSINA: There's food on both. There's a physical bar layout on the first floor.

JAMES RAFFERTY: It's a two-story space, but, yeah, they wouldn't operate independent of each other. I apologize if that's the impression I gave you. It's a single operation with a ground floor and a second floor.

CHAIRMAN MICHAEL GARDNER: I sorta understand that we don't like to license just bars, you know, we like to have bars with food. So I was just probing on the issue of whether we had a bar and a restaurant.

JAMES RAFFERTY: I think of Charlie's Kitchen in Harvard Square, a two-story venue. There's a bar downstairs, but there's food downstairs. There's a bar upstairs, there's food upstairs.

POLICE COMMISSIONER ROBERT HAAS: It's a different cuisine, though, right?

JAMES RAFFERTY: I'm not sure. I'm sure Mr. - what's his name -- Paul Overgang (phonetic) -- that lobster roll is quite popular.

CHAIRMAN MICHAEL GARDNER: Do we have a pricing sense here? I mean, what kind of restaurant is this going to be?

DARREN MESSINA: We're still in the planning phases of it. But it would be something that's consistent with what we have over at the Charles. Maybe not as high as Rialto, but something that would be very consistent with what we did at the Charles.

CHAIRMAN MICHAEL GARDNER: And very briefly, your experience, sir?

DARREN MESSINA: My experience? Well, I have been with Carpenter & Company for 26 years. Developed -- worked on all the hotels and retail developments during that time period, and I'm actively involved in the development of the food and beverage outlets as well as the operations of those.

Prior to that, I worked with the Lions Group for a number of years as a bartender and in a management capacity in some of their venues in and around town.

CHAIRMAN MICHAEL GARDNER: You're familiar with our requirements here?

DARREN MESSINA: Yes.

CHAIRMAN MICHAEL GARDNER: TIPS or 21 Proof.

ELIZABETH LINT: There may be an issue.

You need to see me tomorrow.

JAMES RAFFERTY: Okay.

CHAIRMAN MICHAEL GARDNER: Are there any issues with respect to the breakout of the price of the license?

ELIZABETH LINT: We don't have a cost for the license that I could find.

JAMES RAFFERTY: We have a purchase and sale agreement.

CHAIRMAN MICHAEL GARDNER: Have you been a manager of record in Cambridge before, Mr. Messina?

DARREN MESSINA: Briefly, almost 20 years ago, briefly for the Ocean Club. Very briefly, when I was transitioning from the Ocean Club to Jeanie. I was there for the Ocean Club portion closing it up.

CHAIRMAN MICHAEL GARDNER: And any other experiences as manager of record outside of

Cambridge?

DARREN MESSINA: No.

JAMES RAFFERTY: With regard to the acquisition cost, it's an interesting comment because the ABCC has changed the form so that Question 16 now does not call for the -- they treat it as purchase price for business assets and it doesn't separately identify the license.

So, the 200,000 referred there is just for the license, but it does -- I think it's a shortcoming in the form that it no longer -- the prior forms always broke -- you had goodwill, license and other assets, but this new form it's one line.

So, I now understand it's 200,000 in the application, and the only business asset being acquired is the license.

CHAIRMAN MICHAEL GARDNER: Any other questions?

POLICE COMMISSIONER ROBERT HAAS: I mean, you're still two years out before you actually think about the operation of the components of this restaurant, right?

DARREN MESSINA: Yeah, I would say -- well, not quite. Sooner than that. But we have a year of renovations, but I don't think it's a year following that.

POLICE COMMISSIONER ROBERT HAAS: You talked about the bar being located on the first floor. Is there also going to be tables set up for --

DARREN MESSINA: Yeah. There's tables on both floors. The bar is on the first floor, but there's tables also on both floors.

JAMES RAFFERTY: It's more -- it's a lounge in a sense. I mean, there's a longer bar, there's seating, but there's -- you will see there's seating on both floors.

FIRE CHIEF GERALD REARDON: This was referred to ours as the Bennett Street office.

JAMES RAFFERTY: Is that right? So you recall when it was an actively used building. That's the advantage of having mature people on the Commission.

Is that when they would turn the horses around when they brought trolleys down the street?

FIRE CHIEF GERALD REARDON: That might be a little older. That might be in your range with the horses. Everything was motorized when I was down there.

CHAIRMAN MICHAEL GARDNER: Were the hours of operation on the existing license the same as are proposed here?

ELIZABETH LINT: Yes.

POLICE COMMISSIONER ROBERT HAAS: So the kitchen is -- where it says ground floor, is that

the basement?

DARREN MESSINA: It's the basement.

POLICE COMMISSIONER ROBERT HAAS:

Everything will be prepared in the basement and then brought up to --

DARREN MESSINA: Yes.

JAMES RAFFERTY: It's an exceptionally narrow space, as you can tell, so there are some physical constraints.

POLICE COMMISSIONER ROBERT HAAS: I had a hard time trying to envision how you're going to fit 133 seats in that building, if you're familiar with the contour of that building.

So you're going to use the elevators to bring food up, or are you going to have them use the stairways?

DARREN MESSINA: We'll put elevators in. They will use the elevators. It will be a combination of both, but primarily for the heavy

stuff up and down in the elevators.

FIRE CHIEF GERALD REARDON: Obviously other than the restoration and so forth, this is obviously going to be a gut rehab.

JAMES RAFFERTY: Oh, by necessity.

FIRE CHIEF GERALD REARDON: You haven't filed anything. You're still a ways off from all this?

JAMES RAFFERTY: Right.

FIRE CHIEF GERALD REARDON: Obviously everything will have to meet present code?

JAMES RAFFERTY: Right, right. So the staging is exterior work for which they're about to embark on and the like, and once the exterior work has concluded, then they'll move inside.

It's going to be, just because of the condition of the building, and the level of detail in the restoration, there's only certain masons you can use that really can do this kind

of work.

CHAIRMAN MICHAEL GARDNER: Anything else that any of the three of you would like to add?

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

Seeing none, Ms. Lint, do you have any suggestions for us with respect to what to do about the issue brought forth?

ELIZABETH LINT: I do. I would recommend that we take the matter under advisement to the decision-making hearing. We're certainly not in a time crunch and we can have a conversation tomorrow and hopefully resolve it.

CHAIRMAN MICHAEL GARDNER: When is the decision-hearing scheduled for this month?

ELIZABETH LINT: I think it's --

CHAIRMAN MICHAEL GARDNER: Do we have any flexibility to move that meeting to the 30th? I've got a collective bargaining all day on the

31st.

ELIZABETH LINT: Fine with me.

CHAIRMAN MICHAEL GARDNER: Morning of the
30th at 10:30?

POLICE COMMISSIONER ROBERT HAAS: I'm
free all day.

FIRE CHIEF GERALD REARDON: I think I'd
probably have to do 9:00.

POLICE COMMISSIONER ROBERT HAAS:
9:00 a.m. on the 30th.

FIRE CHIEF GERALD REARDON: Yes.

CHAIRMAN MICHAEL GARDNER: So, I'll make
the motion that we defer this matter to our next
decision-hearing and just provide the
administrative notice that it's the intention of
the Commission to move the currently scheduled
decision-hearing from the 31st until 9:00 on the
morning of January 31st.

Is there a second to that motion?

POLICE COMMISSIONER ROBERT HAAS: Second.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

JAMES RAFFERTY: Thank you very much.

CHAIRMAN MICHAEL GARDNER: Thank you for the very interesting project.

REVOCATION: F&D RESTAURANT CORPORATION

ELIZABETH LINT: Revocation F&D Restaurant Corporation doing business as Campus/Manray. Donald Holland, manager, holder of an all alcoholic beverages as a restaurant license, currently inactive, due to the license not being operated for the past six years.

CHAIRMAN MICHAEL GARDNER: Good evening.

Again, if you would both kindly state and spell your names for the record. We have Mr. Rafferty here again representing the applicant.

DONALD HOLLAND: My name is Donald Holland, H-O-L-L-A-N-D.

CHAIRMAN MICHAEL GARDNER: Mr. Rafferty, could you give us some history here?

JAMES RAFFERTY: Surely. Mr. Holland for many years operated an establishment at 21 Brookline Street known as Campus/Manray -- I'm gonna guess it's 20 plus years -- at that location.

And then about five or six years ago, his landlord informed him that he was going to be taking the building down, and, in fact, built a multi-family apartment building at that location.

And since that time, the license has been inactive, and Mr. Holland has been engaged in a search trying to find a successor location.

It has been a challenge on a number of levels. His intention had been to try to create -- find a location that would be consistent with his prior venue. It's very much a Central Square operation. It had a strong identity in Central Square.

So, candidly, Mr. Holland always focused his attention on opportunities within Central Square. He competed for a number of locations that other licensees succeeded, including one that's the MIT theater that he spent a fair bit of time submitting proposals, and was one of the finalists, but they selected another operation.

Similarly, he worked closely at a location by the old fire station where Mr. Simmons owned the two-story office building --

POLICE COMMISSIONER ROBERT HAAS: Police station.

JAMES RAFFERTY: A police station. I said fire, but meant police. It was on the corner of Green and Weston, and I can attest that we hired architects and drew up floor plans, and Mr. Holland spent a considered amount of effort, and it looked very promising, and the landlord received a better offer before we had it under final agreement, and concluded that having food and such in the building where he previously hadn't had that was not something he desired.

So, once again, Mr. Holland found himself back to square one. It has been -- I know it's been awhile, but I can attest by the number of calls I get regularly from Mr. Holland that he has been diligently looking and trying to find locations.

He hasn't wanted to leave Cambridge and his preference has always been to remain in Central Square.

I'm pleased to report, knowing that this day was coming and the Commission has been forthright and they declared the day was coming, Mr. Holland really started making some aggressive inquiries and seeing if he could reach commercial agreement with a landlord, and within the past month, he has done so.

And as of today, as recently as today, we have filed an application to transfer this license to the former Blockbuster location on Mass Ave at the corner of Mass --

DONALD HOLLAND: Douglas.

JAMES RAFFERTY: Douglas Street.

DONALD HOLLAND: Mass and Norfolk.

JAMES RAFFERTY: It's a vacant storefront. It has probably been vacant now for the better part of a year. The landlord is a long time Cambridge landlord. He has known Mr. Holland. It's Mr. Nager's building. He had

some similar reservations about food and the like, and seemed to be satisfied there would be adequate measures taken to ensure that there wouldn't be a -- any adverse impacts from the presence of food in the premises, but after many months of negotiation, we have agreed to commercial terms.

And as I said, we -- knowing that this hearing was tonight, we were able to file a change of location.

Without turning tonight into a hearing on that, I thought it was relevant for the Commission to know that a location has been identified, and it has been awhile, but I can say with a high level of confidence, the length of time here has not been as a result of a lack of effort.

There was a location across the street where the Harvest Co-Op recently moved into. We

spent, years ago, many, many months with sound engineers, and the landlord in that location was concerned that vibrations and noise coming from the ground floor would disturb the residential tenants.

And he hired a sound engineer. We looked at that. And at the end of the day, we could not provide the landlord with the type of assurance.

This is a free-standing building. At this proposed location, there are no residents above it. It's a one-story structure. It has great frontage on Mass Ave. And Mr. Holland has always felt strongly that Manray being in Central Square was what made it exciting. It was interval to its success.

I think today has been optimistic and a great day for Mr. Holland. It's been the day he's been searching for some time now.

He's eager to return to the Commission

next month and share with you all the details of that, but that's the status.

CHAIRMAN MICHAEL GARDNER: Just for clarification for myself and for the record, Ms. Lint, this item is on the agenda tonight at our initiative to deal with the revocation based on concerns about having the license inactive for so long?

ELIZABETH LINT: That's correct.

CHAIRMAN MICHAEL GARDNER: And notwithstanding the fact it has been inactive, the owner has always paid the required fees every year?

ELIZABETH LINT: That's correct.

CHAIRMAN MICHAEL GARDNER: And do you have any reason to believe any of the representations that Mr. Rafferty made are in any way inaccurate or sound to you as if, in fact, the licensee has been attempting, at least to the

extent you know, to try to find --

ELIZABETH LINT: Yeah, I believe he has.

I know we've had numerous discussions about different locations throughout the square.

JAMES RAFFERTY: Every year we have done the renewal on the inactive. We have provided an update of the efforts. I will say -- and I can have Mr. Holland speak to it -- but this has been a very diligent search on his part. And it's been discouraging. The rents have been going up. The locations have been hard to come by.

If the Commission wanted to let Mr. Holland just briefly address the issue, I want to assure you, he was not a reluctant licensee. He calls me with such frequency, that I remind him I'm not a real estate broker and I have given him as many -- he's worked with many real estate brokers.

He looked at the second and third floor

of Mr. Baron's building. He has met with every landlord in Central Square I would venture to say in the last -- the Dance Complex. I could list the people that he calls me about.

Maybe you'd just wanna share --

CHAIRMAN MICHAEL GARDNER: So, I'll give you an opportunity, Mr. Holland, to address that, but I do have the question for either of you in terms of the role that the Commission played in putting this item on the agenda, whether that was a nudge that, in fact, helped bring this to fruition or we merely at a coincidence of, in fact, about to put the pieces together.

FIRE CHIEF GERALD REARDON: It has a Washington flavor to it, last minute.

JAMES RAFFERTY: Well, we were on the license cliff, we acknowledge that. I will say, because I participated in negotiations with Mr. Nager, who was lukewarm, but has known

Mr. Holland as a fellow merchant and member of the Business Association for years, and I -- we did prevail upon him if he cannot get a location, he's gonna -- his work is for not, he's gonna lose this license.

I think, frankly, that might've ultimately -- that level of desperation might've been the thing because the landlord -- you had approached the landlord several times in the past, and he just kept saying: I don't want a nightclub, I don't want a nightclub," and Mr. Holland was an active participant in Councilor Reeves Red Ribbon Commission on Central Square, and Mr. Nager participated, and they would engage regularly over that period of time about finding this location, and I will say that Councilor Reeves did act as a bit of a matchmaker here, and we think he may have been helpful in convincing the landlord of Manray coming back to

Central Square.

So, the carrot and the stick were both in play here, I would say, in terms of the ultimate timing.

CHAIRMAN MICHAEL GARDNER: Thank you. That, I think, helps us understand a little bit more about why it is you're here tonight.

Anything else you would like to add, Mr. Holland?

DONALD HOLLAND: I have the floor plan and menus, if you people would like to look at it.

CHAIRMAN MICHAEL GARDNER: I think that's a little premature.

FIRE CHIEF GERALD REARDON: I don't want to get the horse before the cart, but how many seats are we talking about?

CHAIRMAN MICHAEL GARDNER: The current license?

FIRE CHIEF GERALD REARDON: The current license.

JAMES RAFFERTY: I thought it was quite big. I would imagine this is --

DONALD HOLLAND: The current license is 750.

FIRE CHIEF GERALD REARDON: That wasn't a liquor license, was it, or it was just the occupancy?

JAMES RAFFERTY: No, that was -- we had it broken down by the -- it was a two-story space there as well. It came out to 635 standing and 115 seated. It was one of the last nightclub licenses. I mean, it was licensed before the restaurant reform's in place. It was grandfathered.

We're not anticipating we will have that type of use here, but Manray didn't really have a kitchen and didn't sell food. It was a nightclub

before that became an unpopular concept. It was an unabashed nightclub.

FIRE CHIEF GERALD REARDON: If this was to go forward, how many seats are you looking for in this new location? Again, we haven't gotten to that point, but just...

DONALD HOLLAND: Seats?

FIRE CHIEF GERALD REARDON: Well, occupancy.

DONALD HOLLAND: We had -- let's see.

JAMES RAFFERTY: The space is 5,000 square feet, 50 by 100. It would have -- on this plan, he's got a couple of bars.

DONALD HOLLAND: Would you like to look at it?

FIRE CHIEF GERALD REARDON: Sure.

JAMES RAFFERTY: You didn't put down the numbers, but...

FIRE CHIEF GERALD REARDON: Obviously

this building footprint is significantly smaller.

JAMES RAFFERTY: Exactly. It's 5,000 square feet. This is probably a third the size of the former venue. I would think there would be a comparable reduction in capacity.

CHAIRMAN MICHAEL GARDNER: Is there anything else either of you would like to add?

DONALD HOLLAND: No.

JAMES RAFFERTY: No, thank you.

POLICE COMMISSIONER ROBERT HAAS: Are you still contemplating it being a nightclub operation or are you changing the --

JAMES RAFFERTY: I think by necessity, we recognize it's going to have to --

DONALD HOLLAND: Basically the same operation that I had before that I was well-known for.

JAMES RAFFERTY: But you're going to have food?

DONALD HOLLAND: Huh?

JAMES RAFFERTY: But you're going to have food?

DONALD HOLLAND: Oh, yeah, food. Yes, correct.

POLICE COMMISSIONER ROBERT HAAS: What is it then?

DONALD HOLLAND: It's both.

JAMES RAFFERTY: It's probably -- I mean, by analogy, like a Moska or something, there's dining and then there's a room for dancing or a space for dancing. Dancing is very much a part of it, but it would definitely have food service. The other one didn't even have a kitchen, right?

DONALD HOLLAND: Yeah.

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

Any other questions from the

Commissioners?

FIRE CHIEF GERALD REARDON: Has anyone reviewed that in terms of the number of occupants or anything --

JAMES RAFFERTY: No, we haven't -- but I understand. I believe the filing deadline is the 14th. So, we hope to have all that sorted out.

DONALD HOLLAND: I have the menus here, but you don't want to look at them, no?

JAMES RAFFERTY: No, no.

CHAIRMAN MICHAEL GARDNER: So I'll make a motion that the matter of the revocation of the all alcohol license currently inactive for F&D Restaurant Corp doing business as Campus/Manray to be put over for three months in anticipation that the owner of that license will be coming forward in that time period with a specific new plan for use of the license, with the further notice that if those plans somehow fall apart, or

are not in a position to be acted on within the three months, it would be the intent of the Commission to look very closely at the issue of whether or not, in fact, the license should be revoked. That's my motion.

FIRE CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: A motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

Good luck to you with your plans.

DONALD HOLLAND: Thank you, Mr. Gardner.

CHAIRMAN MICHAEL GARDNER: To the extent that we may have played a role or Ms. Lint played a role in helping encourage all of the actors here to help you with this, we're pleased and

wish you well.

DONALD HOLLAND: Thank you.

JAMES RAFFERTY: Thank you.

APPLICATION: VERITAS AT HARVARD SQUARE, LLC

ELIZABETH LINT: Application for Veritas at Harvard Square, LLC doing business as The Hotel Veritas, Benson Willis, manager, holder of an all alcoholic beverages as a hotel license at 1131 Massachusetts Avenue/1 Remington Street, has applied for a change of manager to Christopher Slomiak.

CHAIRMAN MICHAEL GARDNER: Good evening. If you would be so kind as to state and spell your name for the record and also identify your role in this.

CHRISTOPHER SLOMIK: My name is Christopher Slomiak, last name is S-L-O-M-I-A-K. I'm the new general manager of the Hotel Veritas.

CHAIRMAN MICHAEL GARDNER: Tell us a

little bit about your experience, both in the hotel industry, but also in managing an alcohol license.

CHRISTOPHER SLOMIAK: I work for a hotel management company based out of Boston. It's called the Retlock Hospitality. It's a small firm. We manage three properties in the State of Massachusetts: One is the Boston Hotel Buckminster right by Fenway Park; one is the Nantasket Beach Resort, which is a full service property, on the South Shore in Hull, Massachusetts; and the third newly acquired is the Hotel Veritas.

We acquired the Veritas in early September. The owners have reached out to Retlock to take over the property.

Prior to that, I was -- as part of the management company, my role is that I'm placed on property -- at a property level to oversee total

operations of all of the hotels.

I started at the Buckminster Hotel. I was the operations manager there for three years. There's no hotel restaurant at the Buckminster Hotel currently. There was an independent restaurant there that leased from the property. We did need to know sort've their operations and oversee what they were doing.

Three years later, I became the assistant general manager at the Nantasket Beach Resort, which, as I said, is a full service property. We have a restaurant called the Paragon Grill, which is managed by the hotel. It's 126 seats, full liquor license. The liquor license wasn't under my name, it was under the general manager of that property, but as the assistant GM, I did oversee all operations once again.

We also have two conference center spaces for weddings, conventions and things like that

with an occupancy of 400.

And in early September, Benson Willis, the previous general manager, decided to leave the Hotel Veritas, leaving us with no manager for the liquor license at the Veritas. Since I stepped in, I'm gonna hopefully take over.

CHAIRMAN MICHAEL GARDNER: So, you have been doing that on an acting basis now?

CHRISTOPHER SLOMIAK: Correct.

CHAIRMAN MICHAEL GARDNER: For how long? Since September?

CHRISTOPHER SLOMIAK: Since September, correct.

CHAIRMAN MICHAEL GARDNER: Any questions?

POLICE COMMISSIONER ROBERT HAAS: No questions.

FIRE CHIEF GERALD REARDON: No questions.

CHAIRMAN MICHAEL GARDNER: Any particular challenges that you envision in managing this

space?

CHRISTOPHER SLOMIAK: Most likely not.

It's a pretty small space. Licensed for 16 seats on the patio area as well as lobby area.

The purpose for our liquor license isn't so much to run a lounge, it's more to offer services to our guests. So, you know, we don't do any extra marketing for a lounge or anything like that. It's more of an amenity if our guests want a cocktail or something like that.

CHAIRMAN MICHAEL GARDNER: How many rooms at the hotel?

CHRISTOPHER SLOMIAK: 30.

POLICE COMMISSIONER ROBERT HAAS: What has the occupancy rate been generally since you have been there?

CHRISTOPHER SLOMIAK: Actually, previously it ran at about 65 percent occupancy. We're expecting to reach the high 80s, 90s this

year.

POLICE COMMISSIONER ROBERT HAAS: What is different?

CHRISTOPHER SLOMIAK: The management.

CHAIRMAN MICHAEL GARDNER: Just give us some sense about what the client base typically is for your hotel.

CHRISTOPHER SLOMIAK: We have a much higher rate than your average hotel. City of Boston probably runs about 150. Cambridge, probably a little bit higher since they're only 15 hotels in Cambridge.

Our average rate annually is 220. So our client base is sort've on the wealthier end, I would say.

Most -- I mean, where the Veritas and most of our guests are Harvard affiliates, a lot of corporate guests are from the pharmaceutical companies in the area, things like that.

We're trying to increase our international client base a little bit since we're a boutique, little smaller-type, European-style property.

CHAIRMAN MICHAEL GARDNER: Thank you.

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

Pleasure of the Commission?

POLICE COMMISSIONER ROBERT HAAS: Make a motion to accept the application for change of manager.

FIRE CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded.

Ms. Lint, is there training that needs to be conducted?

ELIZABETH LINT: 21 Proof training.

CHAIRMAN MICHAEL GARDNER: This motion for approval is subject to conditions of you

meeting the other administrative requirements of the License Commission, which includes the 21 Proof training, which is somewhat different than the TIPS training that is available in many places.

Are you aware of the 21 Proof?

CHRISTOPHER SLOMIAK: Yes.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

Good luck. Welcome.

CHRISTOPHER SLOMIAK: Thank you.

CHAIRMAN MICHAEL GARDNER: We appreciate your participation.

APPLICATION: HENRY NGUYEN

ELIZABETH LINT: Application: Henry

Nguyen, doing business as Thistle and Shamrock, holder of a wine and malt beverages as a package store license at 62-62-1/2 Walden Street has applied to transfer said license to Deuko Enterprises, LLC doing business as Thistle and Shamrock, Edward Jackson Hall, manager at said address.

CHAIRMAN MICHAEL GARDNER: Good evening. If you would be so kind to state and spell your names for the record and identify your roles.

ANNE VIGORITO: Good evening. Attorney Anne Vigorito. I'm an attorney in the law firm of Richard DiGirolamo at 424 Broadway in Somerville, Massachusetts. I'm joined by Edward Jackson Hall, the proposed manager, for the Thistle and Shamrock site, and he also resides at 31 Sherman Street in Cambridge.

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

ANNE VIGORITO: I apologize. Vigorito,
V-as in valentine-I-G-O-R-I-T-O.

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

ANNE VIGORITO: I'm sorry?

CHAIRMAN MICHAEL GARDNER: Tell us about
the plan.

ANNE VIGORITO: Before you this evening
is Edward Jackson Hall, who is the manager and
member of Deuko Enterprises, LLC. He will be
purchasing Thistle and Shamrock, which is located
at 62 Walden Street here in Cambridge.

This is currently operated as a deli
convenience store as well as a package store that
sells beer and wine only.

It's been a grocery store for well over
40 years. I think beer and wine was added
sometime after that.

Mr. Hall's hopes for the site -- it's a

1200 square foot store. It's not an enormous store. But I think he would like to bring it back into a grocery store with the wine and the cheese and the beer and making it more -- you will see, I attached his resume. He has worked in the liquor industry. He worked with Simmons Liquors. But he also worked at DeLuca's Market on Newbury Street.

And we had a discussion where it may be something more similar to the DeLuca's on Charles Street ran, but before he can really, you know, say that's what I'm going to do, he needs to get into the location, reevaluate the complexion of the neighborhood, the necessity, what the neighbors really want. You know, that neighborhood has changed tremendously. I mean, you know, there are people who purchased condominiums well over \$500,000. And they may want more of a high-end-type of store. So,

that's why he'd like to get into the site and, you know, establish the needs of the neighborhood.

What he would like to do as far as hours, he will be open Monday through Sunday, from 7:00 a.m. in the morning until 10:00 p.m. in the evening.

I've attached a floor plan of the way it's set up right now. His intent is to keep it that way. If he's going to change anything, he would obviously come back before the Board and request those changes.

A little brief history of my client. He's 36 years old. He does have a bachelors in economics from Suffolk University. He has been working at Work Technology in Somerville as a director of administration. He's leaving there at the end of the month because, hopefully, after your approval and the ABCC approval, he'll be

able to get into the location and he plans to be on the site, you know, the majority of the time, a minimum of 50 hours per week.

CHAIRMAN MICHAEL GARDNER: Could you tell us a little about Deuko Corporation or Enterprises and in particular capitalization? I mean, is there enough financial backing for this operation?

ANNE VIGORITO: There is. The purchase and sale agreement, it does break down with the business assets will be 100,000 and the 50,000 going towards goodwill. The liquor license price seems to be \$115,000, so a total of 265.

He's put up minimal amounts of cash. He has taken a personal loan. There's a promissory note from Virginia Coleman, who is his mother. She's an attorney from Ropes & Gray. He lives on one of her properties. He owns a condominium, she owns a condominium in the same building in

Cambridge. So there's -- they're not requesting a pledge of the license, but there is, you know, the necessary financial backing.

He has his own savings that he can draw from, you know, with the hopes of moving forward as making that location more along his ideas.

CHAIRMAN MICHAEL GARDNER: The closest thing to this kind of work, Mr. Hall, that you have done in the past is what?

EDWARD HALL: I worked at DeLuca's Market in the Back Bay for several years back when I was in college.

ANNE VIGORITO: He was a beer manager at that site and he has worked in the liquor industry as far as working at liquors stores, so he's very familiar with carding patrons as they come in, and even that Back Bay location there's quite a few colleges, so he knows to be on the lookout for the fake IDs, so to say.

CHAIRMAN MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: Is the store currently operating or is it --

ANNE VIGORITO: Yes, it is. In the purchase and sale, they would basically do a closing, ten days after final approval from the ABCC.

POLICE COMMISSIONER ROBERT HAAS: Uh-huh.

FIRE CHIEF GERALD REARDON: At this time there's no work being planned. He will go in and basically do a dusting and cleaning, so to speak.

EDWARD HALL: I'll open it up and make it brighter.

ANNE VIGORITO: Then I think kinda listen to what the neighbors are looking for. He feels that's the best approach so that, you know, he can then determine -- obviously, any changes, he would be back before the Board.

FIRE CHIEF GERALD REARDON: I can't remember. Are they still using a kitchen in those facilities?

EDWARD HALL: There's a deli that's really not being used. It's being rented out currently.

FIRE CHIEF GERALD REARDON: Your intention is use the deli as --

EDWARD HALL: Yeah. I think my intention is to do coffee there at first, but maybe do the deli eventually, but I want to evaluate what I have first.

FIRE CHIEF GERALD REARDON: You don't need to do any kind of major work to the building?

EDWARD HALL: No. Slowly. It's a process of a few years, I think.

CHAIRMAN MICHAEL GARDNER: What is your staffing plan? How many people do you expect to

hire?

EDWARD HALL: Right away one full-time,
one part-time.

CHAIRMAN MICHAEL GARDNER: How much time
do you expect to spend there?

EDWARD HALL: At least 60 hours to start.

CHAIRMAN MICHAEL GARDNER: Other
questions?

POLICE COMMISSIONER ROBERT HAAS: No
other questions.

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

Seeing none, pleasure of the Commission?

ELIZABETH LINT: Background check is
satisfactory.

FIRE CHIEF GERALD REARDON: Make a motion
to approve.

CHAIRMAN MICHAEL GARDNER: I'll second

that.

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

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: 21 Proof.

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: Also subject
to that.

All these approvals are subject to, in
fact, Ms. Lint saying you've met all the
administrative requirements.

So the application's approved. Good luck
with your new enterprise. It doesn't sound like
your experience is very extensive. You've got a
lot to learn. I hope, in fact, you approach it
with the seriousness that you appear to have
brought forward this evening.

DONALD HOLLAND: Thank you.

ANNE VIGORITO: Thank you.

APPLICATION: NUMBER 6 HOUSE MIT FRATERNITY

ELIZABETH LINT: Application: Number 6 House MIT Fraternity, Marcus Dahlem, resident manager, holder of a lodging house license at 428 Memorial Drive has applied for a change of resident manager to Yu Lei.

CHAIRMAN MICHAEL GARDNER: Good evening. Again, if you could be so kind as to state and spell your name for the record and identify your role.

YU LEI: Sure. First name is spelled Y-U, last name is L-E-I.

CHAIRMAN MICHAEL GARDNER: Tell us about your role here, sir.

YU LEI: Sure. I currently serve as house manager in helping in the house for the daily operations and also taking care of some

students. There are 40 residents in the house.

CHAIRMAN MICHAEL GARDNER: How long have you been doing that?

YU LEI: I'm currently in that job for half a year starting in August.

CHAIRMAN MICHAEL GARDNER: Any reason why you're just coming forward with the application to be formally approved for that role at this late date?

YU LEI: I'm looking for a long-term position staying in the house and it could be more than a year.

CHAIRMAN MICHAEL GARDNER: Any reason you didn't apply sooner?

YU LEI: Oh, I started in August and wasn't sure in the beginning I was in that position. Then I will be notified by the student office at MIT informing I should do this.

CHAIRMAN MICHAEL GARDNER: Tell us a

little bit about your experience with it so far.

YU LEI: Yes. I starting with similar job. Undergraduate at Berkeley, California and helping 60 students, undergraduate students. That's my last year. And prior to that I also served as house manager for a nonresidential house at Berkeley, and during that time there were 20 residents in the house. And after starting coming over to Cambridge and helping for Harvard University Graduate School dorm for two years, and each year I was taking care of 20 -- between 20 and 30 graduate students.

So overall, I have four years of experience doing similar position.

CHAIRMAN MICHAEL GARDNER: Are you currently affiliated with MIT as a student in any way?

YU LEI: Yes, I'm student. I'm Ph.D. student at Harvard University and an affiliate, a

research affiliate at MIT.

CHAIRMAN MICHAEL GARDNER: Okay. And are there any particular challenges that this site presents?

YU LEI: Not much. I have been working on this position for half a year, and I enjoy the experiences and the students are -- the group of population that I'm familiar with and just helping and chatting with them everyday, so I do not see any particular challenges.

CHAIRMAN MICHAEL GARDNER: What is the age mix of students that would be in this house?

YU LEI: In between 18 to 20, 21.

FIRE CHIEF GERALD REARDON: Are these all undergrads?

YU LEI: They're all undergrads, yes. Currently one resident is graduating -- graduated, I'm sorry. I think he's 21.

FIRE CHIEF GERALD REARDON: What's the

total occupancy of that?

YU LEI: 40, including me.

FIRE CHIEF GERALD REARDON: Okay. How many rooms is that?

YU LEI: Let me see. We have about -- can I give you a rough number?

FIRE CHIEF GERALD REARDON: Yes.

YU LEI: I think 20 to 30 rooms. Mostly singles, there's some doubles and triples.

CHAIRMAN MICHAEL GARDNER: Any representatives from MIT here this evening who would like to speak on this?

ADAM MCCREADY: Adam McCready.

CHAIRMAN MICHAEL GARDNER: State and spell your name, please.

ADAM MCCREADY: Sure. Adam McCready, M-C-C-R-E-A-D-Y. I'm the assistant director for fraternities, seniorities and I advise the residential advisor program. I can say that he

was one of our -- as one of our new RAs is probably one of our strongest as far as experience. He has studied and had experience at UC Berkeley and Harvard. And also added is the group he's living in is one of our co-ed organizations.

So, as the RA, they do host social events, but I would say they're a lower risk organization as compared to some of our fraternities that reside in Cambridge. They're more scholarly in nature. And I think he has been a good fit for that group. Primarily international students and residents from all over the world.

CHAIRMAN MICHAEL GARDNER: What is the rule of alcohol, if any, in this place?

ADAM MCCREADY: They're allowed to host social events. I would say, again, comparatively to some of our other organizations, they host

maybe one or two a year with alcohol. Again, pretty minimal comparatively to some other fraternities on campus.

FIRE CHIEF GERALD REARDON: The RA is responsible to make sure there's no underage drinking?

ADAM MCCREADY: They're responsible for fighting, education, helping students get the resources they need to be successful. They're there more as a mentor and resource. They -- yes, in a sense they're there to make --

FIRE CHIEF GERALD REARDON: I'm trying to find out who is on nights when there are functions. Who is the person responsible to make sure that there's no underage drinking?

ADAM MCCREADY: So the students are self-governing organizations of fraternities and sororities, so they would be monitoring. We don't expect from MIT that the RAs themselves are

there to monitor. That said, if they do see individuals breaking the law, or potential harm, they're to report that to the institute.

FIRE CHIEF GERALD REARDON: How would you assist the sanitary conditions of the house?

YU LEI: Currently, what I have done usually in the breakfast, I clean up the dining area. Mostly -- in the house we have a maid actually came over twice in a week. And we have a group of people clean up the house.

POLICE COMMISSIONER ROBERT HAAS: What about the hallways and bathrooms, are there common bathrooms in the house?

YU LEI: We have six or seven -- seven total bathrooms. And, again, it's actually the group of came of people came over twice a week and clean out the bathrooms as well.

POLICE COMMISSIONER ROBERT HAAS: Is that enough?

YU LEI: I personally for the previous half a years, I think it's good enough. And the students are pretty much cautious about make sure everything is clean before they leave in the bathroom. I didn't see hazard happening in the bathroom.

POLICE COMMISSIONER ROBERT HAAS: Are they storing any trash in the hallways?

YU LEI: No. There's no -- in the hallway.

FIRE CHIEF GERALD REARDON: If my inspectors arrive there tomorrow morning at 7:00, they would see it's in pretty good shape?

YU LEI: Yes.

ADAM MCCREADY: The community is, I would say 90 to 95 percent, international students, so I think in some ways, they bring a maturity and a standard of living that may not be found with some of our domestic students.

FIRE CHIEF GERALD REARDON: Well, there's some -- some of your neighbors have addresses down there that have been less than stellar over the years.

ADAM MCCREADY: I fully understand.

FIRE CHIEF GERALD REARDON: I was trying to determine this address. I don't think this is it.

ADAM MCCREADY: Having been here ten years ago for a less than stellar incident, I can say strippers in a bunch of different circumstances.

POLICE COMMISSIONER ROBERT HAAS: Any access to the roof?

YU LEI: Yes, I think so.

POLICE COMMISSIONER ROBERT HAAS: Do you use the roof for any kind of social events?

YU LEI: I think previously one, one happened on the roof.

POLICE COMMISSIONER ROBERT HAAS: So, do you use the roof for social events?

YU LEI: No. I only make the social event in the lounge.

POLICE COMMISSIONER ROBERT HAAS: There's no partying up on the roof or anything like that?

YU LEI: There's no partying.

POLICE COMMISSIONER ROBERT HAAS: There's no furniture or structures up on the roof?

YU LEI: I don't think so.

CHAIRMAN MICHAEL GARDNER: I think we want to make sure that, in fact, you know.

YU LEI: Yes. I would definitely do a double check for the roof whether there is something like a hazard or stuff up there.

CHAIRMAN MICHAEL GARDNER: Any other questions?

POLICE COMMISSIONER ROBERT HAAS: No other questions.

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

Again, I understand everybody's busy, it's a source of frustration for us to find out you have been essentially on the job about six months before we get a chance to see you, and I put that responsibility more on MIT than on you.

ELIZABETH LINT: If I may, I did hear from Gallop that they're trying to -- obviously it's an ongoing pretty much yearly situation and they're trying to get on top of all them and she apologized for not being able to be here tonight.

ADAM MCCREADY: We have been communicating to the resident advisers since at least October that they need to be here, you know, and I think the frustration was not as of this week.

CHAIRMAN MICHAEL GARDNER: How many are

there?

ADAM MCCREADY: How many new? I'd say five. And you is the second. There's three more out there out getting ready to wrangle.

FIRE CHIEF GERALD REARDON: In total there's 25 or 30 RAs now, right?

ADAM MCCREADY: Yes, in Boston, Cambridge and Brookline, but in Cambridge only, there are nine, five of whom are new this year.

CHAIRMAN MICHAEL GARDNER: Maybe we need to hold a special event for RAs.

Pleasure of the Commission?

FIRE CHIEF GERALD REARDON: I'd make a motion to approve Mr. Lei as the resident manager of the MIT No. 6 Fraternity, 428 Memorial Drive.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed. Thank you for your participation. We're pleased by the level of experience you bring to this and wish you well with it. And we request MIT to be speedier in their applications. Thank you.

YU LEI: Thank you. Have a good evening.

APPEAL: AVTAR SINGH

ELIZABETH LINT: Appeal: Avtar Singh, holder of a Cambridge Hackney License, No. 29319, is appealing the decision of the Executive Director, Elizabeth Y. Lint, to uphold the decision of Officer Benny Szeto to not renew Mr. Singh's Hackney License due to his driving record.

CHAIRMAN MICHAEL GARDNER: Good evening. If you would be so kind as to state and spell your name for the record.

AVTAR SINGH: A-V-T-A-R, S-I-N-G-H.

CHAIRMAN MICHAEL GARDNER: And you've held a Hackney license with the city?

AVTAR SINGH: Yes.

CHAIRMAN MICHAEL GARDNER: For how long?

AVTAR SINGH: Three years.

CHAIRMAN MICHAEL GARDNER: I'm sorry?

AVTAR SINGH: Three years.

CHAIRMAN MICHAEL GARDNER: Three years.

Ms. Lint, could you briefly summarize the reasons for revocation?

ELIZABETH LINT: It's not a revocation, it's just not to renew.

Mr. Singh has had ten moving violations within the past seven years. Most were for speeding. Eight occurred in the last three years that he's -- since he has been driving in the city.

Our rules and regulations indicate that if you have more than four moving violations

within seven years, you're not qualified to renew.

So he would be able to renew once the time period elapsed where there was no longer four in a seven-year period.

CHAIRMAN MICHAEL GARDNER: So you understand, Mr. Singh, we have a rule about how many moving violations you're allowed to have in a particular time period.

AVTAR SINGH: Yes.

CHAIRMAN MICHAEL GARDNER: If you cross that line, then you're not eligible to have your license renewed. If you stay under that line, we can renew it.

What reasons, if any, should we possibly have to not apply that rule in your case?

AVTAR SINGH: So I have been sorry, sir, so please give me one chance, because all family dependent on me. My brother is diabetic, he been

working, too, so I promise you I give you no more chance, so I will carefully drive. Just, please, give me one more chance. All family depends on me, sir.

CHAIRMAN MICHAEL GARDNER: How is it that you've had so many violations as it is?

AVTAR SINGH: I don't know. I think, you know --

CHAIRMAN MICHAEL GARDNER: I ask you to restate your answer to my last question a little more slowly.

He can come forward and just identify yourself for the record, please.

Just tell us who you are. Identify yourself.

MENGEET SINGH: My first name is M-E-N-G-E-E-T and last name is Singh, S-I-N-G-H.

CHAIRMAN MICHAEL GARDNER: And you're a cousin?

AVATAR SINGH: So we both drive one cab, sir.

CHAIRMAN MICHAEL GARDNER: My question, I think was, why should we make an exception in your case? You said that it was because of the hardship to your family. I asked about, well, how was it that you had all these moving violations to begin with? And I think the stenographer had difficulty picking up your answer to the question why you've had so many violations to begin with.

MENGEET SINGH: Because what he -- why just for that because he went to the home quick because she's diabetic. She call him because nobody at the home, and kids with her when he's driving the night shift. And he's working the night shift, sir --

ELIZABETH LINT: One at a time.

MENGEET SINGH: What he explained to me

at that time that he said because he have to go back to home and look at her because she call him because she would -- so that's why there's two tickets for the -- one was on Storrow Drive and the other one, he said, was on Mass. Pike, he said. That lot was full.

So, the other one -- so he got other tickets on the Mass Pike. The reason was just for his wife because after she call him and he was just the passenger, he just left the passenger and he went home as soon as possible to go home and see her.

AVTAR SINGH: Last year, my wife, mother coming like he stayed home, so I have no problems to take care.

CHAIRMAN MICHAEL GARDNER: Within the last year your mother is living with you so you don't have to go back as quickly?

ELIZABETH LINT: Wife's mother.

AVTAR SINGH: Yes.

CHAIRMAN MICHAEL GARDNER: Other questions?

MENGEET SINGH: He was -- because he's 55 or 56 years old, he can't find a job for his family because he can't speak very well -- you can't understand what he's speaking -- he had just won this job and all family depending on him. So just give him one chance and in three months you want to see him, six months just give him one chance. If he's good, so you can keep him in the city otherwise he going out.

CHAIRMAN MICHAEL GARDNER: Thank you. Other questions?

MENGEET SINGH: You're welcome.

CHAIRMAN MICHAEL GARDNER: Other questions?

POLICE COMMISSIONER ROBERT HAAS: So my question is for Ms. Lint. So when will he be

eligible to reapply for a license once his record is cleared so he wouldn't be in violation?

ELIZABETH LINT: I don't have it here.

My memory is it's at least two years.

POLICE COMMISSIONER ROBERT HAAS: Two more years.

ELIZABETH LINT: It seems like there will be a bunch of violations, so there's a suspension so then it gets reinstated and then there's -- they keep adding up.

POLICE COMMISSIONER ROBERT HAAS: So your license has been suspended as a result of these speeding tickets?

AVTAR SINGH: Your driving license was suspended at any other time? He said no.

ELIZABETH LINT: There were seven surchargeable events.

POLICE COMMISSIONER ROBERT HAAS: Which resulted in the suspension of his license.

FIRE CHIEF GERALD REARDON: Suspension or and non-renewable?

ELIZABETH LINT: Just suspension.

CHAIRMAN MICHAEL GARDNER: Do you know if he has a currently active license?

ELIZABETH LINT: I believe it's active.

CHAIRMAN MICHAEL GARDNER: How many cases like this do we encounter a year?

ELIZABETH LINT: Not that many.

CHAIRMAN MICHAEL GARDNER: Do we have a history or waivers or conditional approvals or not?

ELIZABETH LINT: Yes. From time to time we'll give someone a one-year renewal because we allow the drivers to renew either for one year or three years, we would give them a one year with a check and three months, a six months and nine months and, you know, if there's any more violations then revoke on non-renewed.

FIRE CHIEF GERALD REARDON: How many total violations are we talking?

ELIZABETH LINT: Ten. Ten in seven years.

FIRE CHIEF GERALD REARDON: You understand that's a really, really high number.

MENGEET SINGH: I know, sir. I just come with him actually I don't want to come with him. Just for his family. That's why I coming with him and explaining to you, so just if he -- if you can do that for him, just one chance for him so he can go forward, so he can learn because just for his family because he don't have --

FIRE CHIEF GERALD REARDON: I understand that. But does he understand when you get two or three moving violations, it should've warned him that he's on this road. He has ten. That doesn't seem there's any change in habit. So, I mean, do you see how I'm looking at this? That's

kind of bothersome to me that, you know, that this just continues to go on.

I understand his plight and all.

MENGEET SINGH: Just once this time give him just for because his wife can't work either. I'm coming here for his kids. That is why I'm here. I know because my family I got, too, also, I don't want this kind of driving for my family either. But just for his kids, I'm coming here for him. So, I'm just looking for a chance for him, if you do that. Just look at the three months or six months, give to him this one chance. If he's doing good, so suspend him next time, just otherwise he can go outside --

POLICE COMMISSIONER ROBERT HAAS: Who owns the medallion?

MENGEET SINGH: George.

POLICE COMMISSIONER ROBERT HAAS: So you lease the medallion?

AVTAR SINGH: Yes.

POLICE COMMISSIONER ROBERT HAAS: The two of you lease the medallion?

MENGEET SINGH: Just me.

POLICE COMMISSIONER ROBERT HAAS: You lease the medallion and he works for you?

MENGEET SINGH: Yes, sir. Because I'm driving morning shift, but he drives nights for me.

FIRE CHIEF GERALD REARDON: So, he's also putting you in peril of losing.

MENGEET SINGH: I'm not in this for that, because I can find another driver if he's not with me, anyway.

FIRE CHIEF GERALD REARDON: Well, if you're leasing the medallion and he's representing you and he --

MENGEET SINGH: No, sir, no. This is not for me because my -- because I'm just driving

vehicle. I'm driving in Massachusetts like nine years, and thanks to God, I doesn't have anything illegal either. I am driving for city almost more than three years in Cambridge.

POLICE COMMISSIONER ROBERT HAAS: If he gets in an accident and damages the car, you're out of business, right?

MENGEET SINGH: Yes, sir.

FIRE CHIEF GERALD REARDON: So what we're trying to say to you is his bad driving is also putting you at risk because if he gets in an accident, it's surchargeable or an illegal activity, you're not going to get a medallion, you're going to be at fault, responsible.

MENGEET SINGH: Yes, sir. I can understand, but just I'm looking for his kids that's why I coming here --

FIRE CHIEF GERALD REARDON: I'm trying to point out to you, you're also in peril if it

continues.

MENGEET SINGH: Yes, I can understand,
sir.

CHAIRMAN MICHAEL GARDNER: So I'd ask
Ms. Lint if we -- if it's your understanding that
we would have the authority to conditionally
approval a renewal of the license with the
condition that should there be -- for one year,
with the understanding that if there should be
any moving violation, the license would then be
revoked --

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: -- upon notice
to us of the violation?

ELIZABETH LINT: Yes.

CHAIRMAN MICHAEL GARDNER: Do we get
those notices or does the Registry do that or how
does that --

ELIZABETH LINT: Well, I would have

officers run periodic checks.

CHAIRMAN MICHAEL GARDNER: Okay. We don't have the arrangement where the Registry notifies us?

ELIZABETH LINT: No. Sadly.

CHAIRMAN MICHAEL GARDNER: Well, I would just ask whether there are any members of the public who would like to be heard on this matter?

Seeing none. Any other questions from the Commissioners?

So, I regard it as a reasonably close call with respect to just saying this driving record is atrocious, public safety for the citizens and members of the public and visitors to Cambridge means you should not be representing the city by operating on a Hackney license.

On the other hand, I understand sometimes there's value of power in a last chance as long as it truly is an actual last chance. I'm

prepared to do either.

POLICE COMMISSIONER ROBERT HAAS:

Mr. Chair, if I could make a recommendation. I think if you're going to go in the direction I think you're going to go, I would ask if -- and I'm not sure, I'd have to check with Ms. Lint if it's appropriate or not -- but I would not then grant him a three-year license beyond that includes the period time is over.

In other words, not only would I grant him the one year license, where it's being flagged every three, six or nine months, but then if he comes up back up for renewal, with no violations, it would only be a one-year license and that it would not be a three-year license beyond that period of time, and the same condition would exist where every three, six and nine months your license would be checked. If there's any violations, your license would be

immediately suspended.

CHAIRMAN MICHAEL GARDNER: I'm wondering, Ms. Lint, do we have the authority to require the license holder to affirmatively notify us of any violation?

ELIZABETH LINT: You can impose whatever you feel is appropriate. I don't think that's unreasonable.

CHAIRMAN MICHAEL GARDNER: So listen carefully, Mr. Singh. See if I get the votes for this.

I would make the motion that your license be renewed for one year conditionally on your maintaining a no violations record. During that time period, should you receive a moving violation in that year, your license would be revoked, and further notified that we will do periodic checks with the Registry regarding this, but also place you under the affirmative duty to

come forward to the Commission to notify the Commission of any moving violations you receive in the next year.

Further, beyond one year, the Commission will take up again the approval of a one-year renewal, subject to, as Commissioner Haas said, the same conditions of if you have a moving violation, your license is revoked and that these conditions would last until pursuant to our rules, you would be entitled to get a license without such conditions.

Did I state that clearly enough?

ELIZABETH LINT: Yes.

POLICE COMMISSIONER ROBERT HAAS: I want to make sure your cousin understands what Mr. Gardener said.

MENGEET SINGH: I'm understanding him, sir.

POLICE COMMISSIONER ROBERT HAAS: He

understands the one-year provision and the second year provision if he makes it through the first year, right?

MENGEET SINGH: I explain him already about that. Just one year if he getting anything --

POLICE COMMISSIONER ROBERT HAAS: Any moving violations, not speeding, any moving violations.

MENGEET SINGH: Yes.

CHAIRMAN MICHAEL GARDNER: That's the motion. Is there a second?

POLICE COMMISSIONER ROBERT HAAS: I second your motion.

CHAIRMAN MICHAEL GARDNER: A motion having been made and seconded, all those in favor, signify by saying "aye."

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: None opposed.

So we are giving you what you requested,
one last chance.

AVTAR SINGH: Thank you, sir.

CHAIRMAN MICHAEL GARDNER: It's up to you
to drive as if your license and your livelihood
depend on it, because they do.

MENGEET SINGH: Thank you.

AVTAR SINGH: Thank you.

CHAIRMAN MICHAEL GARDNER: Good luck.

DISCIPLINARY: EVEREST CROSSING, LLC

ELIZABETH LINT: Disciplinary matter
continued from December 18, 2012 at Everest
Crossing, LLC doing business as OM Restaurant &
Lounge, Bikram Yonjan, manager, holder of an all
alcoholic beverages as a restaurant license 2:00
a.m. at 92 Winthrop Street due to allegedly
making false representations to the License

Commission regarding the manager of record.

SEAN HOPE: Good evening, Mr. Chair,
Members of the Commission.

For the record, Attorney Sean Hope of
Hope Legal Law Offices in Cambridge. I'm here
tonight with the owner of the former OM
Restaurant, Mr. Solomon Chowdhury.

CHAIRMAN MICHAEL GARDNER: Spell your
names for the record because I ask everybody to
do that.

SEAN HOPE: First name is Sean, S-E-A-N.
Last name Hope, H-O-P-E.

SOLOMON CHOWDHURY: First name Solomon,
S-O-L-O-M-O-N, Chowdhury, C-H-O-W-D-H-U-R-Y.

CHAIRMAN MICHAEL GARDNER: So thanks for
coming this evening. I understand this matter
was originally on for last month, and for various
notice and availability issues, we put it over.

I also understand that there's been a

development in the matter with respect to that - at least the operation formally closing down, although I understand that you're still the holder of the license at this point, it's my understanding at least.

I think that notwithstanding the fact that the restaurant is closed now, the sense of the Commission is that we should go forward because of our concerns that the integrity of the process at the Commission has been compromised.

Obviously, it remains to be seen whether that's the case. But I do want to assure you that, at least in my view, this is a matter relating to OM not relating to any other facilities.

On the other hand, you know, we expect whether OM stays closed or is sold or transferred or will reopen or anything else, we expect to have a long-term relationship with the license

holder through other business activity in the city, and reputation and character count for a lot.

So, I will state my understanding of the concerns about the hearing on November the 8th, and at that hearing, the representation was made that the first matter being taken up that night was informational on Everest Crossing, LLC doing business as OM Restaurant & Lounge, is it Bikram Yonjan as the manager, holder of an all alcohol beverages license at 92 Winthrop Street, we had an informational hearing about that and we did some other business, we came back for another disciplinary hearing, same introductory materials still listing him as the manager.

And then I'm going to quote from some text from the minutes of that hearing beginning on Page 187 of that text with Commissioner Haas speaking about a -- I think about someone else.

Commissioner Haas said, "So is he the promoter or is he the manager of record?"

You, Mr. Chowdhury, said, "He's basically a manager. He's not manager of record. He's basically the manager of the restaurant for the -- promotes the nightlife and stuff."

"COMMISSIONER HAAS: Who is the manager of record?"

MR. CHOWDHURY: My business partner, Bik.

COMMISSIONER HAAS: Where was he that night?

MR. CHOWDHURY: He wasn't there. But I was in Central Square and I went over there.

COMMISSIONER HAAS: So you weren't present either?

Then Michael Gardner interrupted. The Commissioner's question was: "Where was he," which I didn't think you answered.

"MR. CHOWDHURY: The manager?"

COMMISSIONER HAAS: Your partner.

MR. CHOWDHURY: Right. He wasn't there that night.

COMMISSIONER HAAS: He was just off, or was someplace else?

MR. CHOWDHURY: He was off. He had the night off.

COMMISSIONER HAAS: So, you left the establishment in control of your promoter, is that what you're telling us?

MR. CHOWDHURY: No, no, no. He's the manager of the restaurant, not the manager of record, but, you know -- not the manager of record for the license, but, you know, we have three, four managers in the restaurant."

I guess I'd ask through you, Attorney Hope, was the summary of the testimony that was given that evening a fair and accurate representation of the status of the manager of

record?

SEAN HOPE: Yes. So, I wasn't here that evening, but I also have a copy of the record and viewed it in preparation for this hearing.

And after talking to Mr. Chowdhury, he can explain in more detail, there is a manager of a license, and I would say that like other establishments in Cambridge and some depending on whether they're a hotel bar or they're just a restaurant, you oftentimes have a manager of the license, or that manager is approved by the ABCC and they have certain liabilities, and then they'll also have a general manager or a director of operations.

So, a general manager or director of operations who may do more of the day to day doesn't have the same liability necessarily under a license.

So you can fire a general manager or you

can fire a director of operations, but you just can't fire a manager under the license.

And as the Commission knows, if you're going to change a manager under the license, you have to go through the process of this Commission and the ABCC.

So, as I read this and I interpret this, this was -- I think it states accurately, he had a manager on duty for the nightlife or for the promotion, which is separate and apart.

CHAIRMAN MICHAEL GARDNER: I'll try to make the point a little finer.

Mr. Chowdhury said on Page 188 referring to Bik: "He was off. He had the night off."

Is that, in fact, an accurate representation of his relationship to OM in the fall of 2012?

SEAN HOPE: And I would like Mr. Chowdhury to answer. I want to focus in on

what you're asking. It is more that you're saying he was employed, or you're saying that based on his schedule, he had the night off versus decided not to show up?

CHAIRMAN MICHAEL GARDNER: Mr. Chowdhury told us when we asked where Bik was, he had the night off. And that's what we understood at that point. I'm asking whether that's, in fact, an accurate description of his status?

SEAN HOPE: That evening.

CHAIRMAN MICHAEL GARDNER: That evening.

MR. CHOWDHURY: He is my business partner in the restaurant. Still is. And that night he was available on the phone, if I wanted to reach him. But, you know, we talked earlier that night, I did talk to him on the phone, but he was not in the restaurant that night, yes.

CHAIRMAN MICHAEL GARDNER: When was the last time that he was in the restaurant

functioning as the manager?

MR. CHOWDHURY: As a full-time manager?

CHAIRMAN MICHAEL GARDNER: As the manager
on an evening.

MR. CHOWDHURY: I don't think he ever --
I mean, for a certain period of time, he wasn't
there full-time, but we did meet at least once a
day, he came by the restaurant and we talked. I
talked to him on the phone because he had to get
a 9:00 to 5:00 job because we didn't have enough
income to support both of our salary. He had
more expenses than me because I was literally
working for -- working, putting my time at the
restaurant, I wasn't taking a paycheck. He had
more expenses, so he had to get another job to
have income.

SEAN HOPE: Not to put words in your
mouth, and please correct me if I'm wrong, but as
a manager on the license, and I think it goes

back maybe to the last year, there was a decline in business in terms of what the OM was producing. There were also issues with the landlord, which I don't want to go into details, but it caused a strain.

So, as business partners, they had to make the choice of taking up another job during the day as a 9:00 to 5:00 and becoming less and less there at the restaurant to do the day-to-day activities.

I think this is why Solomon went back and forth and picked up some of those duties as well hired different managers to do the director of operations.

So the idea that Bik was the manager under the license, he believes he was manager on the license, and this is one of the things we were trying to actually have him come tonight and be able to speak, so it wouldn't be me or

Mr. Chowdhury, but I need to add to this, but the closing of the restaurant and also the condition of the restaurant over the summer where they had different managers to try to supplement his inability to actually be there to do some of the additional management duties is which partly what, I think, led to some of the events that happened at a couple of the previous hearings, but also had to do with, you know, on a given night him being available, maybe by phone, but not being there in person, as would have been preferable.

CHAIRMAN MICHAEL GARDNER: So, Mr. Hope, I think if you read the record for that evening, you might agree with my assessment of it, which is that partly for all of the reasons you've described, the Commission was, in fact, very interested and concerned about whether the OM management had a structure in place to adequately

manage operations at OM, and we did lots of probing about the kind of training that people got and, you know, sort've who is in charge.

The fire chief asked a lot of questions about who the crowd control manager was. And Commissioner Haas was asking about, in terms of the overall management structure of OM and whether it was satisfactory, particularly given Mr. Chowdhury's split attention to the other facility, Commissioner Haas was asking about the role of the manager of record.

And what was said may literally be true from Mr. Chowdhury on Page 188: "Right, he wasn't there that night.

COMMISSIONER HAAS: He was just off or was he someplace else?

MR. CHOWDHURY: He was off. He had the night off."

So the inquiry about the manager of

record essentially ends there. There is the representation he had the night off.

What we're concerned about, I think, is that that was a conscious misrepresentation of the fact that the manager of record had virtually no role in managing the institution in the fall of 2012. Indeed, perhaps going back substantially more than that, perhaps as much as three years. I'll just ask you if that's true.

MR. CHOWDHURY: That's not true, but, you know.

CHAIRMAN MICHAEL GARDNER: Well, what is true?

MR. CHOWDHURY: For probably about the last six months he did become less and less where he worked -- we talked a lot on the phone and, you know, discussed how to run the business, this and that. But he worked maybe six to eight hours a week. Not as many hours.

CHAIRMAN MICHAEL GARDNER: And were those hours, in fact, consulting with you as opposed to actually being the on-floor presence in the evening when things were sort've falling apart pretty regularly?

MR. CHOWDHURY: Most of the time consulting with me, not working on the floor. And I did manage the rest of the managers.

FIRE CHIEF GERALD REARDON: Was the restaurant, in fact, open when he was consulting with you?

MR. CHOWDHURY: Sometimes it would be open and sometimes he would come in.

FIRE CHIEF GERALD REARDON: So, six to eight hours a week, I guess it would be fair to say that in some of it, he's consulting with you and the restaurant is not even open. His supervisory role during operating hours is virtually nil.

MR. CHOWDHURY: Later in the time, yeah, he did spend less time because there wasn't enough money coming in, but before that, he was spending a lot of time.

FIRE CHIEF GERALD REARDON: I think we're talking about the slowdown of this operation and all the issues that came up in terms of public safety and residents and neighbors and business people in the square, talking about that period of time.

So, I guess you would say he had very little, if any, influence over operating hours during that time?

MR. CHOWDHURY: Right.

FIRE CHIEF GERALD REARDON: Thank you.

SEAN HOPE: I would just like to say, and we may be late in saying this, but, you know, the decision to have the manager of record under the license to have him be less of a supervisory role

and to hire staff as a GM and different managers on those given nights was a decision made out of necessity but by the two business partners, and I think it's proven to be a very poor decision, and I think part of that is what we've struggled with.

CHAIRMAN MICHAEL GARDNER: So that may well be true. I think our concerns at this hearing are not whether it was a poor decision or not, but whether or not we got an honest accounting of what was going on with the management of the restaurant, which is clearly what we're focusing on that evening. And I -- you know, we don't like to conduct hearings that last four hours because despite what some people may believe, because we don't -- because we feel like we have to ask every question in precisely some way to get the truth.

When we're talking to the license

holders, we expect them to tell us what's going on in ways that are responsive to our questions.

And I will now ask Commissioner Haas if he's got anything he would like to ask or say, but when Commissioner Haas said, "He was just off or was he someplace else?

MR. CHOWDHURY: He was off. He had the night off."

I think that misstates what the story was, and is, if not literally false, a misleading answer to Commissioner Haas's very relevant question about who is in charge here.

Commissioner Haas.

POLICE COMMISSIONER ROBERT HAAS: So, I mean what troubles me is -- and, Mr. Chowdhury, I think, you know, you hesitate to answer questions, but you then kind've put them in a way that, I guess to some degree technically they're correct, but I think you understood what my

intent was. My intent was trying to understand was there a viable manager of record who took responsibilities of the operation of the OM Restaurant, realizing you had to be someplace else, you represented to me that your partner, Bik, was that person, but every time we had an event at OM, you weren't there, he wasn't there. And so I was trying to figure out is this partnership now a matter of paper in terms of relationship because of the difficulties you were experiencing, or was he there a good portion of time?

And my understanding of a manager of record is that he's going to be there a good portion of time because they have more a responsibility for running and overseeing that operation that Mr. Hope pointed out. A manager, you have a lot -- he's an employee of yours and you can dismiss him when you're not happy with

him, which you ultimately did with this individual.

But I was led to believe during the course of that hearing that it just so happens it was a coincidence that Bik was not there on those nights when we had these events, and now, I'm really wondering has he really been an active manager of record of that establishment, or is it just in name only. I really haven't gotten a good answer to his that question and how long has it been like that?

MR. CHOWDHURY: He's been a very active manager of the restaurant, but for maybe like last six months, no, he wasn't.

POLICE COMMISSIONER ROBERT HAAS: So, what's your interpretation of what an active manager of record is? Tell me what that means.

MR. CHOWDHURY: Somebody who is there most of the hours.

POLICE COMMISSIONER ROBERT HAAS:

Physically there.

MR. CHOWDHURY: Physically there. But it also -- we were unable to find the right manager also to bring him in for a hearing, to put him on the record.

FIRE CHIEF GERALD REARDON: But that doesn't really -- you know, I believe you were deceptive on this answer because you didn't want to let us know that he really wasn't there. I mean, so that's what the Commissioner was asking and you danced around it. But I feel as though it was a deceptive answer indicating the night off was that he's just off tonight and he's normally there, and the manager of record to the Attorney Hope's thing is that, you know, I know the manager of record doesn't have to be there ever hour of every thing. But they have to be there the vast majority of the time to be in

control of an operation.

We understand he's not going to be there every hour of everyday, but I think the answer here is --

SEAN HOPE: I think the Commissioners have made it clear that there was a specific question you were answering or you're asking that didn't get answered even the way it's being answered tonight. I think the record speaks for itself.

I would only say that this is a very long and complete testimony, and the Commission didn't delve in. I guess they could have asked further questions if they didn't -- saying, you know, was he there yesterday or the day before to flush out some of the same answers that we're not getting tonight. So, I would only say that --

FIRE CHIEF GERALD REARDON: With all respect, the responsible parties here, I don't

think -- I think everyone got the gist of the questions. And we don't want to treat people less than intelligent people and understand what the questions are and what the responsible answer would be, and then we don't have to ask it 42 ways to get the answer that should be forthcoming.

POLICE COMMISSIONER ROBERT HAAS: I would just say to you so you understand this, I had no privilege knowledge about what the business relationship was between you and Bik, okay? So there was no understanding to try to trap you. I was just asking you to give me a straight representation because I had no prior knowledge. Only to find out later that the partnership was not as you described it that night, and that your deliberate, in terms of answers to questions the way you did, to make me believe that what happened was coincidence. Those three nights

that we had events, he just happened to be off. When in truth, he really wasn't there because of the issues that were going on in the restaurant and he had other commitments to make just, as you did.

And I think my preference would have been if you just told us that, instead of kinda dancing around the question and kind of leading to us believe something. I would ask you to give me an accurate representation, so I was gonna take your statement at face value, but what you did is tell me something to make me believe something else that I subsequently find out not to be true. Do you see my --

MR. CHOWDHURY: Right. I do apologize. That night was very, very frustrating for me also. And if Sean was involved with me, he knows most of this story, and, you know, it would've been much easier hearing and we wouldn't have to

spend four hours here. And I do apologize. It was just very frustrating for me that night also, and I was really confused and frustrated in terms of like the whole -- everything that was going on that night. I do apologize if I did answer the question the wrong way.

CHAIRMAN MICHAEL GARDNER: So, in terms of how forthcoming you have been this evening, let me ask a couple questions.

I understand that you say that before the last six months, Bik was less involved and that was primarily due to the lack of money coming in, so he had to put his energies elsewhere?

MR. CHOWDHURY: Yes.

CHAIRMAN MICHAEL GARDNER: My understanding is that he's a full-time employee at MIT. My question to you is, if you know, how long he had a full-time job at MIT. Has it been six months or longer?

MR. CHOWDHURY: Before he was working more as a consultant, it was part-time. So he was working as a consultant and then he got a full-time job.

CHAIRMAN MICHAEL GARDNER: He went full-time about six months ago?

MR. CHOWDHURY: Right. But he was not working with MIT now.

CHAIRMAN MICHAEL GARDNER: He wasn't a full-time employee someplace else a year ago, two years ago, three years ago?

MR. CHOWDHURY: If he did, he didn't tell me that. But all I know is that he was working as a consultant. That's what I knew.

CHAIRMAN MICHAEL GARDNER: Any other questions or comments from any of the Commissioners?

POLICE COMMISSIONER ROBERT HAAS: I mean, I think the Chairman has been pretty clear that

the restaurant is now closed. I'm not sure what recourse we have, but I think what is troubling us is you're now running another establishment in Cambridge, and we can't continue to have these kinds of conversations when and if you come back before the License Commission, but I'm not too sure you understand that.

My perspective is if I ask you a question, I expect you to give me a straight answer, and not dance around the question or make me believe something that is not in whole truth. So, I don't want to question your veracity. I don't want to do that. But I'm really left with a quandary here in terms of what you represented to us and what I since have learned, or have been told that he has really been absent in terms of the actual operation of the restaurant for some period of time. I'm asking you is that the case or not? Yes or no? I mean --

MR. CHOWDHURY: He's -- he wasn't involved as much, but he still he was involved.

POLICE COMMISSIONER ROBERT HAAS: Let me ask you this question: Would you operate your restaurant the way in which OM was being operated where he may have been there for six or eight hours a week? Is that what you're doing with the establishment in Central Square right now?

MR. CHOWDHURY: No.

POLICE COMMISSIONER ROBERT HAAS: So would you have a different expectation with who is operating and managing the restaurant of OM, or leave it in the hands of an employee that you subsequently had to terminate?

Are you satisfied with the level in which your manager of record was engaged in the operation of the OM Restaurant, yes or no?

MR. CHOWDHURY: Not satisfied, but, you know.

POLICE COMMISSIONER ROBERT HAAS: Then if he's not there and you're not happy with the operation, who is responsible?

MR. CHOWDHURY: There's mistakes that we made, and because of that, we also lost the place. We had to close it down.

FIRE CHIEF GERALD REARDON: I have to say you're not helping any here by -- you're not answering questions still. This is -- you know, you're still not answering questions. Who is responsible for OM?

MR. CHOWDHURY: We are, the owners. Me and Bik, both of us. Because we're -- the two of us are the owners of the restaurant.

FIRE CHIEF GERALD REARDON: That's a very simple answer.

MR. CHOWDHURY: Right.

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

on this matter?

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

EDGARD ARTY: My name is Edgar Arty, E-D-G-A-R-D, last name is A-R-T-Y.

CHAIRMAN MICHAEL GARDNER: So, Mr. Arty, are you someone who in prior hearings was identified as either a manager or a promoter at OM in the fall of 2012?

EDGARD ARTY: Yes. I was the manager of OM Restaurant.

I just want to start by saying this is in no way out to harm anything that Mr. Chowdhury is doing with anything. But it's just solely to clear my name for any wrongdoing or misrepresentation.

Just upon coming, discovering the hearing minutes, I just saw several slanderous kind of remarks, and I was kinda battling if I wanted to

come forward or just let it go and it --

CHAIRMAN MICHAEL GARDNER: Before you say anything, we really are here tonight to talk about whether there were any misrepresentations with OM, and it really didn't focus on you, but I think given the breadth of the notice of the hearing, I'm prepared to let you speak briefly.

EDGARD ARTY: I just wanted to say at the time that I was there as the manager, I was there from April to November, and I was involved with managing and doing the nightlife there. And we worked hard to create a diverse and good nightlife.

We had bumps in the roads. We cleared them as they came along. And every step of the way, we try had to make sure it was done correctly.

CHAIRMAN MICHAEL GARDNER: So, you started in April of 2012?

EDGARD ARTY: I did.

CHAIRMAN MICHAEL GARDNER: How much, if any, contact did you have with the manager of record, Bikram Yonjan?

EDGARD ARTY: None with Bik, but I spoke with Sol everyday.

CHAIRMAN MICHAEL GARDNER: Bik played no role in your supervision?

EDGARD ARTY: I personally don't know.

POLICE COMMISSIONER ROBERT HAAS: So, during the months that you were the manager from April to November, you never had contact with Bik.

EDGARD ARTY: No.

POLICE COMMISSIONER ROBERT HAAS: He was never there operating the restaurant when you were operating there.

EDGARD ARTY: Not when I was there.

POLICE COMMISSIONER ROBERT HAAS: What

were your work hours?

EDGARD ARTY: I worked from 3:00 p.m. to about 2:00 a.m.

POLICE COMMISSIONER ROBERT HAAS: What days?

EDGARD ARTY: Wednesday, Thursday, Friday, Saturday.

POLICE COMMISSIONER ROBERT HAAS: So during those peak hours, you were kinda the manager of the establishment?

EDGARD ARTY: Yes.

POLICE COMMISSIONER ROBERT HAAS: None of those times was Bik on the premises when you were the manager?

EDGARD ARTY: No.

POLICE COMMISSIONER ROBERT HAAS: From the entire time of April to November?

EDGARD ARTY: Yes, sir.

CHAIRMAN MICHAEL GARDNER: Thank you very

much.

Do you have anything else you want to add?

EDGARD ARTY: Again, like I said, I just wanted to clear my name. I have the same references as you had and there were a lot of things I wanted to clear up. Because it's public record, it affects me now that I'm looking for work and I can't defend myself with attorneys and such and I just wanted to make sure those things were clear on my end.

CHAIRMAN MICHAEL GARDNER: You're always free to submit a letter to the Commission, if you want to amplify any of your remarks.

EDGARD ARTY: Thank you.

CHAIRMAN MICHAEL GARDNER: So Mr. Chowdhury, we've just heard that the person who says he was managing consistently from last April never met or doesn't know Bik.

My understanding was that you said that Bik wasn't involved in the last six months, which we're talking about this going back to the end of December, we're talking about the beginning in July. So we got a whole other quarter here which, at least following the same standards of Page 188 of the November 8th hearing, we should assume that what you're telling us was that prior to six months ago, Bik was, in fact, much more regularly involved. And, you know, that's what we heard from your saying in the last six months, he wasn't involved due to the decline in business. What's the real story?

MR. CHOWDHURY: Bik was involved. The thing is I'm the one who end up the day that dealt with all the employees in the restaurant, like in terms of, you know, what their schedules should be, what their responsibilities should be, their role should be. As the owner of the

restaurant, that was my role to run the
restaurant as day-to-day operation.

CHAIRMAN MICHAEL GARDNER: So when, if
ever, was Bik as the manager of record, in fact,
regularly on site during your most active
business hours?

MR. CHOWDHURY: Like as a --

CHAIRMAN MICHAEL GARDNER: On site as the
manager of record being in charge.

CHAIRMAN MICHAEL GARDNER: Did he ever do
that?

MR. CHOWDHURY: As a manager of record, I
mean, he was manager of record and I was also --
I was mostly involved in running day-to-day
operation dealing with all the employees,
overseeing the operation of --

CHAIRMAN MICHAEL GARDNER: So, do I
understand your answer to be that as the manager
of record, he really wasn't involved in

supervising the day-to-day operations of the facility?

MR. CHOWDHURY: No. He was manager of record. I was basically -- we both worked together as running the restaurant, but my responsibility was more involved in day-to-day operation. His responsibility was overseeing what I'm doing. How I'm managing all the employees.

CHAIRMAN MICHAEL GARDNER: So the business plan in essence?

MR. CHOWDHURY: Exactly.

CHAIRMAN MICHAEL GARDNER: But not the management of the restaurant, employees, or what happens on the floor, what happens with over service issues, what happens with overcrowding issues, what happens with anything with respect what goes on on any given night in a restaurant, he didn't have responsibility for that?

MR. CHOWDHURY: I took on most of those responsibilities.

CHAIRMAN MICHAEL GARDNER: Except you were down in Central Square for a long time?

MR. CHOWDHURY: Not as much. I splited (sic|"split") my time half and half between Central -- Central Square took me a little bit more time, but I was still involved in OM every -- I mean, I went there everyday, literally.

CHAIRMAN MICHAEL GARDNER: I think if you review your testimony from the prior two hearings, you will not find a representation that you split your time 50/50 between OM and Central Square.

MR. CHOWDHURY: Well, not 50/50, I did spend a lot more time in Central Square, but I still -- it took me ten minutes to go from Central Square to Harvard Square.

CHAIRMAN MICHAEL GARDNER: Any further

comments or questions?

POLICE COMMISSIONER ROBERT HAAS: I mean, I have to say that I'm still feeling like I'm being misled, and that's troubling to me because there's going to be an occasion that you have to come back before this body again.

I mean, I just wish you would be forthright and tell us what was going on. And it doesn't seem that -- you represented to us in that November 8th hearing that you made us believe Bik had an active role in the restaurant. Coincidentally those nights when you had problems, he wasn't there and you weren't there. But other nights he was there, you gave testimony, geez, the person who has been there on your most busiest nights has never met the man or saw the man, never involved in the operation of the restaurant.

And I asked you before, to you, what does

it mean to be a manager of record? And I think we all kind've agree that they have the ultimate responsibility to make sure that your assets and your business plan is being secured and protected and the business is being operated properly, not being an absentee, which is -- and, again, I'm not even clear what the partnership is. I don't know if it's just, again, it's just a partnership of record or what it is, but I'm really troubled by the fact you represented something to us to lead us to believe that somebody was there and you pointed to your partner as being that person that was running the OM Restaurant. And it just so happens that those nights, through bad luck, he wasn't there. When, in fact, he hadn't been there, since the best we can determine, from at least April to November during those busiest nights when you were having difficulty in terms of overcrowding, noise and fights and things like

that.

CHAIRMAN MICHAEL GARDNER: And I understand the answers to be that, in fact, he wasn't there ever or virtually ever during those busiest hours because that wasn't part of his job. Did I state that fairly?

MR. CHOWDHURY: Yes.

CHAIRMAN MICHAEL GARDNER: Any other comments?

I guess I'll ask Ms. Lint, do we have a generally understood position on the responsibilities of the manager of record vis-a-vis actual on the floor operation?

ELIZABETH LINT: No. But technically the manager of record is responsible for any activities occurring in the establishment. They're responsible or they're supposed to be responsible for ordering all the alcohol, unless you're designating it to a bar manager, but that

still puts the liability on them. We don't dictate how many hours they need to be there, but it's assumed that the manager of record is taking full responsibility for the establishment.

CHAIRMAN MICHAEL GARDNER: Thank you for that.

FIRE CHIEF GERALD REARDON: And in order to do that would have to spend substantial time there.

ELIZABETH LINT: Would have to spend a substantial amount of time there.

CHAIRMAN MICHAEL GARDNER: Mr. Hope, you got as much or more experience in this business as anybody else in the room, do you have any final summation?

SEAN HOPE: No, I don't. As you saw in the letter, I think the correspondence here tonight is pretty clear. It's unfortunate, you know, that the Commission feels that in that

situation about this matter, you know, Mr. Chowdhury was being incredulous when we came here tonight, and part of what I'm told him to do, I said, "Even though OM is closed your reputation is really all you have."

I can't speak to the veracity of what happened back then, but I know from Mr. Chowdhury, I think he does feel like he's really fighting for his life financially just with the economic climate, but also, in terms of what happened this summer.

I did frankly tell him that I think that, you know, having other people manage the restaurant, whether they're promoter or the bar, it hurt him. And, you know, I think this Commission is where he's going to make his living.

So, as much as, you know, I can't answer for Mr. Chowdhury tonight. I think my advice to

him, one, is to obviously be truthful, but also even -- you know, I was saying that, you know, part of moving forward really means addressing the Commission, owning up to mistakes that were made and making sure that those won't be made again at Moksa.

I think he has a unique opportunity to actually contribute positively to Central Square, but that does mean when mistakes happen, and the Commission asks for answers, even if they're not intentionally being misleading -- you know, parsing words doesn't do anyone any good.

I'm saying this for the Commission's benefit also for Solomon's benefit because we're all here. And next time something happens, we'll all be here again. So, that's all I have to say.

CHAIRMAN MICHAEL GARDNER: So I will make a motion obviously subject to the amendment any Commissioners want to add to it, but I will make

a motion to place this matter on file with the notation of the Commission's concern and disappointment regarding the level of cooperation and forthcomingness from the applicant in responding to the Commission inquiries.

FIRE CHIEF GERALD REARDON: Second.

CHAIRMAN MICHAEL GARDNER: Motion having been made and seconded, is there any wordsmithing or amendments?

POLICE COMMISSIONER ROBERT HAAS: None.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

None opposed.

So, we do have an ongoing relationship, this relationship that we want to be successful and productive.

We did not engage in process this evening merely to hear ourselves talk or get on a high horse, or any other potential interpretations of this, but rather, to determine whether or not our impressions about the answers from last November that they were misleading were correct or not. And, if so, to both express our displeasure with respect to that, and to re-emphasize what Mr. Hope eloquently said is "What you come here with is your reputation."

And I think it's up to every license holder to demonstrate that they have the character and integrity to be the recipients of the privilege of operating in this highly regulated area within the City of Cambridge and I hope that from this entire experience as unpleasant, expensive and horrific as it has been to the license holder, and to the public safety community within the city, and to the general

public and to the Commission, that there's some benefit or value that comes from this with respect to moving forward.

SEAN HOPE: Thank you.

MR. CHOWDHURY: Thank you.

CHAIRMAN MICHAEL GARDNER: Any other business before the Commission?

ELIZABETH LINT: There's not.

CHAIRMAN MICHAEL GARDNER: We don't have any minutes to approve?

ELIZABETH LINT: No.

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

POLICE COMMISSIONER ROBERT HAAS: Make a motion to adjourn.

FIRE CHIEF GERALD REARDON: Second.

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

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIRMAN MICHAEL GARDNER: Aye.

This meeting's adjourned at 8:10 or 8:15
depending on what clock you believe.

(Whereupon the hearing was adjourned at
8:11 p.m.)

ATTACH TO THE LICENSE COMMISSION HEARING

OF 1/8/2013

ERRATA SHEET

INSTRUCTIONS: After reading the transcript of the License Commission hearing of 1/8/2013, note any change or correction and the reason therefor on this sheet. DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet

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I have read the foregoing transcript of the License Commission Hearing of 1/8/2013, and except for any corrections or changes noted above, I hereby subscribe that the transcript is an accurate record.

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Commonwealth of Massachusetts

Suffolk, ss.

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

This transcript of the Licensing
Commission Meeting of 1/8/2013 is a true and
accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set
my hand this 16th day of January 2013.

Jill Kourafas
Notary Public
Certified Shorthand Reporter
License No. 149308

My Commission expires:
February 2, 2017

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