

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman
Michael Giacoppo, Superintendent
Daniel Turner, Deputy Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts 02139
Tuesday, April 28, 2009
6:00 p.m.

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P R O C E E D I N G S

MS. LINT: License Commission General Hearing, Tuesday, April 28, 2009, 6:00 p.m. We're in the Michael J. Lombardi Municipal Building at 831 Massachusetts Avenue, Basement Conference room. Before you the Commissioners: Chairman Richard Scali, Deputy Chief Dan Turner, and Superintendent Mike Giacoppo.

MR. SCALI: Before we begin, I want to let you all know as a special note that Superintendent Giacoppo -- this will be his last meeting. He's retiring next month after 36 years on the job.

MR. GIACOPPO: Thirty-six years.

MR. SCALI: So we're congratulating him. So it's your last hurrah here at the Licensing Commission. We wish you the best of luck and come back and see us.

MR. GIACOPPO: Thank you.

MR. SCALI: Also, a motion to pass the minutes from our last meeting of April 14. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: Aye.

So now that we have that done, the first item?

MS. LINT: On the Addendum, second item, a CLAB member.

MR. SCALI: It's always our policy to take CLAB members first. So if you're a CLAB member you get to be moved up.

MS. LINT: Continued from April 14, 2009, Golden Toad Inc. d/b/a Christopher's Toad, Charles Christopher, Manager holder of an All Alcoholic Beverages as a Restaurant license at 1912 -- 20 Massachusetts Avenue has applied for a change of premises description to include outdoor seating on a public patio with service of food and alcohol.

MR. SCALI: Tell us your name for the record, please.

MR. CHRISTOPHER: Charles Christopher.

MS. HESLOP: Holly Heslop,
H-E-S-L-O-P.

MR. SCALI: This is a continuation from our last meeting because there was some confusion as to the number of seats. So have we clarified now? Everyone is happy?

MR. CHRISTOPHER: I have copies again to show you.

MR. SCALI: This is the public property portion of the sidewalk against the curb, and the issue was -- how many tables and chairs now?

MR. CHRISTOPHER: Twenty-four seats.

MR. SCALI: Originally it was going to be 30; is that right?

MR. CHRISTOPHER: It was 30 because Mr. Clueless here thought that what we were really going for were the exact dimensions, and we thought as long as if we got 30, it would be okay to have 24 as long as we coordinated with the inside seating. So this really works better. Now we're clear.

MR. SCALI: You have to have that walkway inside and around so people can get in and out in a safe manner.

MR. CHRISTOPHER: We had room for it before but we decided not to go down so far in front of Toad.

MR. SCALI: So there's six tables of four. And DPW has approved this already?

MR. CHRISTOPHER: Yes.

MR. SCALI: Questions?

MR. TURNER: Mr. Chair, one question to the applicants. I forget if it was this

application I brought it up. Are you using the umbrellas?

MS. HESLOP: Yes, it's us. And we're keeping them within --

MR. TURNER: Keeping them so that the edge of the umbrellas aren't obstructing the public. I like the way they have the planters and the tables set back for that. Thank you for clarifying that.

MR. SCALI: Until what time in the evening? We've only been granting until 1:00 a.m. You don't have to have it until 1:00 a.m.

MR. CHRISTOPHER: We would like it until 1:00 a.m.

MR. SCALI: No music outside; right?

MR. CHRISTOPHER: No.

MR. SCALI: No noise factors and no one smokes out there, obviously.

MR. CHRISTOPHER: No.

MR. SCALI: Comments?

MR. GIACOPPO: No questions.

MR. SCALI: Anyone from the public

want to be heard on this matter? No hands.
Anything else, Mrs. Lint?

MS. LINT: No.

MR. SCALI: All right, motion to
approve.

MR. TURNER: Motion.

MR. SCALI: Moved, seconded. All in
favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MS. LINT: What will be the closing
hour?

MR. SCALI: At 1:00 a.m. Seven days?

MR. CHRISTOPHER: Seven days.

MS. LINT: Thank you.

MR. SCALI: It has to go off to the
ABCC first. If you want to do it without alcohol
before the ABCC approves, you can do that with us
by just getting an amended Common Victualer
license, but you couldn't serve the alcohol out
there until the ABCC approves it.

MS. HESLOP: About how long does that

take?

MS. LINT: It's hard to say. Some of them have come back really quickly. We had one application that came back in a week, and then we've had some that are coming back in six weeks.

MR. SCALI: It depends on if there's any other than this, tax issues or anything like that. Of course, they go through everything and I'm not sure what they'll find. Then of course the City Manager's agreement is already signed on that issue. So it has to go through the City Manager's office first too, for the agreement on the lease.

MS. LINT: That's a day turnaround, sometimes the same day.

MR. CHRISTOPHER: Thanks very much.

MR. SCALI: Good luck. The weather is nice now, you should be doing really good.

MS. LINT: Also on the Addendum, Disciplinary matter: Everest Crossing, LLC d/b/a OM Restaurant, Luis Sanchez, pending Manager, due to an investigation that revealed that OM was over capacity on April 3, 2009. Also for an explanation of the new proposed floor plan that was approved by the License Commission on March 24, 2009.

MS. BOYER: This is the information. Do you have a copy with you?

MR. SCALI: Tell us who you are for the record, please.

MS. BOYER: Andrea Boyer, Chief License Investigator, License Commission.

MR. GOLDBERG: Bernard Goldberg.

MR. CHOWDHURY: Solomon Chowdhury.

MR. SANCHEZ: Luis Sanchez, General Manager.

MR. SCALI: Ms. Boyer, we're going to start with you. Tell us what your investigation was about, first.

MS. BOYER: We were performing investigations in the Harvard Square on April 3,

2009 at around 11:30 p.m. Detective Kevin Dunfrio and Detective Sarah Drudes was with me that evening.

During our investigation, Detective Dunfrio counted half of the first-floor capacity while I counted the other half of the capacity of OM, since when I was walking by, I looked through the window and I thought it looked like there was a lot of people inside. Our combined count had been approximately 150 patrons on the first-floor. I also noted that the patrons were dancing.

While the detectives were outside making sure that no more patrons were allowed inside the establishment, I asked the doorman to locate the owner or the manager. Solomon Chowdhury met with me regarding the capacity issue.

I informed Mr. Chowdhury that the detective and I counted 150 people on the first-floor of OM, and Mr. Chowdhury stated that they were recently approved for the alternate floor plan and a higher capacity. I asked to see the capacity signage. He showed me the capacity sign that I had

sent which read, "The capacity of this establishment is 153." This capacity sign was supposed to have been replaced by new signage, which I had sent in November of 2008. The new capacity actually broke down each floor. I informed Mr. Chowdhury that I had sent the capacity and it should have been posted.

I inspected the second-floor and there was approximately 43 patrons, and there was no violation on the second-floor. I informed Mr. Chowdhury that I would check the file and see what the new capacity of the establishment is, and if there are too many patrons that a hearing would be held.

I spoke with the Administrative Assistant, Mr. Chris O'Neil of the License Commission. He informed me that Om does have a new capacity but that it had not been approved by the ABCC yet. I asked Chris O'Neil if dancing by patrons was also applied for, and he said that an Entertainment license was approved for dancing by patrons but it's still pending based on the change

of premise description once that would be granted.

Elizabeth Lint told me to write this up. In the interim, I have printed the new capacity sign and had given it to Mr. Chowdhury. The signage states the allowable capacity of 77 on the first-floor, and that's when there is no outdoor seating, and 35 with outdoor seating. And on the second-floor, 76 is allowed, and 58 when there is outdoor seating.

Therefore, that evening with 150 patrons, they would have been over capacity based on -- at the time, they were not utilizing the outdoor seating because it was too cold, so the capacity should have been 77 until it was approved.

MR. SCALI: On the first-floor?

MS. BOYER: The first-floor.

MR. SCALI: How many did they have on the first-floor?

MS. BOYER: Approximately 150 from our count, but I think they were going to disagree with me.

MR. SCALI: Well, that's your count.

That's your count, 150?

MS. BOYER: Correct.

MR. SCALI: Your issue, number one, is that they were over capacity no matter what on the first-floor, even if they had approved --

MS. BOYER: If the ABCC had approved, had the licensing been approved then the capacity would have been allowable of 118 patrons on the first-floor.

MR. SCALI: Without the patio?

MS. BOYER: Correct.

MR. SCALI: So over capacity no matter what, whether they were approved or not on the first-floor, on the dance floor issue. And they were also dancing on the first-floor?

MS. BOYER: Yes.

MR. SCALI: So they had the dance floor and they had 150 people on the dance floor.

MS. BOYER: No, in the whole first-floor.

MR. SCALI: Questions?

MR. GIACOPPO: At the time the

capacity had not been approved was it 153 for the entire building?

MS. BOYER: Correct, for both floors.

MR. GIACOPPO: For both floors. And as you've testified, at least 150 on the first-floor.

MS. BOYER: Correct, when there should have been 77.

MR. GIACOPPO: And 40-some-odd persons on the second-floor at the time?

MS. BOYER: Correct.

MR. GIACOPPO: So it's pretty clear-cut that at the time, they were over capacity regardless of whether the approval had come back or not?

MS. BOYER: Correct.

MR. GIACOPPO: Okay.

MR. TURNER: Mr. Chair.

MR. SCALI: Deputy Chief.

MR. TURNER: Through you to Ms. Boyer: Ms. Boyer, when this was brought to the attention of the manager, what happened? How were you

treated? What was their reaction?

MS. BOYER: Oh, very well. His reaction was, he was surprised, and the doorman had a clicker that stated that there was 125. I'm not sure of that exact amount. But I did speak with him stating that to have a clicker does not necessarily give you the amount of people that are leaving, so 125 could have come in, but who knows who's leaving, and being able to keep good track of who comes and goes and that capacity. They stated that one of the clickers had recently broke. But he was very receptive to the change, and the doorman also started a line immediately for the situation.

He also called the next day and we set up a meeting to be able to go over this because I needed to check the file that's we'll go over eventually for the clarification of the new capacity.

MR. TURNER: Thank you. No further questions.

MR. SCALI: Mr. Goldberg.

MR. GOLDBERG: If I may ask Ms. Boyer: Was there a holding room of people for the lounge area?

MS. BOYER: There is a room to the left. Whether it's a holding room, I'm not sure what that means.

MR. GOLDBERG: I mean to say that they were waiting to go upstairs. In other words, did a group of people who had an appointment at 10:30 I believe, and they were in this room which was for private parties on the first level, and I'm just wondering whether or not if you counted that number in that holding room as part of the amount that you say was an over capacity?

MS. BOYER: I checked the left-hand side from the bar, to the left to the middle, and then the Detective checked from the right to the middle. The little room to the side, I do not believe that I even checked. But when we had gone back in and Solomon Chowdhury and I had walked around, there were maybe six or seven people in that little side room, because he pointed it out to

me. But that's still part of the first-floor; you're aware of that?

MR. GOLDBERG: Yes, of course. Did Mr. Chowdhury indicate to you that he believed the capacity to be 118?

MS. BOYER: Yes. He stated that they were approved today, and I asked him what that number was and he said he didn't know right away, but it was 100-and-something.

MR. GOLDBERG: Is it a fact that at the hearing that we had prior to today, there was a little bit of confusion as to the amount of before 10:00, after 10:00, which room, the lounge room, upstairs eating area? And I don't know whether it has been resolved even today with regard to Ranjit of the Inspectional Services, but there was a certain amount of confusion, myself included. And I'm wondering whether or not that discrepancy in the amount of the seating capacity, and the confusion that ran from that confused Mr. Chowdhury relative to what he considered to be the seating capacity downstairs, which would have been 118.

He did believe, and I questioned him about that, that the only matter that he was concerned about was the appointment of the manager, and that the other items agreed to by the Commission was already giving him the right to exercise the seating capacity upstairs as well as downstairs, before 10:00 and after 10:00. I'll let him talk to that with regard to the issue involved with regard to the capacity. But certainly we are still dealing with Ranjit relative to the capacity.

I do believe that I've sent over to Chris today a valet informational form and contract, which --

MS. LINT: Ranjit had an issue with that as well, because it does not address the number of parking spaces that are being utilized. While it indicates that there is valet parking, it doesn't say how many cars.

MR. GOLDBERG: I think it's unlimited number of cars that come before the restaurant itself.

MS. LINT: He wanted to know that

specifically.

MR. GOLDBERG: Okay, fine, We'll be able to address that.

MS. BOYER: There was another question that was kind of directed towards me that I would like to answer, and that is, is there confusion based on the hearing, and there was. But I did note that at the end of the hearing, it did say based on ABCC approval.

MR. GOLDBERG: Yes, I recognize that.

MS. BOYER: So that is an issue. And the letter that was sent to him did say, "based on ABCC approval." So to have the capacity just risen immediately was not appropriate.

MR. SCALI: I think that was clear, to us I think that pending your receipt --

MR. GOLDBERG: It certainly was clear to me.

MR. SCALI: The numbers I think were unclear at the hearing, because I've gone back over the transcript. We had said something about 174 to 193, which is wrong because it was 153 --

MS. BOYER: To 195.

MR. SCALI: There was some confusion about what was there before and what was there afterwards. Then of course, you have to have the capacity before 10:00 p.m. and after 10 p.m., and then with the patio and without the patio. So you have really four different scenarios, which Ms. Boyer, I know we talked about this already at previous times.

I think it's going to be so confusing for your staff to keep this in their head that they have to count two different seasons and two different times, and separate out the second-floor from the first-floor. So you've got to have basically a capacity check for the first-floor and a capacity check for the second-floor, and you can't interchange the numbers, which may have been unclear.

There's a total overall number, but it doesn't flow between two floors, so that's the problem.

MR. GOLDBERG: Mr. Chairman.

MR. SCALI: You want your client to speak?

MR. GOLDBERG: Yes. I would like Mr. Sanchez to offer his explanation of what it was, if you will, please.

MR. SANCHEZ: Just to speak to that particular concern, you know, our security guys actually come right at 10:00. So that's usually when they start doing the count, which is when the transition would be happening, the two capacities. Just to speak on that particular point.

What actually happened that night was we had a party upstairs, which you counted was about 40 or so people. They had booked that particular part of the upstairs dining room with exclusivity up until 10:30, with another party sort of trailing right after that, that was supposed to come in at 10:30.

So I actually printed a copy of the schedule. There was a couple of things that happened. One was the party arrived, the larger party that was supposed to go to that second-floor,

and being cold out I made a judgment call. I said you know what, it's going to be temporary. "You guys can wait in that separate room until this party clears out." Of course, it would have been tight, but it was supposed to be right around the same time.

In the meantime, we were sort of running around helping valet, helping turn that room, and that party, a good number of them had arrived. So I said it's temporary. I don't know if you remember the rope was still there saying that that second-floor party was supposed to use that space until about 10:30.

Then we didn't realize that our second security guy who actually manages counting the second-floor -- he actually sits exactly where you stood -- and he counts the upstairs and the downstairs capacity. He didn't show up and we actually didn't even realize it until around that time when things started to get a little hectic.

MS. BOYER: What time was that?

MR. SANCHEZ: He was scheduled for

10:00.

MS. BOYER: Do you have a time when the party was supposed to change over?

MR. SANCHEZ: 10:30.

MR. SCALI: What time were you here, Ms. Boyer?

MS. BOYER: At 11:30.

MR. SANCHEZ: That's when it started just to get a little confusing, and we realized we had way too many people on the first-floor. We were looking for our security guard. We were trying to clear the people out from the second-floor, and they would have gone directly out. We were waiting for cars from valet. So there was definitely an awareness of our situation, but it was sort of transitional, and it was supposed to be temporary. I think you said the count was 125; we actually had it at 129.

MR. SCALI: She didn't say it was 125, she said it was 150 on the first-floor.

MR. SANCHEZ: She said when the security guard showed her our clicker, it said 125.

And from my understanding from what Solomon explained to me, our capacity had already been approved for 118. So in my mind I'm saying like we're nine over, it's temporary. We can deal with this. You know, accommodate our customers so they're not waiting outside, temporarily, and then get these guys on the second-floor out of there.

MR. SCALI: Well, no offense, but 11:30 is not temporary; that's an hour after people are supposed to have cleared out on the second-floor. It's an hour later than what you're saying.

MR. SANCHEZ: No, I know. It was around 10:30 that -- it was a little bit later they started giving us the valet tickets. They were taking their time, you know. It happens. We were trying to turn the room. That's pretty much what happened.

MR. SCALI: So you're saying there was a party that was coming in at 10:30, you were waiting for the second-floor to clear out and in the meantime, they were in that private room on the first-floor and they were waiting to go upstairs.

MR. SANCHEZ: I have a person assigned to sort of control that. He sits right at that position and he counts people going up and down. On the security side we had -- we normally have a digital counter which counts your up and your down, but that one -- I mean they're expensive and they're really cheap. So that one had broken and we just had the manual one, so I guess our count was a little bit off. I actually believe we were only maybe nine or so over on the first-floor.

MR. GOLDBERG: If I may ask, was it cold that night?

MR. SANCHEZ: Yeah, it was cold. I mean we weren't using the patio.

MR. GOLDBERG: The people upstairs in the dining room area, they had tickets for their cars?

MR. SANCHEZ: Yeah.

MR. GOLDBERG: Do they give it to you or to the other security man?

MR. SANCHEZ: They give it to the manager because the managers is the only person

that has the freedom to walk over there.

MR. GOLDBERG: And you then take it out to the valet?

MR. SANCHEZ: Yes.

MR. GOLDBERG: During that particular period of time where were they? Were they upstairs or were they milling downstairs and waiting for their cars?

MR. SANCHEZ: They were -- I mean you know, they paid for the space until 10:30 and obviously wanted to use it for as long as possible, so sometimes it takes a little bit of finesse to get them out of there and not seem like you're pushing them out and being rude.

MR. GOLDBERG: The people who were pushed out and weren't hanging around upstairs, where were they; waiting for their cars down below near the entrance way?

MR. SANCHEZ: The people on the second-floor?

MR. GOLDBERG: Yes.

MR. SANCHEZ: That were exiting?

MR. GOLDBERG: Yes, where were they?

MR. SANCHEZ: Most of them were still upstairs just waiting for their cars.

MR. TURNER: Question, Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Mr. Chair, through you to Ms. Boyer: Ms. Boyer, when you do a capacity count based on numbers that are on a license, do you exclude the employees? In other words, if the license say, for example, and we'll keep it simple, was a hundred, and you go into an establishment and there's 10 employees, does that mean they can have 90 patrons?

MS. BOYER: I actually don't count the employees. Maybe I should, but I don't count them and I didn't that night.

MR. TURNER: Would it be correct to say then if you counted a hundred patrons and 10 employees, would they be overcrowded? What's difficult for me, Mr. Chair, is that the Building Code does not breakdown like the License Commission does, and it's all based on a mathematical formula

that's drawn up by an architect, approved by Inspectional Services.

So yeah, there's confusion. I'm glad that OM, in their confusion, they opted to confuse to the high number side, by the way. But I as well am confused.

Question for OM on the floor plan, I didn't catch this the last time. This public area, is that included in the overall measurement or calculation that was done by the architect?

MR. CHOWDHURY: No.

MR. TURNER: Because I've been in OM a half-dozen times and to be honest with you, in that lounge, I can't figure how you can get 60 people in there, never mind 160 people.

MR. SCALI: Which area are you talking about, Deputy Chief?

MR. TURNER: This one back here.

MR. SCALI: That's the private area you were talking where people are being held?

MR. TURNER: No, private dining is right off the main lounge, but this back here is

down the hall.

MR. SCALI: That's a private area; isn't it?

MR. SANCHEZ: That's the retail mall space.

MR. TURNER: Public common space?

MR. SCALI: It's not part of their restaurant space; its common space.

MR. CHOWDHURY: That's basically our back exit.

MR. TURNER: That's in the Galleria hallway.

MS. BOYER: This is how you enter, so this would be --

MR. TURNER: I'm with you now.

MS. BOYER: And then here is the main lounge, the bar, and the private area. These are the stairs that go to the second-floor.

MR. TURNER: Okay, no more questions.

MR. SCALI: Anything else you want us to know, Mr. Goldberg?

MR. GOLDBERG: With regard to the

movement up and down, there was some movement up and down to get their cars, give the ticket to the valet. Valets are not that fast and they had to wait 10, 15 minutes, and rather than wait outside in the cold weather they waited inside.

So the count that Ms. Boyer took, I don't know whether it was a machine count or whether it was a visual count to determine that there were 75 on one side and 75 on the other side. Was it visual?

MS. BOYER: It was a visual count.

MR. GOLDBERG: So it could have been less than the 150 with the people coming from downstairs moving out, and people in the side room then eventually getting upstairs.

So in that connection we're here before the Board at a very difficult time. One, because the Board had granted the license with regard to capacity and dancing, and that was misconstrued by Mr. Chowdhury. It's there in the ABCC waiting room. We hope that the decision by the Board will be agreed to by the ABCC, yet we're

going in there with a problem here, and we hope that the Board will recognize that what decision you make here would it be effective so far as your decision prior to this?

MR. SCALI: I think we have two different issues going on. One, from what Mrs. Lint is telling me is that there is still a Building Code issue with Ranjit and that whole termination of the change of use and the valet parking issue is supposed to be resolved; am I right?

MS. LINT: Yes. What I'm told by Ranjit is until all Building Code issues are settled that there can be absolutely no changes. So we're going to actually have to pull that from the ABCC, because if they approved it then it's saying you can go ahead and do it, but you can't, because of the Building Code violations. What Ranjit tells me is that once you start moving the chairs, it's a change in use that has all different requirements.

MR. GOLDBERG: Yes. We're trying to

address that. The architect has dealt with Inspector Burns. He has paid a visit and I think a lot of the problem existing would be relative to safety, and I think that is going to be addressed.

With regard to the parking, that's just a matter of proving to Ranjit that whatever cars are given to the doorman will be taken, and so it's difficult to say actually what the capacity would be with regard to delivering cars back and forth.

Where is the location where they take the cars?

MR. CHOWDHURY: They take it to University Garage.

MR. GOLDBERG: So that's a distance away. But nonetheless the contract that I have is to 2015 and every year thereafter, based upon the option of OM. I think I addressed Ranjit's problem with regard to the timeframe but I now know that he wants to know exactly how many cars can be taken away, and I think that's unlimited based on the contract that I have.

MR. SCALI: You certainly clarify that in a letter from the garage owner, et cetera.

Before we go on to the clarification we're just going to close out this portion of the hearing on the Disciplinary matter.

My motion would be to just continue the matter until we have clarification further from the building and zoning code issues that we were talking about, because I think that would make a difference with us in terms of whether we take any action at all on the Disciplinary matter. So I want to make sure that that's actually clear. And I do agree with you that there was a lot of confusion at the last hearing that -- in reading the transcript even I was confused about what number we approved because we went from one number to another number, and at the end it went to a bigger number, and I don't know how we got there. I think Ms. Boyer can probably clarify that for us.

So I'll just make a motion that we continue this matter. Do you want this continued to a date in particular, or would you recommend

that we wait until further clarification?

MS. LINT: I think we need further clarification and then we can reschedule it, because I don't know when we'll get that.

MR. SCALI: All right, motion to continue.

MS. BOYER: What are we continuing?

MR. SCALI: The Disciplinary.

MR. SCALI: Moved.

MR. GIACOPPO: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. GIACOPPO: Aye.

MR. SCALI: Continued until further clarification on the Building and Zoning issues and we'll place it back on the agenda.

In the meantime, since we're here I think Ms. Boyer thought it would be wise for us to go over the different scenarios and make it clear what you can do right now and then what you may want to do in the future once we get all the other issues straightened out. So can you clarify.

MS. BOYER: I will try.

MR. SCALI: I guess if you could break it down into four categories for me: What they can do right now?

MS. BOYER: I have a question for you though, first. First of all, the reason that we're even doing this is because of the confusion about the occupancy number change at the last hearing, which it seemed the Commission believed that they were voting to change the capacity from the number of 175 to 194, but the capacity of OM right now as it stands is 153.

MR. SCALI: That's the total number of the two floors?

MS. BOYER: Correct. That's whether there is indoor seating or outdoor seating; it's 153. The confusion is that 60 seats or something was added to the 153 thinking that that was separate to get to the 175. But the 175 shouldn't have even been thrown in there unless it was applied for, but it was not on the application either.

MR. SCALI: So 153 total right now?

MS. BOYER: As of right now, before anybody approves anything.

MR. SCALI: So break that down then: patio, no patio.

MS. BOYER: Before 10:00 p.m. with outdoor seating --

MR. SCALI: With patio?

MS. BOYER: Correct. It's 35 patrons on the first-floor because of still the tables and chairs; there's 58 patrons on the second-floor; and 60 outdoor seats, and that's a total of 153.

MR. SCALI: Before 10:00 p.m. with patio, and that is March 1 to November 30.

MS. BOYER: Before 10:00 p.m. without the outdoor seating, 77 on the first-floor and 76 on the second-floor, and that's 153.

Now the capacity for the 194, which would be after 10 p.m. --

MR. SCALI: So this is just right now; right?

MS. BOYER: Yes.

MR. SCALI: So are we clear right now with what --

MR. GOLDBERG: That's on the basis of 153 with or without a patio.

MR. SCALI: Right now that's all you have. Nothing is changing.

MR. GOLDBERG: Plus there's outdoor seating and a private party, so that's not included within the 153.

MS. BOYER: What private?

MR. GOLDBERG: That private space.

MS. BOYER: That was part of their 29 seats that they have on there application.

MR. GOLDBERG: I thought it was 24 seats.

MS. BOYER: That's still part of -- that's part of the 60 seats.

MR. GOLDBERG: Yes, a total of 60.

MS. BOYER: So you don't add in another 24. It's 60, that's it.

MR. SCALI: So right now what you're going to do until we straighten everything else out

is to keep what you have: Before 10:00 p.m. with the patio, 35 first-floor, 58 second-floor, and 60 seats on the patio, a total of 153, keeping that distinction between the two floors and the patio before 10:00 p.m.

MS. BOYER: Excuse me, I don't want to interrupt you. That's everything right now until something is approved, because right now it hasn't been approved for anything after 10:00 p.m.

MR. SCALI: Correct.

MS. BOYER: So this is whenever they're open.

MR. SCALI: So then before --

MS. BOYER: No, all the time right now.

MR. SCALI: Before 10:00 p.m. with the patio.

MS. BOYER: You could say it's before 10:00 p.m. Before 10:00 p.m. is not in existence right now.

MR. SCALI: There's no dancing right now.

MR. CHOWDHURY: Can I ask a question?

MR. GOLDBERG: Let her straighten it out first.

MR. SCALI: Right now, we're sticking with 153, there's no dancing, there's no time distinction, it's 153 with the patio, those numbers that we talked about: 35, 58, and 60.

MR. CHOWDHURY: Is there any way to bring -- because in the summertime we have dining seats outside; we don't use the second-floor as much. Can we include some of the seats from the second-floor to go outside?

MR. SCALI: No. We're sticking with what you have for now. I'm trying to make clear to you that we're changing nothing until we straighten out the Zoning and Building code issues.

So the other issue then, Ms. Boyer, is -- so that's what it is right now?

MS. BOYER: Yes.

MR. SCALI: And that's what it will stay until we have everything clarified.

MS. BOYER: I believe that Mr.

Chowdhury is asking that question based on that they are actually allowed in the wintertime -- we spoke about this, that's why he may not remember to bring this up but on the first-floor when there is no outdoor seating, they actually do have a higher capacity of 77. So to actually add some of those seats from upstairs to downstairs is not making their capacity problematic, and I think that's one of the reasons he's asking that. I'm just being fair here, Mr. Scali. So not to confuse the issue but I'm just stating that --

MR. SCALI: Now I'm confused.

MS. LINT: I get it. It makes sense.

MS. BOYER: Because then actually you know on the first-floor they can have up to 77, so to take from the -- that's why he's asking that question, not just to throw a number at you.

MS. LINT: It would change the capacity.

MS. BOYER: Yes.

MR. SCALI: So you're saying that without the patio they can bring --

MS. BOYER: They have 77 people on the first-floor and 76 on the second-floor.

MR. SCALI: But that wouldn't be until the end of November.

MS. BOYER: That's December 1 through March 1. Yes, at the end of November depending on as you and I spoke about, how cold it is and if it's actually set up or not.

MR. TURNER: Mr. Chair, one last issue that I would like clarified just so I can get the whole picture here is during the day in the main lounge, you serve food at tables and chairs; correct? And then at 10:00, the tables and chairs go away and then you become a nightclub, it's a dance floor; correct?

MR. SCALI: That's not happening right now.

MR. TURNER: This is what you're proposing?

MR. SCALI: Right.

MR. TURNER: Where do the tables and chairs go?

MR. CHOWDHURY: We usually take them -- it's basically six bar stools and a couple of the -- we usually take them on the second-floor in the dining room and put them in one corner.

MR. SANCHEZ: We have a closet under the stairs also.

MR. CHOWDHURY: We also have a closet under the stairs.

MR. SCALI: So you're not blocking any exits, you're not blocking any doorways?

MR. SANCHEZ: We actually just spin and then push them against the wall.

MR. TURNER: So is it six bar stools or basically six bar stools and other stuff? Is it six bar stools?

MR. CHOWDHURY: We have six bar stools and a few other chairs and the couches that we have on the floor.

MR. TURNER: Chairs and couches, where do those go?

MR. CHOWDHURY: The bar stools go under the stairs, and the chairs we take them --

MR. TURNER: There's no storage under stairs; are you aware of that?

MR. CHOWDHURY: We have a closet. There is a closet that we have.

MR. TURNER: So you have a closet that accommodates six bar stools, a couch, and tables and chairs?

MR. CHOWDHURY: No, no, no. The couch, they are going on the second-floor in the dining room.

MR. TURNER: Which then impedes the egresses and the capacity load of the second-floor. It's based on square footage, floor area. If you are going to store furniture up there, now you're adding seating to that. I just don't see it.

I don't understand the concept of taking furniture to create a space from one to another when the space doesn't exist. You're going to be constantly in trouble with violating capacities here. There's no clear definition, or clear definition of what is happening where. And you'll always have the excuse of we had people

waiting here to eat up upstairs, but we were moving couches up there while people were down there. I just don't get it. I'm not seeing it.

MR. SCALI: We just need a clarification of where the furniture will go that's not going to add to your loss of space on the second-floor.

MS. LINT: Ranjit asked for that as well.

MR. SCALI: You're going to need to clarify that; where the furniture is going to go.

MR. CHOWDHURY: And after 10:00 we also -- the second-floor is not in use as much.

MR. SCALI: You just need to work on that.

MS. BOYER: One of the other things -- do you want me to continue with the clarification thing?

MR. SCALI: We all understand what's happening right now, what you're going to be doing with the patio and without the patio.

MR. SANCHEZ: Just to reiterate or

maybe further clarify, when we're not using the patio, say at 10:00 we stop using that, then which it would be 35 indoor and 60 outdoor, and we stop using the patio, the first-floor becomes 77 again?

MS. BOYER: It's up to the Commissioners.

MR. SCALI: The issue is from March 1 to November 30, you have those patio seats out there.

MR. SANCHEZ: Right.

MS. BOYER: They're trying to do it now is what they're trying to say. If they shut off the patio at 6:00 and no one is out, it will be almost comparative to the winter time where they can actually have the patrons in there and use 77 again.

MR. SANCHEZ: We would prefer to have them inside after the dinner hour.

MR. SCALI: We actually have no rule on that; right, Ms. Boyer?

MS. BOYER: No, we do not, sir. Basically our seasonal patio is because we try to

get them to close them down so they're not open all winter.

MR. SCALI: I understand your point. We'll have to consider that issue.

MR. TURNER: Give me the question again so I can mull it over.

MR. SCALI: If the patio is out there on the sidewalk, but they decide at 10:00 p.m. that they're not going to use the patio, are they then able to put all that capacity back into the inside so that no one is on the patio.

MR. TURNER: Because the patio is basically --

MR. SCALI: It's not being use, yeah.

MR. TURNER: Taking it from the inside so that would -- sure. Okay, I'm with you.

MR. SCALI: We'll consider that.

MR. CHOWDHURY: If that's the case, can we not shut down the second-floor?

MS. BOYER: Listen, you should just take what you can get.

MR. SCALI: Let's just start with this

for now. This is the most confusing application.

MS. BOYER: So you're considering that then. It doesn't mean it's happened yet.

MR. SCALI: Right, right. Don't do anything yet. We're going to have to vote on it and figure out what we're going to do. So that's where we are right now.

Now, let's go to where they want to be.

MS. BOYER: What they would like to do according to the application of what I received is after 10:00 p.m., to have a capacity of 194. That would be by the removing of the tables and chairs, which we have to figure out where they're going to go.

After 10:00 p.m., with the outdoor seating, there would be 94 patrons on the first-floor, 40 patrons on the second-floor, and 60 outdoor seats, which would be the 194.

Then after 10:00 p.m., without outdoor seating, because you'd get those 60 seats or whatever, it would be 118 on the first-floor and 76

patrons on the second-floor, which equals 194.

MR. SCALI: All right. That's both after 10:00 p.m.?

MS. BOYER: Correct.

MR. SCALI: With the dance floor?

MS. BOYER: After 10:00 p.m. that would be the removal of the tables and chairs to make the space for that, yes.

MR. SCALI: Okay. Right, understood?

MR. GOLDBERG: Yes.

MR. SCALI: After 10:00 p.m., with the patio, 94, 40, 60, a total of 194. Got it?

MS. BOYER: So basically as confusing as it sounds, it's very seasonal. So it's actually for employees and restaurant people. They know it's a breakdown.

MR. SCALI: I don't know how an employee is going to figure this out, I really don't.

MS. BOYER: They can. They're a little -- employees of restaurants are a little smarter sometimes than the average bear.

MR. SCALI: Clicking that clicker up and down the stairs all night long.

Anything else that we have to clarify?

MS. BOYER: No. Just the depending, if they don't use the patio, can they hang inside issue, until the approval and through -- and that's already approved through Building already for what they have now.

MR. SCALI: So Mr. Goldberg, when you get clarification from Building and Zoning on those issues, report back to Mrs. Lint and then we'll put you back on the agenda. In the meantime, we have to notify the ABCC that what we sent them was incorrect and just to hold it, or send it back, or pull it.

MS. LINT: Chris is going to do that in the morning.

MS. BOYER: Just so I have it for my own investigation, when will your contemplating the allowable close down of the patio, when will that be decided, just so I know?

MR. SCALI: We meet on May 7 at 10:00

a.m. so we'll talk about it then.

MS. BOYER: So until then, 35.

MR. SANCHEZ: It's 35 inside.

MR. SCALI: And no dancing, nothing changes.

Motion to take the matter under advisement.

MR. GIACOPPO: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you. All right, next matter.

MS. LINT: Top of Page 1, Application: Lowhill, Inc. d/b/a Joe Sent Me, Alexander McCullough, Manager, holder of an All Alcoholic Beverages as a Restaurant license and an Entertainment license at 2388-2390 Massachusetts Avenue has applied for change of premises description to include a seasonal outdoor patio on the public sidewalk with service of food and alcohol.

MR. SCALI: Good evening. I hope you have your numbers right. Just tell us your name for the record, please.

MR. MCCULLOUGH: Sandy McCullough, owner of Joe Sent Me, Alexander, Sandy.

MR. SCALI: You're applying for a seasonal outdoor patio on public property with food and alcohol. Of course, food will be served at all times with the alcohol; there's no alcohol allowed out there alone. You're going to comply with the kinds of tables and chairs, and the enclosures, being completely enclosed, with either roping or some kind of shrubbery, or that kind of thing.

MR. MCCULLOUGH: Yes, of course.

MR. SCALI: You're looking for how many seats?

MR. MCCULLOUGH: Sixteen. It's eight sets, eight tables of two.

MR. SCALI: Against the wall?

MR. MCCULLOUGH: Against the wall.

MR. SCALI: It will be before that kind of flat surface there on the corner. It's not going to be on the corner. It will be in the corner?

MR. MCCULLOUGH: Exactly.

MR. SCALI: Are you adding 16 seats or taking 16 from inside.

MR. MCCULLOUGH: We're taking 16 out.

MR. SCALI: You realize when you're taking them out that means 16 less inside.

MR. MCCULLOUGH: I talked to Sean about that.

MR. SCALI: You can't keep going back on forth with the numbers.

MR. SCALI: Umbrellas?

MR. MCCULLOUGH: I don't think so. I don't think we need them during the day. The building kind of blocks the sun.

MR. SCALI: You have that awning kind of over there, don't you?

MR. MCCULLOUGH: It's an eave; I wouldn't call it an awning.

MR. SCALI: Is that a heater?

MR. MCCULLOUGH: That's a post. That's a post for the chains. I don't have a picture of the chains.

MR. SCALI: Any music outside; right?

MR. MCCULLOUGH: Correct.

MR. SCALI: No smoking outside?

MR. MCCULLOUGH: Right.

MR. SCALI: Abutter notification?

MS. LINT: Yes.

MR. SCALI: Anybody from the public on this matter?

MS. LINT: We need DPW.

MR. MCCULLOUGH: I talked to Vinny and he said it was fine.

MR. SCALI: I just want to emphasize that I know you're a restaurant/alcohol establishment. It's not a barroom out there.

MR. MCCULLOUGH: No.

MR. SCALI: No noise. If anyone complains about talking out there --

MR. MCCULLOUGH: The tables and chairs are resin.

MR. SCALI: It's very residential around there.

MR. MCCULLOUGH: Right. We have a patio in Waltham and it's surrounded by houses, and we don't have any problems out there. So we're used to it.

MR. SCALI: Any questions?

MR. TURNER: No questions.

MR. SCALI: Comments?

MR. GIACOPPO: No.

MR. SCALI: Mrs. Lint?

MS. LINT: No.

MR. SCALI: Pleasure of the Commissioners?

MR. TURNER: Motion to approve.

MR. SCALI: Motion, moved. Seconded.

MR. GIACOPPO: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. GIACOPPO: Aye.

MR. SCALI: So there's no confusion, this is not to be done yet until the ABCC approves it.

MR. MCCULLOUGH: We'll wait for the ABCC.

MR. SCALI: It goes to the ABCC. Mrs. Lint will send you a letter telling you when. The City Manager's letter has to be signed.

MS. LINT: We can't send that over without the DPW permit, so the sooner you get it the sooner we work.

MR. MCCULLOUGH: I'll go down to Vinny tomorrow. Thank you very much.

MR. SCALI: Thank you very much.

MS. LINT: Application: BMR-650 East Kendall B, LLC d/b/a 650 East Kendall Street Garage, Rockwood Edwards, Project Director, has applied for a Garage and Flammables license at 650 East Kendall Street for 555 spaces and 5,550 gallons of gasoline in tanks of cars only, 3,000 gallons of Class II combustible liquids (diesel) in an aboveground tank, and 40 gallons of Class II combustible liquid (diesel) in an aboveground day tank.

MR. SCALI: Have a seat and just tell us your name.

MR. EDWARDS: Rocky Edwards, Sherman Engineering.

MR. ZINNO: Salvatore Zinno, BioMed Realty Trust.

MR. SCALI: Your last name is what?

MR. ZINNO: Zinno, Z-I-N-N-O.

MR. SCALI: So this is an application for a garage in -- is it a lab, parking for lab use, or tenants in the building?

MR. EDWARDS: Yes, it will be for

tenants of the building.

MR. SCALI: Is it just for BMR use?

MR. EDWARDS: Yes.

MR. SCALI: What does BMR do? Can you tell us?

MR. ZINNO: BMR provides real estate for life sciences industry. The exact tenant for the building is to be decided. Right now, it's just corn shell. It will be complete as corn shell in July.

MR. SCALI: and you have no tenant to go in there?

MR. ZINNO: Currently, no.

MR. SCALI: So it's empty?

MR. ZINNO: Yes.

MR. SCALI: When do you anticipate that you will use the garage? When you get a tenant; right?

MR. ZINNO: Yeah.

MR. SCALI: Which could be whenever the market picks up and people start leasing.

MR. ZINNO: Yeah. A CO is due to be

issued somewhere near the end of July.

MR. EDWARDS: I have here a new application, which is the new application form that Deputy Chief Turner was kind enough to call us and let us know that we needed to fill out. We had some time where we needed to get through Traffic and Parking between the time the Fire Department had approved the previous. So do I submit this to you?

MS. LINT: I'll take it.

MR. SCALI: Did the form just change? Is it a new form that just came out?

MR. TURNER: Yes. Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: This is a new construction building that is obviously under building permit in the process of being constructed, and this is the process that the owner is going through to approve the garage and flammable storage for the generator tanks. I'm sure this will get amended as for whoever tenant moves in down the road, but this is the base corn

shell scenario at this time.

As Mr. Edwards stated, on the original application as the consultant, I raised questions whether it was acceptable for him to be that signee or the applicant, which you stated it wasn't.

In the interim, the State Fire Marshal has adopted new forms, which I think it's going to actually cause more confusion. And I want to give Mr. Edwards an answer if I could right now. On the new forms, it basically asks for a signature from somebody who can attest that he's the authorized person to make the application. So I think we agree that it should be a representative of the property.

MR. SCALI: The owner.

MR. TURNER: Or the owner of the property, the landowner, who the license will issue under the law, so in the future just so we're clear on that.

But other than that the permits have been approved, signed by the head of the Fire Department, reviewed. This will all undergo a

certificate of occupancy inspectional process and the Fire Department has no objections to this application.

MR. SCALI: Questions?

MR. GIACOPPO: Mr. Chairman, I would defer to the good judgment of the Deputy Chief; however, I have one pointed question. Where is Kendall Street?

MR. ZINNO: Do you know where the public ice skating rink is?

MR. GIACOPPO: It's that new shape that's there?

MR. EDWARDS: It's the new building that's under construction.

MR. GIACOPPO: I know it well.

MR. SCALI: I went on the map and I saw it, so I went down there and looked.

MR. GIACOPPO: I know it well, I just didn't know that was actually Kendall Street. No other questions.

MR. SCALI: Any other issues, Mrs. Lint?

MS. LINT: The Deputy Chief has an issue.

MR. TURNER: No.

MS. LINT: We need the Chief's signature.

MR. SCALI: We can get that.

MR. TURNER: Right. We can approve pending.

MR. SCALI: That we can get. You can take that with you to get the Chief's signature.

Anybody from the public want to be heard on this matter? No hands. Pleasure of the commissioners?

MR. TURNER: Motion to approve.

MR. SCALI: Moved.

MR. GIACOPPO: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: Pending the Chief's signature.

MS. LINT: We may have it upstairs.

MR. TURNER: Unfortunately the new application doesn't say "Designee" on it.

MR. SCALI: Thank you very much.

MR. EDWARDS: Mrs. Lint, will we be able to get a copy of that once it's finished?

MS. LINT: Yes.

MR. SCALI: The application?

MR. EDWARDS: Yeah.

MR. SCALI: You will, and believe me, you should keep a copy of that.

MS. LINT: And Chris can get that for you.

MR. EDWARDS: That would be great. I know how to get a hold of Chris.

MR. SCALI: Call tomorrow and he'll get it to you.

MR. EDWARDS: Thank you very much.

MS. LINT: Application: Uno Restaurants, LLC d/b/a Uno Chicago Grill, David Fredericks, Manager, holder of an All Alcoholic Beverages as a Restaurant license and an Entertainment license at 22 JFK Street has applied to amend the current Entertainment license at this location to add live musical instruments and/or vocalists with amplification.

MR. SCALI: Tell us who you are for the record.

MR. FREDERICKS: David Fredericks.

MR. SCALI: you are the manager at JFK; right?

MR. FREDERICKS: Yes, sir.

MR. SCALI: You want to put in live music?

MR. FREDERICKS: Yes, sir.

MR. SCALI: How many days a week?

MR. FREDERICKS: Seven days a week. We'll just have approval for seven days.

MR. SCALI: We need to know what you're actually really going to do, what you really

intend to do. We only approve what you actually going to provide to the public.

MR. FREDERICKS: Live music, seven days a week.

MR. SCALI: What times?

MR. FREDERICKS: From 8:00 until 12:00, 8:00 p.m. to 12:00 a.m.

MR. SCALI: What kind of live music?

MR. FREDERICKS: Open Mike Night, the Harvard Acappella, and Jazz and R & B soloist singers.

MR. SCALI: So one-piece, two-piece, three-piece?

MR. FREDERICKS: One-piece.

MR. SCALI: With a singer, without a singer?

MR. FREDERICKS: With a singer.

MR. SCALI: So one-piece --

MR. FREDERICKS: And a singer.

MR. SCALI: No amplifier, acoustic.

The acappella obviously will be a group but there will be no instruments.

MS. LINT: The application is for "with amplification."

MR. SCALI: Do you want to amend it?

MR. FREDERICKS: We'll follow the application.

MR. SCALI: It makes a difference.

MR. FREDERICKS: Obviously Anita is part of our law department who does all the application processes. I wanted to do Open Mike Night without amplification and acappella, open mike acoustic.

MS. LINT: Once you have the mike then you have --

MR. SCALI: A mike is not amplification.

MR. FREDERICKS: Amplification would be for instruments.

MR. SCALI: So you need a mike but not amps?

MR. FREDERICKS: Yes.

MR. SCALI: So it's not amplified.

MR. FREDERICKS: And that's due to the

fact that we have tenants that live above our building.

MR. SCALI: The music cannot go outside the premises; you can't hear it on the sidewalk.

MR. FREDERICKS: It's completely enclosed.

MR. SCALI: It has to stay within your premises.

MR. FREDERICKS: Absolutely.

MR. SCALI: Are you moving tables and chairs to do this?

MR. FREDERICKS: We are moving one chair. I apologize, I did not bring anything with me on a floor plan but it was sent into the office.

MS. LINT: I have it.

MR. FREDERICKS: There is one table that we will be moving out on the first-floor and that would be for the Harvard Acappella group.

MR. SCALI: So one table and one chair just to make space for that one group?

MR. FREDERICKS: For the singers to

come in.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Through you to the applicant: Where is the table being moved to?

MR. FREDERICKS: We have storage in our -- downstairs in the basement we have approximately 2,200 square feet of storage space. There is a room that is open right now that we will be storing that table.

MR. TURNER: You have designated space?

MR. FREDERICKS: We do have designated storage space. Luckily in the JFK area, we tend to have a lot more non-used space than we do used space.

MR. TURNER: One more question, Mr. Chair. I inspected this establishment a couple of weeks ago. As we were leaving, I noticed on the stairs going to the basement there was a sign that said "Karaoke, 9:00 p.m. Monday nights." I thought that might have been the purpose for this

entertainment request. Any idea what that's all about? Does that happen, or is that an old sign?

MR. FREDERICKS: That is an old sign that we do want to have tied into this live entertainment, but the live entertainment is mainly for live entertainment.

MR. TURNER: So is the entertainment going to be on the first-floor? Does it matter? Do we need to know what floor; if it's going to be in the basement or on the first-floor?

MR. SCALI: On the first-floor; right?

MR. FREDERICKS: First-floor will be for the live acoustics and downstairs we will have open mike, basically one singer. Does that make sense?

MR. SCALI: Now I'm confused. I thought you were having it all in one spot.

MS. LINT: So did I.

MR. FREDERICKS: I put two plans in: one for the upstairs and one for the basement. The one for the upstairs is where the table will be removed and that will be for the Harvard Acappella,

and for the jazz singers. And then downstairs will be for the open mike, which would be tied in with the karaoke.

MR. SCALI: Do you have a license for the karaoke?

MR. FREDERICKS: I think that's tied into what we have right now with our jukebox. No?

MR. SCALI: You need a special license for karaoke. Do we have that?

MS. LINT: No.

MR. TURNER: Why does it need a special license; because it's terrible music?

MR. SCALI: No, no. Just that it's a category on there, on your entertainment license.

MS. LINT: It's a separate category.

MR. FREDERICKS: Can I get that added? Is karaoke separate from a --

MR. SCALI: You have to advertise it, so no karaoke.

MR. FREDERICKS: Can we move forward to try to get or put in an application to have karaoke added into that?

MR. SCALI: You have to basically start over again on that portion, just reapply for that karaoke portion.

MS. LINT: I'll check the file upstairs but I don't think it's there.

MR. SCALI: We'll check and find out. Maybe it's on your old application. We don't know.

So the acappella and the jazz are on the first-floor where you're taking out the table and chairs. The open mike night is in the basement?

MR. FREDERICKS: Yes.

MR. SCALI: Are you removing anything from the basement to do that?

MR. FREDERICKS: No.

MR. SCALI: That's just an area you have right there?

MR. FREDERICKS: Right, they'll sit on a high top chair.

MR. SCALI: Questions?

MR. GIACOPPO: No.

MR. TURNER: No questions.

MR. SCALI: Anyone from the public want to be heard? Abutter notifications?

MS. LINT: Yes.

MR. SCALI: Motion to approve.

MR. TURNER: Motion to approve.

MR. SCALI: Moved.

MR. GIACOPPO: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: The motion is to approve the acappela and jazz live entertainment on the first-floor, moving one chair and one table upstairs, no amplification but with a mike; basement level, open mike, no amplification, just not moving any tables and chairs.

MR. FREDERICKS: But with a mike as well downstairs.

MR. SCALI: Right. No karaoke until we find out whether we have it on the old license or not, and then you can reapply for the karaoke.

MR. FREDERICKS: All right.

MR. SCALI: Thank you.

MS. LINT: Application: Uno Restaurants, LLC d/b/a Uno Chicago Grill, Andrew Sklar, Manager, holder of an All Alcoholic Beverages as a Restaurant license and an Entertainment license at 820 Somerville Avenue has applied to amend the current Entertainment license at this location to add live musical instruments and/or vocalists with amplification and remove the jukebox.

MR. SCALI: And remove the jukebox.

MR. FOLEY: It's actually Nick Foley though; Andrew got called to a meeting. And I also work at the Porter Square restaurant.

MR. SCALI: Your name is what, Nick what?

MR. FOLEY: Nick Foley, F-O-L-E-Y.

MR. SCALI: What is your position?

MR. FOLEY: Assistant General Manager.

MR. SCALI: This is for the same as what he's applying for?

MR. FOLEY: Yeah, but we don't want to do it for seven days.

MR. SCALI: How many days?

MR. FOLEY: So Thursday, Friday, Saturday and Sunday. The Sunday, we wanted to apply for different hours on the Sunday. So Thursday through Saturday, I believe we applied for 7:00 to 11:00, and then on the Sunday was from 12:00 to 7:00.

MR. SCALI: 12:00 in the afternoon to 7:00 p.m.?

MR. FOLEY: Yes, 7:00 at night. And it was designed for -- we wanted two-piece acoustic with a singer. I didn't know that we were actually applying for the amplification. It is only for the downstairs in the bar area.

MR. SCALI: Which is the basement?

MR. FOLEY: Yeah, which is considered -- like you'd walk in on the street-level, so I don't know whether you'd consider that ground or first but it's on the ground floor.

MR. SCALI: So this is for two-piece acoustic with a singer and a mike?

MR. FOLEY: Yes.

MR. SCALI: In the basement level?

MR. FOLEY: Correct.

MR. SCALI: With the times as stated.

And that's it?

MR. FOLEY: That's it.

MR. SCALI: Taking out the jukebox.

Abutter notifications?

MS. LINT: Yes. But if you recall there is an issue with this one because of the contract, and I have not heard back from the landlord, and I was hoping that he'd be here.

MR. SCALI: Way back before you all were born probably, maybe back in 1989, there was an agreement when that building was built with the developer. Anybody associated with the building forever and a day, for any tenant, that there would be no entertainment in that building. So the agreement is with the License Commission and with the building owner/management.

So we need to amend that agreement with the building owner to allow you to apply for entertainment. Were you in contact with them?

MS. LINT: Yes. I can report that basically what I was told was that it's a process that they have to go through. Their main concern was just that other businesses in that building are not disturbed by it. So if it was after a certain hour when those businesses were closed, they probably wouldn't have a problem, and obviously then we have to amend the agreement with them.

MR. FOLEY: I heard exactly the same thing.

MR. SCALI: So have you been in contact with them?

MR. FOLEY: I know that Anita has. And I believe like we weren't going to come and apply but every indication was that they were receptive to the idea, and they told Anita to go ahead and file the application. Because we were actually going to take the application out, and they said when we proposed it to them that they weren't opposed to the idea at all. But they did say it was in there a long time ago when it was first set up.

MR. SCALI: I think the neighborhood has changed quite a bit in 20 years, so it may be a whole different atmosphere, and residents are all different and all that. I don't see anybody here. Is there anybody here that wants to speak on this matter? I don't see any of your abutters.

MS. LINT: Their concern really wasn't outside the building, it's just that there are other businesses in there that they don't want disturbed.

MR. SCALI: So until you hear back from them as to what they want to do with us, we have to just continue the matter. We won't take it off the agenda.

MS. LINT: Can we take it under advisement?

MR. SCALI: We can take it under advisement. Do you have any objection to taking it under advisement?

MR. GIACOPPO: No.

MR. SCALI: No one is objecting, and we certainly aren't going to object as long as the

neighborhood is not objecting.

MR. FOLEY: We have a pretty good relationship with the Porter Square Neighborhood Association. We attend the meetings and we're actually sponsoring an event on the weekend for the cleanup day.

MR. SCALI: Have you heard from any of them?

MS. LINT: Nobody.

MR. SCALI: Agassi Neighborhood Group?

MS. LINT: Nobody.

MR. FOLEY: We have a relationship with them as well.

MR. SCALI: Neighborhood Nine.

MR. FOLEY: Not Neighborhood Nine.

MR. SCALI: We send it to them, don't we? The agenda goes to the Agassi Group and the Neighborhood Nine Group?

MS. LINT: Yes.

MR. SCALI: Motion to take the matter under advisement pending the amendment to the agreement. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: All right. So as soon as we hear back from them and we get the agreement amended, then we can go forward. If they choose not to do that then it wouldn't be allowed, obviously.

MR. FOLEY: So it's just in their court right now?

MR. SCALI: Right, it's in their ball court and we'll get back to you.

MR. FOLEY: Thank you very much.

MS. LINT: Application: Coast to Coast Refinery, Inc., Levon Terzian, Manager, has applied for an Antique Store license at 1105 Massachusetts Avenue.

MR. SCALI: Have a seat. Tell us your name for the record, please.

MR. SHAMEDIAN: My name is Arash Shamedian.

MR. SCALI: Arash?

MR. SHAMEDIAN: Yes.

MR. TERZIAN: I'm Levon Terzian.

MR. SCALI: Tell us what kind of a store you want to open there.

MR. SHAMEDIAN: We want to open an antique used jewelry store. What it requires is -- we buy a lot of it from the public, we have it repaired, and we resell it at a lower cost than a regular jewelry store does. And also, some of the customers that do buy from us, they might bring in their own jewelry to resell it back to upgrade something newer.

MR. SCALI: Gold and silver?

MR. SHAMEDIAN: Gold and silver, yes.

MR. SCALI: Just gold and silver, or other items?

MR. SHAMEDIAN: No, just gold and silver, simple.

MR. SCALI: Do you have other stores anywhere else?

MR. SHAMEDIAN: Yes, we do. We have a store in Newton, two of them; we have one in Worcester; and we have two in Los Angeles.

MR. SCALI: Can you tell us the name of the stores in Newton?

MR. SHAMEDIAN: It's under the same.

MR. SCALI: Coast to Coast?

MR. SHAMEDIAN: Yes, CTC Custom Jewelry Design by Isaac.

MR. SCALI: CTC?

MR. SHAMEDIAN: Yes, short for Coast to Coast.

MR. SHAMEDIAN: Did you need this?

MR. SCALI: That would be great.

They're all the same names in

Worcester and LA too?

MR. SHAMEDIAN: In LA, it's the same. Worcester is known as Shavash Jewelers. That store that we have in Worcester is more of a high-end retail. We don't refurbish anything over there to put back in the showcases.

Did you need more cards?

MR. SCALI: No, that's fine.

Here in Cambridge and throughout the State there is a reporting mechanism with regards to any used items. I believe you should contact -- is it Lieutenant Ahearn that would be the one that would be the reporting person?

MR. GIACOPPO: Yes.

MR. SHAMEDIAN: This is the form that we use for the Newton store that gets filled out. Also we take a picture of their ID, and we also take pictures of the items that we buy, and the copies go to the police station, and every city is different. I forgot also to mention that we have another location in New Hampshire, Salem, New Hampshire.

MR. SCALI: In Salem?

MR. SHAMEDIAN: Yes.

MR. SCALI: On Route 28?

MR. TERZIAN: On Hampshire Street.

MR. SCALI: I live the next town over.

MR. SHAMEDIAN: It's where the flee
Market is.

MR. TERZIAN: The Salem flee market.

MR. SHAMEDIAN: Every city is
different. For instance, in New Hampshire they
require us to keep the items for about 30 days.
Worcester and Newton is about seven days before we
do anything to it. But what we do is again, we
take all their information, make a copy of their
driver's license or ID, and also we take pictures
of the items that we buy.

If you could please, sir, give me the
officer's name again?

MR. GIACOPPO: Lieutenant Steven P.
Ahearn.

MR. SCALI: He's actually right on the
first level of the police station as you come in,

to the right.

MR. GIACOPPO: In Records.

MR. SHAMEDIAN: I went there earlier and spoke to a lady, but they didn't really know what I was talking about. I guess there are not too many businesses that have this.

MR. SCALI: We have a number of different gold and silver, precious metals places in Cambridge, but Lieutenant Ahearn would be the person to speak to. The people out front wouldn't handle that.

MR. TURNER: Mr. Chair.

MR. SCALI: Deputy Chief.

MR. TURNER: I notice it says "Refinery," will you be doing any hot work, melting of the jewelry?

MR. SHAMEDIAN: No. We have our manufacturing in Shrewsbury, Massachusetts.

MR. TURNER: So you're just strictly over-the-counter?

MR. SHAMEDIAN: Yes.

MR. TURNER: The last question is,

1105 is a complex of all different spaces. I noticed one is a restaurant, that Moroccan restaurant that has yet to open. Is that the space, or is it 1105J? I noticed there was a *J*.

MR. SHAMEDIAN: There is a shoe repair there.

MR. TURNER: Downstairs?

MR. SHAMEDIAN: No, second level.

MR. TERZIAN: Shoe repair shop.

MR. SCALI: What's there right now?

MR. SHAMEDIAN: It's a shoe repair, Cambridge Shoe Repair.

MR. TURNER: Do you have a number for your space?

MR. SHAMEDIAN: It's just 1105; that's all it is known by.

MR. FOLEY: There is a restaurant, Zoe Restaurant upstairs. It's a small place.

MR. SCALI: It's right near Dolphin.

MR. TURNER: The nail salon is gone.

MR. SCALI: Any other questions, Commissioners?

MR. GIACOPPO: What you're doing is you're not taking in furniture? This is an antique jewelry operation?

MR. SHAMEDIAN: Yes, sir.

MR. GIACOPPO: And you're only taking in precious metals?

MR. SHAMEDIAN: Yes.

MR. GIACOPPO: Are you taking in diamond rings?

MR. SHAMEDIAN: Some of the rings that might come in might have some diamonds on there.

MR. GIACOPPO: Are you taking in all sorts of jewelry?

MR. SHAMEDIAN: Just jewelry, basically precious metal.

MR. GIACOPPO: No other items?

MR. SHAMEDIAN: No. Not a TV, a radio, no.

MR. GIACOPPO: So if I walked in with a violin?

MR. SHAMEDIAN: No, absolutely not.

MR. SCALI: So this is strictly a

jewelry?

MR. SHAMEDIAN: Yes, we're just all jewelry.

MR. SCALI: New and used jewelry?

MR. SHAMEDIAN: The Worcester store carries only new. And also, one of the Newton stores carries new, and secondhand or antique, but this one we want strictly to be used jewelry.

MR. SCALI: Strictly secondhand?

MR. SHAMEDIAN: Secondhand, yes.

MR. GIACOPPO: How is this different from a pawnshop?

MR. SHAMEDIAN: Pawnshops give loans.

MR. GIACOPPO: You simply buy and sell?

MR. SHAMEDIAN: We're just buying it, buying, that's it.

MR. GIACOPPO: Not taking anything?

MR. SHAMEDIAN: No loans, no TVs, no radios, no electronics, just precious metals, gold, silver or platinum.

MR. SCALI: We have no pawnshops in

Cambridge.

MR. GIACOPPO: I wanted to make sure that we weren't getting one.

MR. SHAMEDIAN: No pawnshop. And I believe to even get a pawnshop license that you have to go through the State also, and we don't want to deal with them or anything like that.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. GIACOPPO: No.

MR. SCALI: Motion.

MR. TURNER: Motion to approve.

MR. SCALI: Moved, seconded.

MR. GIACOPPO: Yes.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: That's subject going to Lieutenant Ahearn and getting all the reporting mechanisms and making sure you have that in place, and then your regular Building, Fire and Health. Well, you wouldn't need Health. It would just be

Building and Fire.

MS. LINT: Building and Fire.

MR. SCALI: Thank you very much.

MR. SHAMEDIAN: Thank you.

MR. SCALI: Application: Ice Cream Lofts, Michael O'Shea, Manager, has applied for a Garage license at 95 Harvey Street for 8 spaces and 80 gallons in tanks of cars only.

MR. SCALI: Good evening. Have a seat. Tell us who you are.

MR. O'SHEA: I am Michael O'Shea. I'm the manager and the owner of the building as well.

MR. SCALI: You're the owner of 95 Harvey?

MR. O'SHEA: Yes.

MR. SCALI: Is it a new project?

MR. O'SHEA: It's a building that was built in 1914 as an ice cream factory. It's been now renovated into my cabinet shop -- I'm a custom cabinet maker -- and eight residential live/work loft spaces.

MR. SCALI: Condominium spaces or apartments?

MR. O'SHEA: They're rental apartments.

MR. SCALI: Are the eight spaces for

parking for these tenants?

MR. O'SHEA: Correct.

MR. SCALI: Do the spaces come with the apartments, or are they separate?

MR. O'SHEA: They come with the units.

MR. SCALI: At no extra charge?

MR. O'SHEA: No extra charge. There are two spaces outdoors as well, so there's ten spaces altogether for the eight residential units.

MR. SCALI: So no one else can park there?

MR. O'SHEA: Correct.

MR. TURNER: Mr. Chair, the Fire Department inspected this property two weeks ago and everything is in order with the exception of - you need to fill out an annual permit application for the cabinet shop, the workshop. We got your letter today, and call Captain Francis in the morning. I broke down by class what should be on that document. He just checked and didn't have it.

MR. O'SHEA: I'll work with Captain Francis on this.

MR. TURNER: We'll transfer the numbers over and you just need to submit that to him, and then you'll get your annual permit.

MS. LINT: Deputy Chief, would you like him to fill out the new forms?

MR. TURNER: At this point, no.

MS. LINT: Okay.

MR. SCALI: It's already been signed.

MR. TURNER: He got in before we were aware the new forms even existed.

MR. SCALI: Questions?

MR. GIACOPPO: None.

MR. SCALI: Motion.

MR. TURNER: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. GIACOPPO: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. GIACOPPO: Aye.

MR. SCALI: Good luck there.

MR. O'SHEA: Thank you and I'll talk to Captain Francis tomorrow.

MS. LINT: Application: Harvard Cafe, Inc. d/b/a Harvard Cafe, Robert Chang, Manager, has applied for a Common Victualer license with 24 seats at 61 Church Street. Said license if granted would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises and to have hours of operation from 6:00 a.m. to 12:00 a.m. seven days per week.

MR. SCALI: Good evening. Have a seat please. Tell us your name.

MR. LIM: Lim for Harvard Cafe. To my right is Robert Chang, the owner and operator.

MR. SCALI: This is Mr. Chang?

MR. CHANG: Yes, sir.

MR. SCALI: You are the owner/manager?

MR. CHANG: Yes, sir.

MR. LIM: And chief dishwasher.

MR. SCALI: This is where Lee's Restaurant was?

MR. CHANG: It used to be, yes.

MR. SCALI: Twenty-four seats?

MR. CHANG: Twenty-four seats.

MR. SCALI: From 6:00 a.m. to 12:00 midnight.

MR. LIM: That's right.

MR. CHANG: The only thing that was changed was the operating hours from 6:00 to 9:00. Now, we're adding from 9:00 to 12:00, that's all.

MR. SCALI: You're adding the morning hours?

MR. CHANG: No, no, the night hours from 9:00 to midnight.

MR. SCALI: You're serving breakfast, lunch and dinner?

MR. CHANG: That is correct, sir. That's all the change there is to it.

MR. SCALI: Tell us what you're going to be serving? Do you have a copy of the menu?

MR. TURNER: Mr. Chair, any plans on doing renovations, or remodeling, or anything, or is it just turn-key.

MR. LIM: Turn-key right now, because a lot of the renovations have been done already, prior.

MR. CHANG: I hung some pictures on the wall. That's about it.

MS. LINT: The menu that I have is Lee Sandwich Shop.

MR. SCALI: So it's the same menu?

MR. CHANG: Pretty much, just a different name that's all.

MR. SCALI: What is your experience in the restaurant business?

MR. CHANG: Thirty years.

MR. SCALI: In Cambridge?

MR. CHANG: Not in Cambridge. I'm from Texas, Austin, Texas.

MR. SCALI: Did you have a restaurant there in Austin?

MR. CHANG: I had one in the airport, a concession in the airport, and another one here in Logan, Terminal E, between my brother and I, and this the third one here.

MR. SCALI: Under the same name?

MR. CHANG: No, sir.

MR. SCALI: What name at Logan?

MR. CHANG: It's called Wok and Roll.

MR. SCALI: I've seen that, yes.

MR. LIM: In Terminal E.

MR. SCALI: Questions?

MR. GIACOPPO: No.

MR. TURNER: No further questions.

MR. CHANG: And no moving around furniture, nothing like that.

MR. GIACOPPO: No dancing?

MR. CHANG: No dancing.

MR. SCALI: No intention to apply for an alcohol license?

MR. CHANG: Not in the near future, but later if we do, I'll apply for one.

MR. SCALI: Well, you'd have to apply for it.

Anybody from the public want to be heard? No hands. No abutter notifications needed.

MS. LINT: No.

MR. SCALI: All right, motion.

MR. TURNER: Motion to approve.

MR. SCALI: Seconded. All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck.

MR. CHANG: Thank you very much.

MS. LINT: Application: Prince of Arcadia Real Estate, Claus DeBanza, Manager, has applied for a Lodging House license at 63-65 Inman Street for 16 rooms and 32 occupants. Applicant is also applying for an exemption to the resident manager requirement.

MR. SCALI: Good evening. Just tell us your name for the record.

MR. DE BANZA: Claus De Banza.

MR. SCALI: So you are buying this property?

MR. DE BANZA: I bought it.

MR. SCALI: And as I understand it, you've been operating it for a while, too; am I right?

MR. DE BANZA: No. I bought it with tenants. I bought it occupied. I bought it with tenants and then we did renovations.

MR. SCALI: Has it been operating as a lodging house?

MR. DE BANZA: We continued to do the same thing while we did renovations.

MR. SCALI: When did you buy the building?

MR. DE BANZA: In 2007, I believe it was. It took a long time with the façade, and then with the carpenter who had -- the gentleman who had the building, when we pulled the building permit, he had a heart problem, and then the carpenter had a heart problem, so it took forever.

MR. SCALI: So you bought it in 2007, and were the tenants there in 2007?

MR. DE BANZA: Yes.

MR. SCALI: And they've been there ever since?

MR. DE BANZA: More or less, yeah.

MR. SCALI: How come you haven't applied for a license before now?

MR. DE BANZA: Because I was told we should complete the renovations first.

MR. SCALI: I don't understand why -- you've been operating with tenants there; right? People were displaced, were they?

MR. DE BANZA: No.

MR. SCALI: Did people have to leave?

MR. DE BANZA: No.

MR. SCALI: It was full?

MR. DE BANZA: Yeah.

MR. SCALI: So you should have applied in 2007 for a license; right?

MR. DE BANZA: Yeah, but I came and I was told I should complete the -- I think I talked to -- what's her name -- Ms. Armstrong, and I should --

MS. LINT: She wouldn't say anything about these types of applications. She doesn't handle them; she doesn't take in the applications.

MR. SCALI: You have other lodging houses in the city; right?

MR. DE BANZA: Yeah.

MR. SCALI: So you know the process.

MS. LINT: It's my recollection that we went through this with another one some time ago.

Mr. Chair, if I may, this is a violation of Chapter 140, Section 24. It's an

unlicensed keeper, and operating a lodging house without a license shall be punishable by a fine not less than \$100, or more than \$500, or by imprisonment for not more than three months, or both.

MR. SCALI: You've been around a long time. This is nothing new for you; am I right?

MR. DE BANZA: I have inspections of rooming houses that I have with an Inspection Officer who inspects the premises in the cities I do carry licenses, and he came and he said we should complete the renovations before he comes for the inspection. I came to your office and I talked about this. I think I even brought in the application, and I was told I should complete the renovations first.

MR. SCALI: It's not how it works, Mr. De Banza.

MR. DE BANZA: We had to put a sprinkler system in; we had to put a state-of-the-art fire alarm system in; we had to comply with a lot of things. With the façade, I was in front of

the Cambridge Historical Commission to deal with their suggestions. So there were things going on that took quite some time.

MR. TURNER: Why would you not be the licensed inn holder, not inn holder, but lodging house while you were doing the renovations?

MR. DE BANZA: Maybe I just did it all wrong but I really was under the impression that I should come here after everything is completed.

MR. SCALI: I can understand that reasoning if people were not living there, but people were living there the whole time. I don't understand how you did all those renovations with people living there. How did you do that; room by room, or something?

MR. DE BANZA: Yeah, whatever needed to be done. I even remember that I talked to you about this.

MR. SCALI: You wouldn't have spoken to me.

MR. DE BANZA: I talked to you and you asked me, "Are there people in there?" And I said,

"Yes, there are people in there."

MR. SCALI: You wouldn't have spoken to me.

MR. TURNER: Mr. Chair, through you to Mrs. Lint: Where would the 2007 and 2008 licenses have gone? Were they mailed out and issued?

MS. LINT: There are printed out licenses in here in the name of the prior owner, and there is a note on one of them that says, "Needs to apply."

MR. SCALI: Who is the previous owner?

MR. DE BANZA: Mr. Steinberg.

MS. LINT: Mr. Steinberg.

MR. SCALI: You had trouble with the historical and the building -- did Mr. Steinberg have trouble.

MR. DE BANZA: No. I took over the building with tenants and it was in some disrepair, so we renovated it. I came into the office, and I remember I spoke to you, and you asked me that particular question: Is it occupied, is it not occupied, and I said it's occupied. There are

tenants there.

MR. SCALI: You wouldn't have spoken to me because applications go through Mrs. Lint.

MR. DE BANZA: You just happened to be there.

MR. SCALI: So you did renovations because it needed them or because you chose to do them? Was it noncompliant?

MR. DE BANZA: It needed them.

MR. SCALI: Was it noncompliant?

MR. DE BANZA: Just cosmetic things: new windows, new heating system, alarm system. I had to put in a sprinkler system.

MS. LINT: It appears that there has been no license fees paid for three years.

MR. TURNER: Mr. Chair.

MR. SCALI: Deputy Chief.

MR. TURNER: On that note, I did do an inspection of this property and I have to admit, it's immaculate. I did a walk-through of the whole premise. It is fully sprinkler protected. The hallways and exits are clear. There is a current

up to date fire alarm system. Does it have central station automatic notification?

MR. DE BANZA: Yes. The Fire Department is there within minutes.

MR. TURNER: The only thing -- I was really actually enjoying myself, I was so pleased. Then I went down in the basement and I noticed that you're putting some storage bins up.

MR. DE BANZA: Yeah.

MR. TURNER: The only thing is, is there a building permit on that? Or are you operating under the existing building permit?

MR. DE BANZA: No.

MR. TURNER: Because that's going to impact your sprinkler head locations. You might have to relocate the heads so they don't get obstructed by storage. So you may have to have your sprinkler contractor come back based on how ever that gets laid out.

Other than that, the Fire Department would have no objections. It's fully automatic sprinkler protected and fire alarm with automatic

fire department notification. So resident manager requirement, I would have no objection to.

As far as -- I'm not sure if we have to re-announce a Disciplinary, or what have you, but I think perhaps a triple fee or at least obtain the past three year license fees.

MR. SCALI: There is no resident manager, but what do tenants do if they are in trouble? Who do they reach?

MR. DE BANZA: They reach me.

MR. SCALI: Is there a way that they reach you? Is it on the front? Do they know how to reach you?

MR. DE BANZA: Yeah. They all know how to reach me. If there's a problem, say if there was a fire alarm or something, then immediately I get a call even if there's a minor problem. There was a minor problem the other day from the phone company, there was a short in the phone line, the back up phone line -- this is probably why you came to the house. I was notified about this at 3:00 in the morning.

MR. TURNER: For some reason central station has a double phone line system and they always test each other's line; it's an automatic thing. For some reason, it's always 2:00 in the morning. When they don't get a signal back from the back up line, they send it out as a -- it should be a trouble, but they send it out as an alarm.

MR. DE BANZA: First there's a beep sound, a piercing beep sound, and then it says "back up phone line."

MR. SCALI: You have questions?

MR. GIACOPPO: Just a point of procedure, if they're in violation for two years, can you come here and start anew with this application? I haven't got the experience here with the Board.

MR. SCALI: It's not as if Mr. De Banza doesn't know the procedure. He has other lodging houses in the City. So you know how to come and reach us, you know how to apply. I don't understand the lack of reasoning of not applying.

I don't understand that.

MR. GIACOPPO: Did it take two years to do renovations?

MR. SCALI: Mr. Steinberg knows how to do these applications too. He's got other properties in the City, so they know how to handle the applications. I guess we can defer to Mrs. Lint's legal expertise and take it under advisement.

MS. LINT: You can take it under advisement; you can require him to pay the license fee since 2007; or you can fine him. He's clearly been operating since 2007.

MR. TURNER: Mr. Chair, through you to Ms. Lint: If we were to cite the chapter and verse, I guess it's a Housing Code violation, would that then require a separate --

MS. LINT: It's not considered a Housing Code violation. It's a lodging house.

MR. TURNER: So it's the License Commission.

MS. LINT: It's 140, 24. It's public

safety and good order.

MR. TURNER: Would we have to re-advertise as a Disciplinary in order to incorporate any punishment substantiated on that chapter and verse?

MS. LINT: I don't think so.

MR. TURNER: I'm just throwing that out there before we think about going in that direction.

Mr. Chair, I would just recommend seeking the back fees for the past three years that they've been remiss and the rest would be the pleasure of the Chair.

MR. DE BANZA: Do you have a certificate of inspection?

MR. DE BANZA: Everything is done.

MR. SCALI: Everything is signed off?

MR. DE BANZA: Everything signed off.

MR. SCALI: So we're the last on the list.

MR. DE BANZA: Yeah. After everybody signs off, that's what you require; right?

MR. SCALI: I could make a motion to take the matter under advisement. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. GIACOPPO: Aye.

MR. TURNER: Aye.

MR. SCALI: We'll do some research and figure out what we want to do, Mr. De Banza. We will vote on May 7 at 10:00 a.m., so you're welcome to be here at that time if you wish. You don't have to be here, but we'll decide at that point what to do with the issue of the back fees and the past two years of noncompliance. From there, we'll let you know what happens. Thank you very much.

MR. TURNER: Just an FYI, there's an establishment in Central Square that when they talk about moving tables and chairs and stuff -- I think it was Phoenix Landing. They had the dining room on the first-floor, and then at night, the dinner crowd is over and all those tables and chairs go away.

Well, we went in there one day and asked them where do the tables and chairs go? There was a side hallway with an exit door, and it leads out into the back alleyway, and that's the table and chairs going out into the back alleyway. Well, when you go in the back alleyway, that's their second means of the egress and the alleyway is obstructed by the table and chairs. So that's why I was drilling the applicants on those issues.

MR. SCALI: There's clearly some issues going on there.

MS. LINT: From what they were talking about, the people coming down from upstairs and the other people going up, Andrea counted 150 regardless of that. It had nothing to do with it.

It didn't matter that they were filtering down and going out.

MR. GIACOPPO: It's inconsequential of whether they're in a holding room waiting to go upstairs or not. The building says you can only have so many people, and how many people are in the building.

MS. LINT: She hadn't even counted them and it was still over.

MR. TURNER: It can't figure how they get 100 people in that little room.

MS. LINT: I don't get it.

MR. GIACOPPO: And dance too.

MS. LINT: Closely.

MR. GIACOPPO: It must be slow dancing and not moving very much.

MR. SCALI: Any other matters before us?

MS. LINT: No.

MR. SCALI: Motion to adjourn. Moved, seconded. All in favor?

MR. TURNER: Aye.

MR. GIACOPPO: Aye.

MR. SCALI: Aye.

(Whereupon, the proceeding was
concluded at 7:42 p.m.)

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
BRISTOL COUNTY, SS

I, Anne Ouellette, a Professional Court Reporter, the undersigned Notary Public certify that:

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

I further certify that the proceedings hereinbefore set forth is a true and accurate transcription of my record to the best of my knowledge, skill and ability.

In Witness Whereof, I have hereunto set my hand this 4th day of May, 2009.

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