

## COMMONWEALTH OF MASSACHUSETTS

## CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman  
Robert C. Haas, Police Commissioner  
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, June 23, 2009  
6:15 p.m.

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P R O C E E D I N G S

MR. SCALI: Motion to accept the minutes from our last meeting, which would be from June 9.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: License Commission General Hearing, Tuesday evening, June 23, 2009, 6:15 p.m. We're in the Michael J. Lombardi Municipal Building, Basement Conference Room, 831 Massachusetts Avenue. Before you are the Commissioners: Chairman Richard Scali, Deputy Chief Dan Turner, and Commissioner Robert Haas.

If anyone is here for the medallion transfer, that's been continued until July 13.

MR. SCALI: Page 4, Lara Milhem, anybody here for that? Continued to July 13.

MR. SCALI: Any other continuations?

MS. LINT: Yes. At the bottom of Page 2, Mazmanian Landscaping. They have applied and been approved.

MR. SCALI: They've already applied?

MS. LINT: Yes.

MR. SCALI: I know that Attorney Upton mentioned that he wanted a continuance as well. The middle of Page 4, P.F. Chang's.

MS. LINT: If anyone is here for P.F. Chang's China Bistro, that's being continued until

August 10.

MR. SCALI: What's their plans for opening? Are they looking to open -- what's their goal I guess? Is that going to be late for them?

MR. UPTON: I'm not exactly sure how the build-out is going. I know they're all going to be away in the middle of July and it seems to be the only date.

MR. SCALI: Anybody here for P.F. Chang's? All right, continued until August 10. Anything else?

MS. LINT: No.

MR. SCALI: We're going to take our two continued matters first if it's okay with the Commissioners. We're going to go to the top of Page 4.

MS. LINT: Continuation of April 28, 2009, Disciplinary hearing, Everest Crossing, LLC d/b/a OM Restaurant, Luis Snachez, proposed manager, pending at the ABCC, holder of an All Alcoholic Beverages as a Restaurant license at 92 Winthrop Street for a capacity violation and clarification of the occupancy of both floors of the restaurant.

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

MR. GOLDBERG: Bernard Goldberg, attorney.

MR. CHOWDHURY: Solmon Chowdhury.

MR. SCALI: How have we gotten along so far with the zoning issues?

MR. GOLDBERG: I did speak to Ranjit on Monday, and Inspector Burns had spoken about this, and I'm surprised that you don't have a

letter in your file from him, because I told him we had a hearing today, and he was going to have a letter in the file.

MS. LINT: I sent an e-mail to Ranjit this morning, or yesterday afternoon, advising that we had hearing. We're there still outstanding issues? He said, yes, there were still outstanding issues; that David Burn was working on it; and that I would have some response from them by tonight, and I do not.

MR. SCALI: Are there any other issues?

MS. LINT: No.

MR. SCALI: All the other issues you mentioned before have been resolved.

It's up to Zoning with regards to these issues, and I don't know exactly how to resolve this if he's not responding.

MR. GOLDBERG: The last time I spoke to them was last week. Inspector Burns indicated to me that they were attempting to resolve it. I do know that they spoke to someone at the State



House relative to the issue that we were talking about, so I really am surprised, because I thought tonight it was going to be resolved. But I understand that it can't be resolved if we don't have that letter.

MR. SCALI: Is anybody here on OM that wants to be heard?

The best we can do I guess is just continue it until you resolve the zoning issues.

MR. GOLDBERG: I appreciate that Mr. Chairman.

MR. SCALI: I'll be happy to put it back on for you as soon as we get an answer.

MR. GOLDBERG: When is the next meeting?

MR. SCALI: July 13 or August 10.

MR. GOLDBERG: July 13 would be the better date. I can suggest this that the business at OM is suffering because of the delay, and of course, more so than because of the weather, which precludes them from having the outdoor seating or anything in connection with increasing the

capacity. So understandably, if we can have it on July 13, then we'll have to be there.

MS. LINT: Mr. Chair, would it be possible to put it on for the earlier Decisionmaking hearing?

MR. HAAS: Is that the only we're waiting for is just the one zoning issue?

MS. LINT: I believe so.

MR. SCALI: And then we were talking about the timing issue, too, the configuration.

MR. GOLDBERG: What date is that?

MR. SCALI: July 2.

MR. GOLDBERG: That's next week, and I would think that -- my understanding is that it was going to be resolved today, and I will talk to him tomorrow and tell him it's continued to July 2.

MR. SCALI: Let's continue it to our Decisionmaking meeting on July 2. I'm going to put it on you, Mr. Goldberg, to go down there and get him to respond. Mrs. Lint has asked a number of times and I'm not sure what the problem is.

MR. GOLDBERG: I understand that.

I spoke to him on the phone yesterday, so I will try to proceed post haste, but I've been doing that.

MR. SCALI: Motion to continue until July 2.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: That's at 10:00 a.m. on July 2.

MR. SCALI: Next, we're going to go to the top of Page 3. Are all parties here on that matter?

MS. LINT: I'm not sure.

MR. SCALI: The L.A. Burdick issue. Is Burdicks here? Why don't you announce it, Mrs. Lint.

MS. LINT: Application continued from June 9, 2009, J & M Chocolate Confections, Inc. d/b/a L.A. Burdick Chocolates, Larry Burdick, Manager, holder of a Common Victualer license at 52 Brattle Street has applied for a change of premises description. Applicant has also applied for an increase of occupancy to 54 (16 seats and 38 standing).

MR. SCALI: Good evening. Did we throw you off by calling you up sooner? We always call continued cases first because we've heard most of the evidence already, so we want to see if we can hear the matters more quickly for you.

Just tell us who you are for the record please.

MS. WATSON: Kathy Watson, General Manager.

MS. FABUS: Jennifer Fabus, Director H.R. and accounting.

MR. SCALI: And Inspector Hedley.

MR. HEDLEY: Henderson Hedley, License Investigator for the City of Cambridge.

MR. SCALI: At our last hearing we heard the change of premises description to include the basement, and at this hearing you're applying for the increase in capacity; right?

MS. WATSON: Right. The cooking in the basement, right. And then this one, the change of capacity, yes.

MR. SCALI: Tell us about your plan for the increase in capacity. What's your plan for that?

MS. WATSON: I'd like to be able to get whatever is legally and comfortably and safely -- you know, the most that we can possibly do. I had some blueprints drawn up.

MR. SCALI: Tell us what the plan is.

MS. WATSON: The plan is to -- if we stay with 16 seats -- to increase it to the maximum.

MR. SCALI: You need to tell me the exact number.

MS. WATSON: Well, 54. Is that what it was?

MR. SCALI: So 16 seats, and how many standing?

MS. WATSON: And 54 standing.

MR. SCALI: That's not what you have on here.

MS. LINT: Thirty-eight standing, with a total of 54.

MR. SCALI: A total of 54.

MS. WATSON: Yes.

MR. SCALI: Do we have a zoning sign-off on 54?

MS. WATSON: I do.

MR. SCALI: Is there an issue with regards to being over 49?

MS. LINT: I believe that has to do

with standing. Perhaps Deputy Chief can weigh in on that.

MR. TURNER: I would defer that one to the zoning official.

MR. SCALI: There was discussion I know with regard to it being 49 or over, it peeks into a different category.

MS. LINT: They were talking about that in terms of standing, not seating. Because if that were the situation then every restaurant in the City would have a change of use, and it would be an assembly and not a restaurant use.

MR. SCALI: I'm not following you.

MS. LINT: Because some of the restaurants have a certain number of seats as well as a certain number of standing, and that number added up is over 49, but it's not a change of use.

MR. SCALI: So this is not considered to be a change of use, over 50?

MS. LINT: Over 49.

MR. TURNER: Do we know what the current use is?

MS. WATSON: It's just for 16 seating.

MS. LINT: The zoning.

MR. TURNER: Under the Building Code description of use groups.

MS. WATSON: No. Although, I bet I have it in here though.

MR. SCALI: It would be a cafe use, bakery/cafe.

MR. TURNER: A business or an assembly is -- I believe the area we're discussing is referring to the Building Code where you have occupancy numbers that when you go above I think it's 50 or more, you're into an assembly use. That in and of itself doesn't mean a whole heck of a lot except that it does have different requirements for doorway openings, exit lighting, things of that nature. Again, I'll defer that to zoning or the building officials. That's whose expertise is in that area.

MR. SCALI: Tell me the reasoning for 38 standing? What is the purpose of that?

MS. WATSON: Because we have the



chocolate retail and a lot of coffee and hot chocolate to go. So we have people coming in, ordering and leaving.

MR. SCALI: You think 38 is a number that you will be able to maintain? How are you going to maintain that number?

MS. WATSON: I don't know. One question I have for you, is there -- I would like to get the maximum that we can. Is there a way -- should we increase our seating capacity? Is there a way to increase the seating capacity and the standing capacity?

MR. SCALI: I don't know how the Commissioners feel about this, but I had always thought that people were waiting and couldn't get a seat. I thought that you would have thought to apply for more seats, because people would be seated and then they wouldn't be milling around. But I'm not sure you can fit more than 16 seats. I don't know how your plan works. I'm not sure how you're space can be arranged to fit that. Because the square footage per person is different for the

seats.

MS. WATSON: Exactly, so can I request that we --

MR. SCALI: You need to amend your application.

MS. WATSON: Could I do that? The goal I think is to get as many customers in there safely and securely as possible. If the number is 50 or 60, or 65 that you could get if the seating capacity was increased to 24, and then you could also get 35 in there for standing. I just don't know what that number is.

MR. SCALI: It depends on the Building Code and the Zoning Code, just how your plan fits. So I couldn't tell you what that would be.

MS. WATSON: Can we just shoot for what we have now and then I can go ahead and try to increase the seating?

MR. HAAS: It sounds to me that you're not really certain of what the capacity of the room is, and you're going to need to get a definitive answer for us even to rule on it.

So my suggestion to you is that you need to go back to ISD, have them look at the square footage. There's a form that they use, and then they can tell you what the capacity of the building is, and then we can make a ruling as to whether or not that will be allowable or not.

MS. WATSON: That's what I did with the blueprints with the architect with 16 seats, and that's where we came up with the number that I have right now.

MR. HAAS: That's for seating capacity.

MS. WATSON: Seating capacity and standing capacity. They said if we have 16 seats then with the square footage that's left --

MR. HAAS: ISD has signed off on that?

MS. WATSON: No. That's where I started.

MS. LINT: I have a sign off.

MR. HAAS: So they're saying 54 is the total occupancy for that building?

MS. WATSON: If we stay with 16 seats.

MS. LINT: If there's 16 seats. If she applies to increase the seating, that's going to change the numbers, and that's a question mark.

MR. SCALI: That would be another amendment.

MR. HAAS: So there's a sign off right now from ISD saying that 54 is an acceptable number for occupancy for that building in its current usage?

MS. LINT: Yes.

MR. SCALI: All we have before us is what you applied for, so if you should change your mind, we'd have to amend your application.

MS. WATSON: Thanks.

MR. SCALI: In the meantime, I know that the Commissioners had asked that our inspector go out and observe the issues that we talked about at our last hearing to make sure there was visible signs of what was being complained about by your immediate neighbor. I know that Inspector Hadley went out there, and you have a report that you produced.

MR. HEDLEY: It's pretty long. Would you like me to read it?

MR. SCALI: I know it's available for anybody who wants a copy. Do the Commissioners have copies?

MR. HAAS: I've read the report.

MR. TURNER: I have not.

MR. SCALI: Can you summarize for us what the reports says?

MR. HEDLEY: In this particular situation I would rather read it into the record. It will go a little faster.

MR. SCALI: If you could, yes.

MR. HEDLEY: "Please be advised that the above-referenced establishment, namely L.A. Burdick Chocolates was investigated as instructed. The License Commission received a complaint from Settebello management relative to overcrowding, patron noise, and unlicensed open usage in the basement area, and a consistent humming sound emitting from the L.A. Burdick establishment.

A task force inspection on April 8,

2009, at 7:34 p.m. confirmed the presence of an unlicensed plug-in electric oven in the basement. In addition, the seating design produced a configuration that could accommodate 18 patrons. However, if patrons sat closely on the bench between the spaces that separate the tables, additional patrons could be seated. However, there were six patrons in the establishment on this date; L.A. Burdick is approved for only 16 seats.

The hours of operation as posted indicated that the establishment operates between the hours of 8:00 a.m. and 10:00 p.m. Fridays and Saturdays, and from 8:00 a.m. to 9:00 p.m. Sundays through Thursdays.

In the downstairs area, the establishment has three freezers, one ice maker and two refrigerators. In addition, on the first-floor area there is one refrigerator, two espresso or cappuccino machines, and a dishwasher. All of these appliances emanate some degree of noise at different intervals. However, the only pronounced noises appear to come from the cappuccino/espresso

machines. It's like a hissing or a banging, and a humming sound from the dishwasher when in use.

Nevertheless, the consistent humming sound in Settebello is difficult to determine without further investigation. The humming sound is present with or without Settebello's operational AC system.

I continued my observations of L.A. Burdick Chocolates to monitor for evidence of overcrowding. Periodic checks did not produce any seating violations; however, on occasions, the total number of patrons exceeded 16, particularly when lines were formed to inquire or order from the cafe or chocolate sections.

The oven has been unplugged and is not in use. A posted sign on the oven reads, 'Do not use until further notice.' I checked on various visits and the oven remains unused.

I also devoted a consistent period to gauge the impact of all issues and concerns referenced by the complainant. This period covered from 6/17/2009 to 6/22/2009. I observed patron

traffic, noise sources, and capacity. This observation was daily at various times of the day. I monitored noise from the Settebello location. All times are in the evening with the exception of June 20, 2009, which is a Saturday." I would like to read what I observed on these various days: June 17 at 5:55 p.m., there were five patrons sitting, there were nine patrons standing either in the cafe section or the chocolate section. The humming noise could be heard in Settebello. There was some patron noise that also could be heard.

On June 18, at 5:43 p.m., there were 10 patrons sitting, eight patrons ordering at both locations, cappuccino and chocolate sections. The noise was also heard again in Settebello and you can hear patron noise from normal conversations.

On June 19 at 5:40 p.m., there were three patrons sitting, only two were in the store and they were in the chocolate area to order. Again, the humming noise at Settebello could be heard, and the patron noise could also be heard.



June 20 at 11:30 a.m., there were eight patrons sitting. There were four patrons to order. There was a humming noise again. This was consistent. The humming noise was present at Settebello and you could hear some patron noise, conversation.

June 21, at 6:00 p.m., there were 15 patrons sitting, eight were standing around drinking or eating, and there were two ordering in one of the sections. The humming noise continued again on this day, and you could hear some patron noise.

Also, on June 21, the same day, a half-hour later at 6:30, there were 14 patrons sitting, two were hanging around just drinking or eating, and three were ordering at either location. Again, the humming noise was present and you could hear some patron noise.

Finally, on June 22, at 5:45 p.m., there were 12 patrons sitting, five patrons were ordering at both locations, a total of five. Again, the humming noise could be heard at

Settebello's and you could hear some patron conversational noise.

"L.A. Burdick management has been diligent in making several adjustments by removing some seats and blocking off bench space to insure compliance with the stated licensed capacity of 16 seats. L.A. Burdick's patrons do not appear to be rowdy; however, even when engaged in a normal conversational tone, the noise penetrates the wall and can be heard in Settebello.

In order to ascertain whether noise emanates from another location, I also checked next door, the Cafe of India establishment located next to Settebello, and found no evidence of noise sources from that establishment."

So this basically concludes my report. I just want to add that the humming noise is a consistent noise. It's not extremely loud. It's more of a nuisance. And the patron noise is not extremely loud, but you can hear. You know that there's conversation on the other side of the wall but it's not extremely loud. But you know there's

someone on the other side of the wall in conversation.

MR. SCALI: Where is the humming noise coming from?

MR. HEDLEY: The humming noise is throughout Settebello. It was very difficult to determine where it was. I didn't want to unplug different things to ascertain where it was coming from because I believe that they needed their refrigeration, their AC, and all these other things. So I decided not to do trial and error.

MR. SCALI: But you were able to determine it was coming from Burdick's.

MR. HEDLEY: Yes. It was definitely not coming from Cafe of India, because I did go over there and check things out and nothing could be heard from the wall that separates Cafe of India and Settebello.

MR. SCALI: It wasn't coming from outside; it wasn't coming from upstairs; it wasn't coming from the street; it was just coming from the interior?

MR. HEDLEY: Yes. In my judgment, that's where it appeared to be coming from.

MR. SCALI: Questions?

MS. WATSON: I'm just wondering if this isn't -- are we trying to determine if this is unlawful noise or if this is something that has to be dealt with now with Settebello, myself, and the landlord, and then we can move on to the other issues.

MR. SCALI: We wanted to get an objective point of view to see what was happening, numbers of people, the noise that the people next door were complaining about. It seems like from what Inspector Hedley is telling us is that there's a humming noise from either the cappuccino machine or the vent.

You can hear people through the walls from what he's saying, but it's not loud. It's not coming from the street, so it's definitely coming from your store. In order for us to enforce that, it has to go out onto the public way. So if I was to make a determination, it's a landlord issue

between two tenants. But even though that being said, it still is within our purview as to whether the public good would be served by increasing the capacity and adding the basement on to your premises description.

I don't know if the other Commissioners have any questions about the report. I didn't want to gloss over the report if they have any questions.

MR. HAAS: No question.

MR. TURNER: Mr. Chair, through you to Inspector Hedley. Inspector, just to clarify, when you went out to check on the conditions on these dates, I assume you went into one side to check capacities and then went over to the other side to listen to the complaints.

MR. HEDLEY: That's correct.

MR. TURNER: In your report you have patrons standing and patrons sitting, and then in some cases, it would appear that they exceeded the 16 seats. The people that were standing to order, did they remain after they received their order, or

did they leave? Were they just there to order, pick up and order, and leave, or did they actually add to the capacity of the patrons sitting?

MR. HEDLEY: About 90 percent of those who were in line actually ordered and left.

MR. TURNER: Thank you. No more questions, Mr. Chair.

MR. SCALI: I guess there's some history here that maybe we don't know about. Have you been talking to your landlord about this?

MS. WATSON: On a nonstop basis, yes. I guess your landlord is here; he's raising his hand. Before we go to him, is there conversation, lawsuits? What's going on?

MS. WATSON: There's things in the works that we're trying to figure out with the wall that is between us and Settebello.

MR. SCALI: Maybe we should ask your landlord if there's a plan.

MS. WATSON: There is a plan.

MR. SCALI: It sounds as if you have two tenants who are unhappy. To me it's a landlord

issue if the tenants are unhappy, but it still affects your application in some way. So if you want to come forward and you want to speak, sir, just give us your name.

MR. COHEN: My name is Richard Cohen, CGI Management. I'm the property manager and Jim Wolfson, who is here, is actually the property owner. I've been managing the building since 1976 I think it is, so I'm familiar with the property.

To address the issue at hand, there is some noise that seems to be penetrating the wall, the humming noise that the inspector mentioned. We've tried to figure it out. We've plugged and unplugged certain things, and at this moment, we can't determine where that's coming from; whether it's coming from Burdick's, whether it's coming from somewhere else. It's unclear to us exactly where that noise is coming from.

As the inspector said, the noise at times is there but it's minimal. Burdick's, in my opinion, has operated with merchants coming in and out in a positive way. We are trying to -- we've

had acoustical people, engineers, consultants look at the property and try to assess noise and the best way to resolve the problem.

We have presented to both Settebello and to Burdick's a resolution situation. That resolution situation at this moment has not been agreed to by the parties. We are trying very hard to solve the problem and trying to get neighbors to be neighbors. It is a task that we are working on.

MR. SCALI: Can I ask what the plan is? Is there a plan to do acoustical soundproofing to the wall?

MR. COHEN: There is a plan to try to improve the soundproofing of the wall. There are several different approaches to that plan, and there are several options of the best way to do it, the most cost-efficient way to do it, things of that nature.

MS. WATSON: The last plan that was presented was to close down Burdick's for two weeks and to put a wall up on our side, so we're trying to negotiate that.



MR. SCALI: And I'm assuming it's a cost discussion; is that what the issue is?

MS. WATSON: Yes.

MR. SCALI: As to who is going to pay for what?

MS. WATSON: Yeah. We said we'd pay for a third. We have already agreed to pay for a third.

MR. SCALI: Questions, Commissioners?

MR. HAAS: No questions.

MR. TURNER: No further questions.

MR. SCALI: Thank you very much, Mr. Cohen.

MR. SCALI: Does anybody else want to be heard? Come forward if you would. I just want to make sure we're not repeating the same thing we said last time.

MR. LEVIN: I'm going to do my best. I'll try to remember everything I said last time, and if I repeat it, it's an accident.

I'm Philip Levin, Treasurer of Settebello. I wanted to at least start off with

one issue. We were here and we're grateful that you're considering this noise issue, but I think it's been somewhat misrepresented in terms of the degree, not on purpose, but because of the timing of Inspector Hedley's visits.

As I believe I -- I'm not sure I said this last time, but as Henderson said, we can hear people talking through the wall even with a relatively small number of people. We are here both about that and about overcrowding issues, about blocking and so forth, as I mentioned last time. We believe those issues are tied together. I think what's being grossly understated here is the degree to which capacity has been a problem there. The degree to which capacity has both influenced some significant part of the noise problem, and probably all of the crowding where we can't exit and enter our own space.

So just in terms of rough numbers, my claim is -- because we've worked really hard to make sure this is accurate. In fact, when they say 16 seats, it's not 16. It's 25, because that's how

many people sit on the bench seating on a regular basis. So whatever they say about 16, I substitute the number 25 to begin with.

The second thing is the degree to which their overcapacity is not small. It's estimated between 60 and 80 people. The noise increases actually not directly with that, it increases faster than that. It's not linear.

So in other words, when Henderson hears that sound, and he can hear it with only a handful of people in there, when you add another 60 or 70, it's like as some reviews at Burdick's own website say, "like a large noisy cafeteria." And you quoted your own customers as saying, "it's a hellish atmosphere."

MR. SCALI: I think we've already covered all of that.

MR. LEVIN: I don't think we said that. But I want to point out that that's -- okay, fine. So that's where that comes from.

So in other words, I don't want it to be misrepresented tonight, even though Henderson

did a great job and he was very accurate, it's not fair to Settebello to assume that that's the beginning and end of the problem. And it doesn't address our crowding issues. It doesn't address that fact that it's very likely that they're overcapacity. And I would appreciate it very much so if we could at least have Jay Fleming, who I brought in to help me understand these issues, just briefly present what he has heard.

MR. SCALI: Because I don't believe That L.A. Burdicks gave him permission to be on their premises, I don't think you can do an analysis of a premises without having permission to be on there. I don't think we'll be able to accept the report.

MR. LEVIN: I'm not sure I understand that. It's a public space; right?

MS. WATSON: There's pictures of our customers that you have in your report.

MR. SCALI: First of all, we don't take expert testimony when we don't know where the expert is coming from. And because from what L.A.

Burdick is telling me, they didn't give permission for this gentleman to be on the premises.

MR. LEVIN: I'm sorry, I can't hear you.

MR. SCALI: You can hear me very well, sir. I'm right here.

MR. ZAPPIA: I'm sorry. Let me say something.

MR. SCALI: No, no. Listen, I'm telling you very clearly, L.A. Burdick did not give him permission to be on the premises, so I don't know how he can do an analysis when he's not allowed to be on the premises.

MR. LEVIN: From the floor plans that were submitted to the Building Department.

MR. SCALI: That's my analysis on that.

MR. LEVIN: I would at least like to say that the building is spec'd for business-class, which is for a business use, which is 49 max. And the calculations that were performed on the floor plans submitted to the Building Department are not

something that were made up anywhere else, shows that a reasonable standing capacity of 16 seated, 17 standing, plus four staff.

MR. SCALI: So you would be happy with 16 and 17?

MR. LEVIN: That's right, plus four staff. So at the very least I would at least like to say that. I'm not sure where 38 standing and 54 people come in with a seating of 16.

The only final thing, Chairman Scali, whatever you say, whatever it is, whatever the number you finally decide on, there is a long history there of breaking these rules of the Commission. I would really like to feel comfortable that those rules are enforced and held because they don't seem to be. They're repeatedly breaking code.

MR. SCALI: If they are approved for an increase, then of course, it's up to them to maintain those numbers. They would have to make sure that those numbers are maintained in some way. That's why I asked Ms. Watson, how would she

maintain that.

MR. LEVIN: I understand that it's unreasonable to 16, and the 17th person, you're out of there. There has to be some amount for people, so I'm fine with that. I'm just not fine with 60 and 70 extra people, and that's what we counted there.

One final thing is as Chief Turner was discussing about the classification of the building, which is very important in fact, because assuming what I said is true -- and I'm not going to even tell you that you have to -- but assuming my estimates are true where there are regularly during their busy season, 70 and up to 80 people there, that is a significant safety issue for those people. And in fact, the building rear exit, which has been cited twice for being bolted shut, cited twice for having trash and milk crates in the back, how are those people going to get out if they had to get out the back. The door swings the wrong way, it's not up to code. The whole back alley is full of permanent and temporary obstructions.

MR. SCALI: I think we have all that.

MR. LEVIN: I just want to say it's scary to me even as just a citizen to see that.

MR. SCALI: What have been your dealings with the landlord?

MR. LEVIN: In terms of?

MR. SCALI: These issues.

MR. LEVIN: Mainly we've been focused on, as you suggested, which is normally more of a landlord-tenant issue, was the noise. The crowding capacity, I think that you even said yourself, it does -- I'll tell you, if it were just us being the staff and owners bothered by it, I don't know what I'd think about it, but it crosses a line because our customers complain about it.

We rely on a very small number of customers; we're a boutique. If one customer complains at Burdick's and leaves, they'll never notice. At Settebello, it's a big deal. When we start hearing our customers saying, "What did you say," and that kind of thing, it's very troubling. When we have to escort our customers out the door,



it's very troubling.

MR. SCALI: Thank you very much.  
Anybody else want to be heard? Questions,  
Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: You get the final word,  
Ms. Watson.

MS. WATSON: I don't know what to say.

MR. SCALI: Do you want to take the  
time to go and look at your plan again, and amend  
your concept? It's up to you.

MS. WATSON: I would rather go through  
an approval or whatever right now, and I would  
rather just amend it after --

MR. SCALI: I'm not saying you're  
going to get what you actually applied for.

MS. WATSON: And I'm also willing to  
take out the rest of the stools in the cafe to keep  
the seating down to 16, if that's the case. I took  
out two more this week.

MR. SCALI: Pleasure of the

Commissioners?

MR. HAAS: Under advisement.

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

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: You can continue to confer with Mrs. Lint, if you choose to amend your plan. We're scheduled to vote July 2, at 10:00 a.m. here in this room. If for some reason you should choose to amend your plan and change it, or something else changes, then notify Mrs. Lint and then we'll continue the matter. Thank you very much.

MS. LINT: On the middle of Page 3, Application, City of Cambridge, Cambridge Public Library, Alan Burne, Project Manager, has applied for a Garage license at 449 Broadway for 70 autos, and 700 gallons of gasoline in the tanks of cars only. Applicant is also applying for a Flammables license at said address for 1,000 gallons of Class II to be stored in an above ground tank.

MR. SCALI: Good evening. We're hoping this one will be a short one so we'll pull you up and see if it is or not.

Just give us your name, please.

MR. BURNE: Alan Burne, A-L-A-N B-U-R-N-E.

MR. SCALI: What is your role?

MR. BURNE: I'm the project manager for the City.

MR. SCALI: This is the Library Project?

MR. BURNE: Yes.

MR. SCALI: So this is the garage that's associated with the library underground?

MR. BURNE: Underground garage, yes.

MR. SCALI: You're applying for 70 autos and then the gallons of gasoline that are in the tanks only. And then also, 1,000 gallons of Class II four emergency generator?

MR. BURNE: Yes. It's a remote location to the generator.

MR. SCALI: Deputy Chief?

MR. TURNER: Mr. Chair, as you stated, this is the Library expansion project. The Fire Department has reviewed the application for the Flammables license. We have issued the annual permit on this. The facility has been inspected and everything is in compliance.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. SCALI: Anybody from the public want to heard on the garage? Did you notify abutters?

MR. BURNE: Yes.

MR. SCALI: It's a big list.

MR. BURNE: Several.

MS. LINT: Do you have the affidavit as well?

MR. BURNE: I don't have that.

MR. SCALI: You can get that to us. It's just a page certifying that you notified the abutters. You have to sign it and it has to be notarized.

Pleasure of the Commissioners?

MR. HAAS: Approval based upon the presentation of the certification.

MR. SCALI: Motion to approve subject to the affidavit.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much. Good luck with the project. When's it going to be open?

MR. BURNE: Hopefully around Labor Day.

MS. LINT: Top of Page 1, Disciplinary matter: Samira Jallad and Said Abu-Zahre for operating a commercial parking lot without proper permitting at 3 Vail Court/139 Bishop Allen Drive.

MR. SCALI: Have a seat. Officer Arcos, have a seat. Good evening. Tell us who you are for the record, please.

MR. MACIOLEK: My name is John Maciolek, counsel for Mr. Abu-Zahre.

MR. ABU-ZAHRE: Said Abu-Zahre.

MR. SCALI: And --

MS. JALLAD: Samira Jallad.

MR. SCALI: Officer Arcos, why don't you take the lead on this.

OFFICER ARCOS: This is about 3 Vail Court and 139 Bishop Allen Drive, and an illegal parking business.

On May 11, 2009, I traveled to the above address, which is at 3 Vail Court and 139 Bishop Allen Drive in order to investigate a complaint to this office of what appears to be an illegal use of a parking lot as a business without

the proper permits. This parking is located adjacent to the apartment buildings and the only permit that was issued to the owner, Said Abu-Zahre, of the property by the City of Cambridge was a permit for 30 cars for his tenants. The permit expires on May 1, 2010.

The apartment building has been vacated and there are no tenants residing at this location. The doors and windows have been boarded, and I couldn't find a custodian or someone who cares for the property. However, I had the opportunity to speak with a female who was exiting the parking lot in her vehicle.

I identified myself as a City of Cambridge police officer and I asked her if she was renting a parking space. She told me she wasn't, but her boss, Mr. Steven Goldwin was in fact renting two parking spaces, one for him and one for her.

She wants to remain anonymous but she provided me with her bosses telephone number. I called him several times and left messages.

I came back and checked on five different vehicles with Mass. registrations that were parked on the lot, and learned that the vehicles came back to owners that didn't reside in Cambridge. These owners were from Brockton, Arlington, Boston, and Quincy. Furthermore, I observed five reserved spaces with signs for Zip Car parking.

The telephone number from Mr. Abu-Zahre is 617-868-2409. I attempted several times to contact him but no one answered. I was informed by Mrs. Lint that I could get a new telephone number from the Inspector's office, and they provided me with the following information: Samira Jallad, Property Manager, 2397 Massachusetts Avenue, Cambridge, Mass., telephone number 617-945-7012.

At that time, I presented the investigation to Mrs. Lint and she called for a hearing.

MR. SCALI: Officer Arcos, you were sent out there by Mrs. Lint work because of



complaints that were received by our office?

OFFICER ARCOS: Yes.

MS. LINT: I believe it was an anonymous complaint and it actually came through the City Council.

MR. SCALI: The City Council complained that some people were parking in that lot that were not residents of that building or in that area.

OFFICER ARCOS: That's correct.

MR. SCALI: So you determined from your report that people that were parked in there were people who did not reside in the City or in that building.

OFFICER ARCOS: That's correct.

MR. SCALI: The building was boarded up.

OFFICER ARCOS: Right.

MR. SCALI: And the permit that is approved for that location is?

MS. LINT: They have a license for an open-air parking lot. Traffic and parking has not

given them a permit to operate a commercial lot, and it's my understanding that in order for that to happen, there would have to be a PTDM plan.

MR. SCALI: To get a commercial parking permit through the Traffic and Parking permit process.

Questions, Commissioners?

MR. TURNER: No questions.

MR. HAAS: No questions.

MR. SCALI: We'll give you every opportunity. Hold on.

Questions of the officer? Do you have any questions?

MR. MACIOLEK: I'm just curious to know on how many occasions you've been to the property and made those kinds of observations? Was that just once?

OFFICER ARCOS: No, about three times.

MR. MACIOLEK: What were the other dates? So you have them recorded?

OFFICER ARCOS: It was one day after the other, so that was May 11, it was May 11, and

May 12 that I was there.

MR. MACIOLEK: It was May 11 and May 12; those two days?

OFFICER ARCOS: Yes.

MR. MACIOLEK: And you had a chance to observe five cars there?

OFFICER ARCOS: There were more vehicles than five. I just ran five different plates.

MR. MACIOLEK: Did you run any other plates or just those five?

OFFICER ARCOS: Just those five.

MR. MACIOLEK: How many cars did you observe, total?

OFFICER ARCOS: Around 10.

MR. MACIOLEK: If you have another question, go ahead.

MR. ABU-ZAHRE: You said you did call my phone number.

OFFICER ARCOS: I called this phone number.

MS. ABU-ZAHRE: That's my old phone

number.

OFFICER ARCOS: 617-868-2409.

MR. ABU-ZAHRE: That's not my phone number.

MR. SCALI: It's really not relevant. He was just attempting to reach somebody to contact them about the lot so it's not really relevant to the case.

MR. MACIOLEK: I guess --

MR. SCALI: If you can let your attorney speak and then we'll hear from you.

MR. MACIOLEK: That's sometimes a challenge, but that's okay.

I guess what the officer didn't mention was looking in any public records or any other information. I imagine you didn't look at the old zoning records, or the variances, or the history of the property.

OFFICER ARCOS: No, I didn't.

MR. MACIOLEK: Because the property has been used as an open-air parking lot for many many years, dating back as far as the 1940s and

continuing into the '60s, and even into the '80s when my client purchased the property. So they've used that facility, that lot, that property for open-air parking for their tenants and for commercial use since the 1980s. And their predecessor, Ann Tuttle, used it as well for commercial parking, and it's indicated in some of the old zoning decisions.

The need to do a traffic management plan, I don't think is implicated by the bylaw, because it's a use that's been in existence well before any of the regulations requiring that.

MR. SCALI: When did the building close?

MR. MACIOLEK: Said, you'd have to take that one.

MS. JALLAD: It's almost around six months.

MR. SCALI: So the parking there was for the people who live in that building?

MS. JALLAD: No. I'll tell you something. The parking which is near the building

is for the tenants and they never pay parking. And that is a commercial parking from the moment I received it from 1993, and I usually be on time. Even when I took to Ranjit, he said, "Samira, you don't have a parking lot." I said, "I do." He said, "I just look and you don't have." I said, "What is this?" I show him the letter which I pay the parking lot spaces. He said, "I don't know." I said, "That's okay. It seems to be it's not from you. I can't talk anymore."

MR. SCALI: It's the category of parking is what we're talking about. You have an open-air parking lot permit, but it's not a commercial parking lot permit.

MS. JALLAD: In 1947, there was parking commercial, and (inaudible), in 1947, I doubt it.

MR. MACIOLEK: There was actually. According to the variance, there was parking for the tenants and for the people who parked in the neighborhood.

Do you want to stop for a second?

MR. SCALI: You lost your microphone and I didn't even see it go down.

MS. JALLAD: When I received the building the City Hall was cleaning the tenant's area, and there was a yellow line near the building that is for the tenants. So when they were cleaning it I asked them, "Why do you clean this and you don't clean my parking space?" They said that City Hall ordered us from before a long time. I said, "Then if you don't continue to clean it all, I will continue." They cleaned the area and they put it on the parking space. So I stopped them from cleaning it.

MR. SCALI: Mrs. Lint, you can clarify this. At some point in time, there were variances?

MS. LINT: There was a variance. I believe it expired back in the '60s, so any subsequent use of that space for a commercial lot was in violation of City ordinances and Traffic and Parking permitting regulations.

MS. JALLAD: And we're in the process of demolishing it.

MR. SCALI: Demolishing the building?

MS. JALLAD: Yes.

MR. SCALI: So at some point in time, there was a variance back in the '60s, or before that, that allowed a mixed-use type of thing. After that, the variance expired.

MR. MACIOLEK: And the parking continued.

MR. SCALI: And the parking continued over the years as resident and commercial parking; is that what you're saying?

MR. MACIOLEK: Yes.

MR. SCALI: And Traffic and Parking has determined that it needs a commercial parking permit?

MS. LINT: It needs PTDM.

OFFICER ARCOS: Mr. Chairman, the only record that I saw on file is a permit for 30 cars for the tenants. That's what the permit says specifically.

MR. SCALI: Tell us what your plan is?

MR. MACIOLEK: The long-term plan is



to demolish the buildings and convert the property into a more viable use.

MR. SCALI: For parking?

MR. MACIOLEK: No. There would be parking associated with whatever use goes there. My clients have begun those discussions with representatives of the City. They're looking for input as to what would be the best use there. They have a lot of different ideas, and I guess I'd let you describe some of them. But the long-term plan is simply to demolish the buildings and revitalize the property.

MR. ABU-ZAHRE: Could I say something?

MR. SCALI: Go ahead.

MR. ABU-ZAHRE: When the building was bought in 1981, and since that time, we have been receiving invoices from the City Hall of the City of Cambridge asking us to pay fees for the parking in that area, which we have been paying on time ever since 1981. To my understanding from the person who sold us the building, he said this is parking where we park cars for Cambridge back in

that area ever since that time. We have been going on ever since then. We have been maintaining a good place for parking and protection for people who park there.

MR. SCALI: I understand that you've been getting permits all these years. It's just that the zoning was not the proper zoning for the permit. You can still get an open-air parking lot license every year, but if it's not zoned for the use that you're using it for, the license really isn't meeting what you need for what the zoning requires. I understand you pay your license every year and you did that, but it was for a different category of parking.

MR. ABU-ZAHRE: It wasn't for the tenants who was there. It was there for people from outside there as well.

Secondly, let me say this, we are at present in the process of rebuilding the whole area and putting something appropriate for the City of Cambridge, which the City of Cambridge will be proud and we will be proud of what we will do.

But our business has been going on, and in my knowledge as a real estate developer, it is a grandfather procedure that has been going on.

MR. MACIOLEK: I think we have a disagreement on that one.

MS. JALLAD: Can I ask the policeman a question?

MR. SCALI: Ask me and we'll ask him.

MS. JALLAD: He spoke about Zip Car. Let me tell you, there are a lot of Zip Car have parking in the pump station area. Is that allowed? This is what I want to ask.

MR. SCALI: I have no idea.

MS. JALLAD: He knows that it's not allowed because it's a petrol and oil. If he goes and check, he will find four areas they have Zip Car, and that is a dangerous thing. In my area, it's not a dangerous thing because I took care of the building all of the time. Sometimes I don't have time because I can't go, but most of the time, I take care of the building. And ask all of the tenants who are there, they feel happy. Even my

neighbors, sometimes they try to make problems with me and they have some courts against me, and I won that.

MR. SCALI: The issue is that other departments have made the determination that the parking you have there is not proper parking. We certainly have a permit for you to park there for residential parking, but if Traffic and Parking has determined that you need a PTDM plan, and a commercial parking permit, I guess I would have to suggest to the Commissioners that you have to do that or stop the parking that you're doing there now.

We can certainly give you time to do that. We have the luxury of determining that there is time to do that. Maybe in the meantime your plan changes in terms of the use and what you're going to do with the building. Maybe all that is determined at the same time.

MS. JALLAD: We're doing this now. We are in the process of demolishing and all of these things, and they can change what they wanted to

change. But the problem is we're not now in a way that we want to make another hearing for a commercial. It will be demolished within six months to one year, and I can give a promise for that, because I am doing the survey and everything, and I'm trying to take bids for demolishing the building, and I have around five bids.

MR. SCALI: So that's your plan; within a year to do something with the building.

MS. JALLAD: It should be. It's not my plan, it's the landlord's plan because I don't have the money, but I'm his sister and I love this parking as if it's my son. I tell you the truth.

I came to this country because --

MR. SCALI: I'd love it too if I was getting the income from it.

MS. JALLAD: I came to this country and that was the only area which I live in from the moment I came in 1993. I love this place. I don't know why. Sometimes you have things that --

MR. SCALI: Does anybody else want to be heard on this matter? Any other questions,

Commissioners?

MS. JALLAD: I'm looking for  
(inaudible). This is what I can see.

MR. SCALI: There's not much leeway  
that we have here. If Traffic and Parking  
determines you need a PTDM plan with a commercial  
parking permit, you need to go to them and do that,  
or appeal it in some way. Then come back to us.  
Or, we make a determination that you --

MR. MACIOLEK: We haven't heard from  
that office. We haven't heard from any zoning  
office.

MR. SCALI: We would notify them  
through this hearing that this is our  
determination, and then they would go forward from  
this.

MS. JALLAD: Why don't you wait  
another three, four months, and see what's going  
on? Three, four months, not more than this. This  
is what I'm asking for, just three, four months  
just to know what am I doing with the building.

MR. SCALI: I guess that's why I asked

your attorney what your plan was because we have all the time in the world if there's a plan, I guess.

MS. JALLAD: There are two plans.

MR. SCALI: Does someone want to speak? You have to come forward and tells us your name.

MS. VJORLUND: Laura Vjorlund.

MR. SCALI: Where do you live?

MS. VJORLUND: 9 Saint Paul Street.

And I think I was the person who was the anonymous complaint. I just want to say I was not complaining about the parking lot. I was complaining because people were going in and out of the vacant buildings and I was a little afraid that someone would light a fire inside or something like that.

MR. SCALI: A byproduct of your complaint is the lot itself.

MS. VJORLUND: I have no problem with the parking and they've done a fabulous job, and the Inspector's Department has done a fantastic job

in making sure the buildings are totally secured. Just so nobody is going in and out of the buildings anymore.

MS. JALLAD: I close them very well. I secured it very well, but I have to get three, four bids again, until I got the right price for it.

MS. VJORLUND: And we look forward to seeing your plan.

MR. SCALI: Anybody else want to be heard? Pleasure of the Commissioners?

MR. HAAS: I think our dilemma right now quite honestly is I guess based on what we're being told by Parking and Transportation that the lot is not properly permitted. So I think that's got to get resolved and I think before we can take any action with respect to this matter.

And I think the Chairman's right, I think if you've got a plan, we can afford you some time to put the plan in place. But without a plan, you're kind of leaving us in limbo. We've got a ruling and an interpretation from the department



saying you're not properly permitted. So at some point, we're going to have to take some action.

My inclination is to continue the matter for a certain period of time to give you an opportunity to present us with a plan or put together a PDM plan, and apply for a commercial permit.

MR. ABU-ZAHRE: We do have a plan. I think the sooner we are presenting the plan to the City of Cambridge, the better for us as well as for the City of Cambridge, and we will do that. If you want me to give you an answer next week, I shall.

MR. HAAS: I don't think we're looking for the next meeting.

MS. JALLAD: We have a meeting with the Zoning Board next Thursday, 12 o'clock.

MR. HAAS: Do you want to reschedule it for the next July meeting?

MR. SCALI: Is it a meeting with the Appeal, or is it just a meeting?

MS. JALLAD: A meeting to show them our plans.

MR. SCALI: So it's not a hearing?

MS. JALLAD: No, no, to show them our plans and what we're doing there, because we want something -- I tell you the truth, I want something to be proud of in front of the society.

MR. SCALI: I understand your dilemma. I'm going to suggest that we continue to August 10 and that will give you a month or so.

MR. ABU-ZAHRE: We have a plan but we need to define this plan.

MR. SCALI: We're going to move on because we've got people waiting.

Motion to continue to August 10.

MS. JALLAD: Can you give me until September?

MR. SCALI: This is a gift, August 10. Continued to August 10. Moved.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Thank you very much.

MS. LINT: Disciplinary matter: New Asia in Cambridge, Inc. d/b/a New Asia Restaurant, Sally Loh, Manager, holder of a Wine & Malt Beverages as a Restaurant license at 1105 Massachusetts Avenue due to a noise reading by Chief Licensing Investigator, Andrea Boyer, which shows that you are in violation of the Cambridge Noise Ordinance. (Report is available for review in the License Commission).

MR. SCALI: Good evening. Tell us your name, please.

MS. LOH: Sally Loh, S-A-L-L-Y L-O-H.

MS. BOYER: Andrea Boyer, Licensing Investigator, City of Cambridge License Commission.

Basically why we're here today is just so that we can have this on record of the noise violation at 1105 Massachusetts Ave. for New Asia Restaurant. This is a case that actually started in June 2000, and it had been fixed where there was a whole new system that had been put in, and that was supposed to be done in 2006. The complainant had said, yes, that took care of the noise. Thank

you very much.

Recently, on May 13, 2009, I did readings at 3:30 in the afternoon and the levels were back to being 66.7. Since that is residential behind that commercial, it does have to meet the residential guidelines, which is 50 DBA.

That's pretty much why we are here, and I just want to be able to have this on record because it's so long-term and I promised the resident that we would find a solution for this or to start a penalty of a fine.

MR. SCALI: This is an HVAC system on the roof?

MS. BOYER: Yes. There are other units on that roof. When I did these readings, strangely enough, there were no other rooftop noise. That never happens for me and it just happened, and I'm thankful for it because it can be such a long-term reading when other units are on.

MR. SCALI: Ms. Loh, what's your plan?

MS. LOH: As you see in the report, like since 2000 we've been fine; that's the year we

fix the machine. And in 2006, we got rid of it and put a new one there.

Recently, I do make probably a mistake. I rent the morning. You have a restaurant in Cambridge called Smart Gourmet. They have a truck. So he approached me and say our restaurant in Cambridge near Lechmere have a fire, we couldn't operate it, and can I use it in the morning? But I feel fine helping someone else so I say okay.

I think they do something to the fan. And I have checked the machine, and today again, once and for all, I locked the -- we operate with a timer, so the timer govern the time. They probably start earlier than they should. I already locked the machine and I have the -- like the machine have a pulley. If you turn it too tight or too loose, they govern the noise, so we have the mechanic to adjust it. But at this point, I just change a new pulley. They have done the job, but because in recent days it's raining so we just finish up today.

MR. SCALI: Did you put a new system in?

MS. LOH: A new pulley that like you turn and it govern the noise at this point because our machine is only three years old. It's brand-new, not brand-new, but it's a newer machine.

MR. SCALI: Do you think that that will fix the noise.

MS. LOH: It's fixed already, and then I do go and buy a noise -- in the future, I'm going to look at it.

MR. SCALI: That isn't technically going to be legal with us. Ms. Boyer will have to check it for you and make sure that it's okay.

MS. LOH: I know, I think so too. But because it's been raining for a few days, so we just get today time to fix it. I hope she can come and take a look. The mechanic sometimes they can tell me a story and I'm not good reading it yet. I have to learn how to read it. So I'm still relying on their work.

MS. BOYER: If I may, also, one of the

situations that Ms. Loh had mentioned was someone using the building at different hours to help for a truck. The complainant did state that previously, even when it was -- you know, maybe some days it was really quiet and the other times loud. If they were shutting off at a particular hour so it wasn't bothersome to them at night. but some of the complaints took place at 2:45 in the morning and then another one was at 4:45 in the morning based on possibly them prepping to put this food in this truck.

MS. LOH: So now I locked the timer. Now nobody can open it.

MR. SCALI: It's a violation daytime and night time; right?

MS. BOYER: Right. Also, even to shut that off -- I mean that's for -- is that the ancil system? Is that the venting system for the cooking? So to turn that off may not be necessarily the safest thing to do. That may not be a solution.

It's nice that it's off but at the



same time, is cooking still happening and if something is off that may be venting the system, it's not necessarily --

MR. SCALI: You said you feel like you fixed it, and as soon as it stops raining, which we're all waiting for it to stop raining --

MS. LOH: He do it under the small rain. I say, "You have to do it. I'm going to a hearing, right."

MR. SCALI: Ms. Boyer, do you want us to continue this?

MS. BOYER: As soon as the sun breaks, I will make an appointment.

MS. LOH: I want to be there so make sure I am.

MS. BOYER: I will definitely make an appointment.

MR. SCALI: Do you think it best if we continue the matter?

MS. BOYER: That would be nice, and then obviously if it's in compliance, we can take it off the agenda as we have done in the past for

certain situations.

MR. SCALI: Let's continue it until July 13. That will give you some time. Anybody else want to be heard on this matter? Anybody from the neighborhood that's here?

Questions, Commissioners?

MR. HAAS: The only question I have is the establishment that you're leasing your business to, are they properly licensed in the City?

MS. LOH: Yeah, they're license. The Health Department come and they say it's okay to rent it to them.

MS. LINT: It's one of our licensed food trucks that lost their place.

MS. LOH: They're very popular at MIT, popular in there. I eat from them before so that's why I go along with them.

MR. SCALI: Motion to continue to July 13.

MR. HAAS: Motion to continue.

MR. SCALI: Moved. Seconded?

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: See you July 13, unless  
it's fixed.

MS. LOH: Yes. I hope we don't have  
to.

MS. LINT: Disciplinary matter: RK Trade Corp. d/b/a C'est Bon Convenience, Radwan Kheireddine, Manager, holder of an All Alcoholic Beverages as a Package Store license at 1436 Massachusetts Avenue due to your establishment selling alcohol to a minor using false identification on May 20, 2009. (Report is available for review in the License Commission).

MR. SCALI: Good evening. Tell us your name.

MR. KHEIREDDINE: Radwan Kheireddine.

MR. SCALI: Ms. Boyer.

MS. BOYER: Thank you, Mr. Scali. This is part of the underage investigation that we've been performing over the last few months. This particular investigation was performed on May 20, 2009, at C'est Bon, located at 1436 Massachusetts Avenue.

A minor had walked onto the premise and attempted to buy a sixpack of beer. That minor is 17 years old, the birth date of 10/15/1991.

A sixpack of Bud Light was purchased

utilizing a \$20 bill that I had given to the underage individual. The underaged was asked for an ID. On this particular investigation, a minor was using a false Massachusetts driver's license. The license did not show the correct picture or height of the minor who used the driver's license, and the license had also expired in June of 2007.

After the purchase had been made, the minor met me outside of the establishment where I took the sixpack back into the establishment and showed the employee -- actually, there were two employees, two males -- what was wrong and incorrect with the license at that time. And I told them that I would tell the Executive Officer that we would have a hearing on the issue.

MR. SCALI: Ms. Boyer, this was in keeping with your continuing field investigation using false, expired, out-of-state IDs.

MS. BOYER: This one was actually a Massachusetts license.

MR. SCALI: This was a Mass. ID, okay.

MS. BOYER: What we try to do, Mr.

Scali, is at least have a person who is of the same maybe nationality, and this is what is available to me at the time.

MR. SCALI: So is this the gentleman that was the person who sold?

MS. BOYER: I do not believe so. You're the owner; right, sir?

MR. KHEIREDDINE: I am the owner, yes.

MR. SCALI: So it was another employee?

MS. BOYER: Yes.

MR. SCALI: And the person that you used was a 17-year-old intern?

MS. BOYER: No, actually not an intern, but someone who is being utilized through the Cambridge Coalition with Gisela Rots.

MR. KHEIREDDINE: My understanding was the license belonged to her sister, the driver's license.

MR. SCALI: So what does that mean; that it's okay to sell if it's a sister's?

MR. KHEIREDDINE: No, no, no. What I

meant is sometimes you can't tell the difference between a person.

MS. BOYER: That's untrue actually. What I stated to the two employees is that one of the oldest tricks in the book is for someone to use an expired license that may have been somebody's brother or sister. So maybe there was a miscommunication.

MR. KHEIREDDINE: I see. My understanding that's what they said.

MR. SCALI: It was a Mass. ID that expired in 2007 with someone else's picture on it. So I did you question your employee about it?

MR. KHEIREDDINE: I did question and then they confirmed that they sold it to a minor, and she brought the sixpack inside and determined.

MR. SCALI: Do you have an ID machine at all that can swipe the IDs?

MR. KHEIREDDINE: We do have an ID machine. At the time, the machine -- for some reason, he did not use the machine.

MR. SCALI: What good is the machine

if he's not using the machine?

MR. KHEIREDDINE: I know. I'm sorry.

MR. SCALI: Do you have a way that you train your employees? How do you train them on how to check?

MR. KHEIREDDINE: We do train them. There's no system bullet-proof. You know, once in a while I guess we are human. We make mistakes. But we do train them. We do check ID every single customer that comes in. We have ID sign. We check ID.

We have a plan with Harvard University. I am working with Dean Assistant to send someone from Harvard to work with us between 4:00 and 9:00 p.m. just to witness to be helpful.

MR. SCALI: Say that again. You have who from Harvard?

MR. KHEIREDDINE: Harvard University.

MR. SCALI: Who are they sending over?

MR. KHEIREDDINE: They're sending someone from summer school employee to work with us to just monitor their students; that they don't



come inside and buy liquor.

MR. SCALI: To make sure that certain Harvard students that are in there; that they can pass their Harvard ID if they come in?

MR. KHEIREDDINE: Exactly.

MR. SCALI: Have you been trained through our 21-Proof program through Frank Connolly?

MR. KHEIREDDINE: Yes.

MR. SCALI: Have all your employees been to the program?

MR. KHEIREDDINE: Not all of them, but most of them.

MR. SCALI: Did this gentleman go through the program?

MR. KHEIREDDINE: No.

MR. SCALI: Is he a part-time employee?

MR. KHEIREDDINE: No. He's full-time.

MR. SCALI: How come he hasn't been trained?

MR. KHEIREDDINE: He seems to be very

good. We never had any problem with him. I guess it's time to train him.

MR. SCALI: I guess he wasn't that good. Any past record, Mrs. Lint?

MS. LINT: Second offense. There was an offense in 2008.

MR. KHEIREDDINE: The first one was my wife. I couldn't suspend her.

MR. SCALI: You couldn't fire her.

MR. KHEIREDDINE: She would have fired me from home.

MR. SCALI: It sounds like we have a little bit of a problem if it's a second offense.

MR. KHEIREDDINE: What do you suggest I do?

MR. SCALI: It sounds like you need to have all your employees trained through our 21-Proof program. That definitely will help. We've been going through this problem with a number of different stores, and what they're doing is -- a lot of the employees are asking for ID, but they're not looking at it. They just, "Okay, you have an

ID." Any kid can give you any ID and it doesn't mean anything.

I guess there's got to be a better way to look at the ID and make sure that the employee is looking at the ID, or using the scanner and making sure that they're using the scanner to put the ID in there. And it's your responsibility to make sure that they do that.

MR. KHEIREDDINE: I understand.

MR. SCALI: On a second offense, you're talking about a one to three day suspension on our regular course of action. That can become serious as you get higher and higher with the offenses.

Does anybody want to be heard on this matter? Commissioners?

MR. HAAS: I would be inclined to impose a one-day suspension held in abeyance for six months, with the understanding that we'll do further sting operations, and if you're found in violation, then we impose that plus any other violation. That would be my recommendation.

MR. TURNER: I concur.

MR. SCALI: Did you want to say anything else?

MR. KHEIREDDINE: I just want to mention that our location maybe we see like a thousand customers a day, maybe. I'm not defending the person who checked the ID, but maybe he did not look carefully, just so many customers.

MR. SCALI: Well, he didn't.  
So motion.

MR. HAAS: I make a motion that we impose a one-day suspension held in abeyance for six months.

MR. SCALI: The motion is for a one-day suspension held for six months. And I'm going to, if I can, amend that to include the 21-Proof training for all employees, meaning all employees this time, including you and your wife.

MR. KHEIREDDINE: We did. Me and my wife already did.

MR. SCALI: That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: You have a right to appeal that obviously to the ABCC, if you should so choose.

MR. KHEIREDDINE: What is the decision?

MR. SCALI: A one-day suspension that will be held for six months. So if there are no other violations in six months, you won't have to serve that one day.

MR. KHEIREDDINE: Thank you.

MS. LINT: Disciplinary matter: Cardullo's, Inc. at 6 Brattle Street due to your establishment selling alcohol to a minor using false identification on May 20, 2009.

MR. SCALI: Good evening. Tell us your name.

MS. CARDULLO: Francesca Cardullo Sibil(phonetic).

MS. CARDULLO: Donez Cardullo Sebella.

MR. SCALI: Two Cardullo's I haven't seen I don't think. Ms. Boyer.

MS. BOYER: Once again, on the same evening of May 20, 2009, we continued with the investigation and gone to Cardullo's location at approximately 6:28 p.m., located at 6 Brattle Street.

Once again, we used the same underage individual who's 17 years old, birth date was 10/15/1991. The individual purchased a sixpack of Guinness beer with a \$20 bill that I had given to her, was asked for an ID. It was a male who was working. His name was Nicholas. I did come back

in and explained to him, asked him if he looked at the ID, and he had stated that he'd only been there for a month, and that he had not been trained on what an ID should look like.

I explained to him that the information would be given to the License Commission for a hearing.

MR. SCALI: This was the same individual that was at the other locations that same evening?

MS. BOYER: Yes, and the same identification was utilized, sir.

MR. SCALI: The Mass. ID that was expired?

MS. BOYER: Yes.

MR. SCALI: Tell us what happened.

MS. CARDULLO: Thank you for hearing us. I have some notes that were prepared by our business manager. I'd love to read those. That might clarify things.

Cardullo's has always been careful about the attentiveness to its sale of alcoholic

beverages to only those of legal age with proper identification. We take our responsibility very seriously, and sincerely apologize for our recent failing as noted in your field investigation citation.

"It has been and continues to be Cardullo's policy to instruct all employees in proper identification procedures for the sale of wine and beer at the shop. The cited employee was properly trained by the Cardullo's general manager. He has been an employee of the shop since January of this year, and since this incident has been terminated." He did lie about two issues. He said he'd only been there a month and he had been at the store for four months as an employee. We have his paycheck records to indicate that. He also lied about not being properly trained.

"As a result of the citation, Cardullo's has taken immediate measures to assure compliance and prevent a future occurrence as follows: Cardullo's prepared a written instruction form containing the Massachusetts law and



identification requirements for the sale of alcohol in the store. It was read by all employees under the guidance of the general manager. Each employee had to verbally insure that he or she understood the policies and procedures, and verify that fact by signing the form, which will be maintained in the employee's personnel file." I have a copy of that if you'd like to see it.

"The employee who violated the requirements and gave misinformation relative to his training and tenure has been terminated. Cardullo's has a zero tolerance policy in this regard.

Reference books of the US and international means of identification have been purchased and placed at the front register to assist in the identification process. All employees understand that if they are unable to accept or determine the validity of an identification with certainty, then the floor manager will make the call. If in doubt, we will refuse the sale.

We are open to further guidance by the Commission and give you assurance of our complete cooperation."

On a separate matter we met with the business attorney today and he had suggested the TIPS training, so we are looking into that.

MR. SCALI: I'm going to make even a better suggestion for you; that you use our 21-Proof training, which is certified by the JUA and all the other training certifications in the City. They will come out to you. Frank Connolly will come out and train all your employees at your convenience. And if you're a CLAB member there's a reduction in fees and that kind of thing.

TIPS is a great program but our program is geared toward Cambridge issues and Cambridge problems, so I would suggest that you do that.

MS. CARDULLO: Please sign us up.

MR. SCALI: I guess you also have to deal with the issue of changing over you manager since the death of your dad.

MS. CARDULLO: Yes. My sister and I are taking over the business.

MR. SCALI: We'll give you time to do that obviously, but we knew that that would be coming soon, either one of you, or whoever is going to be the manager.

MS. CARDULLO: The estate is currently in probate. It just got into probate.

MR. SCALI: So you have to wait until that's completed.

MS. CARDULLO: Yes.

MR. SCALI: So you terminated the employee and you do have a training signature that you have on a form.

MS. CARDULLO: Would you like a copy?

MR. SCALI: That would be great if you could pass it around.

Anybody from the public want to be heard on this matter? Questions, Commissioners?

MR. HAAS: Any prior violations?

MS. LINT: No prior violations.

MR. SCALI: Are you both there on a

regular basis?

MS. CARDULLO: Yes.

MR. SCALI: Is there a brother too that's involved?

MS. CARDULLO: Our half-brother is involved as well, not doing as much shop time, but is certainly co-owner with my sister and I.

MR. SCALI: You all have it under control. I'm assuming that you're managing it. Obviously we haven't recognized you as the official manages but being family members, I'm sure you're in control of the situation.

Pleasure of the Commissioners?

MR. HAAS: Warning.

MR. SCALI: Motion for a warning and 21-Proof training for all employees. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you. Good luck.

MS. LINT: Manpriya, Inc. d/b/a Doma, Jaswinda Pabla, Manager, holder of an All Alcoholic Beverages as a Package Store license at 56 JFK Street due to your establishment selling alcohol to a minor using false identification on May 20, 2009.

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

MR. GOLDBERG: Attorney William Goldberg, 620 Massachusetts Avenue, Cambridge.

MR. KIRKA: Sabas Kirka, I was the employee.

MR. SCALI: Ms. Boyer.

MS. BOYER: On the same evening, May 20, 2009, we also had gone to Doma at 56 JFK Street, once again, utilizing the same underage individual who is 17, birth date is 10/15/1991, utilizing the same identification as in the previous investigations.

A sixpack of Bud Light bottles was purchased utilizing a \$20 bill. The underage individual was asked for an ID. She explained to me after the fact that the ID was placed on the

counter upside down when asked. That's what she has stated to me; that actually the ID was upside down.

I returned with the beer, and stated when he was looking at the ID, this gentleman here, when he was looking at the ID that that was her, and she was 21. Looking at the ID that I -- I'm sorry, excuse me. I returned with the ID and I showed it to the employee and stated what was incorrect about the ID. He stated, "That was her, she was 21." It was stated by the minor that he didn't even look at the ID; that the minor is 17 and that the ID was expired, and I left the establishment.

MR. SCALI: Again, this is in keeping with the same field investigation for that evening on May 20. The same procedure was followed as in the previous investigations, and this gentleman here was the person that sold.

MR. KIRKA: Once she walked in and she bought a sixpack of Bud Light, I asked for the ID. She put it on the counter, she was over 21, served

her. Then she walked in and showed me the ID. It was 1984. And like she told me that she was 17, but like the ID said 1994. She's almost 25. I told her the person in the ID and the person that came in looked exactly the same.

MR. SCALI: So you're telling me you looked at the ID?

MR. KIRKA: Yes, sir.

MR. SCALI: The 17-year-old said that you did not look at the ID and it was face down. So you're saying that didn't happen?

MR. KIRKA: No. She put the ID on the counter, I picked up the ID, I looked at her, she was over 21, then I served her.

MR. SCALI: Ms. Boyer, did she have any other ID on her?

MS. BOYER: No, no. She only has that.

MR. SCALI: She had no other ID on her.

MR. KIRKA: That was the only ID, yeah.

MR. HAAS: Just tell me the specifications on the ID again.

MS. BOYER: What is incorrect about it, sir?

MR. HAAS: Yes.

MS. BOYER: It does not show the correct picture or height of the minor who used the driver's license, and also, it is expired in June 2007.

MR. SCALI: Do you have an ID scanner?

MR. KIRKA: We do.

MR. SCALI: Do you use it?

MR. KIRKA: We do, but that time for some reason I didn't use it.

MR. SCALI: I don't think anybody uses their scanner. They've got these scanners in the store but no one seems to be using them.

MR. KIRKA: I've been working there for two years, sir, we use that all the time, but that time, I don't know. I didn't just use it.

MR. SCALI: I hope they weren't too expensive. Mr. Goldberg.



MR. GOLDBERG: I note that on the report that was filed it says, "Underage individual was asked for an ID." So we're set with the fact that the minor did take out her license and presented it to the store.

What she's saying is that after she was in the store, not in the presence of Ms. Andrea, that it was on the counter face down. The employee says that he looked at it. He mentioned that the birth date was 1984. If we could have a false ID, and if that verifies on the date of birth that he was looking at, then the information, the statements made by this young person would be somewhat inconsistent.

MS. BOYER: Excuse me, I hate to interrupt, but no, because I showed the ID.

MR. SCALI: Ms. Boyer, hold on one second. Let Mr. Goldberg finish.

MS. BOYER: I apologize.

MR. GOLDBERG: But that is what the employee said. What he looked at was 1984. If we could just take a look at the ID and see what the

false date birth was on there, at least we overcome the fact that this person --

MR. SCALI: Don't we have a copy of the ID included in the report?

MS. BOYER: I don't know if one is sent to them -- and I apologize for interrupting you, Attorney -- but I went back in with the ID and showed it him, so it could have easily been taken from that time, not when she showed it to him. I thoroughly showed him the ID and asked him what was wrong with it.

MR. SCALI: This is a copy of the ID right here. I don't know whether it was included in your report, but it shows the expired date.

MR. GOLDBERG: We're not contesting the expired date. The young man did not use the machine. We acknowledge that, we admit to it. He said that she placed the ID on the table, down this way. He said he took it from her and looked at it; it was 1984, so a small calculation. I'm not denying --

MR. SCALI: This is the first, Mr.

Goldberg.

MR. GOLDBERG: What do we do when we know it's a false ID? There's a credibility issue here as well.

We're selling to a minor. It's an expired license. We're not contesting that, but we're just checking out the credibility of the person who goes around on May 20, and wants to buy a beer. That's all.

MR. SCALI: o you're saying that the 17-year-old lied and gave another ID to this person?

MR. GOLDBERG: No, no.

MR. SCALI: I'm confused as to how he observed an ID that said 1984 on it when Ms. Boyer said that the 17-year-old that she observed go in put an ID upside down on the counter, and that was the only ID that was given to them. So how did he get an ID from 1984.

MR. GOLDBERG: That's what I'm getting at, Mr. Scalia. I'm saying that what she says, it was upside down. What he says is that he picked it

up, looked at the date of birth, and made a judgment based on that. It's a question of credibility. I'm not denying that it's expired. He didn't look at it, but the date of birth he did look at. I'm only mentioning it so that you'll take into some consideration the penance or the penalty that you're going to impose.

MS. BOYER: Once again, I do understand that it does say 1984 on the license, and I do understand what Attorney Goldberg is stating, and also the gentleman here.

When I do take this underage individual around I don't say, "put it upside down," or anything like that. When they come back outside, I say is there anything that happened that was significant. And every once in a while, I will get some extra information other than that it was just a male and I gave him \$20. This was very significant, so she told me this situation had transpired.

And what I'm trying to add to this is that he very well could know it's a 1984 license

because I went back in and gave it to him. He could easily say it said 1984 on it. What I'm trying to say is, it said 1984 when I came back in also, so it could have been me.

MR. SCALI: Looking at the ID, if this is the ID you're talking about, it also says it's an under-21 license, and it's also a vertical license, which is an under-21 license.

MR. GOLDBERG: Was the person who went in the store a young person of color?

MR. SCALI: Was she of color, the 17-year-old.

MS. BOYER: She is of color.

MR. SCALI: She's of color, yes.

MR. GOLDBERG: She's a black lady?

MR. SCALI: Right.

MR. GOLDBERG: He will testify to that; that the picture he saw was the picture that appeared before him. That's in mitigation.

MR. SCALI: I see.

MR. GOLDBERG: And further saying that this young man has been working there for two

years. There's been no prior violation. The employer does instruct his personnel to use the machine, and the employee being there for two years, the first violation, he wasn't fired. He's not going to be fired. He does a good job. This is a singular incident and I ask you to consider that.

MR. SCALI: Why don't the employees use the scanner? If they did that they wouldn't even have to look at the ID.

MR. GOLDBERG: There is no excuse. This is an incident that happens with a lot of people who have scanners and employees don't follow the rules.

MR. HAAS: The problem I have is it's an identification card, it clearly says at the top in a banner it's under 21 years of age, granted, it's expired. At that point in time, I would imagine you'd hand this card back and say it's not a valid ID, show me another ID. As opposed to accepting that ID, which is expired and has a banner that says the person is under 21 years of

age.

MR. KIRKA: The ID check was a date, I mean the year, the date of year. I checked, she was over 21. The first person, when she walked in, she told me you just served to a 17-year-old girl. And my answer was, no, she was over 21. That was my answer. She asked me three times, you just sold to a 17-year-old girl, and I just told her three times, no, she was over 21. How could I be so certain of that?

MR. SCALI: Do you know the difference between a Mass. license if someone that's under-21 and one that's over 21?

MR. KIRKA: Yeah, one is vertical and one is the other way.

MR. SCALI: So you do know?

MR. KIRKA: Yeah.

MR. SCALI: Did your manager train you to look at those IDs.

MR. KIRKA: Yeah.

MR. SCALI: So this is a vertical ID. Why would you take a vertical ID?

MR. KIRKA: I looked at it but like -- my mistake was I didn't look at the expiration date. That was my mistake, yeah. But the date of birth and the picture, and everything was like it was over 21. That what it said, 1984. I'm sorry, 1984 means she's over 21; she's almost 25. My mistake was I didn't check the expiration date.

MR. HAAS: You wouldn't even have to do that. She's presenting you with a bogus identification by virtue of the fact that it says that this person is under 21.

MR. SCALI: You don't even have to look at it. If it's vertical, you don't take it.

MR. GOLDBERG: It's just a problem in my mind, and without impugning anybody or making any aspersions at all, the person had a fake ID when she came in. The question is when the officer came back, she brought not the fake ID, but the real ID, as I understand it; am I correct?

MS. BOYER: I only have one ID. There's only is only one ID that's available.

MR. SCALI: The same ID that she



presented is the same ID she presented when they came in after the event.

Anybody else want to be heard from the public on this matter? Questions?

MR. HAAS: Any prior violations?

MS. LINT: No.

MR. HAAS: Warning.

MR. SCALI: The Commissioner is feeling generous, first offense. Motion for a warning.

MS. LINT: 21-Proof training.

MR. SCALI: And 21-Proof training for all employees.

MR. HAAS: And use of the machine.

MR. KIRKA: I've been to classes a couple of times.

MR. SCALI: 21-Proof?

MR. KIRKA: Yeah. I went to class down in -- I don't know.

MR. SCALI: They didn't work.

MR. HAAS: This is making it worse.

MR. SCALI: And use the scanner.

MR. HAAS: Use the scanner.

MR. SCALI: When you go to the training, are you going to listen this time at the training?

MR. KIRKA: I made an honest mistake, but like it won't happen again.

MR. SCALI: Motion.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Disciplinary matter: Venus International, Inc. d/b/a 7-Eleven, Habte Ayalew, Manager, holder of a Wine and Malt Beverages as a restaurant license at 34-40 JFK Street due to the establishment selling alcohol to a minor using false identification on May 20, 2009.

MR. SCALI: Tell me you don't have a scanner.

MS. BOYER: Yeah, they do.

MR. AYALEW: Yes, we do.

MR. TURNER: Is there a fee to use the scanner? Like every time you scan it you're charged?

MR. AYALEW: With scanner like when we take the ID and put it in the scanner, people kind of get upset about it and they kind of -- I mean, me, I don't care whether they get upset or not, but a part-timer, the kind of get scared, and they don't want to push.

MR. SCALI: That means they're giving you a fake ID. I'm sorry. Ms. Boyer, go ahead.

MS. BOYER: Actually on a positive

note, just for the record I'd like to say that Louie's Superette actually passed, and actually said, "This ID is expired," and did not allow the sale. So there was one out of all of those. At least somebody's got that.

So 7-Eleven, 36-40 JFK Street, at approximately 6:00 p.m. on the same evening, May 20, 2009, the same underage individual who is 17 years old, their birth date is 10/15/1991, was able to purchase a sixpack of Bud Light cans utilizing a \$20 bill. They were not questioned about their age but was asked for an ID. It was the male cashier who made the sale, no words were exchanged.

When I returned back with the sixpack and with the ID, I spoke with the owner and the employee. I pointed out that the ID is expired. the owner showed me an ID checking machine that had it been used would have shown through LED that the ID was expired.

The owner placed the ID in the unit to show me. He was visibly upset that the employee did not use the machine. Same as before, same ID,

same picture.

MR. SCALI: Same procedure, same ID, the Mass. ID that was expired? Same individual, the young lady that was 17 years old?

MS. BOYER: Yes, sir.

MR. SCALI: Just tell us your name.

MR. AYALEW: Habte Ayalew.

MR. SCALI: You were there that evening?

MR. AYALEW: Yes. I was right next to him on the next register. In fact, the employee was new. He was hired on 5/04, and he didn't even finish the training program that he was on. But that's not going to be an excuse. I know we have violated the regulation.

One thing after this incident what I have noticed is that we have two ID checking systems. One was the cash register itself when we scan cigarettes or beer, it has -- a menu comes up which tells them birth date; that if he was born prior to 19-such-and-such date, you can go ahead and do it. So they were trained on that. And when

we get the scanner, rather than going on the scanner, they kept on looking on that birth date, and they don't look on the expiration date.

This is a corporate system that we have, and now what I'm emphasizing is not to pay attention to the screen, but always to scan the ID. So that's one thing which I have realized that we have created. That most people -- the scanner just came in after the last violation. I just purchased that and put it in there. But now I have got to one of the problems that -- I have found out one of the problems is -- even myself, like I scan a cigarette and I see the birth date is 1990. Then I know without looking at the expiration date. So now, we are emphasizing not to use the cash register. Instead of that to rely on the scanning.

MR. SCALI: When you scan it on there, does it come up the birth date and then it comes up as expired, or does it come up expired first?

MR. AYALEW: If it is expired, it comes expired. But if it is -- it just tells us how old that person is. So that's how --

MR. SCALI: Do your employees know that if it's a vertical license, they're under 21.

MR. AYALEW: Every employee knows about it, but this particular employee, him being new, I would lying to sit down here and say I have taught him. But we have gone through all the policies but actually have shown him that kind of ID, I would be lying if I sit down here and say that.

MR. SCALI: Is this a first violation?

MS. LINT: This is a second violation and they also missed a mandatory meeting.

MR. SCALI: You missed a meeting last year, a mandatory meeting?

MR. AYALEW: I was there.

MR. SCALI: It must have been a previous year's.

MR. AYALEW: I was there.

MR. HAAS: When was the first violation?

MS. LINT: Same thing.

MR. HAAS: No, when?

MS. LINT: In 2008.

MR. SCALI: A different employee, obviously.

MR. AYALEW: Yeah. She's gone.

MR. SCALI: Have you been through 21-Proof training?

MR. AYALEW: I have been, yes, sir.

MR. SCALI: And your other employees, too?

MR. AYALEW: No. That's my next thing that I have to do is get in touch with Mr. Connolly.

MR. SCALI: Anybody from the public want to be heard on this matter? Mr. D'Giovani. Just tell us your name for the record.

MR. D'GIOVANI: John D'Giovani of Trinity Properties, which owns and manages the property.

First, I want to thank the investigator for doing this investigation across the Square. And she answered my first question: Did anyone pass? Because it looks like everyone



failed. I also learned about the IDs, because I didn't realize that was the case. So I just want to say that I'm pleased from the Business Association, as a property owner that that's happening.

I want to say that this violation actually is a violation of his lease. But I also want to say this tenant has been a very good tenant, but we're very disappointed about this fact, and we also want to be informed if it does happen again. And I think of the Commission has responded to each of these in an extremely reasonable way. This is news that this is a second violation. So that's really all I wanted to say, and that we take it very seriously as well. So thank you.

MR. SCALI: You're not taking any action on the lease?

MR. D'GIOVANI: No, I am not.

MR. SCALI: We're not encouraging you to.

MR. D'GIOVANI: We will note it, but I

also want to state that Habte has been a very good tenant. And we intentionally did not put a phone store in that location after Christie's and the subsequently 7-Eleven had been there 20 years. We actually thought a convenience store was appropriate, 24 hours, that that was something that served the community well. I think he's run a good shop. He's cleaned it up in the sense that they have made some improvements. They put the maps on the window, so a lot of good things. This is unfortunate. I know these things happen and we're not going to take any action. We'll be guided by you but we appreciate what has been done. Thank you.

MS. BOYER: I would also like to mention that the 7-Eleven is one of the few establishments that actually have locks on their doors; that you actually have to get someone no matter what time of day to go and get a sixpack. That's actually a positive thing to see in the Square.

MR. SCALI: They open the doors but

don't check the ID.

MS. BOYER: To go through all that effort and then -- yeah. But it is a good thing especially late at night.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: One-day suspension, held for six months.

MR. SCALI: Motion then for a one-day suspension held for six months. If there are no further violations, the suspension will not be imposed. The 21-Proof training for all your employees and yourself. That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much. Use your scanner.

MS. LINT: Disciplinary matter:  
Paradise Landscape Company for using leafblowers in  
the City without the proper permitting.

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

MR. CAEZ: Angel Caez.

MR. SCALI: And you are?

MS. CAEZ: Pat Caez.

MR. SCALI: Ms. Boyer.

MS. BOYER: Thank you, sir. Basically  
I have a resident that is actually e-mailing me  
every time they see a leafblower in the City of  
Cambridge, and this happens to be one of the  
businesses. The other one was Mazmanian that  
actually applied in the interim, and they're not  
longer on the agenda.

So the complainant has stated that on  
April 15, they were utilizing leafblowers in the  
City without proper permitting. I actually made a  
telephone call -- excuse me. On the day that the  
complainant had stated, I had called the company to  
inform them to apply for a permit; that we have a

leafblower law now. And then the letter was sent I believe from Elizabeth Lint, signature, and we have not heard from the company, so we put them on the agenda, and here they are.

MR. CAEZ: What date did you call?

MS. BOYER: April 15..

MS. CAEZ: And spoke to?

MS. BOYER: I left a message I believe.

MR. CAEZ: We didn't receive any message. There was no call.

MS. CAEZ: There are several Paradise Landscape companies in the state.

MS. BOYER: The Paradise Landscape information was sent to me from Richard Rossi; that it was this particular landscaping company.

MR. SCALI: How was this verified that it was them?

MS. BOYER: It wasn't. I was given that information stating that this must be the company, so we sent --

MR. SCALI: Do you know what account

it is, or what address? What the complainant's address is?

MS. BOYER: Not the complainant's address, no.

MR. SCALI: Do you know where the leafblower use was taking place.

MS. BOYER: No, she did not give me that information either.

MR. SCALI: Do you know what street?

MS. BOYER: No, sir. I do not have the street, I just have names of companies that come in periodically. But actually this complaint was e-mailed through next-door and came to us. So I believe there were a few e-mails going around trying to figure out who Paradise was, and Richard Rossi had said, "I believe it's this one that's located in blah." There may be a lot of Paradises, but I just went with what was given to me.

MR. CAEZ: We were notified by letter on May 20.

MR. SCALI: Do you have accounts in Cambridge?

MR. CAEZ: I have two accounts in Cambridge.

MR. SCALI: Do you use leafblowers?

MR. CAEZ: We do use leafblowers.

MS. CAEZ: Not since May 20.

MR. SCALI: But you did?

MR. CAEZ: Yes. I thought we were allowed to use them. But after the controversy about decibel levels and all that, we decided not to use any leafblowers in the City of Cambridge.

MR. SCALI: So you're not going to use them again?

MR. CAEZ: I'm never going to use them again. And if I have to use them, then I'm just going to drop the accounts.

MR. SCALI: You can apply for a permit.

MR. CAEZ: The problem that I have with the plan for the permit is that not only are we dealing with obviously in this case, a tenant or a neighbor that may be having problems with my particular accounts, and is calling or e-mailing,

or however they're communicating their problem, but aside from that, we don't really need to invest in the equipment. And the blower, the decibel rating on those blowers just wouldn't do any much better than raking or using a broom. The accounts are small enough that we can get away with just using rakes or sweeping. If it were a large commercial account, I would say, yes, we would probably invest in the equipment. Equipment becomes not cost-effective to purchase for the accounts that we have in Cambridge.

MR. SCALI: Anybody from the public want to be heard on this? Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: I guess if you don't use a leafblower in the City, we won't see you again.

MR. CAEZ: The only problem I have is if you get an e-mail. It happens that on that same street -- and this one particular account -- there's three or four other landscapers. As a matter of fact, after I received this letter, I



spoke to one of the gentlemen that had exactly the same blowers as we've been using all along, and I said, "Are you aware that you're not allowed to use that blower?" He said, "Well, you know what you do, you go half-throttle on it." I said, "You know, the rule is you can't use any leafblowers in the City unless you're -- you know.

So I guess they're all using them. But there's other people using it in that same area, so you don't know who's using it, who's not using it. What do we get tags to -- is that how you --

MR. SCALI: You get a permit from --

MS. BOYER: I think he's talking about like a fine at the time.

MR. CAEZ: How do you determine if that person is legally allowed to use that blower, and all of that?

MR. SCALI: We have a list of permitted companies in the City and they apply through our office and through the City Manager's office, and then we permit you, and a list of all

your accounts in the City. So we know who's permitted in what areas.

MR. CAEZ: There are very few companies that are service-oriented companies that are willing to give out their client list to other entities.

MR. SCALI: We've got quite a few.

MR. CAEZ: This is the first I've heard of a noise --

MS. BOYER: It's just our second year, so we're getting it together.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Place it on file.

MR. SCALI: Motion to place it on file.

MR. TURNER: Seconded.

MR. SCALI: With the understanding that you won't be using leafblowers; right?

MR. CAEZ: What recourse do I have if someone just calls up and says they're using leafblowers. I mean, there's people that are using

leafblowers right down the street from where we're working.

MS. BOYER: This person is pretty thorough. They actually look at the truck and then look at the list, and if you're not on the list, and you're not on the truck then they -- most of the people know the company, they're not just picking on people.

MR. CAEZ: Can you use lawnmowers?

MS. BOYER: Just leafblowers right now, sir.

MR. SCALI: That's a motion. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much.

Thank you Ms. Boyer.

MS. LINT: Application: Vivace Vino, Inc. d/b/a Central Bottle, Maureen Rubino, Manager, has applied for a new Wine & Malt Beverages as a Package Store license at 220 Massachusetts Avenue. Applicant is also applying for a Entertainment license to include an audio tape machine/CD which may play music below, at, or above conversation level; TV; and radio.

MR. SCALI: Good evening the four of you. Let's start over here and tell us who you are.

MR. ZAPPIA: Nick Zappia.

MS. VILARDI: Liz Vilardi.

MS. RUBINO: Maureen Rubino.

MR. RUBINO: David Rubino.

MR. SCALI: Who is going to speak?

MR. ZAPPIA: I will.

MR. SCALI: We'll let you speak, Mr. Zappia.

MR. ZAPPIA: Thank you. We are obviously applying for a new malt beverage and wine retail license, and we're looking at the space in

the new Novartis building, 220 Mass. Ave., a retail space that they've just developed down there. We're looking to start and get a license obviously, but basically put a higher end, not necessarily price-wise but quality-wise, wine and retail shop in that space where we can sell bottled wine, some fruit to carry out, as far as gourmet items to take away, and have some prepared food on-site as well for a lunch trade.

Novartis has 800 people right above us in the building so there's sort of a captive lunch audience there. We would not be cooking on premises but we would hope to be able to serve prepared foods.

Liz Vilardi and I own the Blue Room Restaurant in Cambridge and we would work out whatever we need to put together to prepare food at the restaurant to sell in the wine shop.

MR. SCALI: So you'd prepare the food at the Blue Room and then package it there?

MR. ZAPPIA: Package it and you know -  
- basically some of the lunch items is how we see

that happening. Other things we would purchase directly into the wine shop and put in our cheese case, for instance, and sell some cheese.

MR. SCALI: What's the wine idea going to look like? You're selling beer too?

MR. ZAPPIA: We are selling beer.

MR. SCALI: So high-end wine and beer, or middle of the road?

MR. ZAPPIA: Mid-range. Liz, do you want to talk about the wine at all?

MS. VILARDI: Maureen and I have sort of scouted out things around Boston and Cambridge, and basically our philosophy is -- the same thing as the wine list at the Blue Room, which is -- it's the whole idea of the Blue Room itself, as well, which is high-quality, good value, interesting, maybe slightly offbeat, not your average thing. So the wine list reflects that and we'd like to bring that to the wine shop as well.

And I think it's a mirror of Central Square, which is why we're going to move into Central Square and not do something next to the

Blue Room in Kendall Square. We do want to bring some of the brand over, but not high-end wine. We look at -- I think our sweet spot is like \$10 to \$12, maybe \$15 dollars as sort of the majority -- bottles to sell for wine. We will definitely have higher-end things. People want to purchase special occasion bottles. Some people just think if it's more expensive, it's better. All that kind of stuff. So you want to hit all of those.

And then just our interest alone will create -- you know, there's going to be wines we want to have that are possibly trophy bottles, but they're good, and they could be expensive. We want to coexist with the Square, so we want to bring value.

MR. SCALI: Is there a concept like this somewhere else that that you model it after, or is this your own concept?

MS. VILARDI: There is sort of a concept in LA.

MR. ZAPPIA: It's done a little differently there.

MS. VILARDI: Essentially they seem to be very successful at having this kind of offbeat, interesting, clean presentation, very community oriented. You know, lots of tastings, having people in the shop, lots of personal contact. Getting to know people a lot like a restaurant. You have regulars, you're going to want them to come back. You're going to want to cultivate a relationship like a small business in an urban area.

It's called Silver Lake Wines and basically they do these tastings, which we have addressed a little bit, Monday or Tuesday where we want to reach out to the neighborhood restaurants. So Central Kitchen, Rendezvous, Cuchi Cuchi, and sort of have a guest chef. You know, have the chef come over, do a tasting, serve a little food, get them in the shop, and then sell bottles of wine. You're also tying in the rest of the businesses in the neighborhood, because the concept is not just wine, it's food and wine. Wine should be had with food. It's not just something to consume on it's



own. I mean, it is, but not really. It depends on your day, I guess.

MR. SCALI: Obviously you know the Central Square area and the clientele that frequents Central Square, and the issues we've been having with people who may frequent package stores. I gather from what you're saying you're not really a package store per se. How are you going to be handling people who may be coming in that want to purchase that may be inebriated, or hanging out in the are, or causing trouble, or fighting?

MS. VILARDI: We saw that over here.

MR. ZAPPIA: We actually saw you out there today.

MR. SCALI: That clientele is not what you're looking for I'm gathering.

MS. RUBINO: No, not at all. I run a wine shop right now in Medford and we deal with some of that where people come in inebriated. And then I was the general manager of the East Coast Grill for 11 years, and you learn how to turn people away, and I treat it the same way. We just

refuse sales and don't engage.

MR. ZAPPIA: Also by our very product that we're going to be selling -- no nips, no cigarettes, lottery, or any of those things that they're interested in.

MS. VILARDI: And opening at 11:00, so we're not opening early.

MR. SCALI: So 11:00 a.m. to?

MS. VILARDI: We're thinking 11:00 to 8:00. That's what we have now.

MS. LINT: Seven days?

MR. ZAPPIA: Seven days.

MS. VILARDI: And I think it's noon to 6:00 on Sunday. It's in the information there.

MR. SCALI: Questions?

MR. TURNER: Is there a cap issue?

MR. SCALI: Actually this is a quota issue, and because of one store that closed down on --

MS. LINT: A Wines.

MR. SCALI: A Wines on Cambridge Street, they did not renew their license and went

out of business and disappeared. Actually he just showed up the other day looking for his license. He had been very very ill, and long story short, just hadn't gotten back to us with the renewal fee. He paid the renewal fee but was closed for six months, so we revoked the license. If he had come in a little earlier, he might have had some luck.

So there was a license available because we canceled that license and sent it to the ABCC, and this is one that then opens up the quota.

MR. TURNER: So Mr. Chair, with that said, would this be a full value license, or are we talking a no-value issue?

MR. SCALI: It would be a value license. We only issue no-value licenses for restaurants that aren't brand new license that are not under the quota. Anybody from the public want to be heard?

MR. SCALI: Mr. Strack, come on up.

MR. STRACK: My name is Gary Strack and I'm the owner of Central Kitchen, and I would just like to lend my support to this project.

As somebody who has been in the Square for 10 years I think we've all shared the complicated relationships we have with most of the package stores in the area. We don't find them to be positive and helpful to the kind of environment that we're trying to create in the Square, generally, to be completely frank.

I think this is the kind of project that is -- you know, for example, my clientele at the Central Kitchen, and I could probably say for sure the clientele at Rendezvous and at Craigie Street, and all the rest of them, would never go to the package stores in Central Square now. They're not looking for nip bottles and four dollar wine.

This is the kind of project where I think the License Commission can really help sculpt the community a bit, and really help bring the level of service up to the point where it needs to be. So we're a hundred percent behind it. I've known all these folks for more years than we would like to say. We're quickly becoming the old guard, unfortunately. Anyway, we are fully behind it.

MR. SCALI: Thank you very much.

MS. LINT: I have a letter from Central Square Business Association in support as well.

MS. RUBINO: We have some more letters, and we also -- Craigie Street, our bank.

MR. SCALI: Letters of support?

MS. LINT: Yes. Buckaroo's, Cambridge Trust Company and Craigie Ameen. I do not have background checks.

MR. SCALI: Are they just in the system, not back yet?

MS. LINT: I'm guessing. I assume you filled out all that.

MS. VILARDI: We did. It's an acronym I can't remember.

MR. SCALI: A CORI check. It's just delayed probably with the State processing. We can't use your old checks because they're too old to use. We have to redo them.

Pleasure of the Commissioners?

MR. HAAS: Approval pending background

checks.

MR. SCALI: Motion to approve. This would be 11:00 a.m. to 8:00 p.m. six days, and then 12:00 to 6:00 on Sundays. This would be an additional quota license which would be a value license, and 21-Proof training.

MS. VILARDI: Is that like TIPS training.

MR. SCALI: It's the City version of TIPS, geared towards Cambridge issues. So we require anyone new coming in, all the owners and managers, and employees go through it. And they'll come to you and train wherever you want.

MR. SCALI: Moved.

MR. HAAS: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck. And that's pending the background checks too.

MS. LINT: Application: Asmara Restaurant, Inc., Lettensa Afeworki, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 739 Massachusetts Avenue has applied for a change of manager from Lettensa Afeworki to Saba Woldu.

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

MS. AFEWORKI: My name is Lettensa Afeworki. Do you want me to spell?

MR. SCALI: We've got it right here on the agenda.

MS. WOLDU: I'm Saba Woldu.

MR. SCALI: I can't believe you have a daughter who's old enough to be a manager.

So you're going to be the manager now. Have you been working in the restaurant? Are you familiar with all the laws, the alcohol laws?

MR. WOLDU: Yes, I am.

MR. SCALI: So when you see an ID that's a vertical that says "Under-21" on it, what do you do?

MS. WOLDU: I know now. We don't have a scanner but I say, out, out, out. You can have water.

MR. SCALI: So you know that now; right?

MS. WOLDU: Absolutely. It only took two hours to know that.

MR. SCALI: Nothing else is changing?

MS. AFEWORKI: Nothing.

MR. SCALI: Same menu, same capacity, same corporation, everything the same?

MS. AFEWORKI: Right.

MS. LINT: And I do have that background check.

MR. SCALI: Are you still going to be on the premises?

MR. AFEWORKI: Yes.

MR. SCALI: So you'll be working with her?

MS. AFEWORKI: Yes. As you see, she is educated more.

MR. SCALI: She's more educated now so



she can be part of it.

MS. WOLDU: But she's still the mother.

MS. LINT: Never forget that.

MS. WOLDU: She's still sitting there to make sure I don't completely turn it around.

MR. SCALI: Anybody from the public want to be heard? Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. SCALI: Motion to approve.

MR. HAAS: Second it.

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

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Have you been through 21-Proof training?

MS. AFEWORKI: Yes.

MR. SCALI: Have you gone through it?

MS. WOLDU: I --

MS. AFEWORKI: Not lately. She get everything.

MS. WOLDU: I've done CPR and all that, and then food safety.

MR. SCALI: This is 21-Proof training, which is alcohol training through the City. So we're going to require you to go through that.

MS. WOLDU: Okay.

MR. SCALI: Thank you.

MS. LINT: Application: Electric City Cars, LLC d/b/a New Twist Scooters, Paul Elwood, Manager, has applied for a Class I New Car Dealer license at 100 Cambridgeside Place.

MR. ELWOOD: Good evening. I'm Paul Elwood, manager and owner of Electric City Cars.

MR. SCALI: So this is in the mall; right?

MR. ELWOOD: Yes.

MR. SCALI: What floor is it on?

MR. ELWOOD: It's on the first-floor.

MR. SCALI: Are you going to have the actual cars there in the store?

MR. ELWOOD: What I'm going to have there, actually, what I have there are scooters. I brought a visual aid for you just to give you an idea of what I'm talking about. They're like Vesper-style scooters, and I have an electric bicycle, which is similar.

So I say I am there because I'm there in an advertising capacity now. I have them on display. So I'm requesting a license so that I

could do the whole transaction there. Right now, I have a store in Belmont, so if someone wants to buy a vehicle, they have to come out to Belmont.

MR. SCALI: Where in Belmont are you?

MR. ELWOOD: It's on Pleasant Street, which is Route 60, between Belmont Center and Ridley Square, which is the only auto zoned part of Belmont.

MR. TURNER: Mr. Chair, through you to the applicant, just so I'm comfortable, there's no gasoline motor backup or anything? This is strictly electric?

MR. ELWOOD: It's all electric, exactly.

MR. SCALI: This is the only product you're going to be selling; these two products? Or other scooters?

MR. ELWOOD: There is another class of vehicle called an "electric bicycle," which basically has a less powerful motor and it has pedals, so I'm also selling those. Where those fall in the motor vehicle dealership world, I'm not

sure, but it would certainly be covered under the same.

MR. TURNER: How fast does it go?

MR. ELWOOD: Thirty miles an hour. They're sort of like a 49cc class, so you don't need a motorcycle license to drive them.

MR. SCALI: How old do you have to be to drive one of these?

MR. ELWOOD: You have to have a driver's license. So that's the key constraint. Even the electric bicycles, the law requires you to have a driver's license. I had like a twelve-year-old in Belmont who really wanted one, and promised not to use the motor. I couldn't do it.

MR. SCALI: Questions from the Commissioners?

MR. TURNER: No questions.

MR. HAAS: No questions.

MR. SCALI: Anybody from the public want to be heard?

So you're already there now but you have no vehicles there.

MR. ELWOOD: I have the vehicles on display, but I'm not able to do a sales transaction. I'm thinking in order to do that I have to have a motor vehicle license in Cambridge, not in Belmont.

MR. SCALI: Does you require a bond?

MS. LINT: I believe so.

MR. ELWOOD: The bond requirement is for a Class II license only. A Class I you don't have to have a bond. I actually have a bond anyway, because I have a -- in Belmont, I have Class I and Class II.

MR. SCALI: So you sell used ones there too?

MR. ELWOOD: Yeah, right.

MS. LINT: He does have the agreement with the mall to be there, and a satisfactory background check.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. TURNER: Seconded.

MR. SCALI: Motion to approve, moved, seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Make sure you come and pick up your license before you operate.

MR. ELWOOD: All right.

MS. LINT: Application: Shilla, Inc. d/b/a Shabu-Ya, Kwanghyun Yoon, Manager, holder of a Wine and Malt Beverages as a Restaurant license has applied to transfer said license to Shabu-Ya, Inc. d/b/a Shabu-Ya Restaurant, Kwanghyun Yoon, Manager. The proposed hours are 11:30 a.m. to 10:30 p.m. Sunday through Wednesday, and 11:30 a.m. to 2:00 a.m. Thursday through Saturday. Applicant is also applying for an Entertainment license to include an audio tape machine/CD playing music below ordinary conversation level and four TVs.

MR. SCALI: Good evening. Just tell us your name.

MR. YOON: Kwanghyun Yoon.

MR. SCALI: So you're already there; right? This is the same location?

MR. YOON: Same location.

MR. SCALI: Are you changing corporations?

MR. YOON: Yes, change corporation name.

MR. SCALI: So you're going from



Shilla, Inc. to Shabu-Ya, Inc.

MR. YOON: Yes.

MR. SCALI: Same people involved?

MR. YOON: Yes.

MR. SCALI: Same corporate officers and stockholders as well?

MR. YOON: Yes.

MR. SCALI: So nobody new involved?

MR. YOON: Nobody new.

MR. SCALI: Why are you changing the corporate name?

MR. YOON: Because we are closing Shilla downstairs basement.

MR. SCALI: This is on the second-floor?

MR. YOON: Yes.

MR. SCALI: You're not going to operate on the first-floor at all?

MR. YOON: We already closed.

MR. SCALI: Did you turn your license in?

MR. YOON: Yeah.

MR. SCALI: So you got out of your arrangement with the landlord.

MR. YOON: Yes. Actually, I sold the business and the landlord said no, and he said he found a better tenant who is willing to pay higher rent. So I lost the bid against the landlord and I think I lost some money, a considerable amount of money, but the thing is -- this is pertain me and the landlord, so.

MR. SCALI: I was just curious because I know the last time you were stuck with two properties and you didn't know what to do with them, so that's why I was wondering what happened.

Anybody from the public want to be heard?  
Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Motion to approve.

MR. HAAS: Motion.

MR. TURNER: Second it.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck.

MS. LINT: Application: Dado Tea 50 Church Street, LLC d/b/a Dado Tea & Coffee, Jennie Song, Manager, holder of a Common Victualer license at 50 Church Street has applied for a Wine and Malt Beverages as a Restaurant license at said location with thirty-five seats and five seasonal outdoor seats on a private patio for service of food and alcohol. The hours of operation would be 7:30 a.m. to 11:00 p.m. Monday through Thursday, 7:30 a.m. to 12:00 midnight on Fridays, 9:30 a.m. to 12:00 midnight on Saturdays, and 9:30 a.m. to 10:00 p.m. on Sundays.

MR. SCALI: Good evening. Tell us your name.

MS. SONG: Jennie Song.

MR. SCALI: So you are there now as Dado Tea; right?

MS. SONG: Yes, correct.

MR. SCALI: Tell us why you want to add a beer and wine license.

MS. SONG: I've been in the Square for five years now, and we have a morning business, and

then we have a very good lunch and afternoon business. But when it gets to 6:00 to 7:00, and then there onwards, we're open until 9:00 currently, and 10:00 on Friday and Saturday, it just pretty much really dies down and we don't have a lot of customers.

I've also had a lot of customers say, well, if you did have wine or sake, we'd be willing to come in for dinner before going to the movies or to the ART. So I think it would be a positive addition to the Square for people to have another option for dinner, or after the movies or the ART to come in to have desserts.

MR. SCALI: What kind of food do you serve? I was under the impression you had prepackaged type foods.

MS. SONG: We do. We serve sandwiches, we have salads, we have our multi-grain rice meal, we have Bi-Bim Bap. We don't have a kitchen, so we have a sandwich unit and salads. If granted, I was thinking of adding a dumpling and other appetizers that doesn't require a full

kitchen.

The concept would be more on the unique side, so I was thinking more sake and beer. And in Asia, whether it's in China, Korea, or Japan, it's not uncommon for people to go into a tea shop and to be able to get sake or wine.

One of the things that I would love to experiment and offer would be -- in Asia, it's quite common to mix tea and alcohol together. So like you could have ginseng-soaked soju(phonetic), and then you put the soju over the ginseng and then it seeps out. There's a Korean drink called (inaudible) which is "live to a hundred years," and then it has herbal ingredients mixed in with it, which is very good and unique. So I think it would be a nice complement for people to come in and enjoy.

MR. SCALI: Do you have any other locations that have beer and wine?

MS. SONG: No. We have another store at 955 Massachusetts Ave. but we do not do -- that's more of a neighborhood store and we do close

earlier there. We close at 8:00 p.m. and 6:00 p.m. Friday, Saturday, and Sunday.

MR. SCALI: So you don't have anything in any other cities or towns; right? This is the only place you have.

MS. SONG: No, no. Maybe in the future.

MR. SCALI: I guess I'm just finding it difficult to determine what your concept was going to be because normally our beer and wine licenses are complements to food. I didn't think you really had a lot of food, being a tea shop.

MS. SONG: We have a very strong -- I don't know, you should come in for lunch some time and try our salads.

MR. SCALI: I've been to your one up here on Mass. Ave. but I haven't been to the one on Church Street.

MS. SONG: Bi-Bim Bap is very popular and that's like a main dish. Ours is a more modified version but our multi-grain rice meal is rice and tofu and salad; it's a full meal. And

some people have salads as a full meal. We have hummus and lots of veggies, and breads, wraps, which would complement beer and wine as well.

MR. SCALI: Questions, Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Does anybody from the public want to be heard? Let's see, 50 Church Street; who owns that?

MR. D'GIOVANI: Good evening and thank you, Commissioners. Just real quickly, I want you to know I also very much supported and encouraged Jennie to consider this option as well.

This is another example of a location we were determined to have an operation that would be open late, and not shut down early like a phone store that would close and then the front of the building is dark, and we think that's not appropriate for this area.

I do know that Jennie's location is busy in the morning. I'm often in there in the morning or in the afternoon. One of the other



things that she didn't mention which are terrific there are her soups, which I often have in the winter. So it's great and it is busy. In fact, sometimes at lunch you can't get a seat, but in the evening it's very different and I can understand why she's struggling to stay open at night and have employees there when there isn't activity.

Also, the fact that Jenny has been operating there for five years is to her advantage. She understands the area, she understands the traffic flow, the theaters, and the activity there. So we just want to register our support for her application.

MS. SONG: I would have them come to our store for the 21-Proof training. I think that's a great idea.

MR. SCALI: We would require that for them to do that as well.

No comments, Commissioners?

MR. HAAS: No.

MR. SCALI: Does anybody else want to be heard? Come forward.

MR. YOON: My name is Mr. Kanghyun Yoon, and as a businessman in Harvard Square I would like to support the applicant, if that helps their business. I would support whatever the matter is to get over this tough economic situation.

MR. SCALI: Are you going to send them over from Shabu-Ya for dessert at Dado Tea?

MR. YOON: Yeah, for her ginseg tea or whatever great oriental food.

MR. SCALI: Thank you very much.

Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. SCALI: Motion to approve.

MS. LINT: They have to meet the cap criteria.

MR. SCALI: This is a cap issue as well. Overwhelming neighborhood support, proof of need, lack of harm.

Have you been to the Harvard Square Business Association and the residents in the area?

MR. D'GIOVANI: I should have also

indicated -- and I think there is a letter on file from the Board and the staff.

MS. LINT: There is a letter on file.

MR. D'GIOVANI: As President of the Business Association, we're in support of it as well. I mentioned to Jennie to also talk to the neighbors, and I think there are some letters on file.

MS. LINT: There's three. And there is a question which I think I discussed with you regarding the abutter notification. She did not send them return receipt, certified return receipt. She did track them through the Post Office and it would be up to you to determine whether or not that was sufficient for ABCC.

MR. SCALI: How many abutters?

MS. LINT: There were a lot.

MS. SONG: But they were all delivered.

MR. D'GIOVANI: I know I received mine.

MR. SCALI: The issue is we have to

prove to the ABCC that you sent them, and we have to copy all of the receipts, and do an affidavit saying that you sent them by certified return receipt. So how did you send them?

MS. SONG: I did it Friday. This is no excuse, I know it's clearly stated in the letter, but Friday after I got off work at 3:00, I was rushing to the Post Office, because the only time I can work is when -- I have a one-year-old and a three-year-old -- when they go to sleep, and then when I'm off work. So I know I read "certified mail," but I didn't see the return receipt, and I did not take the letter with me to the Post Office. I did send it via certified mail, and I did go online and input all the numbers. The Post Office keeps -- it's tracked on file for two years.

MR. SCALI: So you sent them certified but not return receipt?

MS. SONG: Correct.

MR. SCALI: That's okay then as long as they're certified. Because then she has to sign

the affidavit saying that she sent them so that if someone claims in the future they didn't get it for some reason.

MS. SONG: It's on file and I think the Post Office -- it's kept on their file for two years.

MR. D'GIOVANI: Can you print that out?

MS. SONG: I did print it out.

MR. TURNER: Mr. Chair, through you to the applicant, should this be approved, and obviously it's enhancing the success of your business, is there any risk of a rent increase from the landlord.

MR. D'GIOVANI: Why don't you tell the Commissioner what happened in your renewal.

MS. SONG: Mr. D'Giovani has been very kind to reduce the rent, actually, to help me pay for the license fee.

MR. SCALI: That was my other question for you. You know it's a new license which is a higher fee.

MS. SONG: Oh, it's not what is stated here, \$4,000?

MR. SCALI: A new no-value license is \$4,000 a year.

MR. D'GIOVANI: She said is it more than \$4,000?

MR. SCALI: No, no.

MR. D'GIOVANI: She knew that.

MS. SONG: Yes, I knew that.

MR. SCALI: That's happened a lot with people don't realize it's a bigger amount and they can't afford to pay that, the smaller places. So our alcohol group that we had a few years ago, we voted to --

MS. SONG: Thanks for helping me out.

MR. SCALI: Yeah, good question.  
So you are okay with that fee?

MS. SONG: Yes.

MR. TURNER: I was going to recommend like a rent control.

MR. SCALI: I don't think the landlord is going to go for that.

Some people have come in asking for a reduction in their fee when they realize it's that much money, so it's not likely that's going to happen.

Motion to approve.

MS. LINT: I still don't have proof of need and lack of harm.

MR. SCALI: Proof of need. We need to show there's a need for this; that you're a different kind of operation in Harvard Square. How are you different than any other beer and wine establishment?

MS. SONG: My emphasis would be on Asian beer and some wine, wine which is more of the dessert wine, and sake. And also I would be experimenting with the different teas that we have, mixing tea infused liqueur, beer and wine. So in that sense I don't think you have that.

MR. SCALI: Are there any other establishments like that in Harvard Square?

MS. CARDULLO: There are Asian restaurants in the Square that provide beer from

their respective -- you know, if it's Korean or Indian or Chinese, beer, but I don't think there is any tea and like sake infused. I think that would be a unique contribution.

Also, we're not very loud. It's not a bar atmosphere. It is a tea/coffee cafe atmosphere, and I think it's also common in Europe, intermezzo, for people to be able to go in and have tea and coffee, and also liquor.

I would like to promote a space where people can come in after the theaters or before, and discuss what is intellectually or emotionally very stimulating for them. And I think that is very appropriate in Harvard Square.

If you go to Border Cafe, which I do. I sometimes try to take my kids, you know, it's just so loud in there you can't really have a conversation. You're shouting at each other.

MR. SCALI: Does that satisfy you Mrs. Lint?

Motion to approve.

MR. HAAS: Is there anything else



before we vote? Motion.

MR. SCALI: Motion to approve. This is a no-value license, it cannot be sold. So if you should leave, you turn the license in. And 21-Proof training. You've met overwhelming neighborhood support by support of the Business Association and your other supporters.

MS. LINT: Yes.

MR. SCALI: You've proven need showing you're a different type of establishment in the Square serving sake and liqueur infused teas. Hours of operation?

MS. LINT: Can't serve alcohol at 7:30 in the morning.

MR. SCALI: You can't serve alcohol before 8:00 a.m.

MS. SONG: I think when Chris called he was asking what the hours of operation were. I mean, afternoon is fine, or in the evening; whatever you suggest in terms of limiting is fine.

MR. SCALI: Lunch and dinner?

MS. SONG: Sure, yes.

MR. SCALI: What time do you close?

MS. SONG: We close currently at 9:00, Monday through Thursday, and 10:00, Friday and Saturday, and 8:00 p.m. on Sunday. But if granted, I put 11:00 p.m. Monday through Thursday, Midnight for Friday and Saturday, and 10:00 p.m. on Sundays.

MR. SCALI: So 11:00 a.m. to 11:00 p.m. Monday through Thursday; 11:00 to midnight, Friday and Saturday; and Sundays -- Sundays you can't serve alcohol before 11:00 a.m. So 11:00 to 10:00. That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck. That goes off to the ABCC and we'll notify you when it comes back. It takes a little while so just be a little patient with us.

MS. LINT: Application: Continued from March 10, 2009. Cho Enterprises, LLC d/b/a Oxford Spa Cafe, Yeon Cho, Manager, has applied for a Common Victualer license for 14 seats (10 inside and 4 outside) at 102 Oxford 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 7:30 a.m. until 7:00 p.m. seven days per week.

MR. SCALI: Good evening. Tell us your name.

MR. CHO: My name is Casey Cho.

MR. SCALI: If you came in on March 10, you probably wouldn't be last.

When did you take over Oxford Spa?

MR. CHO: Last year in May.

MR. SCALI: May of '08?

MR. CHO: Yes, I think so.

MR. SCALI: So you want to have 14 seat, ten inside and four outside. The four patio seats outside; is that on a public sidewalk?

MR. CHO: Yes, four patio seats and

ten inside.

MR. SCALI: Does he have a Public Works permit for the outdoor seats?

MS. LINT: Do you have a DPW permit to be on the sidewalk?

MR. CHO: Yes. I'm just renewing the license from Oxford Spa Inc. or Co. to Cho Enterprises.

MR. SCALI: We don't renew. This is brand-new. We start all over again. There's no renewal on CVs.

MS. LINT: You're going to have to get a DPW permit to be on the sidewalk.

MR. SCALI: It has to be in your corporate name.

MR. CHO: It is.

MR. SCALI: The four seats outside?

MR. CHO: For Cho Enterprises, yes.

MR. SCALI: We're going to need a copy of that.

MR. CHO: Okay.

MR. SCALI: Serving what kinds of

foods?

MR. CHO: Sandwiches, quiche,  
breakfast sandwiches.

MR. SCALI: Cooking on the premises?

MR. CHO: Yes.

MR. SCALI: Is it an oven, stove?

MR. CHO: Just an oven and a stove.

MR. SCALI: Have you been to this  
location?

MR. TURNER: I have not. I thought  
this was just a rollover from the existing.

MR. SCALI: Have you changed anything  
from the previous owners?

MR. CHO: No.

MR. SCALI: So it's the same as it was  
before?

MR. CHO: Same thing.

MR. SCALI: And hours of operation:  
7:30 a.m. to 7:00 p.m. seven days a week?

MR. CHO: Yeah.

MR. SCALI: Questions?

MR. HAAS: Deputy Chief, do you have

to do the inspection first?

MR. TURNER: We could do a follow-up inspection just to check the check the suppression system.

MR. SCALI: Motion to approve subject to DPW permit for the outside seats. Moved, seconded.

MR. HAAS: And then a follow-up inspection.

MR. TURNER: Do a follow-up Fire Department. We have to sign off on your License Commission sign off sheet anyway, so we can arrange the inspection then.

MR. SCALI: So subject to the DPW permit for the outside seats, and Fire Department inspection approval. Moved.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. CHO: So do I just bring it in or

fax it to you?

MR. SCALI: You can do either, if you'd like. If you want to bring it to Chris or you can fax it to Chris if you want, and make sure you follow-up with your inspections before you operate.

MR. CHO: Okay.

MR. SCALI: You have to have your Building, Fire, and Health Department sign offs, and the DPW permit, and pay your fee to us before you can operate. You'll get a letter in the mail that tells you exactly what you have to do, and just make sure you follow-up on that letter. Don't ignore the letter.

MR. CHO: Thank you.

MS. LINT: Ratifications.

MR. SCALI: Ratifications for  
refinances?

MS. LINT: Yes.

MR. SCALI: Is everything in order?

MS. LINT: Yes. For 52, 257G, 112,  
229, 199, 237, 106, 137, 56 and 212.

MR. SCALI: Motion to accept.

MR. HAAS: Accept.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.



MS. LINT: I do have one item. I have a letter from the Faialense Club asking the Board to reconsider the final decision from the Disciplinary hearing. At that time, you voted to give them a three-day suspension to be chosen by me. And they're asking -- they're saying that they think the three days is reasonable but could they work with me to determine the days?

MR. SCALI: Meaning that they choose the days, as opposed to Mrs. Lint choosing the days.

MS. LINT: They had already sent me a letter asking to be closed on Thanksgiving Day, Christmas Day, and the Fourth of July.

MR. SCALI: I think that they can choose days that are not holidays. I don't have any trouble with them choosing days that are not obvious days that they're obviously closed. I don't know if the Commissioners will object to that. I think Councilor Toomey was trying to work with them about these issues. As I recall, he has been very vocal about this new management team and

the new directors there, and he feels that they're doing a better job.

MR. HAAS: But they were present also during that event.

MS. LINT: Correct.

MR. HAAS: And that event was a little bit out of control, plus they're issuing licenses they weren't authorized to issue.

MR. TURNER: So?

MR. HAAS: I don't mind working out reasonable days but I think that's just pushing it. It actually makes the suspension a farce.

MS. LINT: That's what I told them; that that was not acceptable.

MR. SCALI: So make a motion that they can pick reasonable days that are not obviously holidays that they're closed.

MS. LINT: I will guide them.

MR. SCALI: Motion?

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Do we have any licenses that didn't pay their fees?

MS. LINT: We have two: O'Charley's.

MR. SCALI: Which is the Ninety-Nine Restaurant which they're going to turn that in.

MS. LINT: And Venati.

MR. SCALI: Venati is closed.

MS. LINT: Venati closed for vacation without notifying us in any event. They have been closed for several weeks.

MR. HAAS: They're going to be closed a longer.

MR. SCALI: So motion then to notify them that first of all, they closed without permission.

MR. HAAS: And they cannot reopen until --

MR. SCALI: Cannot reopen until they appear before the Commissioners?

MR. HAAS: What didn't they do?

MR. SCALI: They didn't pay their second-half fee which was due on June 12, and they closed for three weeks without permission. So they need to appear before us.

MR. HAAS: A Disciplinary hearing; right?

MS. LINT: July 13?

MR. HAAS: August 10.

MR. SCALI: So you want to close them between now and August 10?

MS. LINT: He's trying to see it anyway. That would really put them out of business.

MR. SCALI: I guess I would suggest that they appear before us on either July 2 or July 13, to reopen. That will give them two opportunities.

MR. HAAS: And you say I'm soft.

MR. SCALI: I'm just anticipating the phone calls that are going to be coming to my door tomorrow. It's up to you Commissioners.

MR. HAAS: That's okay.

MR. SCALI: So they cannot reopen until they pay, and appear before us on July 2 at 10 a.m. or July 13 at 6:00 p.m.

MR. HAAS: Are they being unresponsive?

MR. SCALI: They went on vacation; they're gone.

MS. LINT: The one that shocked me was Ten Tables hadn't paid.

MR. HAAS: How are you going to monitor whether they try to come back and reopen?

MS. LINT: Trust me.

MR. SCALI: Ms. Boyer will be at their door.

MR. SCALI: So moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

Is Cardullo's attending or participating in the Taste of Cambridge?

MS. LINT: I believe so.

MR. SCALI: They are, yes.

Anything else? Motion to adjourn.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

(Whereupon, the proceedings were  
concluded at 9:03 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 30th day of June, 2009.

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