

## 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  
Cambridge, Massachusetts 02139  
Tuesday, June 9, 2009  
6:15 p.m.

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**INDEX OF AGENDA PROCEEDINGS**

<b><u>Agenda Matters</u></b>	<b><u>Page</u></b>
Review - Everest Crossing, LLC	5
Disciplinary - Six Kids, LLC	12
Disciplinary - Vijeta Corporation	37
Disciplinary - Museum Market Corp.	55
Disciplinary - University Liquor Shop	57
Application - Basha Café, LLC	66
Application - Villa Specialties, Inc.	78
Application - Gold Rush MA, LLC	85
Application - Shree Ganesh Investments	89
Application - J & M Chocolate Confections, Inc.	92
Application - Stellar Restaurant Group, Inc.	139
Application - Chipotle Mexican Grill of Colorado	146
Application - Leamil Corporation	153
Application - US REIF Central Plaza Massachusetts, LLC	188
Ratifications - Medallions: 125, 244, 189, 41, 120, 117, 150, 169, 179	190

P R O C E E D I N G S

MS. LINT: License Commission General Hearing, Tuesday evening, June 9, 2009, 6:15 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room. Before you the Commissioners: Chairman Richard Scali, Deputy Chief Dan Turner, and Commissioner Robert Haas.

If anyone is here for the application of P.F. Chang's, that has been continued until June 23.

MR. SCALI: Anybody here for P.F. Chang's? You are here for P.F. Chang's.

UNIDENTIFIED SPEAKER: Just in case there was any questions.

MR. SCALI: No.

MS. LINT: And at the top of Page 2, the Disciplinary matter for 3 Vail Court/139 Bishop Allen Drive, that's also been continued to June 23.

MR. SCALI: Anybody here for Vail Court? No hands.

Motion to accept the minutes from our last meeting of June 4.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Aye.

Let's go to our continued item from the last hearing.

MS. LINT: That would be the Addendum item: Continuation from May 26, 2009 Disciplinary hearing. Everest Crossing, LLC d/b/a OM Restaurant, Luis Sanchez, proposed manager (pending 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 floor of the restaurant.

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

MR. GOLDBERG: Attorney Bernard Goldberg.

MR. CHOWDHURY: Solomon Chowdhury.

MR. SCALI: We were here last week at our Decisionmaking meeting and there were a couple of issues to be cleared up. I don't know that we've gotten very far. Have you gotten very far with the zoning issue?

MR. GOLDBERG: I did talk to Ranjit and he agreed that the issue of zoning was a non-issue. I believe that I had talked to the Board previously with regard to the area of Harvard

Square, and it is not covered by the Planning Unit, which cites that it is subject to the Planning Unit development, and as a result of which that might require some other study, but with regard to the Harvard Square where it's in a B3 area, it's not covered. And he did agree to that, Mr. Chairman. I don't know whether Ms. Lint had spoke to him, but I did speak with her.

MR. SCALI: We have conflicting reports. I happen to see him in the hallway this afternoon and I asked him. He said, "I still have an issue with this and it has to do with the doorways and panic bars, the width of doorway. I don't know what he was referring to.

MR. GOLDBERG: That doesn't conflict with regard to the zoning laws; that's the inspection and the building laws. I did have a chance to talk to him except that he was going to speak with Mr. Burns of his department with regard to it.

I did indicate that we had a meeting previously with a fire inspector who addressed

those issues with regard to a panic button, and I don't know whether he is concerned with the door, the length of the door, the width of the door, but I thought we had resolved that to the extent that he was satisfied. But I don't know. I can't speak for him.

MR. SCALI: He had asked me to continue it again for further clarification.

MR. GOLDBERG: Of course, we can continue it.

MR. SCALI: I think he figured that there's some kind of issue with the way that's set up on the first-floor and whether there is sufficient exiting for an entertainment use. I think that was his concern.

MR. GOLDBERG: He came back from a vacation and so he was probably overwhelmed and didn't have a chance to address it, so certainly we'll continue it.

MR. SCALI: Any questions?

MR. TURNER: No questions.

MR. HAAS: No questions.

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

MR. GOLDBERG: We did have one issue with regard to the Chief relative to a flow.

MR. TURNER: Mr. Chair, an issue I did have was I requested a flowchart on their sequencing of events.

MR. SCALI: Is that sufficient for you, Deputy?

MR. TURNER: What would improve this is if we had the occupancy load numbers at 9:30. "Then at 10:00 p.m., the members of the security staff arrive to move the lounge furniture to the emptying dining room."

MR. CHOWDHURY: Which is on the second-floor.

MR. TURNER: I would just be helpful if you could have the first and second-floor numbers at 9:30, at 10:00, and that would be indoors only, what's allowed indoors only.

MR. HAAS: What happens to that space between 9:30 and 10:00? Is it totally vacant?



What happens to that space?

MR. CHOWDHURY: The guests that's already there, they'll basically be there. Usually between -- our lounge is not that busy around that time either. We probably have about 10 or 15 people.

MR. HAAS: You're not going to have any guests in the way while furniture is being moved and things like that as far as --

MR. GOLDBERG: They will be advised that at 9:30 there will be movement, and so because of the fact that there aren't that many people in the area, they will be able to move, stand at the bar area and then move the furnishings or the furniture around and take it upstairs.

MR. HAAS: So you're going to suspend your operations for about a half-hour, 45 minutes while you make that transition?

MR. GOLDBERG: No. They won't suspend the bar area unless it impedes the movement. But if you note, the DJ will begin at 11:00 p.m., so there is a hiatus there where they'll be able to

take the actual count of the people upstairs and the people downstairs, and usher the furnishings up the stairs to the second-floor.

MR. SCALI: Further questions?

MR. HAAS: No questions.

MR. TURNER: I guess the only other recommendation I would have is, Ms. Boyer has the occupancy load posters and to make sure we have the pre-10:00 p.m. and post-10:00 p.m. numbers of both floor by the entrance.

MR. SCALI: Motion to continue.

MR. HAAS: Motion.

MR. SCALI: It's been moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Would that be June 23,  
Mr. Chair?

MR. SCALI: How is your June 23  
agenda; full?

MS. LINT: It's not terrible.

MR. SCALI: We'll do June 23 then.  
Thank you very much.

MS. LINT: Disciplinary matter: Six Kids, LLC d/b/a Tommy Doyle's, Garrett Tingle, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 96 Winthrop Street for alleged illegal activities by an employee which warranted police investigation and led to court action.

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

DET. DREWICZ: Detective Sara Drewicz from the Cambridge Police Department.

MS. BOYER: Andrea Boyer, Cambridge License Commission.

MR. WOODMAN: Peter Woodman from Tommy Doyle's.

MR. TINGLE: Garrett Tingle from Tommy Doyle's.

MR. SCALI: Let's start with Ms. Boyer's report.

MS. BOYER: There was an investigation of Tommy Doyle's located at 96 Winthrop Street. It took place based on an e-mail sent to the crime tip

division at the Cambridge Police Department, and that took place on March 27, 2009.

The e-mail was forwarded to me from Lieutenant Steven DeMarco. The information sent to the crime division consisted of the following, and this was described by the complainant, so this is their words.

"While in Harvard Square with his girlfriend, complainant noticed a bouncer letting in underage girls. The complainant noticed that the bouncer proceeded to take their fake IDs away but then sell them back to the girls and pocket the cash. The bouncer would then let the girls in anyway knowing they were underage.

The complainant stated that he observed the incident on two separate occasions within the last few weeks.

Lieutenant Steven DeMarco e-mailed the complainant to acquire more information. The Lieutenant asked for a description of the bouncer or the doorman. He also questioned how the complainant knew that the girls were underage, and

if the complainant knew any of the individuals involved in the activity. If it was common knowledge or just an incident that he observed at that time.

The complainant responded by saying that he did not have a good description of the bouncer from the first time he witnessed the incident, but the second time, the bouncer had a thick accent, what he believed to be Russian. He also described the bouncer to be Caucasian, although not sure of his height. He stated that he was on the heavier side with brown color hair.

He said he knew the girls were underage because the girls were talking in line about the IDs that they were about to use, also, because the fake IDs were taken away from the girls and then offered back for cash.

He also stated that he knows that the girls who did not pay, he just took their ID and they were told to leave if they did not pay. He also explained that he did not know any of the people involved and that he personally heard the

bouncer offer to give them the ID back in exchange for cash.

He stated that it seemed that the people know that you can go to this bar and they will let you go fill up and make more money. Most of the girls were from BU. And that was all from the complainant.

Lieutenant DeMarco had Sergeant Robert Gray contact me to set up a time to perform an investigation of Tommy Doyle's. Sergeant Gray had Detective Drewicz and Kevin Donofrio meet me on Friday, April 3, at approximately 10:30 p.m. to conduct surveillance of the entrance of Tommy Doyle's.

We chose to be in the stairwell of Upstairs on the Square, which gave a window view of the entrance to the door staff at Tommy Doyle's. Detective Drewicz determined based on the description by the complainant that the doorman that evening was the doorman in question. And I'm sure Detective Drewicz will comment more on that.

Detective Drewicz and Detective

Donofrio discussed possible ways to be on the premise to observe the doorman in future investigations. He also suggested that utilizing an intern from the Police Department may be possible. And I had informed them that I had some fake IDs from the Cambridge Prevention Coalition that we might be able to use.

It was then on Thursday, April 9, that Detective Donofrio met me at the License Commission and we went over some IDs with the female Cambridge Police intern. The Detective and the intern and I went through a box of fake IDs and took two that we thought would work best for the investigation.

I was then contacted by Sergeant Gray that the second investigation would take place on April 10. The investigation would include the intern using the fake ID to see if the suspected doorman would confiscate the ID and attempt to sell it back to her.

Sergeant Gray and I arrived at the Harvard Square area at approximately 10:20. After Sergeant Gray made contact with the other



detectives in the area, he and I went to the Upstairs on the Square location to perform surveillance of the door and doorman of Tommy Doyle's.

Sergeant Gray informed the detectives in the area that the target, the doorman, was on premise and that the investigation would go forward. Before the intern proceeded, Sergeant Gray and I observed the doorway for approximately 25 minutes. Please be advised that I was using binoculars to be able to get a closer watch of the doorman's actions.

At approximately 10:45, Sergeant Gray stated that the intern would be approaching the establishment and attempting to enter with the fake ID. There is also an attached photocopy of the ID that I gave to you in the report.

I was able to observe while utilizing the binoculars the transaction between the intern and the doorman. I was later informed that the doorman confiscated the fake ID and told the intern that to be able to get the ID back, she must give

him \$40, and another \$20 to be able to enter the establishment.

The intern made the transaction and was able to enter Tommy Doyle's. And then there's a police report that was included, and also some information that will be given by the Detective.

Once the intern entered the establishment, Sergeant Gray waited for the information from the detectives that they were inside of what transpired. Once the detectives reported back to him that the incident had occurred, he radioed the other detectives working with him on the investigation to meet him at the entrance of Tommy Doyle's.

While the detectives spoke to the doorman, I went into the establishment to see if the manager or owner was on premises. I was told by the upstairs female bartender that Peter Woodman was on premise. I asked her to tell Peter to meet me outside in front of the establishment.

When Peter was downstairs, it was explained to him that an e-mail was sent by the crime tip

hotline that the doorman had been confiscating IDs, selling them back, and allowing underage people to enter if they paid him.

Also Detective Donofrio and Sergeant Gray explained to Peter Woodman what had happened between the doorman and the intern, and Peter Woodman seemed genuinely surprised about the situation and upset. Based on the information explained to him, he fired the doorman on the spot." And then here we are for the hearing.

MR. SCALI: Questions of Ms. Boyer?

MR. HAAS: No questions.

MR. HAAS: No questions.

MR. SCALI: Detective Drewicz.

DET. DREWICZ: Ms. Boyer has covered the e-mail, the tip quite accurately, but I'll tell you our side of it.

Basically April 3, as stated before, Detective Donofrio and I observed a male fitting the description from the window of Upstairs on the Square. I then went outside and sort of stood in the area to see if I could hear an accent, which I

did, which I also thought to be a Russian accent. So we confirmed that that was probably the male involved.

The following Friday, which was April 10, when we set up surveillance in the area, again, myself and Detective Ahearn entered the establishment in an undercover capacity while the other unit stayed outside.

As previously stated, at 10:45 the intern was sent in, attempted to pass the fake Id, which was obviously fake and didn't have her picture on it. Basically, the bouncer took it, put it into his pocket, told her it was fake. The intern responded by saying, "You can't take that. Give it back." The bouncer then told her she could have the ID back for \$40. The intern then asked if she could also get into the bar. He said, "No. That will cost you an extra \$20, totaling \$60.

So she came into the bar at that point, reported that information to myself and Detective Ahearn. We then relayed it outside to the detectives. They approached the bouncer,

explained what we thought had just happened. He was shown some photocopied money, which was the same money that the intern had passed and the serial numbers did match. He did accuse her of making him take the money at that time. And again, Peter Woodman was told of what had happened, and did fire him on the spot.

The bouncer at the time was allowed to leave and told that complaints may be filed. We did file complaints and there was a hearing on May 8, where the bouncer did basically admit to taking the money. He was very apologetic, did describe himself as needing money. He said it was the first time it had happened, but did admit to taking the money. Basically it was continued without a finding for the next six months, and the case will be dismissed if nothing else comes up within that time. He had no prior record.

MR. SCALI: What was the charge, do you know?

DET. DREWICZ: The charges were Chapter 90, Section 24B, which is the forgery or

misuse of an RMV document, which specifically states that a person cannot distribute a false license, which is basically what he did by giving it back. And Chapter 138, Section 34B, which is a very similar law also, false or misuse of a liquor card ID or license, which also prohibits the distribution of such a false ID.

MR. SCALI: You were inside waiting for them?

DET. DREWICZ: Yes.

MR. SCALI: Could do you hear what was going on?

DET. DREWICZ: I could not. A few times we approached the doorway. The way that the building is set up we couldn't hear exactly what was being said, but once she came in she relayed everything.

MR. SCALI: But you could observe her, you saw her? Could you see what was happening between them?

DET. DREWICZ: We could see that there was some conversation going on, you know, much

longer than what would seem to be a normal amount of conversation.

MR. SCALI: Did you see the money passing?

DET. DREWICZ: No, we didn't.

MR. SCALI: She came in directly after that then reported to you exactly what had happened between her and the bouncer?

DET. DREWICZ: Yes.

MR. SCALI: Questions?

MR. HAAS: Detective Drewicz, while you were inside the establishment, did you and Detective Ahearn determine if anybody else appeared to be underage while in there?

DET. DREWICZ: We saw one other female who seemed to have hard time getting in. She was standing outside for a while. We didn't determined -- we did speak to her after all this had happened but she was not very cooperative and she had an ID.

MR. SCALI: This was the same bouncer that was reported before?

DET. DREWICZ: This was the same male

that we had seen on April 3, is the one that had this interaction on April 10.

MR. SCALI: The original complainant said that was the person who was doing the money transactions.

DET. DREWICZ: He had talked about two bouncers but he couldn't really describe the other one.

MR. SCALI: You never determined who the second one was?

DET. DREWICZ: No.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: All right.

MR. TINGLE: I just want to speak on that. I wasn't actually there the weekend in question, but as manager of record, it was just completely a shell shock to me and a disheartening thing to happen given the hours and the trust that you put into your staff that you see to look after.

The way that myself and Peter, our own



sort of internal investigation of the situation, it seemed that this was a guy that got laid-off from work. He had been working for us for two plus years. There was a level of trust on my end at least, I know that. He was a well decorated doorman, worked at a couple of different pubs in the area for years.

It was kind of a situation where maybe we took a little step back on keeping a better eye on him at the door. We were still getting three or four fake IDs given to us at the end of the night by him, so we know he's good at spotting a fake ID.

From what I gathered, it was a well thought out chance for him to make an extra \$hundred bucks in the course of a night, and --

MR. SCALI: Or more.

MR. TINGLE: Exactly, and when you are that close to a college and you have other colleges in the area, word travels pretty quick I think. So if someone is paying 20 bucks at 19 years old to get in the door, or 50 bucks, whatever it is, there's five friends the next week that might want

to try that as well.

It was an eye opener and very disheartening because of the hours and what we want to get out of Tommy Doyle's in Harvard Square. We don't want to be a place that's filled with 18 and 19 year old kids. We do a lot in terms of not having that happen.

MR. SCALI: How do you find your bouncers? He worked for you for two years.

MR. TINGLE: He actually worked for us for over a year, came highly recommended from another bar.

MR. SCALI: A Cambridge bar?

MR. TINGLE: The Phoenix Landing, and he had worked there for a couple of years. He was well liked by the patrons, very professional, always on time. Almost too good sometimes with -- you know --

MR. SCALI: Who's in charge of supervising him? Who observes the bouncers?

MR. WOODMAN: We've got a -- which we installed about six months -- a 16-camera security

camera operation there, and the weekend in question was the rare weekend that Garrett was away and had the weekend off. Myself and Garrett are there every single night, especially weekends. We observe our security staff. We have internal controls. Adam, my business partner, sends up kids from Hyannis with fake IDs we've confiscated. I have a pocket full of fake IDs right now.

As Garrett said, it gets to the point when we're -- there's literally two cameras on the front door and he was standing in the one kind of blind spot in the back, and he was obviously doing this. I was genuinely -- he would be the last person that I would ever ever comprehend that would do this. Again, as Garrett said, we let him stay at the door because literally we were getting four to six IDs a night every night he worked. So he can spot fake IDs, he's a good guy. He'd go to the extent that he'd shake your hand at the end of a night. I was beside myself.

MR. SCALI: He was thrilled because he had that amount of money.

MR. WOODMAN: We have our own internal control -- we've got young staff that come in every summer. They send them up from (inaudible). I personally sent a correspondence to Ms. Boyer, I just got so frustrated that night and the next day, what else do we have to do? So now literally myself and Garrett are working the front door. We should be inside operating the business, keeping an eye on the business inside, and now we find ourselves at the front door, which is absolutely craziness.

MR. SCALI: Do your card inside too? You just card at the door; right?

MR. WOODMAN: It all depends on the day.

MR. SCALI: That's the key right there that they know that you card them once and then they go in.

MR. WOODMAN: Myself and Garrett run the door more or less since this incident, especially on busy nights, and then we have the guys inside. We have eight to ten security every

night.

MR. TINGLE: And a police detail.

MR. WOODMAN: I do personally feel responsible that we let Gabe, we trusted him and he -- I actually fired a guy, let a guy go to bring him back, which frustrates me even more.

MR. SCALI: You brought back the wrong one. Who are the other bouncers? Are they still there?

MR. WOODMAN: One in the door. Ms. Boyer said there is another individual. I looked at our security that night. Our security guys were as equally disappointed as I was because they were trying to do a good job here. The other thing is that this guy was making 40 or 50 bucks on these fake IDs. We're working hard, we're lifting tables at the end of the night.

MR. SCALI: Making more money than you.

MR. WOODMAN: Exactly. We used to have a set security at the door but now we're rotating it out so it's basically -- this past

Friday, for example, Garrett was on the door for an hour with a door guy. I was on the next hour with another door guy, so it's just rotating it. In my mind, we just -- we were getting IDs, said he's a great door guy. He's a perfect guy for the front door. So now we just rotate that.

MR. SCALI: Did you ever find out who the other person was?

MR. WOODMAN: I let someone else go but I can't prove that he did it.

MR. SCALI: You didn't find out for sure?

MR. WOODMAN: I didn't find out for sure. I'd love to say I can prove it but I just let the guy go with no proof. He fit the description that Ms. Boyer gave me, a rough description, so I said I'm not taking the risk.

MR. SCALI: Do your bouncers go through the 21-Proof training?

MR. WOODMAN: Yeah.

MR. TINGLE: We have another one coming up on the 16th, coming.

MR. WOODMAN: You think you've got all the Is dotted and the Ts crossed.

MR. SCALI: I've heard of a lot of scams but this is one I hadn't heard of.

Questions, Commissioners?

MR. HAAS: I guess the key, and I'd re-emphasize what the Chairman said, is you've got to have multiple layers of security, or at least checking in.

If somebody walks up to a bar and they appear to be underage, I don't see the harm in saying, "present me your ID." So it seems to me that this could have potentially been going on for two, two-and-a-half years. Obviously the cards you're getting back are the ones people refused to pay him.

But to your point, once the word gets out, then people are prepared to present their false ID knowing there's no harm, no foul. I'll get it back, and I'll pay him, and I'm in. I think being solely reliant upon your doormen to be your only security gate is faulty because this could

happen to you again.

MR. WOODMAN: The other option we're looking at is just paying the money for the ID reader at the front door and just have things monitored as well as recorded.

MR. SCALI: That doesn't always work completely either, believe me.

MR. WOODMAN: I know, it's not fool-proof. There's nothing fool-proof.

MR. SCALI: It could be a valid ID but not the person.

MR. TINGLE: One of my thrills in life is catching fake IDs, so I'll probably just spend the rest of the summer out there.

MR. SCALI: Questions?

MR. HAAS: No questions at this time.

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

Pleasure of the Commissioners? I wish I could say I have a solution for you. I know you're part of CLAB. I know you're very active in that. I know you do a lot of work in the City for



different events. I know you've had trouble before with other underage issues. I just hate to think that everyone knows that Tommy Doyle's is a place to go to pass fake IDs.

MR. TURNER: Mr. Chair.

MR. SCALI: Deputy Chief.

MR. TURNER: The one question I do have actually is through you to Ms. Lint. Have we received any complaints since this has been publicized?

MS. LINT: I haven't received any.

MR. TURNER: Has anyone come forward, any victims, other victims?

MS. BOYER: I have not heard any.

MR. TURNER: I suppose they would be afraid to come forward.

MS. BOYER: I did not get any forwarded e-mails from Detective DeMarco stating that the gentleman had revisited, or anything like that.

MR. TURNER: This one is almost made-for-TV. Good job by the Police Department, and by

Ms. Boyer.

I realize that Tommy Doyle's is up for the Disciplinary, but I find it troubling to actually discipline them because of the actions of an employee. It's kind of us a scam that the employee --

MR. SCALI: The Commissioner is disagreeing with you.

MS. LINT: Rule 1.

MR. SCALI: They're still responsible for that person.

MR. TURNER: I'll leave my comments at that then.

MR. SCALI: Anybody else want to be heard? Any final words?

MR. WOODMAN: We reevaluated ourselves again, and as I said, myself and Garrett now are physically doing the door guys' jobs. We have the controls in place and we're swapping things around a little like you said.

MR. SCALI: I think you're right; an owner has to be at the door with a bouncer or

whoever. Obviously you just can't depend on an employee to handle such an important part of the your business.

MR. WOODMAN: Again, I can't articulate how frustrated and annoyed I was -- and still am -- about the whole incident. You work so hard and just get a slap in the face. That's genuinely what I felt. And Garrett had the one weekend off, and of course, this happens when he's away. So he's not allowed to go away anymore.

MR. SCALI: Now you're a valued employee.

MR. TINGLE: Planning my wedding and this is what I get.

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

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: We vote June 29. We vote at 10:00 a.m.; right? Is that the right date? Oh, it's July 2.

MS. LINT: Are you sure?

MR. SCALI: Yes. It's the first Thursday. July 2 we vote at 10:00 a.m.

MS. LINT: Disciplinary matter:  
Vijeta Corporation d/b/a Prospect Liquors, Dhiru Patel, Manager, holder of an All Alcoholic Beverages as a Package Store license at 1226 Cambridge Street for selling alcohol to a minor on two separate occasions: May 9, 2009, and again on May 13, 2009.

MR. SCALI: Officers have a seat over here, if you would, and Ms. Boyer.

MS. BOYER: I'm not a part of the first one. Are you getting to the first one, first? I'm not actually part of that first case.

MR. SCALI: Okay. Just tell us who you are. We'll start over here. Just tell us your name.

MR. PATEL: Dhiru Patel.

DET. VELUCCI: Officer Peter Velucci, Cambridge Police Department.

OFFICER CABRAL: Officer Frederick Cabral, Cambridge Police Department.

MR. SCALI: We have two incidents: one on May 9, which is what the police are involved

in. And Ms. Boyer, you're involved in the May 13 incident?

MS. BOYER: Correct.

MR. SCALI: Let's start with May 9, and we'll start with Officer Velucci.

OFFICER VELUCCI: On May 9, 2009, at approximately 10:45 p.m., Officer Freddy Cabral and I were moving motor vehicles that were illegally double-parked in front of 1226 Cambridge Street; that's Prospect Liquors. One individual came out of Prospect Liquors to move a Mass. registration motor vehicle -- I'll leave out for this.

The individual was identified and 18 years old. He was in possession of a sixpack of Sam Adams Summer Ale and a pint of Captain Morgan Spiced Rum. When we asked him who he purchased the alcoholic beverage from, the minor pointed out the clerk of Prospect Liquors, Eric Maldonado.

Mr. Maldonado stated that that he must have shown a fake ID and began to laugh; however, we searched the minor and found no other ID. The minor said the clerk never asked him for an ID and

that he's been there multiple times prior. He has never been arrested, no prior incidences, and he was very cooperative.

Unfortunately, I've been to Prospect Liquors approximately five or six months prior to this situation for the same thing. An individual came out to move his illegally parked car, he was too, 18. He didn't have a fake ID on him, and it was Eric Maldonado that was working there at that time. I informed him and the establishment they'd only receive one warning from me -- this was the second time -- and I felt that the Committee needed to be made aware of the situation.

The sixpacks and the pint were logged in as confiscated evidence on a CAD No.: 09-035329.

MR. SCALI: So you gave them a warning before?

OFFICER VELUCCI: Yes, sir.

MR. SCALI: Do you know approximately when that was?

OFFICER VELUCCI: It was approximately five or six months prior that the

individual came out, he was 18. I ID'd him, I bopped(phonetic) him. He has never been arrested. He lived around the corner. He said the same thing: "I've been here before, nobody has ever ID'd me." I said, "Where did you get it from?" Eric was behind the thing.

I'd been in there before. A call for an 86 is if there's any homeless people in there, so I know Eric. I told him, I said that's unacceptable. I said, "You put me in a situation." I let it off as a warning. The kid said he wasn't coming back. He was very nervous. I got his parents' information and stuff like that. We let it go at that. We made a CAD note of it, and then there was this incident that happened.

MR. SCALI: This is a place where it's known? How did you know about this?

OFFICER VELUCCI: I'm from the East Cambridge area. Sometimes I work Car 1, so we stop in there. We get some homeless people congregating out front. Across the street they have some benches. So we just go in to make sure they're not



selling to any homeless individuals that would cause even more of a problem for the City. So we got a call for an 86, walked through and made sure everything was okay down the street. That's where I met Eric, going in there working.

MR. SCALI: Just by walking around and talking to him, you obviously knew who he was from the neighborhood.

Questions for Officer Velucci?

MR. TURNER: No questions.

MR. HAAS: No questions.

MR. SCALI: Officer Cabral.

OFFICER CABRAL: Actually, on the night in question, we were actually assigned to a bicycle patrol, but due to the inclement weather, we were in a cruiser, and we were going back to the station when we encountered the cars. They wouldn't move the car, we were waiting for them to come out. We issued them a ticket. When he came out, we saw the individual.

When we got the ID from the minor, I actually brought it in and presented it to Mr.

Maldonado. I said, "I want you to see this." This was the kid who had just walked out not even a minute earlier. He looked at it and even though it was a Massachusetts underage identification license, which is clearly different than the horizontal over-21, it seemed to me that he couldn't make any sense of it. And I had to tell him the kid is under 21.

I said, "Is there anything wrong with this ID?" He was unable to tell me anything that was wrong with the ID. It was a matter of a question of whether he was 18 or 19, not like it was a date of birth of 1988 or something. So I thought that was very troubling, which is another reason why we wanted to send an e-mail to take some action on this.

It appeared to me that it was only after I pointed out to him that this was an underage ID that he said, "Well, he must have gave me a fake ID." The individual actually consented to a search of his person and we did not find a fake ID.

MR. HAAS: Plus, he told you that he was never asked for an ID; right?

OFFICER VELUCCI: He said he never even asked for an ID. He'd been in there before, he never asked for an ID. He just gives him the money and walks right out.

MR. PATEL: Actually --

MR. SCALI: Hold on one second and we'll give you a chance to talk.

MS. LINT: If I may, Mr. Chair, Prospect Liquors was before the Commission in October 2006, and it was a similar situation of serving alcohol to minors. And at the time, Eric Maldonado was the same sales person who made the sale.

MR. HAAS: We had another more recent case too, with a homeless individual that went to Prospect Liquors, also.

MR. SCALI: Yes, in 2008, an intoxicated person, selling to. They received a warning.

MS. LINT: That's correct.

MR. SCALI: Mr. Patel, you can respond.

MR. PATEL: Yeah, that guy comes almost rvery day. He's carrying some other ID too, and that ID is over 21. My guy, he check the ID and he was over 21. He checked a few times and on that day he didn't check it, but he's carrying the other ID exactly like him and he's over 21. So he didn't check it on that day he was caught. He comes almost every day and he check quite a few times beside this, but that guy is carrying two ID. One is over 21.

MR. SCALI: The officer searched him.

MR. PATEL: He must have somewhere else he put it. When he buy, he is carrying other ID. Now, he stop coming because we know that he has been caught.

MR. SCALI: He's underage; that's why he stopped coming.

MR. PATEL: He was carrying some other IDs for maybe his brother or someone, but we checked quite a few times and that's why he didn't

check again.

MR. SCALI: So you're saying that he had an ID that showed him to be of age, which obviously wasn't him because he is not of age.

MR. PATEL: He didn't show that ID that was under 18. That's his actual ID. He didn't show that to us, to my guy. He didn't show that. He showed other ID. But he was checked quite a few times and he comes almost every day to the store.

MR. SCALI: Does he live in the neighborhood?

MR. PATEL: I don't know where he lives but he comes to the store.

OFFICER VELUCCI: He does. He lives around the corner.

MR. PATEL: That's why he didn't check on that day, but he's carrying some other IDs.

MR. SCALI: Does Mr. Maldonado know the difference between a regular Mass. driver's license and an under-21 Mass, ID?

MR. PATEL: Yeah, he knows.

MR. SCALI: He couldn't point it out to the officers. Why didn't he know it that evening?

MR. PATEL: I don't know. Maybe he was nervous or something, but I'm thinking to send him more training, because the way the cop says.

MR. SCALI: The training the last time didn't help.

MR. PATEL: What?

MR. SCALI: Didn't he go to training the last time in 2008?

MS. LINT: In 2006.

MR. PATEL: He's been sent.

MR. SCALI: He's been there about three years?

MR. PATEL: Yeah. He was sent over there two years ago.

MS. LINT: He also worked for the prior owner.

MR. SCALI: He's been there a lot longer. He was there before you took ownership.

MR. PATEL: When Walter was there, at

that time, he was working too. But I'm thinking to send him for more training of ID check, and I'm also thinking I also get that ID check machine. I would like to resolve this.

MR. SCALI: This is only one charge we're hearing right now. We'll hear the second one next.

Any further questions on this particular issue?

MR. HAAS: No questions.

MR. TURNER: No questions.

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

Motion take the matter under advisement.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Officers, all set? Are

you involved in the May 13 one?

OFFICER VELUCCI: No.

MR. SCALI: This is just yours?

MS. BOYER: Yes.

MR. SCALI: Thank you officers.

You're all set.

Ms. Boyer, we will go with your report now.

MS. BOYER: As the Commissioners are aware, there's an underage investigation trying to see if a sixpack of beer can be sold to an underage individual at the package stores in the City of Cambridge.

The investigation for Prospect Liquors took place on May 13, 2009. During the investigation, a minor used a false Ohio driver's license. The Ohio driver's license does not show the correct picture or height of the minor who used the driver's license. The Ohio driver's license also expired in June 2007. That paperwork was given to you previously.

At approximately 6:09 p.m. on May 13,



there was a youth that is 17 years of age; birth date is 6/14/1991. The underage individual was able to purchase a sixpack of Bud Light. The alcoholic beverage was paid for with a \$20 marked bill, which was given to the youth by myself.

The underage individual was questioned as to their age, and they were questioned and asked for an ID. It was a male, a baseball cap. Then there was information that there was a little rapport between the employee and the minor, and it is as follows: The employee asked, "Is this real," pertaining to the ID. The minor said, "As far as I know." The employee said, "How old are you?" And then she replied back as 21. The employee said, "You look like you're 15." The minor did not respond and then the sale was made.

I did return to the store to speak to the employee and the owner. I was able to show them what was incorrect about the ID. I collected the information and brought it back to the Executive Officer.

MR. SCALI: The ID is an out-of-state,

fake ID. The picture is not the person, and it is an expired ID.

MS. BOYER: Correct.

MR. SCALI: So there's three things wrong with it all together. He picked up on one.

Do you know who the actual sales person was, the employee? Was it Mr. Maldonado again?

MS. BOYER: From the description, it was Mr. Maldonado.

MR. PATEL: He suspected that he was too young, so he asked for the ID. He said he's too young and he checked the ID, but it was 1982. So he said he was like over 21, but he overlooked the expiration date, and he just let it go. He didn't check precisely. He just overlooked the expiration date.

MR. SCALI: He says to the minor, "You look like you're 15." Why would he sell to her if he thought she's 15?

MR. PATEL: He saw the 1982. That date he saw is the date of birth, so he thought the date is '82, so it over 21. But he overlooked the

expiration date.

MR. SCALI: Do you take out-of-state IDs? Is it your policy to take out-of-state IDs?

MR. PATEL: We check ID and then we take it.

MR. SCALI: You to take them?

MR. PATEL: We check very precisely.

MR. SCALI: I'm asking, do you take out-of-state IDs? Is that your policy?

MR. HAAS: Ask if they accept.

MR. SCALI: Do you accept?

MR. PATEL: Yes.

MR. SCALI: My wording --

MR. HAAS: He thinks you're asking if they take them.

MR. SCALI: Oh, I'm sorry.

Questions, Commissioners?

MR. HAAS: It's troubling that it's the same clerk, and clearly he had enough ground to suspect that there was a problem with the identification, and yet, he still went and sold it. It doesn't sound to me that you have a consistent

policy in terms of what you're going to check for IDs. It seems to me that this clerk, for whatever reason, can't discern what's a valid ID, what's an invalid ID.

Based on the prior testimony from Officer Cabral and then what Ms. Boyer is indicating in terms of the conversation that took place, I don't know if it really matters to this clerk whether or not he sells to an underage person or not. I mean, it's immaterial.

MR. SCALI: It sounds like he's had plenty of experience there. He should know the laws by now.

MR. PATEL: I'm going to send him for more training and I bought the ID check machine.

MR. SCALI: I don't recommend you fire employees at all, but I don't think training is going to do him any good, to be honest with you.

MR. PATEL: Maybe I have to fire him.

MR. SCALI: I didn't say that, but I'm just saying that training is not going to help this gentleman, because he's been to the training

before.

MR. PATEL: Maybe I can remove him from the register.

MR. SCALI: Deputy Chief, any questions?

MR. TURNER: No questions.

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

Anything else, Commissioners?

MR. HAAS: Nothing else.

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

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: We vote on July 2 on these two matters, at 10:00 a.m. You're welcome to be here. You're not required to be here.

MR. PATEL: July 2?

MR. SCALIA: We vote on July 2 at 10:00 a.m., right here in this room, so you're welcome to be here to hear the decision, if you'd like, but you're not required to be here. Thank you.

MS. LINT: Disciplinary Matter:  
Museum Market Corp. d/b/a Museum Market, Deborah Zammutto, Manager, holder of an All Alcoholic Beverages as a Package Store license at 12 Museum Way for selling alcohol to a minor using false identification on May 13, 2009, and failing to properly apply for a change of d/b/a.

MR. SCALI: Market Museum? Museum Market, I'm sorry. Not here. Did they receive notice?

MS. LINT: They did, and I had a call as well. They knew they needed to be here.

MR. SCALI: Have you heard from them at all, Ms. Boyer?

MS. BOYER: No, I haven't. Is there anyone in the hallway that maybe can't hear. Is anyone in the hall? Thank you.

MR. SCALI: Ms. Zammutto usually shows up for these things.

MS. BOYER: The same thing happened.

MR. SCALI: Do the Commissioners wish to hear the be evidence, or continue the matter? I

think we need to find out exactly what happened to her because usually she does show up to these things and it's unusual that she doesn't. Want to give her one more chance to appear?

MR. HAAS: The problem we're going to have is if Ms. Boyer gives testimony and then she comes for a subsequent hearing, then we're not going to have the opportunity to questions.

MR. SCALI: Opportunity for cross-examination at that time.

Let's continue the matter and find out why she didn't appear. Motion to continue.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Let's find out what happened.



MS. LINT: Disciplinary Matter:  
University Liquor Shop, Inc. d/b/a 660 Package  
Store, Manuel Barros, Manager, holder of an All  
Alcoholic Beverages as a Package Store license at  
660-668 Cambridge Street for selling alcohol to a  
minor using false identification on May 13, 2009.

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

MR. BARROS: Manuel Barros, owner of  
660 Package Store.

MR. SCALI: Mr. Barros, Ms. Boyer.

MR. LANDEVERDE: Victor Landeverde.

MR. BARROS: Spelled L-A-N-D-E-V-E-R-  
D-E.

MR. SCALI: All right, Ms. Boyer.

MS. BOYER: Once again, the  
investigation was performed on May 13, 2009, also  
utilizing the same false Ohio driver's license,  
which does not show the correct picture or the  
height. It was also expired in June 2007.

This investigation took place at  
approximately 6:28 p.m. at 660 Cambridge Street.

The youth is 17 years old. The date of birth is 6/14/1991. The underage individual was able to purchase a sixpack of Bud Light utilizing a \$20 bill that was given to the youth by myself. The individual was not questioned as to their age, but they were questioned and asked for an ID. It was a male cashier. When I returned to the store, I showed the employee what was incorrect about the ID.

MR. SCALI: You followed the same procedure you did with all the other investigations that particular evening, keeping with your regular guidelines?

MS. BOYER: Yes.

MR. SCALI: Do you know who the employee was that sold? Was it this gentleman here? They're saying yes, but you don't know.

MR. BARROS: It was him.

MR. SCALI: It was the same Ohio out-of-state ID, and the same individual that was doing the investigations for the previous stores?

MS. BOYER: Yes, sir.

MR. SCALI: So nothing has changed.  
Questions for Ms. Boyer on this particular matter?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Mr. Barros.

MR. BARROS: Mr. Chairman, in 2007, we had a similar incident. Ms. Boyer was doing her job and an employee that had gone through training -- human error -- didn't see the expired driver's license. And we came up here and she admitted that she just blew it. She's no longer with me.

Mr. Landeverde, on the night in question, sold the sixpack to the minor. He looked at the ID and he has told me that he was confused with the expired date. He really didn't understand it.

As far as out-of-state IDs go, our policy is that we ask additional IDs as well, because in Massachusetts, an out-of-state ID is not acceptable as a means to purchase alcohol. He knew that policy, but for some reason this night he just didn't follow it.

He hasn't gone through the ID training with Frank Connolly and I'm going to make sure for the future that he does, along with the new employees that I have.

I had a few thoughts on this whole process. What Ms. Boyer does is correct. I mean, if someone comes into a package store and shows a false ID, even though you asked for an ID, what's the sense in asking for the ID if you're not going to verify whether it's expired or whether it's the person in question?

Human error is what it is. This is why airplanes have computers flying them now, because human error factors in no matter what you do, I guess. I am, like the previous package store owner said, I am going to get an ID check machine to reduce this kind of human error.

In addition to that though, like banks sometimes use what they call "dual controls." When two employees open a safe, they make sure that one employee isn't alone with the money or whatever, so they always have two. And two heads are better

than one. So what I'm going to do in the future is that any person that we ask for an ID for is going to have to show that ID to one or two employees, and the two of them together are going to have to agree that that person is of age or is not of age. Because I'm really frustrated as to how else you reduce human error.

The Commission knows that in East Cambridge, young people come in with IDs a lot and we don't take them, and at various times, they act in a belligerent way. We're always being bombarded with threats or whatever. So it's difficult sometimes. But we try to maintain a policy so that people who are underage are not served.

I just don't understand how Mr. Landeverde -- because he is a good employee; he works hard. Lightning striking twice with me, I just don't understand it, but it happens. He can speak and tell you what happened, but that's basically it.

For the future, we're just going to do multiple checks with two people, and we're going to

get them through training. I just don't know what else to do.

MR. SCALI: Do you talk about this with your employees at all? Do you talk about what's acceptable for IDs and what to look for on an ID?

MR. BARROS: I do.

MR. SCALI: It seems like in all these cases people are asking for the ID -- they're told to ask for the ID -- and then they have no idea what they're reading on the ID for some reason. And I don't know why that would be because -- well, you haven't been through the training -- at the training, we do teach that in terms of what to look for. And if your policy is not to take an out-of-state ID, you shouldn't have taken an out-of-state ID, because that's their policy in the store. If it was his policy to take an out-of-state ID, you take it at your own risk. Why would you take an out-of-state ID?

MR. LANDEVERDE: The thing was I asked to the girl for an ID and always come are a lot of

people that are students and for different state driver's license. But I don't know how that I missed that it was expired and it was Ohio.

I was looking at the ID. I take like a minute to look around. It's kind of difficult all different ID that we seeing every day to see the expired days and everything. It's kind of difficult sometimes.

MR. SCALI: Because you're so busy and you have people around you?

MR. LANDEVERDE: Yeah, I was kind of busy at that time, and I missed it. I know it's my mistake.

MS. BOYER: This is one of the reasons I use an expired ID, because it's one of the oldest tricks in the book. You use your sister's or your brother's ID once it's expired because they're going to get a new one.

MR. HAAS: It also sounds to me that you're given enough warnings that hopefully an out-of-state, expired, not the same picture of the person that's presenting the identification. So to

Mr. Chairman's point, they're going through a perfunctory motion of asking for the ID, but they're not doing anything with it. So you might as well not even ask for the ID at that point if all you're going to do is -- if I present one, then I get to buy alcohol.

MR. BARROS: That's why I think two layers: a check ID machine and two employees to verify. I just don't what else to say or do.

MR. SCALI: The ID machine definitely would have checked that it was expired. At least you would have known that.

MR. BARROS: But you have to make sure the person is that person.

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

MR. TURNER: No questions.

MR. HAAS: No questions.

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

MR. HAAS: Motion.

MR. SCALI: Moved.



MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Aye. July 2, we vote.

Ms. Boyer, is that all for you?

MS. BOYER: Yes, it is.

MR. SCALI: Thank you very much.

MS. LINT: Application: Basha Cafe, LLC d/b/a Basha's, Jack Markarian, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 26-48 New Street has applied for a change of premises description to include a seasonal outdoor patio on private property with 10 tables and 20 seats for service of food and alcohol and an increase of occupancy from 40 seats to 90 seats inside.

MR. SCALI: Good evening.

MR. MARKARIAN: Good evening.

MR. SCALI: Tell us your name.

MR. MARKARIAN: Jack Markarian.

MR. SCALI: I'm I to understand that the patio and the increase is already done?

MR. MARKARIAN: The patio, yes.

MR. SCALI: Done already?

MR. MARKARIAN: Well, the patio was done so we just put seats outside.

MR. SCALI: How many seats do you have inside now?

MR. MARKARIAN: We use 40 but there's

enough for 90.

MR. SCALI: So you only have 40 in there now?

MR. MARKARIAN: No. I have set up 90, but we're only using 40. It's right in the middle.

MR. SCALI: That sounds good, but -- So 90 are there but we're not using 50 of them; right?

MR. MARKARIAN: Yeah.

MR. SCALI: How did we discover this, do you know? Did you come in and ask for it?

MR. MARKARIAN: I came and asked for it.

MR. SCALI: Do you have a plan? You have additional space now, you have there; right? Is that why you added a room on?

MR. MARKARIAN: When I was doing construction, I started out as a cafe. Then I had more room so I added it afterwards. When I came to see Commissioner Ranjit, I said I'm going to come in for more seating. So that was more room added in the space.

MR. SCALI: The patio is on private property; right?

MR. MARKARIAN: Yes. I'm about 20 feet away from the sidewalk.

MR. SCALI: On the plan you have 24 patio seats, and on the application you have 20.

MR. MARKARIAN: It's 20.

MR. SCALI: You need to fix the plan. And inside, you've got 92 on the plan.

MR. MARKARIAN: It's supposed to be 90.

MR. SCALI: So you need to take away two seats. So take away two bar seats?

MR. MARKARIAN: Two bar seats.

MR. SCALI: So it would be a total of 110. Anything else we're changing?

MR. MARKARIAN: No.

MR. SCALI: Notification to abutters?

MS. LINT: He is the abutter.

MR. SCALI: You're the abutter?

MR. MARKARIAN: Yeah.

MR. SCALI: You own all the lot all

around?

MR. MARKARIAN: Yes. I brought in a notarized --

MR. TURNER: Was there approval from ISD? Did ISD sign off?

MR. MARKARIAN: For the patio outside, I hired an architect and they're talking to each other, and we're going to make it accessible for the outdoor.

MR. TURNER: Inside you're C of O.

MR. MARKARIAN: Inside it is, yeah.

MR. TURNER: Any entertainment?

MR. MARKARIAN: We have entertainment, yes.

MR. TURNER: Are they licensed for the entertainment?

MR. MARKARIAN: Yes.

MS. LINT: I do have a sign off from Ranjit but it doesn't have any capacity on it.

MR. SCALI: We just need to get the final number from Inspectional Services, a sign off.

MR. TURNER: How's business up in that are? I'm just curious since you've opened if it's successful.

MR. MARKARIAN: Sunday's is good, weekdays is slow. Weekends, you know, it's good. It's taking time for people to know that there's a restaurant around there.

MR. TURNER: Right, you can drive right by there and not even notice it.

MR. MARKARIAN: Yeah.

MR. SCALI: We have one other problem; that's your accessibility to the restaurant. Mr. Muey I guess sent you a letter.

MR. MARKARIAN: Yes.

MR. SCALI: So are you working on that?

MR. MARKARIAN: Yes.

MS. LINT: Mr. Chair, I have a letter from the architect that he is working with Mr. Markarian to make it accessible. I also have a letter from Councilor Toomey.

MR. SCALI: In support?

MS. LINT: Would you like me to read it?

MR. SCALI: No.

MS. LINT: Yes, it is in support. I believe Councilor Decker also called in support.

MR. SCALI: How long is it going to take you to fix the accessible issue?

MR. MARKARIAN: I would say two to three months.

MR. SCALI: Is it a matter of putting a ramp in?

MR. MARKARIAN: We have to see how the architect is going to do it so we don't do -- because the patio is not wide enough, It's only seven feet wide, so we have to think of where we're going to do the designated handicap area on the patio.

MR. SCALI: Is it the accessibility to the patio or to the inside?

MR. MARKARIAN: No, the patio.

MR. SCALI: Is it just the patio?

MR. MARKARIAN: Yeah. I have a ramp

going inside the building.

MR. HAAS: If you remove these additional seats, will that fix the problem for you?

MR. MARKARIAN: No, because the way we did the patio, it's about eight inches below the ground so the snow in wintertime. We didn't even think about accessible for the handicapped, so now have to think of a way from the outside how we going to do it.

MR. SCALI: It's not wide enough for a wheelchair; is that what it is?

MR. MARKARIAN: No. It's wide enough to get a wheelchair but I don't know how we're going to do the ramp. The way the ramp is right now, it goes in a zigzag. It's an eyesore. I want to take that out and put a lift chair, and I'd like to do the same in the front, because it takes so much room. It's like an eyesore. And I did fix up that street so it looks nice. And I just don't want to put that zigzag. So I'm thinking of putting in a lift chair.



MR. SCALI: Comments?

MR. HAAS: No comments.

MR. SCALI: Anybody from the public want to be heard on this matter? No hands.

I'm thinking we should probably continue this for two months to see what the status is; to see what happens with the accessible issue. I'm sure Mr. Muey will object to you using the patio in the meantime. Is he amenable to the time period, do you know, Mrs. Lint?

MS. LINT: Mr. Muey?

MR. SCALI: Yes.

MS. LINT: He just wants it done. There's no mention of a timeframe.

MR. HAAS: Was there a complaint lodged regarding handicapped accessibility?

MS. LINT: No.

MR. SCALI: I think he went and inspected because of the new establishment.

Pleasure of the Commissioners?

MR. HAAS: What you're proposing, Mr. Chairman, is a continuance for two months allowing

for the continued operation for those two months? What about the architectural drawing? Don't you need an actual architectural drawing?

MR. SCALI: We do need a new plan showing the --

MR. MARKARIAN: Accessibility.

MR. HAAS: The seating too.

MR. MARKARIAN: I will do the seating too. It's just that the summer is short here, and I'm not in an accessible area.

MR. SCALI: You've got an All Alcoholic Beverages license; right?

MR. MARKARIAN: Yes.

MR. SCALI: So it has to go to the ABCC as well before you can use that patio. So you shouldn't be using that patio at all for now. It may take a good four to six weeks at least.

Motion to approve the increase in capacity, and the patio, subject to the new plan being submitted, and for ABCC approval. Actually, you can't use the inside either until the ABCC approves it as well.

MR. MARKARIAN: Really?

MR. SCALI: Yes.

MS. LINT: Their turnaround has been a little bit quicker lately.

MR. SCALI: Increase capacity and patio approval subject to the new plan being submitted, and ABCC approval, and that we place it on the agenda in two months for update on the accessible issue. Discussion?

MR. HAAS: So Mr. Markarian couldn't -- I mean, I'm just trying to sort this out. So he can't actually make application to the ABCC until he gets approval of this body first; right?

MR. SCALI: Right. I'm sorry, he could actually use the inside and the patio without alcohol.

MR. MARKARIAN: I could use the outside without alcohol.

MR. SCALI: And the additional 50 seats without alcohol too.

MR. MARKARIAN: That's going to be tough.

MR. HAAS: Can he make application for the inside seating and then make a second application when the patio is ready? Or does he have to do it as a package?

MR. SCALI: It's easier to go as one big package.

MR. HAAS: I understand but I'm just wondering for business.

MR. MARKARIAN: All right.

MR. SCALI: Do you want to use it without the alcohol, the inside and the patio?

MR. MARKARIAN: Yeah, especially the patio. The summer is short.

MR. SCALI: I'll amend it to say you may use the inside 50 seats and patio seats without alcohol in the meantime.

MR. MARKARIAN: Thank you.

MR. SCALI: That's moved.

MR. HAAS: Moved.

MR. SCALI: Seconded.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Don't forget to bring that new plan down before you start operating.

MR. MARKARIAN: The seating plan?

MR. SCALI: Right.

MS. LINT: And it can't go to the ABCC until we have it.

MR. SCALI: So you need the new plan before you can operate and before it can go to the ABCC.

MR. MARKARIAN: Thank you.

MS. LINT: Application: Villa Specialties, Inc. d/b/a Villa Fresh Italian Kitchen, Richard Wymann, Manager, has applied for a Common Victualer license at 100 Cambridgeside Place. 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 10:00 a.m. until 9:30 p.m. seven days per week.

MR. SCALI: Good evening.

MR. SCOTTI: Antonio Scotti.

MR. WYMANN: Richard Wymann.

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

MR. SCOTTI: Correct.

MR. SCALI: In the Food Court?

MR. SCOTTI: Yes.

MR. SCALI: Are you in operation now?

MR. SCOTTI: Yes, correct.

MR. SCALI: How long have you been  
there?

MR. SCOTTI: Shy of two months.

MR. SCALI: Does the mall advise you that you need to apply for a Common Victualer?

MR. SCOTTI: Yes.

MR. SCALI: When you go in there, do they say you need a permit? I'm just trying to figure out what's happening down there.

MR. SCOTTI: We actually, our company opens up stores all over the United States. I came here and asked what do we need to -- all the documents that we need. There was one document that actually we didn't know about it, and when we didn't know about it -- after we got the letter at the office and we attack right away, and we got it done, but that actually was a month later. I believe everything is up to speed now. We should be fine.

MR. SCALI: We probably should advise the mall to do that.

MS. LINT: I believe I had told you I had been in touch with Peter DeVito and that has been taken care of.

MR. HAAS: Is it a break down between

the management of the mall and the restaurants?

MS. LINT: There was, yes.

MR. SCALI: Tell us what kind of food you're serving.

MR. SCOTTI: Pizza.

MR. SCALI: Just pizza.

MR. SCOTTI: Italian dishes, spaghetti, lasagnas.

MR. SCALI: Tell us your experience in the restaurant business.

MR. SCOTTI: I'm a regional director for the company.

MR. SCALI: So you've got a number of these throughout the country?

MR. SCOTTI: Yes. We are in the States and we open overseas also, too. So that was news for us that there was another license that we didn't catch, because normally we're pretty good about it. We like to get ahead of time everything else. The funny part is that we had everybody sign off on it, the Fire, the Building Department, and everything else, so we thought we were okay until



we got the letter. I go, "No, you're not okay. You could be shut down." I said wait a second. We did not know, and when we did know, we attacked right away.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. SCALI: Anybody from the public want to be heard in this matter? No hands.

Comments?

MR. TURNER: No comments.

MR. SCALI: Motion.

MR. HAAS: Motion to approve.

MR. TURNER: Second.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: So we just approved you. It doesn't mean now you can ignore it. It means you need to have all of your sign offs: Building, Fire, Health, and pay a fee; right? Or does the mall pay the fee?

MS. LINT: The mall pays the fee.

MR. SCALI: The mall pays the fee,  
okay.

MR. SCOTTI: So we need to display  
everything, all the licenses. But I guess they  
were holding one license because of this. That's  
the CO, the occupancy. That was the only one.

MR. SCALI: That's a different thing.  
This is your Common Victualer license.

MS. LINT: They didn't give him the CO  
because he didn't have this.

MR. SCOTTI: Correct. That was the  
only thing, because once you have that in place --  
that's what we do in every state. I don't know if  
Massachusetts the same. That's the only thing -- I  
believe it's only Cambridge because we have another  
store in Springfield.

MR. SCALI: There's a Common Victualer  
in every -- in Massachusetts, every city and town  
has to have a Common Victualer for every  
restaurant.

MR. HAAS: You better go back and

check Springfield.

MR. SCALI: No CV in Springfield?

MR. SCOTTI: Yeah.

MR. SCALI: DO you have seats there?

MR. SCOTTI: No.

MR. SCALI: You have no seats?

MR. SCOTTI: We don't have no seats in this one either.

MR. SCALI: But you have mall seats.

MR. SCOTTI: Yes. It's a food court. It's not inside a real place so I guess that's the mall responsibility.

MR. SCALI: No. It's their responsibility to pay it because it's mall seating, but you're using the mall seating as part of the whole food court, so you have to have a Common Victualer to go with the seating.

MR. SCOTTI: This is only Massachusetts, because I never heard of any other.

MR. SCALI: I don't know about the other states, but in Massachusetts, most definitely.

MR. SCOTTI: That's good to know.

MR. SCALI: So that means you have to come by and pick up your license. We're not going to mail it to you; you've got to come down and get it.

MR. SCOTTI: Right here at this building?

MR. SCALI: Upstairs in our office.

MR. SCOTTI: When will the license will be ready?

MR. SCALI: In a couple of days?

MS. LINT: A couple of days.

MR. SCALI: In a couple of days it will be available. Just call Chris in my office before you come by.

MS. LINT: Not on the CVs.

MR. SCALI: Kara?

MS. LINT: Kara.

MR. SCALI: I'm sorry, Kara.

MR. SCOTTI: Kera?

MR. SCALI: Kara, C-A-R-A. I'm sorry, K-A-R-A. Thank you very much.

MS. LINT: Application: Gold Rush, MA, LLC, Gala Tressler, Manager, has applied for a Second Hand Goods Dealer license at 100 Cambridgeside Place.

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

MS. TRESSLER: Gala Tressler.

MR. SCALI: You were on our agenda before. What happened?

MS. TRESSLER: I messed up my dates. I put it a month ahead, and then Christopher called me and I apologized.

MR. SCALI: You had the wrong month.

MS. TRSSLER: Yes.

MR. SCALI: Tell us what you're going to do.

MS. TRESSLER: Just buy gold.

MR. SCALI: Is it a store in the mall?

MS. TRESSLER: A kiosk, so no building or anything like that.

MR. SCALI: Are you selling anything?

MS. TRESSLER: No.

MR. SCALI: Are you buying gold jewelry? Just gold jewelry?

MS. TRESSLER: Whatever form it comes in is fine with me.

MR. SCALI: Are you selling anything else besides gold?

MS. TRESSLER: Just gold jewelry.

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

MS. TRESSLER: I actually have a bunch of stores in Massachusetts already. Cambridge is my last one. I have two in Peabody, I have one in Burlington. I have South Shore, and I have two in New Hampshire also.

MR. SCALI: Are they all under the same name?

MS. TRESSLER: Yes, and they all do the same thing.

MR. SCALI: Are you familiar with our reporting mechanisms in Cambridge?

MS. TRESSLER: Slightly, but I report on so many different cities without any problems.

So whatever you guys ask me to do, of course, I'll do it.

MR. SCALI: It will be through Lieutenant Ahearn at the Police Department. There is a reporting form. You need to report purchases and sales. I think it's on a monthly basis. But if you contact Lieutenant Ahearn at the Police Department, he can fill you in.

MS. TRESSLER: I will.

MR. HAAS: And we do follow-up inspections every so often, too.

MR. SCALI: Questions, Commissioners?

MR. HAAS: No questions.

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

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: The one question I have is do we need letters from the owners in the mall, or is this a lease agreement?

MS. TRESSLER: I've brought in with my application from the mall -- I brought it. Most of

the cities have required the exact same thing.

MR. SCALI: Right, there should be a lease agreement.

MR. TURNER: Thank you.

MS. LINT: Satisfactory background check as well.

MR. SCALI: Motion, Commissioners?

MR. HAAS: Approve.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Make sure you come by and get your license and pay your fee.

MS. TRESSLER: I will



MS. LINT: Application: Shree Ganesh Investments, LLC d/b/a Cambridge Saladworks, Kruti Kansagara, Manager, has applied for a Common Victualer license at 100 Cambridgeside Place. Said license if granted would allow food and nonalcoholic beverages to be sold, served, and consumed on said premises, and have hours of operation from 10:00 a.m. until 9:30 p.m. seven days per week.

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

MR. KANSAGARA: Wikus Kansagara.

MRS. KANSAGARA: Kruti Kansagara.

MR. SCALI: You're also in the mall; right?

MR. KANSAGARA: Yes.

MR. SCALI: Have you been there for a while already?

MR. KANSAGARA: May 21.

MR. SCALI: You not too far off. Tell us what you're selling.

MRS. KANSAGARA: Salads, soups,

sandwiches. .

MR. SCALI: Do you have other establishments elsewhere?

MR. KANSAGARA: No.

MRS. KANSAGARA: This is the first one here.

MR. SCALI: The first and only one?

MR. KANSAGARA: We signed for three stores in the Boston area, so it should be in the next 12 months.

MR. SCALI: Where else will you be located?

MR. KANSAGARA: Looking at Back Bay and Copley Square Mall, if possible.

MR. SCALI: Questions, Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

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

MR. HAAS: Motion to approve.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Make sure you come by and get your license.

MR. KANSAGARA: Next week?

MR. SCALI: Call Kara in our office and she'll have your license ready for you. Just call her before you come to make sure that she has it available for you before you come down.

MRS. KANSAGARA: And everything signed off with --

MR. SCALI: And the sign offs as well: Building, Fire, Health.

MR. KANSAGARA: Thank you very much.

MS. LINT: Application: 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 to  
include cooking on premise.

MR. SCALI: Good evening. Just tell  
us who you are please.

MS. WATSON: Kathleen Watson, General  
Manager at Burdicks.

MR. KLUGE: Michael Kluge, Chocolatier  
and Production Manager.

MR. SCALI: This is an application for  
a change of premises description to cook on the  
premises. So how long have you been there?

MS. WATSON: Ten, eleven years, ten  
years.

MR. SCALI: Eleven years?

MS. WATSON: Ten or eleven.

MR. KLUGE: I think eleven.

MR. SCALI: And right now, you have a  
Common Victualer with 16 seats; right?

MS. WATSON: Yes, which we're in the process of changing that also.

MR. SCALI: It's on another agenda; right?

MS. WATSON: Yeah.

MR. SCALI: So this is to add what?

MS. WATSON: We have an electric -- we make all of pastries in our Walpole production facility and we bring them here, and they bake off, or we want them to bake off morning pastries. So we have an electric half-sheet pan confection oven that we would like to use to bake off the morning pastries, croissants, and tarts. MR.

SCALI: And this is in the basement?

MS. WATSON: Yeah.

MR. SCALI: Your cooking is done in the morning?

MS. WATSON: Yes.

MR. SCALI: I'm assuming the Fire Department has been down there in terms of ventilation and all that.

MR. TURNER: This afternoon, and I had

to go by all of that chocolate and latte. There was absolutely no problem.

MR. SCALI: And ventilation is all proper?

MR. TURNER: Yes.

MR. SCALI: Sp there's not the issue of ventilation, smells, that kind of thing?

MS. WATSON: We don't have gas, we don't have anything. It's just small counter-top size oven.

MR. TURNER: It's just a warming oven, and one little convection hot plate, if you will.

MR. SCALI: So it's not that whole idea of smell going through the building?

MS. WATSON: No. It smells wonderful anyway.

MR. SCALI: One man's smell -- you know, to one is not --

Questions, Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public

want to be heard? Come on up. There's seats right here.

MR. LEVIN: If you don't mind, I'd like to stand, if that's okay. I can hear a little bit better. I'm a little bit hard of hearing.

MR. SCALI: Just tell us your name first.

MR. LEVIN: Phillip Levin, and I am the treasurer of Settebello at 52C Brattle Street, Cambridge.

MR. SCALI: Which is the store right next door, the boutique.

MR. LEVIN: Correct. If you're standing in the street, Burdick's Chocolates on the right, we're in the middle, and Cafe of India in on the left. They are long narrow stores and we share a very long wall.

MR. SCALI: Tell us what your concerns are.

MR. LEVIN: Basically Settebello opposes this change of license for a number reasons, some specifically about cooking, but

others are related to the license itself, and some of the other privileges that the license holds and how they've been treated.

In particular, we have a serious problem with overcapacity and overcrowding. It's affected our safety and our operations at Settebello. We feel it's important to review those before adding yet another privilege, because the way I see it, at least, the issues are not minor.

A couple of months ago, I sort of began investigating all this stuff and realized that it's pretty complicated. I didn't really know -- the fire codes are very complex. I looked at them and realized it was over my head. So I wanted to understand it because I didn't want my impression of what I think is overcapacity to be unfair.

MR. SCALI: What do you mean by overcapacity?

MS. WATSON: Because we're a very busy cafe.

MR. SCALI: Let's let him talk and



then you'll have every opportunity to speak. I guarantee you.

MS. WATSON: Thank you very much.

MR. SCALI: What have you been seeing?

MR. LEVIN: Two things: a license for 16 people, and as I understand from being at hearings that obviously it's not like the 17th person can't come in. There's some allowance for people. I'm not talking about 16 people. I'm talking about upwards of 80. Other issues with blocking the exit, blocking our egress. Anyway, just so --

MR. SCALI: You have seen in your own counting up to 80 people and you feel that they've been -- are they blocking your door?

MR. LEVIN: I don't feel; they are. Our staff sometimes has to knock on our door to be able to swing it open into the -- basically to escort our customers out of the store, because the doors are right next to each other.

MR. SCALI: So people are waiting in line; is that what you're saying? Or they're just

standing there?

MR. LEVIN: What happens in Burdick's sometimes is it's so packed in there that people actually -- the lines goes not -- there is a service counter at the end of the store. There's a line from the service counter not to the door, but through the door. They're holding the door open, people are squeezing past to get in and out of the shop.

Anyway, I did want to say that I've learned a lot in the last couple of weeks about what the rules are, but I'm not an expert. And I did ask someone who's very experienced in these matters to look into it, because again, I wanted to be reasonable and fair, rather than just have an impression. So I was wondering if it was okay if I had him -- he did a report for me.

MR. SCALI: Who is this person?

MR. LEVIN: Jay Fleming is his name.

MR. SCALI: What are his qualifications?

MR. LEVIN: I can introduce him right

now and let him --

MR. SCALI: I'm not really sure that that's appropriate.

MS. WATSON: We're having a hearing here.

MR. LEVIN: The problem is, I can't describe these things to you. If I show you the report, I don't really understand all the intricacies of the issue.

MR. SCALI: You are there in your store and you observe people that are either blocking your entrance or not, are waiting in line. So you're fearful that this is somehow causing a safety issue to your customers?

MR. LEVIN: There is that, yes. And there's also the issue of overcapacity within Burdick's Chocolates proper.

Also, directly related to the oven issue, we've had three serious fires in the building, the last one in February 2008. That knocked us out of business for about two weeks.

MR. SCALI: Was that the Cafe of India

fire?

MR. LEVIN: Right, but my point was that they came from kitchens.

MR. SCALI: Hold on. Everyone will have an opportunity to speak. I just want to make sure we finish with Mr. Levin.

So you're concern is the fire safety of that because of the previous fires.

MR. LEVIN: There's a number of issues. There's the fire safety of the store proper related to our business. I guess I'm not being as clear as I should be. If you offer a new privilege to a licensee, it would be good to know that they have treated the existing privileges properly. And that is where I believe there are some significant issues in violations, in overcapacity, and treatment of the overcapacity.

I really wanted to know what's safe and what isn't, frankly. You choose seating numbers with formulas which just seem like magic to me, and I don't quite get them. That's why I brought in Jay, because I really wanted to be fair

and appropriate.

MR. SCALI: Unless this person has been in L.A. Burdick's and gone and done a study of that setting, or that store inside, they'd be observing from outside, and I don't know that that would be an appropriate way of doing an inspection.

MR. LEVIN: He has. He has is the answer. He's been in the store. He's seen my photographs that I took of the issues with bench seating, which is another issue with capacity.

We've discussed the issue at length, tried to understand where the problems are, because again, I don't really know everything.

MR. SCALI: We can very easily figure out what's a safe capacity just by our own Building and Fire codes, so it's not a complicated matter at all.

MR. LEVIN: I think there is an issue with the -- I guess I was told it's a Class B business. Again, this is new to me so I'm doing the best I can. And that the capacity -- I think it was mentioned by Elizabeth Lint -- could be as

much as 80 or 90, but in fact, as a Class B business, which is Business Class or Mercantile, or similar, is in fact 49, not 80 or 90. That's just a minor point, but these issues came into play in me understanding what was safe or not.

For example, if you said you can have 80 or 90 in there, I'd like to know that that was correct. I think there was some potential conflicts there.

MR. SCALI: We don't have the capacity issue before us tonight because that's on the another hearing. Actually, I was going to suggest, and I did to Mrs. Lint, that we continue this matter to hear it all together, because I suspected it would all be relevant to the whole package. So maybe we should have done that in the beginning.

The issue really is something that would be on our next agenda, which is the plan for your increase in capacity and what that would look like, whether there is Building and Fire code, and Zoning sign off on that number, and how that plan fits into the code. It's not something unusual; we

do it every day.

MR. LEVIN: As far as this issue of approving the stove, I would like it to at least be done, if it's going to be done, with full knowledge of how other issues have been dealt with.

MR. SCALI: Of course.

MR. LEVIN: That's really all I ask.

The other thing is I didn't know -- like I didn't even know about this hearing. Because even though I guess technically we're not an abutter by the rules of how ever it's done --

MR. SCALI: But you're a tenant; right?

MR. LEVIN: We're a tenant in the same building, but there's no one on the other side. Essentially, we're the only one next to it.

MR. SCALI: Tenants wouldn't be notified because the notification goes to the assessed owner.

MR. LEVIN: And I understand that. So the owner gets the notice but we don't. But we seem to be the people that are most impacted.

Is there any way that I can find out about this hearing?

MS. WATSON: I'm going to hand-deliver it to you.

MR. LEVIN: I would appreciate to get this information from the Commission.

MR. SCALI: We already have it set up for a hearing already I believe. Is it June 23?

MS. WATSON: Yes, it is.

MR. SCALI: June 23 is our next hearing.

MR. LEVIN: And before we finish there is one other matter.

MS. LINT: There are some points I would like to address, Mr. Chair.

MR. SCALI: I'm going to finish with Mr. Levin first. Are you all set?

MR. LEVIN: No. There was another point, and it's fine if you want to defer this as well.

In this little process of bringing up the issue of capacity, we had an incident which you



may be aware of regarding Burdick's Chocolate. And I thought that at least the Commission should be aware of it.

MR. SCALI: What kind of incident?

MR. LEVIN: There was a -- basically because I've been trying to understand the capacity issue, I was particularly concerned about the bench seating style, which allows them to have 24 people instead of 16 in an uncomfortable night. I was trying to explain that to the Commission and I'm having difficulty because I guess bench seating is not uncommon, but people packing it might be.

MR. SCALI: It's actually a very common issue. We have a number of restaurants that have bench seating and we ask them, "What is your number that's going to be on that bench?" And they have to tell us the number.

MR. LEVIN: I was counting 24 to 26, and I took some photos to show what I meant because I thought maybe it was uncommon. Shortly thereafter, we received a phone call at the store, which if you don't mind, I'd like to just introduce

our manager who received it and let her describe it to you. Marcia.

MR. SCALI: We're kind of going down a rocky path here that I'm not really liking so much. Are we talking about threats or that kind of thing?

MR. LEVIN: Here's what happened: We received a phone call where we were told that Settebello was being unfair to Burdick's and trying to get them, and that there was going to be a -- I shouldn't say, "get them." The exact language was a little bit different and that's why I wanted Marsha to say something. That there was going to be a protest march outside of Settebello the following Friday, 40 to 50 people. That's my best recollection of it.

MR. SCALI: Let me just say this: Everything you're asking for is not unusual. You want to make sure it's safe by the building and fire code; you want to make sure that your front door is not blocked; you want to make sure that the number that they had given us is the number that they're going to adhere to; and you want to make

sure there's no fire.

MR. LEVIN: Right.

MR. SCALI: That's not unusual. I guess maybe we can tell Burdick's that that's not an unusual request at all. I'm sure they'd be happy to comply with those questions at our next hearing.

MR. LEVIN: I'm just wondering if the issue -- these sort of threats to somebody who is trying to make a complaint about capacity. That's really where I'm coming from. I feel like we were targeted essentially for pointing out about what we felt at the time, and I think we're convinced is an issue. And the phone call came from someone who likely had an association with the licensee. That's what's troubling.

MR. SCALI: I think sometimes people assume a methodology, maybe, not the proper way of handling it, and sometimes the way you think something should be done, they probably don't agree. I think we can agree now that everyone is going to be cool, calm and collected; am I right?

And we'll be happy to straighten this all out with a plan and the numbers, and figure out what is code-wise appropriate.

Be aware that whatever they apply for, and it could be a thousand that's allowed by the zoning code or the building code, we have the power to give them a lesser number anyway.

MR. LEVIN: That's right.

MR. SCALI: So that doesn't mean that that's what they're going to get.

MR. LEVIN: Honestly that's what I was concerned with is that we got this feedback that okay, they have 16, and Elizabeth Lint said 80 or 90, and I'm thinking, we already have a problem. Eighty or ninety is going to be very unpleasant. Unsafe actually, more than unpleasant.

So then we can just appear at --

MR. SCALI: Well, you certainly may, July 23.

MR. LEVIN: Do you think it's appropriate at that time to have Jay Fleming at least tell you what has been going on?

MR. TURNER: I'd be interested to read his report.

MR. SCALI: We would be happy to look at it. You can submit it ahead of time actually, if you'd like, so that we can read it beforehand. And we'll also, of course, have our Building and Dire Departments look at it.

MR. LEVIN: I could mail the --

MR. SCALI: You can hand-deliver it or send it to Mrs. Lint, and she'll get it to all of us.

MR. LEVIN: Thank you.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Before the gentleman leaves, what type of store are you?

MR. LEVIN: It's a women's clothing store.

MR. TURNER: I'm just curious, if you were having a sale for example, or you got some remarkable trend of clothing in, and all of a sudden, you found 80 to 100 people in your store

purchasing clothes, would you look at things differently?

MR. LEVIN: First of all, the fact is we have a big crowd versus four. So you're asking me something that's theoretical.

MR. TURNER: I appreciate the concern you have for your neighbor's business and their safety, and how it may impact your safety, but I'm just curious if the roles were reversed a bit, if you would look at things differently. And I don't know exactly what's going on over there.

MR. LEVIN: It's a fair question. The simple answer is, if I new I were making either my own patrons who someone else's patrons unsafe, I would care and I would do something.

MR. TURNER: I would be interested to see Mr. Fleming's report because I'd be very interested to see how you draw that conclusion.

MR. LEVIN: Which conclusion?

MR. TURNER: Mr. Fleming's report, whatever conclusion you're trying to prove.

MR. SCALI: Mr. Levin, are you all

set?

MR. LEVIN: I'm finished. Thank you.

MR. SCALI: Just tell us your name first.

MS. LEVIN: We're not a licensee. My name is Sarah Levin. We are not applying for a license per se, so we're in a whole different world because we don't have to answer to the rules of our license, or the regulations that you stipulate for licensure. So we don't have a capacity number. We don't have an occupancy load.

MR. SCALI: Actually you do. Not by a restaurant license.

MS. LEVIN: Not by a restaurant or liquor license standard.

The issue with us is that we have two phases of how we look at this because it's pre-2007, where we did not have any issues with Burdick. Post-2007, there was three-month renovation, which essentially was an alteration of the premises. I think the contractor in the building permit was essentially installing new

floors, moving a wall, adding a wall. But in essence, in that three-month period it was down to the skins.

That is, when I went in one day while our walls were shaking, I could see the back of our outlets, and I could see our wiring. Larry Burdick was there and I was shocked, you know, don't tamper with our wires. It was just so close to kind of extend the store, maximizing it to the outer limit possible, which meant walls came down and so on.

Apparently the operations were moved downstairs and I'm not sure if that was part of the building permit process, and zoning hearing process. So all of those things were gross changes to a space, and we became the side effect of that major alteration of space.

So after 2007, we experienced extreme noise of equipment, of crowding, where we could hear conversations. The layout had changed so you found floor space was expanded, so in essence it was the growth of the business, which is a busy



store, and an expansion of their operations. It's been a two year suffering, essentially of trying to figure out -- and we went through --

MR. SCALI: I'm trying to understand.

MS. WATSON: I have to speak sometime, please.

MR. SCALI: No, no. I guess I'm trying to figure out how are you suffering is what I want to know?

MS. LEVIN: We've had sound intrusion, and we've had sound test engineers from the landlord and from our own.

MR. SCALI: So it's a sound issue.

MS. LEVIN: It is sound, and it exceeds a certain level because there was no insulation, or apparently the wall was inferior. So we experienced a lot of noise. We tried sound masking.

MR. SCALI: It's a noise issue, and a sound issue, and a capacity issue for you.

MS. LEVIN: It's a noise issue and just overall crowding. And we do have smokers in

front of the store that kind of come out of Burdick's. When we have our door open, there's smoke inside. So we have a lot of crowds that we are policing, and frankly the intrusion of all that into our business gives us more to manage. And we would love it pre-2007, but we've had to adjust to the post-2007.

I don't even know if they were operating a kitchen without your knowledge. The kitchen was in the basement, and we essentially found out about it, or Marsha found out about it by virtue of a health inspection. We were hearing compressors continually every 10 minutes.

So I'd call up the manager and she would say, "Oh, maybe it's the yelling of the ice machine. Maybe it's the cappuccino machine, or we're making chocolate. Oh, it's probably our pastry fridge. Oh, our AC is on all the time." So we're dealing with that level of volume, and then on top of that, the crowd. So we've had to make adjustments. So our complaints really are not like hysteria, they're founded, they're based, and we

have been very patient with the process in trying to remedy these effects with the landlord.

I do have to say though, there is a certain moral kind of tone here that I would like to suggest because we were the subject of a Harvard Crimson Article where they were called -- and I would turn that over to Marsha -- because they were told that there was a lawsuit from the Burdick organization, and there wasn't one. I believe that the tone of that article was really not fair to us. And it also admitted to the fact that they're regularly overcapacity, and that they are busy. And that this is something that is frankly, tough to manage.

MR. SCALI: It wouldn't be the first time the Crimson got an article wrong, just like the Chronicle gets things wrong as well.

MS. LEVIN: But the Crimson was called to do this article with all this opinion, false pretense.

MR. SCALI: I think we're going to start fresh here and try to figure out a solution

to the problem, because it sounds like a lot of misconceptions have kind of gone back and forth, and people are not really understanding what's actually happening there. So this is why we have hearings, obviously, to find out what's going on.

MS. LEVIN: Exactly, and I just wanted our point of view because we are dealing with the noise. Maybe in New Hampshire they don't hear the noise, and the owner is absentee, and the capacity is overflow. There is no one controlling the controls under their license. And I'm sure they apply every year and the number is 16. And that's a magic number and it seems to be an elusive number. Frankly, I don't want to hear the cappuccino machines. I know how many cappuccinos they make better than they do. I don't need to know that; I'm running my own business.

MR. SCALI: Have you contacted your landlord at all?

MS. WATSON: Oh yes.

MS. LEVIN: I think yes, we have because we've been dealing with the problem.

MR. LEVIN: Actually we have been working with them for two years.

MR. SCALI: Has there been a response to that?

MR. LEVIN: Well, here we are two years later and nothing's changed, so I guess that's a quick answer.

MR. SCALI: I'm just wondering whether the landlord has decided to maybe help with insulation, or making the sound better.

MR. LEVIN: We have a plan in place for some sound insulation, but truly, honestly this all happened after 2007, simply because the capacity exploded.

MR. SCALI: Tell us your name.

MS. SPIVY: I'm Marsha Spivy, and I'd like to speak to the issue of safety. I have on many occasions had to go in the basement door. We have a common hallway that we share. The only reason I go back there -- because it's not a pleasant place to go -- is when our breaker switch trips, it's all black. So you have to go out in

the hallway, and each and every time I trip, not on Settebello things, because it's clear, but on mops and window things, and excess equipment. I don't know what it is, machines that are from LA Burdick's blocking our door, not completely, but partially, that in my spaziness I can't see in the dark.

MR. SCALI: Is it a fire exit?

MS. SPIVY: That's our fire exit. That's where we go for our circuit breakers. So that's just one example of the lack of safety.

I've unfortunately been there the times that they've had the fires in the past couple of years. It's just not a pleasant feeling.

And then getting the phone calls where you do feel threatened. It's an out of place thing. And in fairness to that person that called, he was so belligerent at the very start, and I was so taken a back, I asked him to repeat. Once he started to say -- I said, you know, "I haven't a ghost of an idea what you're speaking of." He backed down. He told me what he had been told by

the management of Burdick's. At the end, he said, "Well, thank you for taking my phone call." It was very very strange.

But it's the safety of the doors that I'm particularly -- as an employee there, daily.

MR. SCALI: The outside doors or the inside?

MS. SPIVY: There are two doors. Well, there are three doors, two that we use. There's one in the basement; that's the only one there. And on the main level where the store is, there's one that goes into the back alley, which is often tripped up with excess garbage, and crates, and such. At least I can see there. It's a nuisance and it's horrible, but I don't feel as threatened because I can see, but it's all blocked, and it shouldn't be. And then in front, it's customers.

MR. LEVIN: It's blocked.

MS. SPIVY: And it's an issue.

MS. LEVIN: I just wanted to say that before any decision is made, I just implore you to

make sure that the Zoning Board has okayed a kitchen; that the Building Department has; the fire code --

Because I hear the vents and I remember the manager said it's a vent to the employee's locker room. These are issues that I think are very critical. We've had three fires in that building. We've had to be there, and I remember a Burdick's manager coming over to me asking me what to do, and this type of thing. So we really do take care of that building. We really have been there a long time. We've been there since 1993, and we've been in the Square for over 40 years.

MR. SCALI: Are the vents out to the street or the alleyway?

MS. LEVIN: These vents that the manager told me about because we were hearing all this kind of compression sound, she claimed that it was as a result of the cooking and baking, and going into their employee's locker room.

MR. SCALI: So the vent goes from the



basement to the employee's locker room to --

MS. LEVIN: In Burdick's, and I think it just --

MR. SCALI: Is the noise outside?

MS. LEVIN: It's all in the basement.

MR. SCALI: So the noise is inside?

MS. LEVIN: It's all contained. It's all inside.

MR. SCALI: You can't hear it on the street?

MS. LEVIN: In fact, there's no window from the basement to the outside.

We've had issues where our heating vent was tapped into by Burdick's plumber, and we continually have plumbing because of this renovation in Burdick's. So we've had to contend with just being sandwiched really between two restaurants.

MR. SCALI: Who's your landlord?

MS. LEVIN: The property management company is CGI Management in Brookline.

MR. SCALI: All right.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: If I can just comment, I believe you do raise some very serious concerns, the safety issues. I have a feeling we're going to be hearing this, probably most of this again at the next hearing.

MR. SCALI: I was going to suggest that we don't re-hear all this again. We'll incorporate all of this into the other hearing.

MR. TURNER: The picture you've presented or painted for me is that a renovation was done to Burdick's in 2007. Prior to that everything was fine.

MS. LEVIN: We had some issues with pedestrian traffic.

MR. TURNER: So now Burdick's comes in, the contractors. So the noise issues are from the contractors or are they issues today?

MS. LEVIN: They're issues as a result of that entire gut rehab. We did hear noise, of course, during that renovation.

MR. TURNER: But these issues we're discussing are occurring today?

MS. LEVIN: Yes.

MR. TURNER: Have any complaints been filed? I guess I want to lead into this by saying, the City of Cambridge has excellent various departments that provide excellent services. We have fire inspectors; we have plumbing inspectors; we have wiring inspectors; building inspectors; heating and ventilation equipment. So everything you've mentioned, you have a right to notify in writing those departments and request them to be looked at.

Has anything been done so far? A lot of this is the first I've ever heard of anything.

MS. LEVIN: We were relying on Burdick's and trusting them that they had gone through all the proper permitting and were in fact contained in that, so it was not our concern. We weren't keeping a microscopic view of their alteration of their premises. We became essentially wondering, why do we suddenly hear

this? Or why do we suddenly have a leak?

MR. SCALI: So you were being disturbed after the renovations happened?

MR. LEVIN: The Cafe of India on the other side has a capacity of 99. They're frequently packed I presume to capacity. We don't have these problems. We don't have crowding.

MS. LEVIN: We don't hear them.

MR. LEVIN: We don't have noise, nothing. So something is different in that that may be more appropriate for that space is my guess as what's going on.

MS. LEVIN: But Larry told me essentially on the sidewalk when they were sledge hammering the wall that we wouldn't hear it; that it would be in fact better than before. Suddenly I realized that he is anticipating an issue, or it wasn't clear to me that there'd be any change in that; that his business would be like it was, not intruding into our space.

Anyway, it's not an exaggeration. It's been tested and measured.

MR. SCALI: I think we understand the issues. It's just a matter of finding out where the noise is coming from, and what that particular noise is, and whether it's an issue that's a violation or not. We certainly can find that out by sending one of our departments out there to find out what that particular noise is.

MR. LEVIN: We also have an issue with blocking, safety.

MR. SCALI: We have that all too.  
Any other questions?

MR. TURNER: No.

MR. HAAS: No.

MR. SCALI: Let's give them a chance to respond because we've got a lot of people waiting here. I want to make sure we move on.

MS. LEVIN: I just wanted to write down what type of stove they have. It was an electric --

MR. TURNER: It's not a stove. It's an oven. It's just for heating. It's an electric oven. It's an industrial oven and an induction hot

plate. So there is no gas stoves that I saw, or anything like that.

MR. SCALI: Questions, Commissioners?

MR. HAAS: No questions.

MR. SCALI: I know you want to respond and rattle off a bunch of things that's the opposite of what they're saying, and all that. I will give you the opportunity to speak if you want to, but you also can think about it and respond at the next hearing that we have on the 23rd.

I think in the meantime, if we can maybe hear from Ms. Boyer, find out what the noise issues are, and determine between now and --

MS. LINT: Mr. Hedley has been working on it.

MS. WATSON: Can I just at least respond to that?

MR. SCALI: Yes, you can.

MS. WATSON: Before 2007, we used to get calls from Settebello about the music level, about volume levels, about noise levels. I have numerous reports about that.

MR. SCALI: That doesn't help you, you know.

MS. WATSON: We had conversations about it. When we had the cafe before, everything was on Settebello's side, all of the espresso machines, everything was against their wall. When we renovated, on purpose, we moved the plumbing, we moved everything off that wall and put it on the other side because there were noise complaints.

MS. LEVIN: That's not true.

MS. WATSON: That is true.

MR. SCALI: Just speak to us. Don't worry about what they're saying.

MS. WATSON: We had people going in and asking them to turn down the radio and turn down the CD player. I purposely, when we moved in this time, did not have them put in a CD player or put in music. Two months after, three months, they went down, put it in, we put a volume control on it.

We had plumbing issues that went into their basement from the sink that was on that side

and the plumbing that was on that side. They had damage in their basement from plumbing from us, so we intentionally moved everything off that wall so we could avoid any of that.

MR. SCALI: So you had issues before?

MS. WATSON: Yes, we did have issues before.

MR. SCALI: So this has been ongoing?

MS. WATSON: This has been ongoing, yes.

So we moved everything off that wall and put it on the other wall. I'll tell you what the noise thing is. We had counters, we had shelves, counters where we put product, and everything. That was thick shelving. That is what came off that wall, so apparently when it was put on that wall when we first moved in, that was enough of a sound barrier for that lame wall that's there right now. When we moved it off, then we just had the wall.

MR. SCALI: It's probably a very flimsy wall, is what you're saying, that sound



travels through.

MS. WATSON: As far as the noise levels, I believe that's a whole different issue. Now I've had everybody from the entire city and state in there. I'm trying to follow every bit of what we need to do. The 16 seats that Larry had originally in there as seating, he just assumed, for lack of knowing anything else, that there's standing capacity and everything else. He just addressed the seating issue.

MR. SCALI: When you did your renovations in 2007, did you take on more space?

MS. WATSON: No.

MR. SCALI: So it's the same square footage.

MS. WATSON: Same space.

MR. SCALI: But more room for people to stand? More room for people to sit or stand?

MS. WATSON: No, less actually, because before everything was on one wall. We put a stairwell in, so that took space out. We moved the chocolate over to one area. So we actually

kind of moved it around.

MR. SCALI: So you did a gut renovation, but it was all --

MS. WATSON: It's in the same space.

MR. LEVIN: Seating was added.

MR. SCALI: We have that on for the 23rd.

MS. WATSON: And two stools have been taken out because that was the first thing that they asked us to do.

MR. SCALI: You have a plan that you submitted to us to be heard June 23 with a number that you're proposing?

MS. WATSON: Yes.

MR. SCALI: Has that plan been looked at by the Zoning, Building, and Fire Departments?

MS. WATSON: I spoke to all of them, yes.

MR. LEVIN: Can we get a copy of that plan?

MS. WATSON: And the thing that he sends to you to have reapproved, is that public

once you get it?

MR. SCALI: It is.

MS. WATSON: Can I get a copy of that, please?

MR. SCALI: It's all public information.

I know you want to respond further but we'll have every opportunity to do that on the 23rd. I think in the meantime, Commissioners, do you have any suggestions in terms of -- just to have these working on the inspection?

MS. LINT: I know he's been down between five and seven times to check capacity, and he's never found them over capacity.

MR. LEVIN: They won't be at this time of year, Chairman Scali.

MR. KLUGE: Another thing that I maybe as the production person can explain: All of our drinks are made to order. Like if someone gets all chocolate, sometime they get a cappuccino, then it can happen to a rush of a business that people who are just getting drinks to go are standing in a

line.

That was another thing that Larry Burdick had in mind by moving the drink counter a little bit towards the other side of the store to actually diffuse the situation that people maybe stand earlier in the doorway in line for waiting for a cappuccino or a hot chocolate, and have just the separate chocolate sale counter on the side. Because that sometimes causes an accumulation just at the entrance. So that this way it's a little bit --

MR. SCALI: Maybe during hot chocolate season in those cold winter months people are standing waiting for a hot chocolate in line.

MS. WATSON: I do have proof of volume, if we have to get there, that the volume -- that due to the economy, there's no more people now than there was then.

MR. SCALI: So maybe we need to look at that plan as to how to prevent, if that's what's happening, how to prevent that line, and where people can wait inside, as opposed to those

outside. We can work on that with you as well, and look at the plan.

Anybody else want to be heard? I don't want to go on and on about the same thing. You're going to have an opportunity to be heard on the 23rd, and we've gone long enough on this already.

I guess if Mr. Hedley could work with Settebello as well to determine what noise it is that they're hearing in the meantime, before the 23rd. Perhaps it's a machine, perhaps it's some vent downstairs. I'm not quite sure what it might be. That could be a whole issue. Then I'm sure that if we could work with the Building Department and Fire Department as well on just looking at those issues as well in the meantime. And then we'll determine what the problems are.

MR. HAAS: I just have a question for the Deputy Chief. If you do a reinspection, will you issue any certificate of the inspection? When was the last time the premise was inspected by the Fire Department? Do you know offhand?

MR. TURNER: I went today to look at it because of the cooking. The last inspection that would have been required for this establishment would've been on the certificate of occupancy after the renovation.

MR. SCALI: But they wouldn't be inspecting noise.

MR. TURNER: But this is not something that's once a year.

MR. HAAS: You've mentioned you've had a number of inspections done.

MS. WATSON: I had the Fire Department there, the Health Inspector, everybody else a month ago. Then I got all kinds of paperwork back from them, which I have.

I did everything. I took the benches out. The first thing was stop -- because we were using the oven -- stop using the oven right away. Took the benches out. I took two seats out because there were 16 seats, but then because of the benches, more people can sit, which they do. They all squish in. So we took two benches out.

The first thing that Settebello asked us to do in this because of the noise, or we got a letter from the landlord via Mr. Levin, was that he could hear the chairs scraping back and forth. So we took the chairs out and put all stools in. Then they wanted rugs put down, so we put rugs down.

Then we got this list of all these things that they wanted us to do, and we did every one of those. Then they brought the noise people in, so we're dealing with the noise issues.

MR. SCALI: What noise people came in?

MS. WATSON: Some -- they had noise people come in that checked the noise decibels and everything else.

MR. SCALI: The landlord did that?

MS. WATSON: Mr. Levin. Yes, everybody has been in there. We've been having regular visitors. It's wonderful.

MR. SCALI: Is that recently?

MS. WATSON: Oh yeah. This has been going on for six months, or a year. Actually, it started a year ago.

MR. SCALI: I didn't realize this history was that long.

MS. WATSON: Oh, yes, it's very long.

MR. TURNER: I'm just curious what the noise level is.

MS. WATSON: I don't know. I have no idea.

MR. SCALI: You can submit whatever documents you may have that would show what that would be to us beforehand, if you would.

MR. TURNER: The noise level?

MR. SCALI: Our noise level is not interior, it's exterior noise.

MR. TURNER: For our ordinance. Maybe there's an OSHA regulation or something.

MR. SCALI: So whatever documents you all have that you want to submit for us to consider on the 23rd, please do that beforehand, if you would, and you all as well.

In the meantime, we'll have the Fire Department and the Building Department contacted, and then Mr. Hedley from our office with regard to



the noise issue to determine what noise it is that you are hearing, if we can determine what that is.

MR. LEVIN: I just want to point out, you won't hear it now because this is their slow season.

MR. SCALI: I'm not talking about the capacity. I'm talking about machinery or whatever there may be going on.

MR. LEVIN: I'm saying it is slow, so you may not hear it now.

MS. WATSON: Any Saturday that you go in will be busy.

MR. SCALI: We can crank it up and bring some people in.

MS. WATSON: We can. They can just make drinks one after another.

MR. SCALI: Motion to continue to June 23.

MR. HAAS: Motion.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: When we come back we're not going to re-say everything we've already said. We're going to incorporate all of this into the next hearing, and clarification will be allowed, and not the --

MRS. LEVIN: Not the history.

MR. SCALI: Right.

MS. LINT: Stellar Restaurant Group, Inc. d/b/a Boloco, Israel Martinez, Manager, holder of a Common Victualer license at 71 Mount Auburn Street has applied for an increase of operating hours from 11:00 a.m. until 10:00 p.m. seven days per week to 7:00 a.m. until 2:00 a.m. seven days per week.

MR. SCALI: Good evening.

MR. HARDER: Good evening, I'm Michael Harder.

MR. MARTINEZ: I'm Israel Martinez.

MR. SCALI: So changing your hours; right?

MR. HARDER: Yes, sir.

MR. SCALI: Right now you have 11:00 a.m. to 10:00 p.m., and you want to go 7:00 a.m. to 2:00 a.m. So are you serving breakfast?

MR. HARDER: Yes.

MR. SCALI: Is there a new menu that you have, or have you always been serving breakfast?

MR. HARDER: We have not always been

serving breakfast. Do you have on your records 11:00?

MR. SCALI: Do you have a new menu that you can show us?

MR. MARTINEZ: I do, yes. We take poetic license with the burrito.

MR. SCALI: What's the reason for the application?

MR. HARDER: The late-night hours.

MR. SCALI: It's in the morning too.

MR. HARDER: We want to stay open until 2:00 a.m., and I wasn't aware that we were not on the morning. So we will make that change as well immediately.

MR. SCALI: Are you open before 11:00 a.m. now?

MR. HARDER: Yes.

MR. SCALI: What happens at 2:00 a.m.?

MR. HARDER: The doors get locked. Actually at 10 minutes before, and they get kind of a last call kind of a deal. We've been observing on the offside some of the difficulties of some of

the other late-night operations there have had. We know the City takes a strong position on that. So at 2:00, the doors are locked.

MR. SCALI: It's not like you're a liquor establishment where they have that extra half-hour. It's 2:00 means everybody out, lights off, except for employees. Everybody stop eating, bye.

MR. HARDER: Yes.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. HAAS: No questions.

MR. SCALI: Anybody from the public want to be heard? Ms. Jillson, with all the things you're doing this week, still taking time to come down.

MS. JILLSON: It's because Israel is such a good guy and Boloco is such a great member of the Business Association. So we would be definitely in favor of this, particularly because -- I don't know if you know this, but they have a fabulous breakfast burrito.

MR. SCALI: I didn't know that.

MS. JILLSON: You didn't know that, and they do. So I think that that 7:00 a.m. is important because people sometimes want to have a burrito for breakfast. But more importantly, these guys have been wonderful members of the Business Association participating in many many events, and great community partners, and are very responsible, and they do a great job. So we would advocate wholeheartedly on their behalf.

MR. SCALI: We haven't heard of any issues at 2:00 in the morning. I know Tommy's -- is it still Tommy's, the pizza place?

MS. LINT: It's Trotta.

MS. JILLSON: It's now Trotta, but you know, Tommy's Convenience is up there. One of the things that I think you're going to be seeing out of there is that they're actually going to be looking to serve food, because they said that there isn't anybody in the neighborhood that really stays open. I think it would be actually a great service to the kids who are hungry at that hour, and

looking for a good place to go. You know, it's not all a liquor establishment and they just want good fresh food that's affordable on a student budget.

MR. HARDER: We have dorms that are basically two doors down from us, so we figure it will be a stop off on the way home.

MR. SCALI: Right across the street, aren't they?

MR. HARDER: Actually on the same side of the street, yeah.

MR. SCALI: On the same side, too. And there's a couple of final clubs there too, right? I'm sure you'll have lots of students as you do now.

Questions, Commissioners?

MR. HAAS: You're open at 7:00 a.m. now?

MR. HARDER: We're open at 7:00 a.m. now.

MR. SCALI: They weren't supposed to be but they are open.

MR. HARDER: That is embarrassing to

say the least. I thought all those licenses had been taken care of.

MR. SCALI: Questions?

MR. HAAS: I'm going to try a burrito in the morning.

MR. SCALI: Are you up at 7:00 a.m.?

MR. HAAS: I'm usually going through Harvard Square at 7:00 a.m.

MR. SCALI: Thank you Ms. Jillson. Does anybody else want to be heard on this matter? Pleasure of the Commissioners?

MR. HAAS: Approve.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: What happens is when we approve them here, we send out the letters, and then people ignore the letters, and then they go ahead and do what they're supposed to do. You've got to come in, pick up your new license, make sure



it says 2:00 a.m. or 7:00 a.m. on it, and post it on the wall. We're not going to call you to come down and get them. Chris and Kara in my office are having a very tough time with people following up. SO I want to make sure you have that license in your hand and you post it on the wall before you start.

MR. HARDER: Thank you.

MS. LINT: Application: Chipolte Mexican Grill of Colorado, LLC d/b/a Chipolte Mexican Grill, Brad Toothman, Manager, has applied for a Common Victualer license at 211 Alewife Brook Parkway. 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 11:00 a.m. until 10:00 p.m. seven days per week with 58 seats (50 seats inside and 8 on a seasonal outdoor patio). Applicant is also applying for an Entertainment license to include background music playing below ordinary conversation level.

And I do have a note here from Chris that says you need to fill out the Entertainment application.

MR. TOOTHMAN: I thought we did when we submitted the application.

MR. SCALI: Tell us your name.

MR. TOOTHMAN: I'm Brad Toothman, Manager at Chipotle Mexican Grill. And yes, we are applying for a Common Victualer license out at

Fresh Pond on the Alewife Parkway. We will have 50 interior seats and 8 seats outside. We've actually received our a fast food certificate for the Board, the Planning Board, so that was granted back in March.

MR. SCALI: Did you go for a hearing on that, a Zoning hearing?

MR. TOOTHMAN: Yes, we did. We actually went through the hearing. We actually went to the Board of Zoning Appeals, the ZBA. I do have a copy of that right here.

MR. SCALI: I'm assuming the appeal period has expired on that.

MR. TOOTHMAN: It has. It expired and then we were able to apply or a Common Victualer license.

So our hours of operation, we'll be opening up at 11:00 a.m. and closing at 10:00. That's our standard. We do have an existing location in Cambridge in Harvard Square, and we're very happy about it. We're looking to continue to grow.

MR. SCALI: What time are you open until in Harvard Square?

MR. TOOTHMAN: Same time: 11:00 to 10:00 p.m. All our restaurants across the country are open from -- it's our standard, 11:00 a.m. to 10:00 p.m., even in Fenway Park, right outside. Except, I will tell you, we are opening up in Dules Airport, so that will be the only one outside.

MR. SCALI: You'll probably be open a lot longer in Dules, I'm sure.

So same menu, same concept, same decor as the others?

MR. TOOTHMAN: The only thing that we're changing is we're trying to get rid of stainless steel.

MR. SCALI: I like that part.

MR. TOOTHMAN: To try to save some money, we're actually doing a white tile. We will be changing our sign to a new sign code that we're rolling out across the country giving it a little more separation. This will be one of the first restaurants in the country that will have the new

sign package.

MR. SCALI: You're in the new building where the Ground Round used to be?

MR. TOOTHMAN: Yes. We are actually right next to -- if you've been there, you see T-Mobile, their signs are up. We're actually right next door to them. There's a Trader Joe's going in and a CVS, so we're very excited.

MR. SCALI: And the Save More in the old Kappy's.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: This has been a construction project, or under development, and we're nearing completion? I guess it's still a ways away.

MR. TOOTHMAN: We're looking at opening up sometime in August. The landlord has run into some issues with either the electric company or the gas company. I think it's the electric company where they have to put a new transformer in there, so there's some work that

needs to be done, but they're still working on trying to get that completed.

MR. TURNER: Transformer for your property?

MR. TOOTHMAN: No, for the entire project because with the new project and with the addition of Trader Joe's they -- if you notice in the parking lot, they have the pad there.

MR. TURNER: From the Fire Departments perspective, I have no problem approving the license pending successful Certificate of Occupancy. Are you going to be the manager of this particular store?

MR. TOOTHMAN: At the very beginning. I'll certainly start to move on. I'm one of the new store managers in the new stores and I'll be moving on.

MR. TURNER: The only thing I would ask is just check the address. I know 211 was the whole project when it first started, and then the developer, if you will, finally the City approved multiple addresses. So I don't know which address

is exactly yours. If there is something other than 211, lets us know.

MR. TOOTHMAN: I know the Building Department -- talking to the construction project manager, the landlord and the Building Department have finally resolved that issue.

MR. TURNER: The letter was sent out.

MR. TOOTHMAN: It was like on Thursday or Friday of last week. So I'll bring you a copy of that.

MR. TURNER: They issued the numbers but I don't know what numbers are going to which tenant.

MR. SCALI: You also need your Entertainment application filled out.

Anybody from the public want to be heard in this matter? No hands. Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Approval, subject to

completion of application.

MR. SCALI: Motion to approve subject to the Entertainment application being completed, clarification on the building number, and of course, on your Building, Fire, and Health sign offs as we always do. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. SCALI: Aye.

MR. TURNER: Please make sure you follow-up on all those things. Bring your sign offs to Kara.

MR. TOOTHMAN: I don't think I got the original first page for the Building Department to sign off.

MS. LINT: See Chris.

MR. SCALI: Abutter notifications?

MS. LINT: He just gave them to me.

MR. SCALI: Thank you. Good luck.



MR. SCALI: Application: Leamil Corporation, d/b/a First Printer Restaurant Bar & Grill, Jessica Leahy, Manager, has applied to transfer the All Alcoholic Beverages as a Restaurant license currently held by Tuesday Afternoon, Inc. d/b/a Cambridgeport Saloon. This license will transfer from 298 Massachusetts Avenue to 15 Dunster Street, which is located in Cap Area No. 1. Applicant is also applying for an Entertainment license to include audio tape machine/CD playing music below, at, or above conversation level; four TVs; live musical instruments and/or vocalists, without amplification; comedy show; and reading of poetry or other works.

MR. HAAS: So it's not 18?

MS. LINT: It's 15. It's 13-15.

MR. SCALI: Before we start, the people that are in the audience, are you all here for this application?

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: Uh-huh.

MR. SCALI: I just wanted to make sure you weren't waiting for something else because this is the last one we're hearing tonight.

Just tell us who you are first.

MR. UPTON: Andrew Upton from the Law Firm of DiNicola & Upton, representing the applicant, who legally is Jessica Leahy, the proposed manager. And behind me is Jeff Stanett, the owner.

MR. SCALI: You are purchasing the Cambridgeport Saloon license; correct?

MR. UPTON: Correct.

MR. SCALI: You're proposing to transfer it to Harvard Square, which is Cap Area No. 1. So the address is 13-15.

MS. LINT: Dunster.

MR. SCALI: So what's in that site right now?

MR. UPTON: Herrell's.

MS. LEAHY: Herrell's Ice Cream is at 15 Dunster, and 13 Dunster used to be Le Foot Sportif. We just signed a 20-year lease on that a

couple months ago.

MR. SCALI: Is the ice cream place leaving?

MS. LEAHY: We don't want it to, but it's complicated and we want to do other things and we still want to serve ice cream, and hopefully the Herrell's ice cream.

MR. SCALI: That's going to present a problem here. We have a Common Victualer in there already; right?

MS. LEAHY: Uh-huh.

MR. SCALI: If you're proposing that your plan shows that space, it means that either Herrell's is going and you're going in there.

MS. LEAHY: We want to call it First Printer, both spaces.

MR. UPTON: Because of the phased construction and expansion, we know that there will have to be some back and forth on the Common Victualer as well as the alcohol license. We've had some discussion with the Zoning people on how to do that.

MR. SCALI: Either Herrell's is going, and they're turning their Common Victualer license in, and you're encompassing all the space under one license, or you're going into a separate space in Herrell's.

MS. LEAHY: Herrell's will be leaving.

MR. SCALI: I have to tell you that I've heard a lot of conflicting stories about what's happening there, so I don't know who has what authority to say what.

MR. UPTON: As part of my initial description of kind of the character and fitness of the applicant, I'm just going to give you an overview of how Herrell's came to that space, how this qualifies them to move forward, and what they're planning to do.

MR. SCALI: Okay.

MR. UPTON: Twenty-six years ago, Mr. Stanett owned a restaurant fixtures business, and Steve Herrell came in and said, "How do I make ice cream in a commercial fashion?" Mr. Stanett showed him how to use the equipment and extended

him a considerable amount of equipment on credit, which helped him start the first Herrell's.

Herrell's did very well in its initial location in Somerville. Eventually, Mr. Herrell sold out, moved to Western Mass. Then once his non-compete with the purchaser of Steve's Ice Cream, as it was then called, expired, he decided to start Herrell's, and sold a franchise, an opportunity to Jessica and Mr. Stanett. So they've been in there as Herrell's since approximately 1982.

It did quite well for a number of years. Recently Harvard made the decision to lease some space to JP Licks around the corner, which was a great disappointment to the Herrell's owners. At that same time, Mr. Herrell ceded control of the Herrell's name, brand, and franchise to Mrs. Herrell, who has taken a much more aggressive, and difficult for my clients, approach to the licensing of the Herrell's name.

At the time they were having the business issues with both Mrs. Herrell and the

competition from JP Licks, the real estate that held the sneaker store, Le Foot Sportif, became available. So rather than fade out of the picture as Herrell's, they decided to reconstitute the entire operation, take to lease for the sneaker store, and expand into a full-service restaurant concept, which would incorporate their expertise in not only food service, but dessert and ice cream. So the name of Herrell's will go away, but their expertise in serving high-end desert and ice cream will remain an essential component of the restaurant.

MR. SCALI: Are you gut-renovating the sneaker store and the ice cream store, and making it one big space?

MR. UPTON: Yes.

MS. LEAHY: After the summer season, we're going to still operate as Herrell's at least until the end of October, and then probably have to close for a couple months.

MR. UPTON: There are some timing issues with the construction but the answer is,

yes.

MR. SCALI: ABCC is going to have some issues with that too in terms of when that's happening I guess. Our approvals are only good for six months. So if we hear something today, and you're not planning on even starting renovations until October, you won't be open by November I'm assuming. I don't know.

MS. LINT: Mr. Chair, I think there are some other minor issues that need to be straightened out. So it may have to go over for another hearing. In any event, it was advertised as 18 Dunster. It needs to be re-advertised. In addition, the Cambridgeport Saloon license is significantly smaller than the proposed capacity for this location, so they have to apply for an increase in occupancy as well.

MR. SCALI: What was the capacity of the Cambridgeport Saloon?

MS. LINT: I want to say 60.

MR. SCALI: We need to advertise it as going from 60 -- what's your capacity going to be

in this location?

MR. UPTON: Ninety-four.

MR. SCALI: So it will be an increase from 60 to 94. So putting that aside for re-advertisement purposes, my understanding is -- do you have control of that Herrell's space, the lease itself? Do you have that lease?

MS. LEAHY: We just signed it for 20 years.

MR. STANETT: I have a lease.

MR. UPTON: And we submitted it with the application.

MR. SCALI: Am I to understand then that there's -- is there a conflict going on over that space?

MR. STANETT: No, not at all. It's best if I speak to that issue because I'm the one that engineered all of this.

When the sneaker store left, the bank and I agreed that I would stay in Harvard Square. Whatever happened between JP Licks and Judith Herrell, I decided to stay in Harvard Square.



So I leased the sneaker store space from the bank, and I've coupled both spaces.

It's about 2,600 square feet, and we have a substantial space in the basement, which is going to prep and storage. So that back of the house, a good deal of it is going to be in the basement.

There is no conflict whatsoever with anyone. I have the bank's permission to do everything. I believe she has a copy of the lease which you guys can read if you want to read through many many many pages. There is no conflict.

There is something that wasn't brought out. Judith Herrell on 45 days notice can shut us down. She has the right to sell another franchise close -- I haven't had a franchise for 15 years. It's been a relationship between Steve Herrell and myself. She can, at any time, ask us to close on 45 days notice if she's successful in selling another franchise. If that occurs, we will instantly go into final construction.

What we're doing now is converting the

sneaker store space to the first phase of the dining room. I have a demo permit. The demo has been accomplished. We've been through the Building Department. And we have the ability to convert the right side, the old sneaker store to what will be the new dining room for the restaurant. What we will ask Ranjit to do is allow us to put picnic tables in there temporarily until the end of the month, until the end of the time, and use it to expand the ice cream store. That's the only conflict so far.

MR. SCALI: That's not going to happen here, because if you're applying with a plan showing a full restaurant, including both spaces, and that's what we approve, that's what we expect you to do.

MR. STANETT: Well, we're going to do that.

MR. SCALI: So that you don't open up temporarily with any other plan but the plan you present. So there's no phase-in, in terms of how that works. This is what I was trying to convey to

you. If you don't have control of that space where the ice cream place is yet, then you cannot apply for those two space together with a liquor license.

MR. STANETT: I have total control of both spaces. Maybe there's a misunderstanding, but I have absolute and total control of both spaces. I'm not doing anything temporarily other than conceivably wanting to put some picnic tables in to raise the seating capacity of the ice cream store until we go into a final production. That's an aside to this; that's just a business plan. I'm paying rent on the sneaker store.

MR. SCALI: I'm trying to convey to you that it's not a business plan, it's a licensing issue. You just can't put in picnic tables when you want.

MR. STANETT: What's going to happen is at the end of the ice cream season, we're going to build out the restaurant. What we are planning to do is over the summer do the construction on the basement. Get the basement all ready, get all of the support equipment into the basement. Finish

construction of what's going on in the sneaker store. Then when we go to the final phase of it, take the ice cream store out and finish the restaurant. So there's really three phases.

We're under construction now. Well, we're in demolition of the right side, the sneaker store. That's ongoing. We plan to be able to get a building permit to build out the dining room, and you're going to suggest we can't use it. Well that's fine too. We're going to get it built out.

Then we do the basement over the summer. At the end of the summer, as soon as the ice cream season ends, we're going to take the existing ice cream store out and finish the conversion to the restaurant. And there isn't a whole heck of a lot of construction, believe it or not. The construction phase of this is not very complex. It's easy. I've got a whole bunch of plans which Elizabeth has seen. It makes it easy to understand how this is going to be accomplished.

MR. UPTON: Mr. Chairman, we are in agreement with your analysis and interpretation of

the rules. If you licensing the entire premise, we have to operate it as the premise, our goal would be to make the construction and the transition as seamless as possible so there's no delay in service and income.

MR. SCALI: If you continue to operate the ice cream store with a CV, and we approve an alcohol license to go in there, the ABCC and the City expect that all that space will be available for the alcohol license at the same time. If you're continuing to operate the CV with a liquor license going in there, that's going to be a problem. That's what I'm trying to convey to you.

MR. UPTON: Right, but under this plan, assuming it takes the ABCC two to three months --

MR. SCALI: It doesn't take that long. Four to six weeks.

MR. UPTON: Our goal would be to close the ice cream store and open the restaurant depending on the timing.

MR. STANETT: It could as short as 30

days to do that, by the way. It's going to be a very quick process. It's very well thought out.

MS. LEAHY: We're not selling ice cream with liquor.

MR. HAAS: I'm just wondering if it makes sense for you to hold off your application until you get closer to the time you're ready to open up your business so that you don't have this conflict. Continue to operate your ice cream business, continue to do your build out in the adjoining space, and then when you're ready to move in to the new operation, then submit your application.

MR. STANETT: What if the application is denied. It's a bad business risk. I already took the risk of leasing the space. I've taken the risk of committing to the space. I'm paying rent on the additional space at this moment. It's a scary business plan, and from my point of view, he has got to resolve this with you, but we could actually bring the ice cream store to an end earlier. A, Judith Herrell can do that to us, or

B, I can do it volitionally. It sounds to me -- it's sort of a shame to impact the community and hurt the community by taking the ice cream store out prematurely.

When I get the restaurant opened there's going to be to dessert component. There is going to be a component in the restaurant that will replace the ice cream store. You're going to be able to go in there and get fine desserts and ice cream right from a waitress. Do you see the conflict?

MR. SCALI: The menu issue is not an issue for us in terms of what you're offering. Obviously you'll be changing your concept and you'll be offering a dessert; that's fine. It's the timing issue of how you're going to be operating.

MR. UPTON: We were anticipating that the Commission wouldn't issue the license until we received the C of O on the build-out.

MR. SCALI: That's how we do that exactly, correct.

MR. UPTON: We foresee the combination of the build-out and the approval process taking us through the ice cream season until the end of the summer, or past that. Then the transition of the current ice cream segment hopefully would be 30 days or so, at which time we would be closed because we can't have new licensure. But I think the timing is doable.

There was some implication from the Zoning Department that there may be some temporary alternative to put in, in the other section. But if they don't agree to that and you don't agree with that, we're not asking for it.

MR. SCALI: We don't do temporary uses in restaurants. The plan you submit is the plan that you have to adhere to. If you're renovating, you're renovating at your own risk, obviously before approval.

MR. STANETT: That's fine.

MR. SCALI: If you're operating the ice cream store as is, the way that it's applied for, the way that we approved it, that's fine. You



can't have any temporary uses or changing setups and that kind of thing without approval from us. The application that's submitted is submitted as a complete plan, including an ice cream store, but that's what the ABCC is going to look at.

Why don't we do this? We've got to re-advertise anyway with the new address, and with the increase in capacity; am I right, Mrs. Lint?

MS. LINT: Yes.

MR. SCALI: The next available hearing is what, July 13?

MS. LINT: Yes.

MR. SCALI: To re-advertise. Why don't we do that, and look at your plan and determine what it is that you want to do, and figure out your timing at that point. Hopefully that will be a way to work it out for you so you don't have to juggle the timing issue with the CV.

MS. LINT: That gets them further through this.

MR. SCALI: Maybe a little further into the summer and that way you'll be able to know

how much time you'll need at that point.

MR. UPTON: I would request that the Commission be willing to take another minute or two just to hear our concept of the public need, and to hear from the people that are here who have -- some of them have been here since 5:00.

MR. SCALI: Sure.

MR. UPTON: Do you want me to go into the concept?

MR. SCALI: Yes. Tell us the concept.

MR. UPTON: There is a copy of the menu. The concept is fresh, and moderately priced, community oriented dining. We're going to be selling local food as well as local artists to local people is our goal. We're going to be applying for spoken word performances and acoustic instruments. We're hoping that this is a dining destination, estimating that 70 to 80 percent of revenue is expected to come from food.

MR. HAAS: Can you say that number again?

MR. UPTON: About 70 to 80 percent

from food. When it comes to the alcohol service, we'll have trained bartenders. The manager will be TIPS trained or ServSafe, or 21-Proof, or whatever the Commission desires. We're going to have very strict supervision of the alcohol service.

We also hope to be using an existing license from Cambridge so there'll be no net increase. We're not asking for net increase of licenses for the City.

We think we have strong community support. Jessica and Jeff have been doing business on Dunster Street for over 25 years. The bank is the landlord, as well as the landlord for several others, and they're all in favor; the Harvard Square Business Association, Ms. Jillson. Jeff has spoken to Estelle Johnson at the City's Economic Development. We have a number of friends, and customers, and employees who want to speak in favor.

I can also tell you in the renovation of the basement, we uncovered a number of historic plaques indicating that the first printer in

America operated in this building. We have taken this to Mr. Sullivan and discussed it with him. He's excited about the concept. And that's what made us change the name to First Printer from various other suggestions.

MR. SCALI: I was going to ask you where that name came from.

MR. UPTON: He also encouraged us to use more of the original exposed brick in the building, which we did. We think in terms of community support and being a local business, we make a strong case.

As far as I can tell, there is no opposition. We sent out 45 registered letters. I have not received any calls, or e-mails, or comments.

We also expect to do a strong lunch business, further strengthening the ties to the community and to people that work there, as opposed to only people at night.

We don't think there will be any increase in traffic because the customers come on

foot and from the Red Line. Probably no increase in parking demand. We won't be generating rowdy people spilling out onto the street because it's not a bar, it's not a tavern, it's not a nightclub. There shouldn't be any increase in noise because it's a relatively quiet family oriented dining crowd.

Finally, a lot of people have expressed concern that the Square is losing Herrell's, which is an institution. The way I look at it is, we're not losing Herrell's, we gaining an expanded restaurant with the same people, and the same history, and the same benefits as Herrell's. Hopefully if the franchisor cooperates, we'll be selling Herrell's ice cream, but if she doesn't, another high-end brand will probably take its place.

MR. SCALI: Say that last part again.

MR. UPTON: If Mrs. Herrell somehow decides that we are not an appropriate franchisee, which is her right under the agreement, which she has threatened to exercise somewhat

indiscriminately lately, we'll replace Herrell's ice cream with another high-end ice cream.

MR. STANETT: Also likely made on premise.

MR. SCALI: Made on premise still?

MR. STANETT: That's my intention.

MR. UPTON: As I mentioned, Jeff was the guy who showed Steve Herrell how to make ice cream with commercial equipment in the first place.

MR. SCALI: Hours? What time? Are you applying for a 1:00 a.m.?

MR. UPTON: Yes, 1:00 a.m.

MR. SCALI: And the music is non-amplified music, acoustical?

MR. UPTON: It's acoustic, although in my conversation with Chris he said, if you ask for acoustic, you could have voices that can microphones.

MR. SCALI: Right. We do allow singers with a microphone but not the instruments with a microphone, with an amplifier.

How many nights a week would the

entertainment be?

MR. UPTON: Depending on demand, three to four. We anticipate kind of solo acoustic singer-songwriter, maybe a little trio of classical musicians, but no dancing, no rock.

MR. SCALI: Is there a stage?

MR. UPTON: There will not be a stage.

MR. SCALI: Where will the entertainment take place?

MR. UPTON: Right in the middle was the idea; right?

MR. STANETT: I think it will probably be up in this corner right in there, because this is probably the easiest place to do it. These two structures don't exist, but it's going to be in this neck of the woods and obviously, it's an attempt to let local artists express themselves.

MR. SCALI: We'll need to know a definite spot actually.

MS. LINT: It's not designated on the plan.

MR. SCALI: If you could clarify that

on the plan as to where that will be.

Has your client ever held a liquor license before?

MR. UPTON: No.

MR. SCALI: So his first attempt at a liquor license?

MR. STANETT: Yes.

MR. SCALI: Background checks?

MS. LINT: Yes.

MR. SCALI: Ms. Leahy, you'll be on premises all the time, and you'll be the manager day to day?

MS. LEAHY: Yes, like I have been for the last 27 years.

MR. SCALI: This is a different ballgame with a liquor license. It's a whole different crowd.

MS. LEAHY: It's been very interesting to listen to what happened before us tonight.

MR. SCALI: Obviously we require 21-Proof training for all staff, and all managers, and all owners now if you guys do any kind of alcohol



service.

Why don't we hear from your supporters. Anybody that wants to come forward, please do, if you want to speak.

MS. LEAHY: We want Denise to go first.

MR. SCALI: You've got to come up. You can all come up together if you want.

MS. LEAHY: Three out of five are Ringe graduates. She's a manager, he's an assistant manager. These two were I think 16 when they started at Herrell's. Now they're both in college, but it's a great stepping stone; right?

UNIDENTIFIED SPEAKER: Uh-huh.

MR. SCALI: So you're all going to work at the new place, you hope.

UNIDENTIFIED SPEAKER: Hopefully. I've had a great time working at Herrell's coming back every summer.

MS. LEAHY: They go off to college and then they come back. Maryann left for a couple of years. She went to New York City, the Richmond,

and she's been back now for another couple of years.

MR. STANETT: I want to add something. We have some very long-term employees. Jarrod's been there for 11 years.

MS. LEAHY: Oh, Jarrod is very sick tonight, unfortunately. Eleven years?

UNIDENTIFIED SPEAKER: Yeah, like 11.

MR. STANETT: This is one of my assistants but I have another assistant who went to Cambridge Ringe and Latin, and he's now recently married a wife who went to Cambridge Ringe and Latin, and they'll be with me for a good long time.

MS. LEAHY: But their love affair happened at Herrell's, and they got married two-and-a-half weeks ago.

MR. STANETT: There is a long history of involvement here.

MR. UPTON: I can also tell the Commission there are currently approximately 11 full-time employees, full-time equivalent because some are part-time. We project 42 to 43 full-time

equivalent employees should this restaurant begin operation.

MR. SCALI: Even in this economy you feel confident this is going to be a great addition to Harvard Square?

MS. LEAHY: Definitely.

MR. SCALI: Do you have financing for all this?

MR. STANETT: I'm going to address that issue. I'm a successful real estate developer. I was very very lucky in the savings and bank crisis. I owned some property that I own outright in Chelsea that's very very lucrative, very significant.

I also in the passing of my mother inherited a house that had cracked into three pieces in South Brookline. I put the house back together again and finally sold it, so I have the cash on hand to do this. The day that this installation opens, we will have no debt. It will have a debt to me and nothing else. I cannot see how I can get in trouble.

The landlord was kind enough after charging us a very high rent for many years to give us the first five years at a very moderate rent for the space that's involved. The basement is 12 feet tall and basically larger than the restaurant. It does so much for Dunster Street, in livening up Dunster Street, and giving some traffic on a street that's basically a slow street.

The ice cream business is great about 90 days of the year, depending on the weather. The rest of the time, I've been subsidizing it, and that's why this has to be done. There are no financial issues whatsoever.

MS. LEAHY: We want to be in Cambridge and employ the Cambridge folk, and continue on.

MR. STANETT: I also want to address this issue of my temporary picnic tables. That's a zero issue. If that's going to be a problem, we will take that off the table.

MR. SCALI: You changed your mind quickly. It's a problem for us.

MR. STANETT: It's anti-intuitive to

restrict me from doing that but it can't interfere with the business plan.

MR. SCALI: In the next couple of weeks, we can look at what your plan is, and Mrs. Lint and I will go over your ideas.

MR. STANETT: One other thing I might tell you is obviously they're giving away sidewalk seating. The sidewalk is so narrow in front of this store that you can't obviously have sidewalk seating there. So I thought a few picnic tables in my finished first-phase dining room wouldn't really be an issue, but I'm not foolish enough to challenge you on that. I need to get the main body of this done and taken care of.

Deputy Turner, do you remember about many months ago we had discussion about sprinklers on an intercom?

MR. TURNER: Yes.

MR. STANETT: I just want to be sure you remember that.

MR. TURNER: Yes.

MR. SCALI: Well, they're under 100 so

they don't need to.

Ms. Jillson, did you want to speak?  
I know you're waiting patiently in the back.

MS. JILLSON: I've had a very extensive conversation with Jeff. We love the concept, and I think the activity that it does bring down Dunster is really important. The concept is wonderful and we'll take on another restaurant.

And just as an aside, Herrell's has been a long time member of the Association, very active in all of our activities. Jessica comes to our meetings and we really appreciate them as part of the Harvard Square restaurant scene. It's great ice cream, and only good can come of this. We're happy and we would advocate strongly for it.

MR. STANETT: I will say clearly again, there will be made-on-premise ice cream. I was the engineer that started JP Licks with that family. I was the engineer for Toscanini's. I know a good deal about the made-on-premise ice cream business. One way or the other, there will

be made-on-premise ice cream.

I wish that Judy Herrell hadn't taken the company away from her husband. It was a divorce. It was a very ugly divorce. But that's the position I'm in so I can't make you any promises.

MS. LINT: Mr. Chair, I do have a letter also from Dan Meyers from Cambridge Local First who thinks it's a wonderful idea.

MR. SCALI: Cambridge Local First?

MS. LINT: Locally owned businesses.

MR. TURNER: Just a quick clarification. On the sprinklers, it's the Building official's determination under the building code whether they'll be required or not. I know we had a conversation regarding it, but I think the 93 capacity issue has to do with one regulation. Under a building permit, you're under the building code and that's --

MR. STANETT: Michael and I have discussed that, and I recounted my conversation with you to him, and he understands that first you

can't sprinkle a portion of the building. Even if I could get the feed from the street, the whole building has to be sprinkled, and that's what they call a "deal killer." You'd have to sprinkle the whole structure. You said that at 2,600 square feet, were okay. We're going to be under 100 for sure.

MR. TURNER: This is what I want to make clear. It's not what I say; it's not my call. Once you go under a building permit -- see, I might not have had all the information when we had a phone conversation. Now you're under a building permit, you're doing a major renovation. The building code will determine what is required.

MR. STANETT: That is correct.

MR. TURNER: So you have to look at the change of use that you're doing. You have to look at the change of hazard index, and it very well may trigger. I don't know. You have to talk to the guy upstairs on that one.

I don't want you to leave here that it's not the Fire Department that will tell you



whether or not you need sprinklers, if you're going to ask me.

MR. STANETT: I have had that discussion with Michael Grover who I've been totally transparent with him. Recently, I even gave a letter to --

MR. TURNER: So you are on board with Mr. Grover; that's fine.

MR. STANETT: We're on board with everybody.

MR. TURNER: I just want to make sure you know it's not me that regulates it.

MR. STANETT: Captain Francis sent a long letter about the alarm system and what's going to happen. He's on board with this. He's got it together. I'll have an FA1 very shortly for him.

MR. TURNER: That's good.

MR. SCALI: Abutter notifications? Here you have already; right?

MR. UPTON: Yes.

MR. SCALI: Except you're going to have to end up doing it all over again with the new

address.

MR. UPTON: There seemed to be a big conflict between what DPW had and what the Assessor had, so hopefully we can resolve that.

MR. SCALI: Whatever list the Assessor's gave you is what we follow.

Motion then to continue the matter for re-advertisement and -- what was the other issue?

MR. UPTON: Increase in seat.

MR. SCALI: Increase in capacity, right. On the address and the increasing capacity. Moved.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Aye. So the soonest one is July 13, assuming they make the deadline on the advertisement. Just make sure you talk to Chris in our office about the deadline.

MR. UPTON: Chris O'Neil?

MR. SCALI: Yes. Thank you all very  
much.

MS. LINT: Application: US REIF  
Central Plaza Massachusetts, LLC, Peter Palandjian,  
has applied for a Garage license at 675  
Massachusetts Avenue/14 Temple Street for 15 spaces  
and 150 gallons of gasoline in tanks of vehicles  
only.

We heard this one at the last hearing  
but it was the wrong applicant. It was the  
property manager instead of the owner, so you  
indicated he didn't need to come, and just to have  
it on the agenda as it should be.

MR. SCALI: Motion to re-approve.

MR. HAAS: Motion.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Actually, you didn't  
approve it, you just heard it.

MR. SCALI: I'm sorry, to approve it.

MR. HAAS: Approve.

MR. SCALI: You've got me so confused,  
Commissioner. It's 9:00.

MS. LINT: And we have a lot of Ratifications.

MR. SCALI: Go ahead.

MS. LINT: Medallion 125, 244, 189, 41, 120, 117, 150, 169, and 179. All the paperwork was in order.

MR. SCALI: Motion to accept.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Anything else before us?

MS. LINT: No.

MR. HAAS: Motion to adjourn.

MR. SCALI: Motion to adjourn, moved. Seconded. All in favor?

MR. SCALI: Aye.

MR. TURNER: Aye.

MR. HAAS: Aye.

(Whereupon, the proceeding was  
concluded at 9:08 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 16th day of June, 2009.

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