

## COMMONWEALTH OF MASSACHUSETTS

## CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman  
Robert C. Haas, Police Commissioner  
Daniel Turner, Deputy Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building  
831 Massachusetts Avenue  
Basement Conference Room  
Cambridge, Massachusetts 02139  
Tuesday, September 22, 2009  
6:00 p.m.

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P R O C E E D I N G S

ELIZABETH LINT, EXECUTIVE OFFICER:

Before we get started, if anybody has a cell phone on, please turn it off.

RICHARD SCALI, CHAIRMAN: Our fire exits are here to my right and to the back, where you came in, the backdoor stays open at all time for fire exiting purposes.

ELIZABETH LINT, EXECUTIVE OFFICER:

License Commission, general hearing Tuesday, September 22, 2009 at 6:10 p.m. at the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room.

Before you are the Commissioners:

Chairman Richard Scali, Deputy Chief Dan Turner and Commissioner Robert Haas.

If anyone is here for the application of Barfly, that's been continued to October 6.

RICHARD SCALI, CHAIRMAN: Anybody

Ihere for Barfly, One Kendall Square?  
October 6th.

Motion to accept the minutes from  
the September 8th hearing?

ROBERT HAAS, POLICE COMMISSIONER:  
Motion.

DANILE TURNER, DEPUTY FIRE CHIEF:  
Seconded.

RICHARD SCALI, CHAIRMAN: All in  
favor?

ROBERT HAAS, POLICE COMMISSIONER:  
Aye.

DANIEL TURNER, DEPUTY CHIEF: Aye.

RICHARD SCALI, CHAIRMAN: Let's go  
forward. Let's see. We'll go to our first  
item.

ELIZABETH LINT, EXECUTIVE OFFICER:  
If we can go slightly out of order because  
the officer on the first item will be a few  
minutes late.

RICHARD SCALI, CHAIRMAN: Okay.

**SCIENCE PARTNERS D/B/A MIDDLESEX LOUNGE**

ELIZABETH LINT, EXECUTIVE OFFICER:

Disciplinary matters: Science Partners Incorporated, doing business as Middlesex Lounge, Jeremiah Bernstein, Manager, holder of all alcoholic beverages as a restaurant license and entertainment license at 315 Massachusetts Avenue due to police report regarding a fight inside the establishment. Police were not called when the incident occurred and the victim of the fight was allegedly over-served.

RICHARD SCALI, CHAIRMAN: Middlesex?

Are there any police officers involved in this, Ms. Boyer?

ANDREA BOYER: Yes, there is, an Officer Cromwell.

RICHARD SCALI, CHAIRMAN: Okay. Officer Cromwell is here.

Before we begin, let's just start with names. We'll start with Ms. Boyer over

here.

ANDREA BOYER: I'm Andrea Boyer, B-O-Y-E-R, investigator for the City of Cambridge License Commission.

JEREMIAH BERNSTEIN: Jeremiah Bernstein, general manager of Middlesex Lounge.

DENNIS SILVA: Dennis Silva, general manager of Miracle of Science.

RICHARD SCALI, CHAIRMAN: Dennis --

DENNIS SILVA: Silva.

RICHARD SCALI, CHAIRMAN: -- Silva?

CHRIS LUTES: Chris Lutes owner of Middlesex Lounge and Miracle of Science.

JAMES KAYIWA. Jimmy Kayiwa, K-A-Y-I-W-A, one of the door guys.

OFFICER CROMWELL: Officer Cromwell, Cambridge PD.

RICHARD SCALI, CHAIRMAN: All right.

Ms. Boyer, are you going to begin or did you want to start with Officer Cromwell?

ANDREA BOYER: Yes. I would like to

kinda give a whole overview of it.

RICHARD SCALI, CHAIRMAN: All right.

ANDREA BOYER: Thank you, sir.

In June, we received a police report pertaining to the Middlesex Lounge. The numbers are in the packet that I gave you, the police report and also a CAD report was requested.

There had been -- excuse me -- I kinda went out of order myself. Excuse me.

RICHARD SCALI, CHAIRMAN: All right. Take your time.

ANDREA BOYER: Okay. The police report pertained to an alleged fight that took place at the Middlesex Lounge at 315 Massachusetts Avenue.

In our cases, as you are aware, we investigate whether the owner, manager, employee assisted the officers or made calls to 911 in case any situation transpired at the establishment.

In the report that we received,

neither the police report or the CAD report noted whether any staff helped with the establishment. An employee made the initial call to the ECC.

I emailed the reporting officer, Officer Aaron Cromwell, who is here this evening, and asked for further information regarding the incident.

I specifically asked if intoxication was an issue with any of the individuals involved.

Officer Cromwell informed me that the manager who was on the scene was helpful, but unable to identify any suspects. He also stated that the victim was intoxicated.

I checked the CAD report, as we always do with our reports, which lists the name of the reporting person of the incident.

I called the gentleman and left a message stating that I work for the City of Cambridge, and I was inquiring if he made the call to ECC and what his relationship is to



the Middlesex Lounge.

The gentleman called me back and stated he was a customer, and he noticed that during the fight inside that the staff was just pushing people out of the door. And as they were outside and the fight continued, he noticed that no one was helping, and he thought he should make the call. And that's what he stated to me.

RICHARD SCALI, CHAIRMAN: So, Ms. Boyer, you reviewed the police report first?

ANDREA BOYER: Correct.

RICHARD SCALI, CHAIRMAN: We'll have Officer Cromwell testify to that.

And then you made further calls to the victims and the witnesses, which is what you have in your report here?

ANDREA BOYER: Yes.

RICHARD SCALI, CHAIRMAN: What is the date of the incident, do you know?

ANDREA BOYER: It's actually in

June, June 28th. We were going to have the hearing sooner, but the agenda had been full.

RICHARD SCALI, CHAIRMAN: Okay. Why don't we have Officer Cromwell come up first next because I think he has more details that can fill us in on some of the questions I was going to ask Ms. Boyer. I think you can probably answer them.

OFFICER CROMWELL: Good evening. I'm just going to read from my report, and of course, I'll entertain any questions.

On 6/28/09 at approximately 2:15 a.m., I, Officer Cromwell, along with other units were dispatched to Middlesex Lounge on Massachusetts Avenue for a report of a fight outside the club.

Upon arrival, numerous patrons informed us that the fight ended and that the participants fled the area. I searched the area for the SPs, the suspects, and located the victim in the parking lot at Winsor Street and State Street.

I informed the other units that I was off with the victim -- his name was Adel Altabon (phonetic) -- who was bleeding from his mouth.

Altabon told me that he was in the Middlesex Lounge dancing with a girl, then got into an argument with an unknown white male who preceded to punch him in the face twice.

The fight spilled outside where the club -- spilled outside the club where all parties involved fled the area.

Altabon was complaining of pain in his mouth, so I requested Pro Ambulance to respond. Pro transported Altabon to CCH for evaluation.

RICHARD SCALI, CHAIRMAN: So the incident was on June 28th, 2:15 a.m., you were there after the fight occurred inside and you responded to the parking lot?

OFFICER CROMWELL: No. We came -- we reported to the front of the Middlesex

Lounge on Mass Ave. We came after the fact. The fight had already broken up by the time the responding units arrived.

RICHARD SCALI, CHAIRMAN: And then you tracked him down?

OFFICER CROMWELL: What I did was I told my sergeant that I was going to search the area and see if I can find anybody, and that's when I encountered the people that were involved.

RICHARD SCALI, CHAIRMAN: And do you know who called the police?

OFFICER CROMWELL: I don't. I know when I first got on scene, I did speak to a number of people, and I believe that I spoke to one of the employees of the Middlesex Lounge. As a matter of fact, this gentleman right here.

RICHARD SCALI, CHAIRMAN: Okay.

OFFICER CROMWELL: And, unfortunately, I didn't put it in my report, but he was the one who actually gave me the

description of the people that were involved in the fight.

RICHARD SCALI, CHAIRMAN: At what point in time was that?

OFFICER CROMWELL: Probably within under a minute that we got there because he was already outside.

RICHARD SCALI, CHAIRMAN: So you knew the description through this gentleman or a description from --

OFFICER CROMWELL: This gentleman right here (*indicating*).

RICHARD SCALI, CHAIRMAN: When you reached the parties there in the parking lot, you spoke to the victim?

OFFICER CROMWELL: Yes.

RICHARD SCALI, CHAIRMAN: What did the victim tell you?

OFFICER CROMWELL: Well, he just basically said that he was -- well, after he, you know, he was a little belligerent at first, but after he calmed down, you know, he

had mentioned that he -- just what I said in my report, that he was talking to a girl -- I'm not sure who -- he said he wasn't -- couldn't give a description of who the person was that punched him outside, but he was a white male, punched him in the face a couple times, and then that's when he and his group were moved outside, and they left the area. That's what he told me.

RICHARD SCALI, CHAIRMAN: Did he state anything about Middlesex Lounge and the employees? Did he tell you anything about them at all.

OFFICER CROMWELL: No.

RICHARD SCALI, CHAIRMAN: Did he say they helped him at all in terms of what --

OFFICER CROMWELL: He didn't mention anything. All he mentioned was the fight that he got into. He didn't mention any Middlesex employees.

RICHARD SCALI, CHAIRMAN: Did you smell any alcohol on him?

OFFICER CROMWELL: He was clearly intoxicated.

RICHARD SCALI, CHAIRMAN: And who was there with him when you stopped him?

OFFICER CROMWELL: There were four of them altogether, one black male, and Altabon, I believe he's -- I think he's Hispanic, his brother and another friend. There's four of them altogether.

RICHARD SCALI, CHAIRMAN: And they were with the victim?

OFFICER CROMWELL: They were altogether in the lounge, according to them as a group.

RICHARD SCALI, CHAIRMAN: I'm sorry, who punched him? Do you know who punched him?

OFFICER CROMWELL: Don't know.

RICHARD SCALI, CHAIRMAN: Does he know?

OFFICER CROMWELL: He doesn't know. All he could give me was a white male.

RICHARD SCALI, CHAIRMAN: Questions?

DANIEL TURNER, DEPUTY FIRE CHIEF:

What was the state of the sobriety with the other people in there, Detective?

ROBERT HAAS, POLICE COMMISSIONER:

What was state of the sobriety with the other people who were with the victim?

OFFICER CROMWELL: Actually, they seemed okay. The Altabon gentleman was clearly intoxicated.

In fact, when I first got there, Commish, he was actually belligerent towards me, and actually his friends were like, "Listen. Calm down. He just wants to talk to you," blah-blah-blah, and, you know, after a couple minutes, you know, I basically reasoned with him and then he, you know, calmed down, but as far as his other three friends, they seemed okay with me, and they were actually assisting me as far as trying to keep their friend calmed down.

ROBERT HAAS, POLICE COMMISSIONER:



The reason for being pushed out of the bar was because of the fight?

OFFICER CROMWELL: The fight, yes.

ROBERT HAAS, POLICE COMMISSIONER:  
Thank you.

RICHARD SCALI, CHAIRMAN: He said who pushed him out of the bar. Does he know who pushed him out of the bar?

OFFICER CROMWELL: He didn't get into specifics as far as -- he said he got into a fight, and all he knew is that he and his friends were being thrown out of the bar.

RICHARD SCALI, CHAIRMAN: So no one asked him, "Are you okay? Can we help you?"

OFFICER CROMWELL: We didn't get into that. We didn't get into that with him. I basically just asked him how he was at the time that I found him, and he complained of his mouth hurting and his mouth was bleeding, so that's when I requested for an ambulance.

RICHARD SCALI, CHAIRMAN: Any questions?

DANIEL TURNER, DEPUTY FIRE CHIEF:

No questions.

RICHARD SCALI, CHAIRMAN: Questions of the police officer? Mr. Lutes?

CHRIS LUTES: It's unclear. Were his friends with him in the parking lot?

OFFICER CROMWELL: They were. All of them were there.

CHRIS LUTES: And my only question is: Is it possible that what you're -- his belligerence and his apparent intoxication could be as a result of heightened state from having been punched in the head twice by unknown assailant?

OFFICER CROMWELL: Could be.

CHRIS LUKES: That's my only question.

RICHARD SCALI, CHAIRMAN: Any questions of the police officer?

Ms. Boyer, did you want to add to your --

So, Ms. Boyer, after the fact you

actually -- I'm sorry -- I forgot now what you said in terms of -- you actually then spoke to --

ANDREA BOYER: I spoke with the gentleman -- not the victim -- there on the ECC report that we received, it will say who called for emergency communication. I called that number, like I do on most of our reports just to see if it was an employee or owner, and this is when the gentleman called me back -- I redacted the name actually --

RICHARD SCALI, CHAIRMAN: Right.

ANDREA BOYER: -- but he stated he was a patron there, and that when he saw people being pushed out and then outside and realized no one was helping, that's when he called the police.

RICHARD SCALI, CHAIRMAN: He said he called the police as a patron, but he didn't think anybody else called?

ANDREA BOYER: Yes.

RICHARD SCALI, CHAIRMAN: On the ECC

report it said that he --

ANDREA BOYER: There was one call to the ECC. There wasn't more than one. That was the only report that came through was a CAD call.

RICHARD SCALI, CHAIRMAN: Questions of Ms. Boyer:

ANDREA BOYER: If there was more than one call, then we could get more than one report.

RICHARD SCALI, CHAIRMAN: You would see it on the sheet?

ANDREA BOYER: They would be sent to me, correct.

RICHARD SCALI, CHAIRMAN: Questions of the Board?

ROBERT HAAS, POLICE COMMISSIONER:  
No questions.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
No questions.

RICHARD SCALI, CHAIRMAN: Mr. Lukes any questions of Ms. Boyer?

CHRIS LUKES: So you only know of one phone call to 911 from anyone involved with the area?

ANDREA BOYER: Yes.

CHRIS LUKES: Okay.

RICHARD SCALI, CHAIRMAN: Anything further of Ms. Boyer or Officer Cromwell?

You can kinda stay here for a second we'll --

CHRIS LUKES: I just have one question. Is there some way to double check that or look at these reports and take a look at other calls that might have come into 911 at or about that exact same time?

RICHARD SCALI, CHAIRMAN: Well, Ms. Boyer gets the complete list of all the calls.

CHRIS LUKES: Okay.

RICHARD SCALI, CHAIRMAN: Anything related to your address --

CHRIS LUKES: It's broken down by -- what if it were a cell phone?

ANDREA BOYER: Yes. We actually get cell phone numbers.

RICHARD SCALI, CHAIRMAN: Any call.

CHRIS LUKES: Okay.

ANDREA BOYER: It's any call that's called in. Some even don't have names, but some do, but this was all that came through.

CHRIS LUKES: Okay.

RICHARD SCALI, CHAIRMAN: Anybody else want to testify for Ms. Boyer on the other side on your report?

ANDREA BOYER: I don't have anything else.

RICHARD SCALI, CHAIRMAN: Mr. Lukes, it's your turn.

CHRIS LUKES: I'm gonna ask some of these guys to paint the picture of the entire evening, but it's my understanding that Dennis, who works for us at Science Partners, was outside at the time and actually made a phone call to 911 at the instruction of the door guys who had -- who were dealing with

the situation. This all took place after the restaurant had closed. We have a 2:00 a.m. license. We stop serving at 1:40, and we were in the process of asking people to leave. The lights were up and we were emptying the restaurant. And my understanding was that the incident actually took place actually outside and not inside, and that the patron that called was either on the sidewalk or could have still been inside looking out and seeing it through the windows.

And now, I'm going to ask Jeremiah Bernstein, the manager, who was at the site, although he's in his office when the event took place, to sort of paint a picture for the entire evening.

Dennis can tell you about what he saw and when he made the phone call, and our door guy can fill in all the details because he was actually involved in both of these -- all the people involved.

JEREMIAH BERNSTEIN: So, from what I understand, the lights were up, we were closed already, getting patrons out of the door. There was a little bit of pushing and shoving between a couple of the patrons.

My door staff, you know, escorted them outside where Steven told Dennis to call the police.

RICHARD SCALI, CHAIRMAN: Did you see any of this?

JEREMIAH BERNSTEIN: I was in my office doing my financials.

RICHARD SCALI, CHAIRMAN: You didn't see it. I wanted to know who was there.

JEREMIAH BERNSTEIN: Steve Arc could paint a better picture than I could.

STEVE ARC: I was standing at the door and making sure that patrons were leaving, and the other door guy stands further inside the bar. A shouting match between the two parties started. And I told them, "You have to leave right now."



RICHARD SCALI, CHAIRMAN: Where were they, inside?

STEVE ARC: Inside right by the door. And I asked them to leave. They were walking outside. The one gentleman, who is described as a white gentleman, was by himself, and the other party, the victim -- there was a party of four. As I was telling the one gentleman to back away -- and Dennis was outside -- the party of four comes towards him.

So I tell the one gentleman, "It's not going to be safe for you because there's four of them, and there's one of you, and there's no way I can stop all of four of them. Please back away."

And that's when the party of four split up and went around. And there was one gentleman, the gentleman that was hurt in his jaw, was whipping him with his belt and --

RICHARD SCALI, CHAIRMAN: He was whipping who with the belt?

STEVE ARC: The white gentleman who was described in the report as the assailant.

RICHARD SCALI, CHAIRMAN: The assailant. Okay.

STEVE ARC: So, while he was defending himself, he turns around and he punches him in the jaw, and that's when Dennis was on the phone, and when the officer responded we told them, they're going around the back down State Street heading towards Winsor and Main.

RICHARD SCALI, CHAIRMAN: So people -- so this happened at 2:15 -- it happened at 2:15 or the call came in at --

OFFICER CROMWELL: We responded there, we got there about 2:15. I'm not sure how long.

RICHARD SCALI, CHAIRMAN: You're saying as you were closing at 2:00, people were leaving and the fight took place as people were leaving?

STEVE ARC: Yes.

RICHARD SCALI, CHAIRMAN: You were trying to push people out?

STEVE ARC: We're not allowed to -- as people are walking out, one of us stands at the door, you know, basic thanks for coming out, have a great night and making sure -- looking at folks leaving, make sure everybody leaves safely.

At that moment is when the exchanging of words started happening right by the door. And I said, "Guys, you've got to take this outside."

RICHARD SCALI, CHAIRMAN: Okay.

STEVE ARC: And that's when I noticed that there's only one person against four coming after him.

And at this point, my concern was the party who was by himself. And I walked him towards the corner of Mass Ave and State Street, and that's when the four assailants came and they sort of split up around me and the gentleman got hurt in the jaw, he was

whipping him with his belt.

DENNIS SILVA: I was very vocal about calling the police at the time, and I just realized that my phone number might not be in the 911 log because I always call the non-emergency number being that I have -- I don't know if that's related or not, but I do call the -- generally, when I make a call, it's to the non-emergency number just because I call them frequently being the manager of the bar for little things here.

RICHARD SCALI, CHAIRMAN: Well, the patron called at 2:17 a.m. Whoever that person is you spoke to is, Ms. Boyer --

ANDREA BOYER: Yes.

RICHARD SCALI, CHAIRMAN: -- called at 2:17 a.m. This was after closing.

DANILE TURNER, DEPUTY FIRE CHIEF:  
Mr. Chair?

RICHARD SCALI, CHAIRMAN: Deputy Chief.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Doorman, just to clarify. When you described the scenario of the group breaking up going around you, this was all outdoors, correct?

STEVE ARC: The exchange of words started right by the entrance on the inside, that's when I said, "You've got to take this outside." And as they went outside, I noticed there's this one guy and he has four other gentlemen coming after him.

So he backtracked, was walking backwards and saying, "I'm just getting out of here. I'm getting out of here."

And he backtracked towards the intersection of Mass Ave and --

DANIEL TURNER, DEPUTY FIRE CHIEF: Okay. So, the actual confrontation is actually occurring outside?

STEVE ARC: Outside.

DANILE TURNER, DEPUTY FIRE CHIEF: Thank you.

RICHARD SCALI, CHAIRMAN: Did you see the party insured when you saw the --

STEVE ARC: I did see the party getting injured.

RICHARD SCALI, CHAIRMAN: Did you talk to him when he was injured?

STEVE ARC: When he was on the ground, I asked him, "Do you need any help," and his friends picked him up and said, "Let's get out of here" -- because Dennis was talking about calling the police -- so they said, "Let's get out of here," and that's when they ran down State Street.

RICHARD SCALI, CHAIRMAN: All right. Any questions?

Ms. Boyer.

ANDREA BOYER: The one thing I can possibly verify is that gentleman did call 3300, and it's a possibility because Middlesex has called for a couple questions for a police officer who called and asked me questions to answer.

RICHARD SCALI, CHAIRMAN: That wouldn't show up on --

ANDREA BOYER: Not always.

DENNIS SILVA: That's the number that we use. I mean, that's the number I have saved in my cell phone.

ANDREA BOYER: I mean, they had asked questions in the past based on safety issues that I can verify that.

RICHARD SCALI, CHAIRMAN: Is there a record of that, Commissioner?

ANDREA BOYER: We can check it.

RICHARD SCALI, CHAIRMAN: Oh, that was on here?

ROBERT HAAS, POLICE COMMISSIONER: Uh-huh.

RICHARD SCALI, CHAIRMAN: That's a different call than the ECC?

ROBERT HAAS, POLICE COMMISSIONER: No. The call would be logged -- if they called the service, they would actually log it as call for service. So if information was called for, it's not going to go on the log, but if it's a call for service, it's

gonna get logged.

ANDREA BOYER: Okay. I'll double check with the crime analysis.

ROBERT HAAS, POLICE COMMISSIONER:  
If they're a special police or fire EMS, they get logged when called, whether it's on the emergency or non-emergency line.

ANDREA BOYER: Okay.

RICHARD SCALI, CHAIRMAN: So, are you saying it would show up on that list, anyway, so there was only one call that was made?

ROBERT HAAS, POLICE COMMISSIONER:  
Yes.

RICHARD SCALI, CHAIRMAN: There's a 911 call showing up.

Anything else you want us to know, Mr. Lutes?

CHRIS LUKES: No. I think -- I hope you understand the situation that it happened. Of course, I wasn't there, but that my understanding is that all -- that it



took place after we were closed, and the altercation started when people were leaving, it happened outside, I believe that Dennis did call the police probably on the regular line.

The call for service had already come in, perhaps from the 911 call from the patron who witnessed it at the same time, and that it was sort of a bizarre circumstance where with a group of four were ganging up on one, and it turned out that one actually injured one of the four.

RICHARD SCALI, CHAIRMAN: Past history, Mrs. Lint?

ELIZABETH LINT, EXECUTIVE OFFICER: There was no past history noticed.

DANIEL TURNER, DEPUTY FIRE CHIEF: Mr. Chair?

Any idea what instigated the incident between the parties?

STEVE ARC: The young lady.

ROBERT HAAS, POLICE COMMISSIONER:

No more questions.

CHRIS LUKES: But the one thing I would -- I do want to make clear is we strive very hard with our door staff. We have two excellent gentlemen, like Steven here, at all times who are checking IDs and checking sobriety. We often on our busy nights like this have a line where we're able to observe the patrons for five or six minutes before they actually get in and see whether they appear intoxicated.

Our staff are all TIPS certified inside, and as the evening goes, on our waitresses only provide clean-up service, and that if people are going to buy another drink, they actually have to get up and go to the bar where they can be observed getting up and walking to the bar and then have to interact with the bartender.

So, we do everything we can to make sure that we're not serving intoxicated people or under age people, for that matter.

RICHARD SCALI, CHAIRMAN: Are people still allowed to be on the premises between 2:00 and 2:30 at Middlesex drinking?

CHRIS LUKES: We stop serving at 1:40, 20 minutes prior to, I think, what we're allowed to under our license, in an attempt to get people finished up and out of the door by 2:00.

RICHARD SCALI, CHAIRMAN: But do you allow people to stay past 2:00 and drink?

CHRIS LUKES: No. We clean up every -- absolutely not. We clean up --

RICHARD SCALI, CHAIRMAN: Because they can stay between 2:00 and 2:30?

CHRIS LUKES: Yeah, we clean, so lights are up and we're picking up drinks before and after 2:00.

ROBERT HAAS, POLICE COMMISSIONER:  
Mr. Chair.

Just to clarify, do you have last call at 1:40 or do you shut the bar off at 1:40?

CHRIS LUKES: It's last call

JEREMIAH BERNSTEIN: It's last call.

RICHARD SCALI, CHAIRMAN: Anybody  
else want to be heard on this matter?

Anybody from the public?

Anything else from the  
Commissioners?

DANILE TURNER, DEPUTY FIRE CHIEF:  
No questions.

RICHARD SCALI, CHAIRMAN: Motion?  
Take the matter under advisement? Moved.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Seconded.

RICHARD SCALI, CHAIRMAN: All in  
favor?

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Aye.

RICHARD SCALI, CHAIRMAN: We were  
scheduled to vote on October 1st.

CHRIS LUKES: What would you be  
voting on, if I may ask?

RICHARD SCALI, CHAIRMAN: The charge

is that you, as a licensee, did not call the police, did not assist the patron and that --

ELIZABETH LINT, EXECUTIVE OFFICER:  
Over-serving.

RICHARD SCALI, CHAIRMAN: Yeah, the patron was intoxicated as well. So, those are the three issues that we would consider.

CHRIS LUKES: Okay.

RICHARD SCALI, CHAIRMAN: You're welcome to be here at 10:00 a.m. on the 1st. You don't have to be, but you're welcome to be. Thank you.

Thank you, Officer. Thank you, Ms. Boyer.

CHRIS LUKES: I'm sorry. So that was the charge, but what do you vote on?

RICHARD SCALI, CHAIRMAN: We vote whether those three issues --

CHRIS LUKES: Whether that actually happened or not?

RICHARD SCALI, CHAIRMAN: Whether you were in violation of the law and the

rules and regulations on those three charges.

CHRIS LUKES: Thank you.

P & E RESTAURANT, INC.

ELIZABETH LINT, EXECUTIVE OFFICER:

Disciplinary matter continued from September 8, 2009. P & E Restaurant, Incorporated d/b/a Desfina Paraskevas Mallakis, Manager, holder of an all alcoholic beverages as a restaurant license at 202 Third Street due to a police report that alleges a fight started in Desfina Restaurant which led to the arrest of Paraskevas Mallakis.

RICHARD SCALI, CHAIRMAN: Is the officer here on this matter?

MS. LINT: He is.

RICHARD SCALI, CHAIRMAN: Logan, is it?

OFFICER LOGAN: Yes, sir.

RICHARD SCALI, CHAIRMAN: Why don't you come on up?

Ms. Boyer, are you involved in this matter as well?

ANDREA BOYER: Mrs. Lint asked me to stay just in case there are any questions.

RICHARD SCALI, CHAIRMAN: All right. So why don't we start with names first. We'll start on this end, and go down the line.

OFFICER LOGAN: Good evening. Michael Logan, Cambridge Police Department.

RICHARD SCALI, CHAIRMAN: Officer Logan.

THOMAS MALLAKIS: Thomas Mallakis.

RICHARD SCALI, CHAIRMAN: Mr. Mallakis.

ATTORNEY CRANE: Kevin Crane, attorney for the petitioner, 104 Mount Auburn Street, Cambridge.

RICHARD SCALI, CHAIRMAN: Mr. Crane.

PARASKEVAS MALLAKIS: Paraskevas Mallakis.

RICHARD SCALI, CHAIRMAN: Mr. Mallakis, which is Peter, right?

Paraskevas MALLAKIS: Yes.



RICHARD SCALI, CHAIRMAN: So I get the brothers correct.

All right. We are going to start with Officer Logan's report.

OFFICER LOGAN: Mr. Chairman, if I may --

ATTORNEY CRANE: First of all, I just want to thank the Board for continuing the case to tonight. And we're prepared to go forward to a certain degree. But I don't know how you want to proceed.

But, as you know, there's a pending criminal matter against Peter at the Cambridge District Court, so he won't be testifying tonight, and based on that unavailability, I would ask that the record be kept open at the end of the hearing so we could continue it to a date when the criminal process has run its course.

There is also, as I noted in my initial request for a continuance, there's a 70-year-old witness that's critical to our

case, and he had heart surgery two weeks and he's recovering from it now, and I would expect that he would be able to appear probably in the beginning of November. And at the end of hearing I would be asking that the case be kept open until November 10th, so that we could have a full and fair hearing.

RICHARD SCALI, CHAIRMAN: I'm sorry. The witness, the 70-year-old witness is a witness that was in the establishment or on the street?

ATTORNEY CRANE: He was in the establishment and he had interaction with Michael Cataudas (phonetic).

RICHARD SCALI, CHAIRMAN: Which is the --

ATTORNEY CRANE: Alleged victim.

RICHARD SCALI, CHAIRMAN: -- alleged victim. Okay.

All right. Let's see what we have for information first, Mr. Crane. I'm not really sure what evidence we have placed

together, and I think Officer Logan's report is crucial to our direction at this point, so let's -- I think we should hear from Officer Logan first.

OFFICER LOGAN: Good evening, Mr. Chairman.

If I may, I would like to present a police report that was documented as a result of a 911 call on July 25th at 11:25 p.m. to Charles and Second. It's a little bit lengthy. Bear with me.

On the above date and time, I responded to a radio call for an assault and battery in progress on Second Street at Charles Street. Officers Cabral and Druwitz (phonetic) were also dispatched to that location.

Emergency Communications updated the units that the caller reported two suspects were assaulting one victim.

Emergency Communications further stated that the victim was on the ground and

the suspects were leaving the area.

Emergency Communications broadcasted a suspect description in a direction of travel.

Officers Cabral, Druwitz and I observed a suspect who matched the description walking on Charles at Third Street.

Officer Druwitz and I stopped and exited our cruisers to further investigate. While conducting a threshold inquiry, Detective Michael Regal informed Emergency Communications that he was off with the victim on Charles Street.

After confirming that the party Officer Druwitz and I had stopped was not involved in the assault, I proceeded to Detective Regal's location.

I spoke to the victim, Michael Cataudas (phonetic) with regard to the assault. Cataudas stated he had been drinking inside the Desfina Bar & Grill on

Third Street and Charles. Cataudas had a strong odor of an alcoholic beverage coming from his person. He also appeared to be intoxicated.

Cataudas stated at some point after spending several hours drinking at that establishment, he asked an employee for a cigarette. According to Cataudas, the employee, who was described as an older Greek male with a blue and white striped shirt, became upset at him. Cataudas further stated that the employee began to speak Greek to another employee.

Cataudas stated that after a brief conversation between the two employees in Greek, he was told to leave the establishment. Cataudas questioned why he was being asked to leave.

Cataudas stated at that point, the older Greek male became extremely angry and began yelling and pushing him.

Cataudas stated that he left the

establishment and immediately noticed the older male and another male were following him.

Cataudas described a second individual as a younger worker with a slight beard, whom he believed was the cook.

Cataudas stated that he was suddenly attacked by both parties, thrown to the ground and continuously kicked.

Cataudas further stated that he curled up in a fetal position attempting to protect himself from the attack. At Cataudas's shirt was ripped, he had a bloody mouth, abrasions to his left elbow and torso area. Cataudas was complaining of internal pain to his left side.

Cataudas stated that both suspects worked at Desfina's. Cataudas indicated that they had been working there the entire time he was a patron. Cataudas stated he would be able to positively identify both suspects.

Pro Ambulance was requested and

responded to evaluate Cataudas's injuries.

I proceeded to Desfina and requested to speak with the manager. Peter Mallakis stated his brother owned the restaurant, but was out of the country. Mallakis further stated that he was the manager while his brother was away.

I asked Mallakis if there were any -- if there had been any altercation with a patron of the restaurant. Mallakis appeared to be intoxicated and did not answer the question.

I again asked Mallakis if he was aware of any altercation. Mallakis now stated that he had briefly left the restaurant to manage his pizza business, which is directly across the street.

Mallakis denied having any knowledge of an altercation.

I made note that Mallakis had a blue and white striped shirt. Mallakis also spoke with a very strong Greek accent.

I was approached by a witness, Costas Sklavonis (phonetic), who indicated he was a patron and observed a minor disturbance inside the restaurant.

Sklavonis further stated that he witnessed Mallakis ask Cataudas to leave the restaurant. He further witnessed the two parties become involved in a verbal altercation.

Sklavonis was alarmed when he observed a knife in Cataudas's front pocket. Sklavonis stated he did not see Cataudas remove the knife from his pocket, but did make note of it.

I spoke with Mallakis with regard to Sklavonis's statement. Mallakis was advised of Miranda rights from a card that I carry. He was further advised he was not under arrest. Mallakis stated he did not know anything about a verbal altercation. Mallakis, again, denied being involved any dispute.



During the course of the investigation, it was discovered that a second suspect was Mallakis's nephew, Thomas Mallakis. I was able to locate Thomas Mallakis and advised him of Miranda rights from the same card. Mallakis was also advised he was not under arrest.

Thomas stated his uncle had a verbal dispute with Cataudas. Both Mallakis and Cataudas continued the dispute outside the restaurant. Mallakis stated he observed Cataudas brandishing an orange knife at his uncle.

Thomas Mallakis further stated he ran halfway down Charles Street where he located them. According to Thomas Mallakis, he was in fear for his uncle's safety and tackled Cataudas to the ground.

Mallakis stated that Cataudas struck a street sign as he fell to the ground and instantly became unconscious.

Mallakis stated that he removed the

knife from Cataudas's hand. Mallakis denied that he had kicked Cataudas or witnessed his uncle kicking him. Mallakis informed me he secured the knife inside the restaurant.

I explained to Mallakis that a witness called 911 after observing two parties attacking the victim on Charles Street near Second Street.

I asked Mallakis how he did not see his uncle kicking the victim. Mallakis now stated he was wrestling the knife out of Cataudas's hand. Mallakis stated Cataudas went unconscious when he hit the pavement. Mallakis stated he never observed anyone kicking Cataudas.

Mallakis again admitted to forcefully throwing Cataudas to the ground only after observing the knife brandishing incident. Mallakis was unable to provide a valid explanation why the alleged attack took place approximately one city block away from the restaurant where both he and his uncle

were managing.

I, again, reminded Mallakis that a witness called the police to report a man being assaulted by two males on Charles Street.

I returned to speak to Peter Cataudas -- I'm sorry -- I returned to speak to Cataudas, who was now inside a Pro Ambulance being evaluated for his injuries.

I asked him if he was willing to conduct a show-up identification.

Cambridge Police Department show-up was completed and Cataudas agreed. Cataudas positively identified both Mallakises as the males that attacked him.

Cataudas further indicated that both Mallakises had kicked him repeatedly.

I questioned Cataudas with regard to brandishing a knife at Mallakis. Cataudas denied brandishing the knife, however, he did indicate he may have pulled it out in self-defense as he laid victim on the ground

to the repeated kicks.

Cataudas was transferred to the Cambridge Hospital by Pro Ambulance.

Mallakis, Peter, was placed under arrest for assault and battery by means of a dangerous weapon, he was handcuffed, transported to the station and booked in the normal manner. The knife was turned over to the evidence department.

Those essentially are the facts, Mr. Chairman.

RICHARD SCALI, CHAIRMAN: Lots of facts. I mean, I think there's enough information here for us to, at some point, go forward, Mr. Crane, with the charges.

I guess it's up to the Commissioners to determine whether the criminal charges that are being pursued against Mr. Mallakis would therefore somehow stop us from proceeding with these proceedings.

I know that Ms. Boyer tried to reach a number of witnesses and was unable to do

so.

ELIZABETH LINT, EXECUTIVE OFFICER:  
No, that's not entirely correct. That's why  
I asked her to stay.

RICHARD SCALI, CHAIRMAN: Okay. All  
right.

ELIZABETH LINT, EXECUTIVE OFFICER:  
She was able to make contact with the person  
who called 911.

RICHARD SCALI, CHAIRMAN: Oh, she  
did?

ELIZABETH LINT, EXECUTIVE OFFICER:  
Yes.

RICHARD SCALI, CHAIRMAN: All right.

ELIZABETH LINT, EXECUTIVE OFFICER:  
And I think what she has to say is important.

RICHARD SCALI, CHAIRMAN: We're not  
required to, you know, stop proceeding in  
this proceeding because of criminal charges.  
We can go on hearsay, we can go on  
administrative charges without determining  
the results of any kind of criminal

investigation as well. But we certainly can do that if we wish to, but we're not required to wait for the criminal charges to be resolved, so that --

ATTORNEY CRANE: Well, Mr. Chairman, I would think if you wanted to have a full and fair hearing that you would wait to hear the other side.

I mean, I'm prepared, first of all, to cross-examine the officer and also have Thomas Mallakis testify this evening.

It's just because of pending criminal matters that Peter will not be testifying, and also, as I say, there is another elderly witness that's unavailable on a medical emergency basis, and you can make up the rules as you go along, but if I was --

RICHARD SCALI, CHAIRMAN: Well, I'm not making up the rules. These are very serious charges. They're a public safety concern as well.

ATTORNEY CRANE: I understand that.

But just to hear, you know, a full and fair hearing that we hear both sides.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Mr. Chairman.

Mr. Crane, just so I understand fully that you have witnesses to counter the charges, but the witnesses cannot be present tonight; is that right?

ATTORNEY CRANE: That's correct.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Thank you.

RICHARD SCALI, CHAIRMAN: My biggest concern is the safety of the public. If these alleged charges are indeed true, Mr. Mallakis is a danger to the patrons and the people in that neighborhood, I feel, if it's true. I'm not saying they are true. So we have to consider that.

ATTORNEY CRANE: If it's true after a full and fair hearing.

RICHARD SCALI, CHAIRMAN: Well, I hear what you're saying.

ATTORNEY CRANE: I hope you are, Mr. Chairman. I hope you do. I hope there hasn't been a predisposition.

RICHARD SCALI, CHAIRMAN: I hear what you're saying.

ATTORNEY CRANE: Okay.

RICHARD SCALI, CHAIRMAN: Pleasure of the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER: I would like to hear from Ms. Boyer.

ATTORNEY CRANE: Could I cross-examine the officer?

RICHARD SCALI, CHAIRMAN: You certainly will have an opportunity if we decide we're going to go forward.

ATTORNEY CRANE: Okay.

RICHARD SCALI, CHAIRMAN: I just want to hear what Ms. Boyer has to say.

ANDREA BOYER: Thank you, sir.  
Andrea Boyer, licensing investigator.

I did actually, once again, with the report received the CAD information, and also



I -- there were two witnesses, as you did state, that did not return my call and/or may not be the correct number, but the gentleman who did make the 911 call, did email me and he did clarify what he saw that night. And he stated that he witnessed two individuals standing over a third guy, who was lying on the ground in the corner of Second Street and Charles Street. One guy was just standing there backing up his friend. The other guy was actually assaulting him. I'm not sure where the discrepancy is, or how it affects what you're doing. I explained to them that I worked for the Cambridge License Commission.

And if there's a debate over whether he kicked him or not, he certainly punched him in the head repeatedly. I don't recall precisely if any kicks were thrown in addition to that, but for the sake of why I called the police -- and I'm quoting this -- "he was beating the shit of the guy while

yelling and screaming. While I was on the phone, the two guys walked away and left the third guy lying on the ground. So I think I only caught the tail end of the incident." And that was the end of his email.

RICHARD SCALI, CHAIRMAN: That person was the person that was inside -- no, that was --

ANDREA BOYER: He was outside on the corner of Second. He visually saw the end of the alleged incident.

One of the things that he did mention is that he wouldn't be able to recognize.

RICHARD SCALI, CHAIRMAN: He would not be able to recognize the assailants?

ANDREA BOYER: He wouldn't be able to recognize them.

RICHARD SCALI, CHAIRMAN: Questions of Ms. Boyer?

DANILE TURNER, DEPUTY FIRE CHIEF: No questions.

ANDREA BOYER: Officer Logan has a statement to make.

RICHARD SCALI, CHAIRMAN:  
Absolutely.

OFFICER LOGAN: One thing, Mr. Chairman, that night, the night of the alleged attack, there was an effort on the police's behalf to reach out to the reporting party, the witness, which was unsuccessful.

What I understand from ECC was it was a 911 call from a cell phone and a 911 call was a passing motorist, I don't know that he was in the restaurant. What I do know is ECC indicated he was a passing motorist and called 911 via cell phone.

RICHARD SCALI, CHAIRMAN: According to the tape or the call itself?

OFFICER LOGAN: That's according to ECC. We did attempt reach out to him to get a statement and was unsuccessful that night.

RICHARD SCALI, CHAIRMAN: Pleasure of the Commissioners, wish to go forward or

Mr. Crane can cross-examine Officer Logan?

ROBERT HAAS, POLICE COMMISSIONER: I think since Officer Logan is here and I think -- I agree, I don't know if we can complete the hearing tonight because I do want to hear what the gentleman wants to say. So I'm not ready to render an opinion based on just one side of the story, but I think we can get at least part of the equation on the table, that's going to be good enough for me, and then we'll wait and see what the outcome of the criminal trial is.

RICHARD SCALI, CHAIRMAN: All right. So I guess we're going forward with your cross-examination, Mr. Crane.

ATTORNEY CRANE: Officer Logan, good evening.

OFFICER LOGAN: Good evening.

ATTORNEY CRANE: Officer Logan, when you first appeared on the scene that evening whereabouts was the victim -- whereabouts was Michael Cataudas located?

OFFICER LOGAN: My first interaction with Michael Cataudas was he was off with Detective Regal who had located him. Where that occurred, I don't know. It was somewhere between Second and Third Street on Charles.

ATTORNEY CRANE: Where were you when you first observed Mr. Cataudas?

OFFICER LOGAN: I was on Second at Charles.

ATTORNEY CRANE: And did you speak to Mr. Cataudas at that time?

OFFICER LOGAN: Yes, I did.

ATTORNEY CRANE: And could you describe for me how tall Mr. Cataudas was?

OFFICER LOGAN: I don't recall, five-ten is my inclination, but I couldn't testify to that.

ATTORNEY CRANE: Okay. Do you recall -- could you give me an approximation as far as his weight?

OFFICER LOGAN: Medium build.

ATTORNEY CRANE: At that time what was your observation as far as his physical condition?

OFFICER LOGAN: He was intoxicated.

ATTORNEY CRANE: I mean, as far as injuries go, did he show any obvious --

OFFICER LOGAN: He lifted his shirt and there was some abrasions on the left side. It was more of a complaint of internal injuries. There may be allegations that he was kicked on the side.

ATTORNEY CRANE: Uh-huh, okay.

Now, after this initial contact with Mr. Cataudas, did you proceed to investigate the matter further?

OFFICER LOGAN: Yes, I did.

ATTORNEY CRANE: Okay. What again did you do?

OFFICER LOGAN: After obtaining a statement from Mr. Cataudas, I proceeded into the Desfina to speak with the manager. I was directed to your client, who identified

himself as the manager.

ATTORNEY CRANE: When you say "my client," which -- Peter?

OFFICER LOGAN: Peter, yes, sir.

ATTORNEY CRANE: Okay. And you interviewed him?

OFFICER LOGAN: I did.

ATTORNEY CRANE: Did you interview anyone else?

OFFICER LOGAN: I interviewed Thomas after.

ATTORNEY CRANE: Thomas is Peter's nephew?

OFFICER LOGAN: That's what I was told, yes.

ATTORNEY CRANE: Did you interview anyone else?

OFFICER LOGAN: Yes, I did. I interviewed Costa Sklavonis who was, from my understanding, he was a patron there.

ATTORNEY CRANE: Whereabouts was he when you interviewed him?

OFFICER LOGAN: I interviewed him outside. He was in the restaurant. I had learned that he witnessed it, and I asked him to step outside to obtain a statement.

ATTORNEY CRANE: Then at some point in time there was a identification procedure; is that correct?

OFFICER LOGAN: Yes, sir.

ATTORNEY CRANE: Now whereabouts did that take place?

OFFICER LOGAN: That was -- I had brought both Thomas and Peter over to the ambulance where the victim was being cared -- given or provided medical care in the back of the ambulance.

ATTORNEY CRANE: And at that time, did you observe Mr. Cataudas's physical condition?

OFFICER LOGAN: Yes.

ATTORNEY CRANE: What was it at that time?

OFFICER LOGAN: He was on a gurney



and -- as a matter of fact, in order to make the identification, they turned the gurney to the side to give him a clear view. He was laying supine, so face up.

ATTORNEY CRANE: How long a period of time was it between when you first spoke with Mr. Cataudas and the identification procedure took place?

OFFICER LOGAN: At the onset, I conducted a brief police investigation, which was probably approximately 10 minutes, 15 minutes. So 10 to 15 minutes would be safe to say.

ATTORNEY CRANE: So you interviewed those three witness in a space of time of 10 to 15 minutes?

OFFICER LOGAN: Approximately, yes.

ATTORNEY CRANE: Now, during this investigation did you become aware that Mr. Cataudas possessed a knife while he was in the restaurant?

OFFICER LOGAN: Yes, I did.

ATTORNEY CRANE: Again, first, how did you find out that Mr. Cataudas had a knife in the restaurant?

OFFICER LOGAN: Thomas Mallakis had provided me that information.

ATTORNEY CRANE: Were there another witness, though, that had --

OFFICER LOGAN: Yes, Costas Sklavonis -- I believe, maybe -- also indicated not -- he didn't witness the brandishing, he just made note that there was a knife in his pocket, which was consistent with the knife -- the knife recovered, the description provided by Costas was consistent with the description.

ATTORNEY CRANE: Now, was the knife eventually turned over to you?

OFFICER LOGAN: Yes.

ATTORNEY CRANE: Who turned it over to you?

OFFICER LOGAN: Thomas Mallakis.

ATTORNEY CRANE: When you

interviewed Mr. Mallakis, what did he say had occurred?

OFFICER LOGAN: Which Mallakis?

ATTORNEY CRANE: Thomas Mallakis.

OFFICER LOGAN: Initially, he was not forthcoming. It wasn't until I brought into the License Commission issue that he really became much more forthcoming.

First, he really didn't want to get involved, didn't see anything, and then when I indicated that there possibly was some sanctions via the License Commission, he told me what happened that night. He did tackle the alleged victim because the victim had created a disturbance in the bar and was asked to leave and then brandished a knife at Mr. Mallakis.

ATTORNEY CRANE: He told you that night that he had had a confrontation with Mr. Cataudas in order to disarm Mr. Cataudas; is that correct?

OFFICER LOGAN: Not necessarily a

confrontation. He told me that he basically tackled him, and when he hit the street sign, he went unconscious. So I don't necessarily know that a confrontation would be really an accurate depiction. More of a disarming him. He just --

ATTORNEY CRANE: Alteration maybe?

OFFICER LOGAN: There really wasn't a struggle back. He just disarmed him, and as a result of that the victim, according to your client, came instantly unconscious.

ATTORNEY CRANE: But my client at that time told you that the reason that he had tackled Mr. Cataudas was to remove the knife; is that right?

OFFICER LOGAN: Yes. He was in fear of his own safety, I think, is the statement he provided.

ATTORNEY CRANE: When you interviewed Thomas Mallakis, did he appear intoxicated at all?

OFFICER LOGAN: No.

ATTORNEY CRANE: Now, you noted in your report, Officer, that there may be further criminal complaint brought against Mr. Cataudas; is that correct?

OFFICER LOGAN: That is correct.

ATTORNEY CRANE: Do you know if there was any follow-up investigation as far as Mr. Cataudas and the possession of the knife was concerned?

OFFICER LOGAN: I don't. My role as a patrolman is to take an incident initial report, and then it would be referred to -- turned over to the detective unit, which would do a supplemental or follow-up investigation. I don't know in regard to the status of that.

ATTORNEY CRANE: When you observed Mr. Cataudas initially, would his condition, as far as his injuries were concerned, consistent with an altercation that he would have had with Mr. Thomas Mallakis?

OFFICER LOGAN: Could you repeat that?

ATTORNEY CRANE: When you first saw Mr. Cataudas, were his physical injuries consistent with a confrontation or altercation, or whatever you want to call it, tackling, that might have occurred between him and Thomas Mallakis?

OFFICER LOGAN: Yeah. A ripped shirt, bloody mouth, abrasions on his arm and torso, that could be consistent.

ATTORNEY CRANE: Okay. Thank you.

RICHARD SCALI, CHAIRMAN: Officer, I guess I'm trying to figure out the connection of the incident that happened in the restaurant and the -- Mr. Cataudas left the restaurant, am I correct, according to your report?

OFFICER LOGAN: Yes.

RICHARD SCALI, CHAIRMAN: Was he alone when he left?

OFFICER LOGAN: Yes.

RICHARD SCALI, CHAIRMAN: And then, I guess, do you know or did you ask him, or anybody else why he was being followed, I guess? Do you know if anyone else called the police from the restaurant?

OFFICER LOGAN: My understanding of the whole incident was it was an altercation over the victim asking for a cigarette.

The victim indicated to me that he was chased down one city block and then attacked. That's where there's was some discrepancy. If there was a self-defense issue, why would the employees of Desfina, be a city block away?

RICHARD SCALI, CHAIRMAN: That's the connection I can't understand. If I saw someone with a knife, I'd call the police. I'm wondering whether they told you they called the police, or whether you asked that question of them at all either of the Mallakises?

OFFICER LOGAN: They, the night of

the incident, they were unable to explain why the alleged attack took place a city block away.

Mr. Peter Mallakis was not only not forthcoming, he basically refused to answer any questions, and the little questions he did answer, he basically lied to me.

Thomas was cooperative after only the mention of the Liquor Commission.

RICHARD SCALI, CHAIRMAN: When you spoke to him, to Mr. Peter Mallakis, did you determine that he was intoxicated?

OFFICER LOGAN: Oh, just visibly intoxicated. The 14 years doing this job, I know someone with glassy eyes, very, very slurred speech, unsteady on his feet, I would describe him as highly intoxicated that evening.

RICHARD SCALI, CHAIRMAN: And he's the manager of record according to --

OFFICER LOGAN: That's what he provided to me, and his nephew Thomas told me



that he was not the manager.

RICHARD SCALI, CHAIRMAN: Any other questions?

ROBERT HAAS, POLICE COMMISSIONER:  
No questions.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Mr. Chair, the only question I would ask of Mr. Crane, counselor; is the victim and the Mallakis brothers known to each other? Do they have a relationship?

ATTORNEY CRANE: None. They said it was the first time that Mr. Cataudas was in the establishment.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
And, Mr. Chair, through the --

Officer, through additional investigation, has it been clarified or determined what -- other than asking for the cigarette, I mean, was there something beyond that that would've incited the altercation?

OFFICER LOGAN: The victim stated to me it was a request of the cigarette.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
No other words were exchanged that we know  
of?

OFFICER LOGAN: No.

DANILE TURNER, DEPUTY FIRE CHIEF:  
Thank you, Mr. Chair.

ATTORNEY CRANE: A couple more  
questions, sir.

RICHARD SCALI, CHAIRMAN: Follow-up,  
Mr. Crane?

ATTORNEY CRANE: Yes.

Officer, did Mr. Cataudas ever say  
to you who he had asked for a cigarette?

OFFICER LOGAN: He described him --  
my memory's a bit exhausted, if I may look at  
my police report, I think I --

ATTORNEY CRANE: Sure.

OFFICER LOGAN: According to my  
police report, I spoke to the victim with  
regard to the assault, he stated he'd been  
drinking inside the Desfina bar and grill on  
Third Street, Cataudas had a strong odor of

alcoholic beverage coming from his breath. He also appeared to be intoxicated.

Cataudas stated at some point after spending several hours drinking in that establishment, he asked an employee for a cigarette. According to Cataudas, the employee, who was described as an older Greek male with a blue and white striped shirt became upset at him.

Then later on in the report, I make note that Peter Mallakis is wearing a blue and white striped shirt at the time of his arrest and he has a strong Greek accent presence.

ATTORNEY CRANE: Did you interview Paraskevas Caracostas (phonetic) at all that evening?

OFFICER LOGAN: I did not, no.

ATTORNEY CRANE: Okay. He's the older gentleman that has had heart surgery who is 70 years old.

RICHARD SCALI, CHAIRMAN: He's not

in the report. He was a patron that evening.

ATTORNEY CRANE: That's right. And did -- but Mr. Cataudas never identified specifically who he had the cigarette request dispute with, did he?

OFFICER LOGAN: Not by name.

ATTORNEY CRANE: Did he give you any more detail as to where the cigarette dispute occurred?

OFFICER LOGAN: Inside the bar.

ATTORNEY CRANE: Okay. One last question, I believe is: When Thomas Mallakis was interviewed by you, did he indicate to you at all that he would have had time to call the police when he saw this incident with the knife?

OFFICER LOGAN: He did not indicate, no.

ATTORNEY CRANE: If he had just seen the incident with the knife and his uncle, would he would have -- would it have been reasonable, in your opinion as an officer, to

call the police or to respond to the incident?

OFFICER LOGAN: Would you repeat that?

ATTORNEY CRANE: If you saw -- if Mr. Mallakis, Thomas Mallakis, saw Mr. Cataudas with a knife, would it have been reasonable, in your opinion, to have him call the police first or try to disarm Mr. Cataudas?

OFFICER LOGAN: Well, based on the statements provided, it would have been very reasonable. It appears the alleged assault took a city block away. I don't know what time duration it would take to get from Desfina to Second -- from Third and Charles, but it would be reasonable rather than chase someone or follow someone a city block away to remain in the restaurant and call the police.

ATTORNEY CRANE: I have no other questions.

RICHARD SCALI, CHAIRMAN: Anything further, Commissioners?

ROBERT HAAS, POLICE COMMISSIONER: Nothing further.

RICHARD SCALI, CHAIRMAN: Thank you, Officer, very much. I suspect you will be back here again in the future if we're going to be continuing the matter.

Is there anybody from the public that wants to be heard on this matter at all? Anyone waiting at all to talk about this matter?

No hands.

When is the -- do you have any idea when the court matters are being heard?

ATTORNEY CRANE: It's ready for pretrial conference September 28th, which is Monday, and I suspect a trial date will be given four or five weeks hence.

RICHARD SCALI, CHAIRMAN: That soon?

ATTORNEY CRANE: Excuse me?

RICHARD SCALI, CHAIRMAN: That soon?

So November sometime?

ATTORNEY CRANE: Yeah. That's why I would ask that the case be -- the record be kept open until November 10th.

RICHARD SCALI, CHAIRMAN: Is that our next hearing November 10th? I think it's October 27th, and then we have -- -

ATTORNEY CRANE: The 10th and the 24th.

RICHARD SCALI, CHAIRMAN: 10th and the 24th.

Pleasure of the Commissioners to have the 10th?

ATTORNEY CRANE: Could Mr. Thomas Mallakis testify?

RICHARD SCALI, CHAIRMAN: Do you want to hear from Mr. Mallakis at this point in time?

ROBERT HAAS, POLICE COMMISSIONER: Do you want to try and present your case all at the same time or --

ATTORNEY CRANE: No. Because my

case would involve --

ROBERT HAAS, POLICE COMMISSIONER:

Right. That's my point, are you going have party --

ATTORNEY CRANE: The reason that I would like to have Mr. Mallakis testify now is his memory naturally is going to be better now rather than later, and I think that we should hear at least part of the other side of the story before anyone gets a judgment on what really -- not really, on what happened that evening.

RICHARD SCALI, CHAIRMAN: I have no trouble hearing what he has to say. I just -- I think I -- what the Commission said presenting it all at once is better for you, but I would be happy to hear from Mr. Mallakis now.

ROBERT HAAS, POLICE COMMISSIONER: I risk I think you run also, assuming Mr. Mallakis is going to be testifying in the criminal case, so the more times you tell the



store I think would complicate things for your client. I don't know. It's up to you.

RICHARD SCALI, CHAIRMAN: You're kinda presenting his case, aren't you, Commissioner?

ROBERT HAAS, POLICE COMMISSIONER:  
Uh-huh.

ATTORNEY CRANE: He's not supposed to be presenting anyone's case. You three are judges, impartial judges.

RICHARD SCALI, CHAIRMAN: That's exactly right.

ATTORNEY CRANE: And I've always approached this Board with that in mind.

RICHARD SCALI, CHAIRMAN: Yes.

ATTORNEY CRANE: He's not prosecutorial.

RICHARD SCALI, CHAIRMAN: I didn't say he was.

ATTORNEY CRANE: Okay. Having said that, I'll fall back that the Board will not be prejudging the case and that we'll see you

November 10th if that's okay with the Board.

RICHARD SCALI, CHAIRMAN: You will see us if we determine that's when we want to see you.

ATTORNEY CRANE: If you don't want to see us November 10th, I would like to have Mr. Mallakis testify.

RICHARD SCALI, CHAIRMAN: Well, we haven't voted yet as to what we want to do, so -- I would be happy to hear from Mr. Mallakis.

ROBERT HAAS, POLICE COMMISSIONER: No, I think if Attorney Crane wants --

RICHARD SCALI, CHAIRMAN: Yes, I think that's a great idea.

Let's hear from Mr. Mallakis.

THOMAS MALLAKIS: I'll feel better if I tell you guys what happened.

RICHARD SCALI, CHAIRMAN: Sure.

ATTORNEY CRANE: Please state your name for the record.

THOMAS MALLAKIS: Thomas Mallakis.

ATTORNEY CRANE: Where do you reside, Mr. Mallakis?

THOMAS MALLAKIS: Belmont, Massachusetts.

ATTORNEY CRANE: Do you work at Desfina Restaurant?

THOMAS MALLAKIS: Yep.

ATTORNEY CRANE: How long have you worked there?

THOMAS MALLAKIS: For a long time, probably five or six years full time.

ATTORNEY CRANE: How old are you?

THOMAS MALLAKIS: 25 tomorrow.

ATTORNEY CRANE: What is your relationship with Peter Mallakis.

THOMAS MALLAKIS: It's my uncle.

ATTORNEY CRANE: Were you working on the night of the incident.

THOMAS MALLAKIS: Yes, sir.

ATTORNEY CRANE: What was your job the night of the incident?

THOMAS MALLAKIS: I was basically

managing the store for six weeks altogether because my father was overseas on vacation.

ATTORNEY CRANE: So were there any other employees that evening?

THOMAS MALLAKIS: Yes. My girlfriend was waitressing and another lady and I had two other people in the kitchen.

ATTORNEY CRANE: And were you involved in cooking?

THOMAS MALLAKIS: Yes, sir.

ATTORNEY CRANE: And at some point in time did you come across Michael Cataudas?

THOMAS MALLAKIS: Yeah. He came in, sat down at the bar right in front where I cook -- we have a small bar right in front of the kitchen -- and talked to him. He said he was looking for a job, and that he was out of western Mass, and it was his first time around, so he was -- we got along. I gave him some food. He probably had three beers altogether. He was there for, like, I don't know, an hour, hour and a half.

ATTORNEY CRANE: What time was it when he first came into the restaurant?

THOMAS MALLAKIS: I was busy. I mean, I would say around quarter of ten, 10:00.

ATTORNEY CRANE: And was he alone?

THOMAS MALLAKIS: Yes, sir.

ATTORNEY CRANE: Did you serve him initially?

THOMAS MALLAKIS: I served him his first beer.

ATTORNEY CRANE: When you served him the first beer, did he appear to have consumed any alcohol prior to that evening?

THOMAS MALLAKIS: Not at all, sir.

ATTORNEY CRANE: What was his demeanor at that time?

THOMAS MALLAKIS: He was a gentleman. He was very nice. We got along. We were talking. He was perfectly fine, and I didn't see anything out of the ordinary with him.

ATTORNEY CRANE: And how many alcoholic beverages did you serve him?

THOMAS MALLAKIS: Three altogether.

ATTORNEY CRANE: What were they, do you know?

THOMAS MALLAKIS: Two IPs and one Stout.

ATTORNEY CRANE: Did he eat anything?

THOMAS MALLAKIS: He had a grilled chicken salad with feta.

ATTORNEY CRANE: At some point in time, did you go to the basement of the establishment?

THOMAS MALLAKIS: Yeah. I go -- it was Saturday night, so I pay all my employees, so I probably went down like 20 of 11 to take care of all the money and my payroll basically. So, it takes me like around 20 minutes to do that.

ATTORNEY CRANE: When you -- did you go that night at 20 minutes of 11,

approximately, to do that?

THOMAS MALLAKIS: It could've been 20 of 11. Somewhere around there. Right before closing.

ATTORNEY CRANE: When you came back upstairs, did you observe Mr. Cataudas at that time?

THOMAS MALLAKIS: Yep.

ATTORNEY CRANE: Whereabouts was he located?

THOMAS MALLAKIS: Right in that corner of the bar.

ATTORNEY CRANE: And was he speaking with anyone at that time?

THOMAS MALLAKIS: Yeah. He was in an altercation with my uncle.

ATTORNEY CRANE: Your uncle Peter.

THOMAS MALLAKIS: Yes.

ATTORNEY CRANE: Do you know what they were arguing about?

THOMAS MALLAKIS: Not really.

ATTORNEY CRANE: Did he -- did you

have conversation with Mr. Cataudas at that time?

THOMAS MALLAKIS: I tried to push him, ask him what happened. He was aggressive I got to say. He was swearing and making a big scene.

Yeah. I tried to push him, but he wasn't having -- he wasn't having -- he wasn't really wanting to talk to anybody.

ATTORNEY CRANE: What was he screaming about?

THOMAS MALLAKIS: Basically cussing and yelling at my uncle, and saying "you f'ing Greeks," blah-blah-blah, and just making a big scene.

ATTORNEY CRANE: Did he -- was he arguing about the bill at all?

THOMAS MALLAKIS: No. He wasn't arguing the bill. I just told him -- I told not to even pay the bill. I told him just to leave.



ATTORNEY CRANE: So, between the time you went downstairs at 20 minutes of 11 and came back 20 minutes later, his demeanor had changed dramatically.

THOMAS MALLAKIS: Yeah, you could say that.

ATTORNEY CRANE: Now, at some point in time, did you ask Mr. Cataudas to leave?

THOMAS MALLAKIS: My uncle asked him first. And then he was trying to make excuses to stay, and he said he was trying to pay his bill. And I just said told him, "Don't even bother about the bill, just leave."

ATTORNEY CRANE: Did you observe Mr. Cataudas leaving?

THOMAS MALLAKIS: Yes, sir.

ATTORNEY CRANE: Where did he go?

THOMAS MALLAKIS: Out the side door, the Charles Street exit.

ATTORNEY CRANE: After he left, where did you go next?

THOMAS MALLAKIS: I went right back to the grill, I had another two tables, two parties to serve. And I had food on the grill while this is all happening, so I went back to the kitchen.

ATTORNEY CRANE: And at some point in time, did you break for a smoke?

THOMAS MALLAKIS: Yeah. Basically like a couple minutes afterwards, I went to the back kitchen door to have a cigarette, and that's when I observed the kid with the knife at my uncle's throat.

ATTORNEY CRANE: Whereabouts were they located when you saw them?

THOMAS MALLAKIS: Right where the 58 Charles Street building starts closest to us. So, probably right across the street from the park.

ATTORNEY CRANE: How far away were they from where you were located when you first saw them?

THOMAS MALLAKIS: Probably like 25 feet.

ATTORNEY CRANE: How much time was it between when you saw Mr. Cataudas leave and the time you observed him and your uncle outside?

THOMAS MALLAKIS: I would say two or three minutes, tops.

ATTORNEY CRANE: When you saw your uncle and him outside, what exactly did you observe?

THOMAS MALLAKIS: I observed him yelling, and he had a knife to my uncle's throat.

ATTORNEY CRANE: What did you do then?

THOMAS MALLAKIS: I just -- I ran right over there and tried to de-escalate the situation, and at that point someone had driven -- someone drove by and the kid turned his head, and at that point, I just tackled him.

ATTORNEY CRANE: After you tackled him, what happened with the knife?

THOMAS MALLAKIS: I think the knife fell out of his hand because after I tackled him, I got back up and I saw it lying right on the sidewalk.

ATTORNEY CRANE: And when you tackled him, how did he fall to the ground?

THOMAS MALLAKIS: We both fell pretty hard. He hit -- there's a street sign right there that he hit on the way down. We both hit it. But he was in front of me as we were going down, so he probably got the brunt of it.

ATTORNEY CRANE: Do you know if he ever lost consciousness or not?

THOMAS MALLAKIS: I'm not sure.

ATTORNEY CRANE: Did you ever kick Mr. Cataudas?

THOMAS MALLAKIS: No, sir.

ATTORNEY CRANE: After Mr. Cataudas was on the ground, and the knife was on the

ground, what did you do next?

THOMAS MALLAKIS: I grabbed the knife, turned around and tried to get myself back to the store because there's nobody there, like watching the place, so I got back in there, and that's when I observed police coming down the street.

ATTORNEY CRANE: And at some point in time you were interviewed by the police?

THOMAS MALLAKIS: Yes, sir.

ATTORNEY CRANE: How long after the confrontation with Mr. Cataudas were you interviewed with the police?

THOMAS MALLAKIS: I can't say exactly, but I would say around 15 minutes.

ATTORNEY CRANE: Did you give the police the knife?

THOMAS MALLAKIS: Yes, sir.

ATTORNEY CRANE: I have no other questions, Mr. Chairman.

RICHARD SCALI, CHAIRMAN:

Mr. Mallakis, I am trying to figure out after

you asked -- well, actually your uncle asked Mr. Cataudas --

THOMAS MALLAKIS: My uncle asked him first to leave.

RICHARD SCALI, CHAIRMAN: And you were there at the time when you saw him do that?

THOMAS MALLAKIS: I had just come back up stairs from doing my payroll, and I seen the altercation going on in front of all my customers, the whole store.

So he said, "Can you leave? Just leave."

And he was trying to make excuses, he had to pay the bill and this and that, and I just --

RICHARD SCALI, CHAIRMAN: Did he leave?

THOMAS MALLAKIS: Yeah, he just left. He walked out the back door. So that's why I went back to the kitchen, I didn't think anything of it, you know.

RICHARD SCALI, CHAIRMAN: Where was your uncle at that point?

THOMAS MALLAKIS: He was right next to me, and then when I turned around -- when he left, I turned around to go back in the kitchen and I didn't see him. I didn't know where he went.

RICHARD SCALI, CHAIRMAN:  
Mr. Cataudas went out the side door out to Charles Street?

THOMAS MALLAKIS: Out to Charles Street.

RICHARD SCALI, CHAIRMAN: And you went down to the basement at that point?

THOMAS MALLAKIS: No, I went right to the kitchen.

RICHARD SCALI, CHAIRMAN: So you came out -- then you came out of the kitchen?

THOMAS MALLAKIS: Two or three minutes later I just finished up a couple more things, and I went out the back door,

the kitchen door to have a smoke, and I could see from the alleyway to where the building starts at 58 Charles at the end of the parking lot, I could see the kid with a knife at my uncle's throat.

RICHARD SCALI, CHAIRMAN: How far away is that from the back door?

THOMAS MALLAKIS: Probably like 20 feet, something like that, 15.

RICHARD SCALI, CHAIRMAN: According to the police testimony it's a block and a half way from what the officer said.

THOMAS MALLAKIS: No, it was right across the street from the park, from Taylor Park.

RICHARD SCALI, CHAIRMAN: So you they were 20 feet away from the back door fighting?

THOMAS MALLAKIS: I don't know exactly how many -- how far away it was, but I could clearly see the kid -- they weren't fighting. I could just see the kid with a



knife at my uncle's throat.

RICHARD SCALI, CHAIRMAN: Okay. I'm not understanding exactly what the police officer said, maybe, Officer, you can explain.

How far away were they from the restaurant when you --

OFFICER LOGAN: Mr. Chairman, this is according to the 911 caller who called in a passing motor vehicle. His description of the attack was Charles at Second, the restaurant is located at Charles and Third so one city block away, approximately 150 yards possibly.

RICHARD SCALI, CHAIRMAN: So did you respond to that location?

OFFICER LOGAN: No. We on arrival to the call, the call came in at Second and Charles, I came down Third, we observed a possible suspect matching the description. He was stopped on Charles at Third. It turned out that that was not the party

involved. He was cleared.

While still on scene with that person, the victim was located by Detective Regal somewhere between Third and Second on Charles.

But what I think is important is the 911 call indicated this attack was taking place on Charles at Second Street.

RICHARD SCALI, CHAIRMAN: On Charles at Second Street, which is a block up from the restaurant?

OFFICER LOGAN: Yes. The establishment is on Third and Charles.

RICHARD SCALI, CHAIRMAN: Okay.

THOMAS MALLAKIS: I saw the gentleman -- I saw the kid with the knife, that's where I saw him. So I ran over there, so I don't know exactly what happened, but I know that when I saw them, they were right at the corner of the building right there. So maybe like --

RICHARD SCALI, CHAIRMAN: So you

weren't with your uncle when this happened?

THOMAS MALLAKIS: No, I was not, I was working.

RICHARD SCALI, CHAIRMAN: Did you follow them up the street to the corner?

THOMAS MALLAKIS: I could see the kid with the knife, that's why I ran right over there. And then the kid turned away for a minute -- for a second because the car drove buy and I just bear-hugged him and took him down to the ground.

RICHARD SCALI, CHAIRMAN: And do you have any idea what the argument was about?

THOMAS MALLAKIS: No, sir. I mean, I found out lately obviously, but at the time I did not know what the argument was about.

RICHARD SCALI, CHAIRMAN: Can you tell me what it was about after the fact?

THOMAS MALLAKIS: I guess he had -- he was cussing at my uncle and some of his friends that were there, and he asked them for cigarette, and he was make a big scene in

the restaurant, and obviously, a couple of the -- a couple of my other people that come and eat said that he was bothering them and he was cussing and acting out of control.

But I did not see any of this 'cause I was downstairs, so...

When I came --

RICHARD SCALI, CHAIRMAN: But you saw him leave? You saw the gentleman leave?

THOMAS MALLAKIS: I saw him walk out the door at Charles Street, yes, sir.

RICHARD SCALI, CHAIRMAN: Do you think then your uncle followed him up there? Do you know?

THOMAS MALLAKIS: I don't know. He might have been outside. I don't know.

RICHARD SCALI, CHAIRMAN: How did your uncle end up either 20 feet or a block away, I guess, how he did end up there, do you know?

THOMAS MALLAKIS: I was cooking. Two or three minutes later, I opened the back

door and that's what I saw. I mean, this all happened -- I mean, I told Officer Logan when he got there that this all happened like that (snapping fingers). I come back up to pay my employees and all of this has happened.

ATTORNEY CRANE: Mr. Chairman, just on the 911 call, as far as someone from a cell phone in a passing vehicle giving information as to were an altercation concerned, it might be a general identification of the area, if we're talking mid block, it's not going to be exact where the passing motorist is going to be giving as far as where the -- where an altercation occurred. A passing motorist might say Third and Charles, Second and Charles and it might be in the middle of the street.

RICHARD SCALI, CHAIRMAN: I was just curious as to what was told.

THOMAS MALLAKIS: I just want to clarify, sir, that when Officer Logan came and got me, he read my Miranda rights and he

was very professional and I just -- as soon as -- he told me I had to the right to remain silent, I just cooperated with him right away, so...

RICHARD SCALI, CHAIRMAN: When you talked to Mr. Cataudas, did he tell you where the altercation took place?

OFFICER LOGAN: He was not able to provide exact location. He said he was from western Mass and wasn't really familiar with the area.

RICHARD SCALI, CHAIRMAN: Questions?

ROBERT HAAS, POLICE COMMISSIONER: When you were bringing Mr. Cataudas down to the ground, did your uncle engage in any kind of altercation with Mr. Cataudas at all during the course of the time that you were with him?

THOMAS MALLAKIS: No, sir. I brought him to the ground and -- I was running on adrenalin, too, 'cause I was -- I don't know -- I was just -- this all happened

so quick. So I saw the knife on the ground, I grabbed the knife and then I proceeded to go right back to the store because there was nobody there watching the place, so I just wanted to get back inside, but I did not see my uncle. I just left and I didn't see my uncle -- I didn't see my uncle standing there. I wasn't really paying attention, to be honest with you.

ROBERT HAAS, POLICE COMMISSIONER:

So you don't know what your uncle did after you went back into the restaurant?

THOMAS MALLAKIS: No, I do not. I do not, sir. I can't tell you what he did.

ROBERT HAAS, POLICE COMMISSIONER:

You talked about the fact that you went down to the basement for about 20 minutes and you had food on the grill so you had to go back to the grill?

THOMAS MALLAKIS: Well, I have somebody that helps me in the kitchen, but, I mean, there was a table of ten and a table of

five, so, I mean, there was a lot of things on the grill. I would say as I was coming back up stairs this happened, and I helped to take everything off the grill and finish the plates basically, and took about two or three minutes to do so, and that's when I went out the back to have a smoke and observed this.

ROBERT HAAS, POLICE COMMISSIONER:

So the only interaction you saw was between your uncle and Mr. Cataudas, you never saw an interaction between Mr. Cataudas and this other gentleman that he alleges he was he acting --

THOMAS MALLAKIS: No, I hadn't. I did not see him. I was downstairs at that time when that happened.

ROBERT HAAS, POLICE COMMISSIONER:

No other questions.

RICHARD SCALI, CHAIRMAN: Questions?

DANIEL TURNER, DEPUTY FIRE CHIEF:

No questions. Just commentary.

RICHARD SCALI, CHAIRMAN: Just one



more question.

You said that you were managing the restaurant? Why are you managing the restaurant?

THOMAS MALLAKIS: I'm always there and my father was gone on vacation, and I was basically in charge of the restaurant. That's why, like Officer Logan said, after the fact of all that, I was really nervous because I didn't want my father to find out about what happened.

RICHARD SCALI, CHAIRMAN: Why isn't your uncle managing the restaurant? He's the manager of record.

THOMAS MALLAKIS: He doesn't manage the restaurant.

RICHARD SCALI, CHAIRMAN: He's supposed to be under our records. He's the only manager we recognize.

THOMAS MALLAKIS: I mean, he was -- he was -- he came by, but he doesn't work there full-time, no.

RICHARD SCALI, CHAIRMAN: Okay.

Comments?

DANIEL TURNER, DEPUTY FIRE CHIEF:

Mr. Chair, I believe we allowed the testimony of Thomas based on whether we wanted to hear this on November 10th. I think we have enough allegations here to certainly require the hearing.

Irregardless of any criminal cases that are pending, I think that would be independent of whether this incident had -- brings into question any evaluation of the License Commission's rules and policies. I think it certainly does. However, I have a gap. I have gap, and I'm trying to put this story together between what happened in the bar and what happened at the altercation, and unfortunately, the gap would require, I think, some direct questions of Peter. And I think counsel has indicated that he doesn't want to expose Peter to those questions at this time. So I would respect -- the way I

would like to see this played out is I would respect that request and move that we look at this for November 10th.

RICHARD SCALI, CHAIRMAN: All right. Pleasure of the Commissioners, any other comment?

ROBERT HAAS, POLICE COMMISSIONER: I agree with the Deputy Chief, I think it's only appropriate to give Mr. Mallakis an opportunity to provide testimony as there's pieces right missing now, so I think we need to give him the opportunity at November 10th.

ATTORNEY CRANE: The elderly gentleman that's not available tonight, he also will -- he'll supply testimony on the issues we just talked about.

ROBERT HAAS, POLICE COMMISSIONER: I would also ask that Officer Logan come back to the hearing at that time in case there's any rebuttal or additional testimony.

OFFICER LOGAN: Yes, sir.

RICHARD SCALI, CHAIRMAN: All right.

Any further comments? Motion then to continue to November 10th. Moved.

ROBERT HAAS, POLICE COMMISSIONER:

Seconded.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Seconded.

RICHARD SCALI, CHAIRMAN: All in favor?

DANIEL TURNER, DEPUTY FIRE CHIEF:

Aye.

UNIDENTIFIED SPEAKER: You can't second your own motion, though.

RICHARD SCALI, CHAIRMAN: He made a motion. The Commissioner has seconded.

All in favor? Aye.

Thank you very much.

OFFICER LOGAN: Thank you very much.

RICHARD SCALI, CHAIRMAN: Thank you, Officer Logan.

All right. Thank you all for your patience. I think we have Deputy Chief Mahoney waiting.

**CAMBRIDGE AUTO CLINIC**

MS. LINT, EXECUTIVE OFFICER:

Cambridge Auto Clinic, George Diabakerly, Manager, due to a report received by the Cambridge License Commission from the Cambridge Fire Department about unsafe conditions at 297 Concord Avenue.

RICHARD SCALI, CHAIRMAN: Good evening.

GEORGE DIABAKERLY: Good evening lady, gentlemen.

RICHARD SCALI, CHAIRMAN: Deputy Chief?

GERARD MAHONEY, DEPUTY CHIEF: Good evening.

RICHARD SCALI, CHAIRMAN: Why don't we start with names first? Tell us your name, please.

GEORGE DIABAKERLY: George Diabakerly, owner of Cambridge Auto Clinic.

FRANK HANS: Frank Hans, H-A-N-S, environmental contractor hired by George Diabakerly.

GERARD MAHONEY, DEPUTY CHIEF: Deputy Chief Gerard Mahoney, Cambridge Fire Department.

RICHARD SCALI, CHAIRMAN: All right. Deputy Chief, we're gonna to start with you since this is your complaint.

GERARD MAHONEY, DEPUTY CHIEF: It's probably easiest just to read from my report that I submitted.

RICHARD SCALI, CHAIRMAN: Sure.

GERARD MAHONEY, DEPUTY CHIEF: On September 2nd, 2009, I received an anonymous citizen complaint regarding the conditions at the gas station at 297 Concord Avenue at the corner of Walden Street. Complainant stated that dumpsters containing contaminated soil had recently overflowed due to heavy rains and water had run down the sidewalk and street.

Upon my arrival at the location, I observed four large dumpsters partially covered by a tarpaulin. The dumpsters appeared to contain soil which had been excavated from the property.

A locked window inspection of the premises revealed two sections of floor and the service bays had been excavated as well. There were no personnel on the site.

The site was not properly secured for the type of equipment and conditions on the site. Using a phone number stenciled on the side of the dumpsters, I was able to contact the company who had leased them and was performing the excavation work.

I also contacted the Massachusetts Department of Environmental Protection spill line to report the finding and to inquire if any DEP permits had been secured for work at this location.

The work was being performed by the Thierry Organization of Webster, Mass, and

the contact person was a gentleman named Matt Maservy (phonetic). I contacted Thierry Organization, I spoke to Mr. Maservy, he stated the work involved the removal of contaminated soil from under the pavement but not the removal of underground storage tanks.

He expected to have the dumpsters off site in about one week. I told him this was unacceptable as the site was not properly secured.

Ken Sanderson, a Massachusetts DEP confirmed with the work being performed at this location was under a DEP permit and concurred that the dumpsters needed to be removed quickly.

He also informed me that the work was being done under the supervision of a licensed site professional named Anthony Andronaco (phonetic). And I spoke with Mr. Andronaco by telephone later in the day. He confirmed the dumpsters would be removed on Thursday, September 3rd, and he also



assured me that more fencing would be added to properly secure the site.

They were able to tell me that the property was owned by this gentleman, Mr. Diabakerly, 96 Woodfall Road, Belmont.

While conducting my investigation, there was no evidence of current leakage from the dumpsters, the ground was dry at this time. There had been heavy rains a couple of days prior to the date in question.

RICHARD SCALI, CHAIRMAN: Deputy Chief, what is the condition at this point in time? Are the dumpsters removed?

GERARD MAHONEY, DEPUTY CHIEF: The dumpsters have been removed and there's more fencing. I happened to notice this afternoon actually driving by that a large section of the property is still secured by temporary fencing, but it appears that the fuel pumping operation is back in business.

RICHARD SCALI, CHAIRMAN: So are you saying --

GERARD MAHONEY, DEPUTY CHIEF: Well, my concerns on the day in question were a couple things: Number one, these large dumpsters that were partially filled with possibly contaminated soil, as well as water, totally unsecured, wide open for little children to climb upon, and so forth, and also there was a Bobcat-type piece of equipment, kind of a shovel scoop -- I don't know what they exactly call the piece of machinery that was there wide open as well. Children could've climbed on that. There was no sign of anybody at the station. There was no contact information posted on the station. The only way I was able to track down people was by calling the company who owned the dumpsters actually, and -- excuse me, kinda chase the trail via them.

RICHARD SCALI, CHAIRMAN: So were they in business while this was happening, or they're in business now, that they weren't then is that what you're saying?

GERARD MAHONEY, DEPUTY CHIEF: That is correct. They appear to be in business now, they were not in business on the day in question.

RICHARD SCALI, CHAIRMAN: Is the site secure now?

GERARD MAHONEY, DEPUTY CHIEF: I would say it's better secured than it was.

RICHARD SCALI, CHAIRMAN: But not to your satisfaction?

GERARD MAHONEY, DEPUTY CHIEF: Well, it's temporary fencing and I haven't been able to ascertain the extent to which that has been secured or how long it's going to be there.

RICHARD SCALI, CHAIRMAN: Questions?

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Mr. Chair, for Deputy Mahoney.

Deputy, were any permits issued for this work?

GERARD MAHONEY, DEPUTY CHIEF: I contacted the Fire Prevention Bureau and no

permits had been secured from the Fire Prevention Bureau. I spoke with Captain Francis.

DANIEL TURNER, DEPUTY FIRE CHIEF: Deputy, were you able to ascertain the purpose of the excavation?

GERARD MAHONEY, DEPUTY CHIEF: When I spoke to the gentleman from DEP, he told me that the soil was being removed because of contamination possibly from leakage, particularly in the service bays, he said the records were on file that the tanks had been replaced several years previous, which I actually recall. I was assigned to the Fire Prevention Bureau at that time, and I recall doing that inspection there when the tanks were -- the underground storage tanks were replaced.

I also spoke on this date with a neighbor two doors down, and they expressed -- they denied being the persons that called. The person that called said

they wished to remain anonymous. However, these people did express very similar concerns about water running down the sidewalk and along the gutter line, and so forth, and they were concerned about possible contamination.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Deputy, to your knowledge, and this type of a removal, soil removal, is storing it in a dumpster, to your knowledge, a proper method of storing it, or do we know why they're using dumpsters?

GERARD MAHONEY, DEPUTY CHIEF: I

have seen soil placed in dumpsters, but not to be left on site for over a week. Usually, I can see -- particularly in the parcel of land in question is relatively small, the footprint is pretty small, so I can certainly understand them putting the soil into dumpsters, but it should be removed immediately.

ROBERT HAAS, POLICE COMMISSIONER:

Thank you, Deputy. Just one last question: This type of incident, we still don't know exactly, and perhaps the owner can answer this, why a decision was made just to -- I assume break up concrete and start removing the soil based on a contamination, but now that we know this, should notifications have been made to anyone, your office, the Fire Prevention office, DEP?

GERARD MAHONEY, DEPUTY CHIEF: I think they should have at least notified the Fire Prevention office that there was possible soil contamination being removed, and in many cases, Fire Prevention would, in turn, notify my office.

A lot of times people don't directly notify my office. DEP did state that they did have permits on file of it being performed. But I do have some concerns that there's a disconnect between state DEP agency and local officials.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Thank you, Deputy. No more questions.

RICHARD SCALI, CHAIRMAN: Deputy Chief, you established that this condition was going on for about a week during the course of your investigation?

GERARD MAHONEY, DEPUTY CHIEF: Yes. The neighbors told me that the work had been going on for about a week. And this was just a few days prior being Labor Day weekend when I was there.

DANIEL TURNER, DEPUTY FIRE CHIEF: And you mentioned -- I'm just trying to -- so you mentioned during your testimony that it wasn't for the purpose of removing the tanks, so is this simply removing soil that may have been from deep age.

GERARD MAHONEY, DEPUTY CHIEF: Right. Contaminated soil, which I still am a little unclear as to why there is contaminated soil if the tanks had been replaced with state-of-the-art tanks.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Okay.

RICHARD SCALI, CHAIRMAN: All right.

MR. DIABAKERLY: Only --

RICHARD SCALI, CHAIRMAN: Do you want to ask any questions of the Deputy Chief do you want to --

MR. DIABAKERLY: No. I can answer a couple of answers then and the engineer from company I hired. Thierry, they are largest in the United States. They do job all over states. Their main office in New York. As a matter of fact, they bid some station Russia mobiles. I hired the best. He can answer. He's the engineer. He can answer all the questions.

RICHARD SCALI, CHAIRMAN: Is he the engineer that did the project for you?

MR. DIABAKERLY: Yes, he's the one.

RICHARD SCALI, CHAIRMAN: You want to speak?

UNIDENTIFIED SPEAKER: Matt Maservy, he works in my group under my direction, and



he was the project manager assigned to this soil remediation project for Mr. Diabakerly.

In regards to the work that was scheduled, it was completed under Mass DEP open spill No. RTN 3-20736, under Phase 4 remedial implementation planned activities.

And the scope of work entailed removing impacted soil from foundry old service bays that have not been in service for I don't know how many years. There was a former waste oil tank at that location that we identified from years and years ago. There weren't too many records found.

So as part of our state assessment soil probe, groundwater well installations, subsequent soil and ground water analysis, residual contaminations are still encountered in front of those service bays.

So our intentions were to remove those contaminated soils, place them in on-site dumpsters instead of placing them on poly sheeting covered in poly sheeting based

on the location of the property which is in a highly residential neighborhood, and then collect soil samples for laboratory analysis to be able to figure out which soil disposal facility can accept that contaminated soil. That's why there was a period of about one week where the dumpsters did sit on the site.

I believe our excavation activities ended on the 27th. The inspection was conducted on the 2nd. On the 3rd, two out of the four dumpsters on site were removed the following day, Friday, in the morning hours between -- I don't know the exact time -- but the remaining two were also removed.

The small piece of equipment that was on site that was used for the digging, was located in front of the bays on a gravel backfilled area, that was also removed, on September 3rd, the morning after the incident was reported to us.

There were extreme heavy rains during that weekend, the tarps that were

placed over the top of the dumpsters did come loose, and there was some indication of some pooling water sitting in those tarps, which we subsequently pumped out of the those tarps before anything else was removed.

RICHARD SCALI, CHAIRMAN: So you had a DEP permit, but nothing from the City of Cambridge? Did you contact --

UNIDENTIFIED SPEAKER: We had a trench permit and sidewalk obstruction permit to conduct this work as well.

RICHARD SCALI, CHAIRMAN: What was the permit you had.

UNIDENTIFIED SPEAKER: A trench permit.

RICHARD SCALI, CHAIRMAN: From Public Works?

UNIDENTIFIED SPEAKER: Yes, correct. We have a few pictures of the dumpsters.

DANIEL TURNER, DEPUTY FIRE CHIEF: What triggered -- I mean, just one day we woke up and decided to investigate the soil

there, how did we -- how did you get contracted by the owner? What led up to this decision that we usually --

UNIDENTIFIED SPEAKER: Years ago when Mr. Diabakerly removed his previous underground storage tanks and installed the newer tanks, our company was contracted to do that work and we do have a construction --

DANIEL TURNER, DEPUTY FIRE CHIEF: So this was something that was outstanding from that original tank installation?

UNIDENTIFIED SPEAKER: Yes.

MR. DIABAKERLY: Mostly it was like water and oil separated tank. They have all the gas station on top of bays. We decide to move that because it was heavily contaminated. Also, inside the bays what you see the gentleman, I have two lift -- all lift they go in the ground. We decide to move that lift to have electrical lift better, no leaking, no pistons, no oil. That's why the soil inside the bays we have

the walls, remove back two pistons.

DANIEL TURNER, DEPUTY FIRE CHIEF:

So this was previously contracted work that you're just catching up to or --

UNIDENTIFIED SPEAKER: See, what happened was when the old underground storage tanks were removed, there was a Mass DE reported condition from that tank removal project.

As we continued our assessment, our delineation of special impacts of subsurface through groundwater and soil sampling, we expanded our search outward from the former tank fields, wells in the streets and sidewalks and in front of the bays at that time, and then continued to collect our samples for lab analysis through soil and groundwater, and made a determination.

Once we went through the state process of submitting a Phase 1, Phase 2, Phase 3, and eventually the Phase 4 report that was submitted, we implemented -- we

finally implemented the soil excavation removal and disposal activities a couple weeks ago.

DANIEL TURNER, DEPUTY FIRE CHIEF:

But the original tank, the waste oil tank was that removed when the gas tanks were upgraded? I'm just trying to remember back because I remember that whole project and I thought we cleaned that up.

MR. DIABAKERLY: Yeah. We remove the tank, the ground for the heating oil tank same time we pulled the tank, we moved that oil tank. We put two small heating --

DANIEL TURNER, DEPUTY FIRE CHIEF:

So, this was just the left over soil that had to be watched by DEP Water --

MR. DIABAKERLY: DEP wanted to move the soil from the bay because we have -- every gas station have that, that was like 50 years old mistake to build thousand gallon container outside, all the anti-freeze drop from the cars, all the oil, they're not

hundred percent, they are secure when dropping the oil from go to ground and go to that water separated tank that wasn't safe. Now every gas station they removing tank. It's recommended by DEP. They push it. You have to clean the site. I'm spending like 70, \$80,000 to clean the soil. To get rid of that. And that was very fast for one week.

Most gas stations, though, they leave the soil underground, they cover it with plastic, they stay there a month or two. We had an emergency to send it to lab, to clean it in two or three days.

UNIDENTIFIED SPEAKER: We'd like to indicate that we did, as part of our project, we did put the samples for disposal analysis on which facility could actually accept the soil on a rush turn-around through the laboratory. Typically something that may take seven to 14 days, we had the samples back within three days at an extra charge to our client in an attempt to remove soil

dumpsters off site as soon as basically physically possible.

RICHARD SCALI, CHAIRMAN: It still took a week to do that?

UNIDENTIFIED SPEAKER: Yes.

RICHARD SCALI, CHAIRMAN: Not quick enough for the Deputy Chief.

MR. DIABAKERLY: I know. You can see all the containers. People, they leave the soil underground. They don't use containers. It cost me more. I said, "We'll use containers. As you see, all the containers is covered.

RICHARD SCALI, CHAIRMAN: You can understand why the neighbors would be complaining when they see this, can't you?

MR. DIABAKERLY: I understand. Neighbors always complain. Gas station, they've gotta complain.

RICHARD SCALI, CHAIRMAN: If I've got that in my neighborhood, I'd be complaining, too.



MR. DIABAKERLY: Okay. I understand. That's why I'm here.

RICHARD SCALI, CHAIRMAN: Any other questions?

ROBERT HAAS, POLICE COMMISSIONER: Just so I understand it, you basically said that you deviated from your normal practice in terms of how you would normally treat this soil because you expected you would get a quick turn-around and that's why you used dumpsters instead, am I correct in my understanding?

UNIDENTIFIED SPEAKER: Not totally deviate from our normal practice. Typically instances you would place six-millimeter poly plastic sheeting on the ground, place the contaminated soil on the poly sheeting and then cover it with another layer of the poly sheeting.

And in this instance, based on this location of a heavy, I believe, residential area, we decided to use dumpsters which has

less access for people walking by the site or the location potentially walking or kids walking up a dirt pile.

ROBERT HAAS, POLICE COMMISSIONER:

But this would tend to be a little bit more porous, though, right, in terms of the rain conditions you had? Is that why you had the soil leaking out onto the ground?

UNIDENTIFIED SPEAKER: Yes. I don't know if there was actually, but that's what the complaint had stated, but I don't know if there was actually soil or water leaking out during the heavy rains.

ROBERT HAAS, POLICE COMMISSIONER:

You're actually trying to prepare this for transportation to get the results back from the lab?

UNIDENTIFIED SPEAKER: Yes.

RICHARD SCALI, CHAIRMAN: Is the site secure now? Could -- the Deputy Chief is saying that there's fencing that's not quite secure?

UNIDENTIFIED SPEAKER: The only thing that's on site right now is an unpaved area in front of the service bays, which a chain-link fence runs down on the inside of the property along the walk, and then makes a right angle towards the small office building within the building itself, and there's just a gravel packed backfill probably two or three inches below grade in anticipation of future paving.

RICHARD SCALI, CHAIRMAN: So everything else is removed? The dumpsters are all gone?

UNIDENTIFIED SPEAKER: Correct.

RICHARD SCALI, CHAIRMAN: You're operating.

GEORGE DIABAKERLY: Yes. Everything done. And last thing I want to tell the gentleman, I have big sign on kiosk my phone number on it. My house, my office phone number on it saying if you have comment or if you want to call me, 617-489-0032, three by

four sign on the kiosk. Maybe that's it because --

RICHARD SCALI, CHAIRMAN: That might have not been there when you were doing this.

GEORGE DIABAKERLY: It's been there five years or more, ten years.

RICHARD SCALI, CHAIRMAN: Obviously, Deputy Chief didn't see it.

GEORGE DIABAKERLY: Maybe because the container blocking it.

RICHARD SCALI, CHAIRMAN: Quite a few dumpsters blocking lots of it.

GEORGE DIABAKERLY: It's a 4,700 square feet gas station in that corner. It's very small.

ROBERT HAAS, POLICE COMMISSIONER: One more question for the Deputy Chief.

Normally, who would be responsible for notifying your office of this kind of work? Would it be up to DEP or up to the people actually performing the work?

GERARD MAHONEY, DEPUTY CHIEF:

Permits are normally pulled through the Fire Prevention Bureau for underground storage tanks removals, but, I think, what we have here is a kind of a gray area, if you will, because this wasn't technically -- the work was very much the same. I think you will probably agree except there was no tank being removed.

ROBERT HAAS, POLICE COMMISSIONER:

Are they required to still pull a permit from Inspectional Services or -- for this kind of work?

GERARD MAHONEY, DEPUTY CHIEF: They had permits from DPW for --

ROBERT HAAS, POLICE COMMISSIONER:

No, from the Fire Department, would they be required?

GERARD MAHONEY, DEPUTY CHIEF: No.

RICHARD SCALI, CHAIRMAN: Would they be required to notify you?

GERARD MAHONEY, DEPUTY CHIEF: Well, I think that in light of the history of this

particular station with regards to neighbors, I think it would've -- probably would've helped all matters concerned if we had been apprised of what was going to take place.

UNIDENTIFIED SPEAKER: We did speak to a -- excuse me for one Second.

RICHARD SCALI, CHAIRMAN: While you're looking for that, let me just ask, does anybody from the public want to be heard on this matter?

No hands.

So is this for the Fire Prevention Office?

UNIDENTIFIED SPEAKER: No, for the -- in regards to storing the dumpsters on site, we did speak to somebody. I believe we were directed to -- I want to say the Traffic Department. And they said there was no actual permits to have a dumpster on site if it was on private property.

RICHARD SCALI, CHAIRMAN: The law has just been changed, there are dumpsters

permits required now.

UNIDENTIFIED SPEAKER: That was Brad Gerrick (phonetic), correct? Okay.

RICHARD SCALI, CHAIRMAN: Any comments, Deputy Chief?

GERARD MAHONEY, DEPUTY CHIEF: As I said, my main concern was the security of the site and answering to the complaint of the neighbors that there had been discolored fluid running down the sidewalk and the gutter line.

DANIEL TURNER, DEPUTY FIRE CHIEF: Mr. Chair, just to comment on the Commissioner Haas's comments. In the normal course of events, these contracted companies that work on service stations, a permit is eventually required. Generally, it's during the course of the job or when -- again new tank installation, tank removals. This is again a gray area, but certainly our office, the Fire Prevention office, is notified well in advance of any operation taking occurrence

certainly. Otherwise, the events that seemed to have occurred here, when you start seeing dumpsters showing up and activity occurring on a -- especially a gasoline station in a tight populated neighborhood, people get concerned, and they want to know what's going on. They don't see anything advertised in the papers, or things of that nature, permits posted or what have you.

So, I think this is probably just go back and refresh my memory on the codes that -- on the permitting requirements, but somehow it just seems like the fire department was kept out of the loop on this one.

ROBERT HAAS, POLICE COMMISSIONER:  
I'm just trying to -- the thing that's got me -- I mean, the mitigating factors in my mind not only did they notify DEP, but they talk to some city agency. I don't think it was intentional act on their part to not report to the fire department, and, I guess,



based on both of your statements, there's still somewhat of a gray area, and then there's some representation from the transportation department that there was no permits required for the dumpsters.

So, I can see how you could really get to a place where, I don't go to that one more department to, you know, just make sure I don't have any other issues. I'm sure if you were removing tanks, you knew exactly where you needed to go.

UNIDENTIFIED SPEAKER: Not to remove soil.

RICHARD SCALI, CHAIRMAN: Just that disconnect between the rule of the tanks and so far down the road, that gets confusing.

DANIEL TURNER, DEPUTY FIRE CHIEF: And the other, I think, confusion as well, I don't know if this would have any role in it, but the actual responsibility for the programmer on the site clean-ups has now been transferred from the Department of Fire

Services to the DEP so that occurred a couple months ago, so...

That could've also triggered some disconnect there.

ROBERT HAAS, POLICE COMMISSIONER:

My final question to the Deputy Chief is: Are you satisfied with the condition of the site as it is right now?

GERARD MAHONEY, DEPUTY CHIEF: Yes.

GEORGE DIABAKERLY: Thank you, sir.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Mr. Chair, if I may.

Do you feel that any warnings or citations or restrictions on the license should be issued on this property based on the experience or cooperation or lack thereof that you've received?

GERARD MAHONEY, DEPUTY CHIEF: I think that I'd probably perhaps chuck it up more important to a lesson learned, and for future, you know, my intention is to contact DEP and let's see if we can get something

going down the road that when these things take place, particularly, as I said, this was kind of a perfect storm, if you will. A tight residential neighborhood, you don't have a very big footprint of the area, you have neighbors. It's well documented there's neighbors with a history there that don't -- they basically don't like your gas station in their neighborhood, and they're going to complain, file a complaint for every little thing, and yet, we have an obligation to investigate those complaints.

While I understand you people are waiting for soil analysis, I think the dumpsters still did not belong in that neighborhood for over a week, they should've been taken some place. Maybe they couldn't go to the location, the final destination, but they should have gone someplace and not be left in a residential neighborhood.

GEORGE DIABAKERLY: I'm sorry. If we move that dumpster, we get fined from DEP.

You cannot move it. You cannot touch it. It still has to stay on the site until get the analysis from the lab. Two ways to go. They think we playing game to dump it somewhere without paying what we have to pay to get that contaminated soil to the site they'll accept it.

RICHARD SCALI, CHAIRMAN: Maybe you should have done the testing before you took everything out and put in the dumpsters.

MR. DIABAKERLY: You have to dig.

RICHARD SCALI, CHAIRMAN: That would've been easy.

UNIDENTIFIED SPEAKER: That was an option and also as a cost saving measure because we would have had to go out there with a drill rig, install additional soil borings and run them for the correct analysis from the disposal facility. So a drilling company, plus the environmental oversight lab analysis would have been an additional cost to our client and no, we did not go that

route at this time.

GERARD MAHONEY, DEPUTY CHIEF: If I may ask a question? Did the soil come back contaminated?

UNIDENTIFIED SPEAKER: That was in the dumpsters?

GERARD MAHONEY, DEPUTY CHIEF: Yes.

UNIDENTIFIED SPEAKER: Yes.

RICHARD SCALI, CHAIRMAN: Pleasure of the Commissioners?

DANIEL TURNER, DEPUTY FIRE CHIEF: Is there any prior record?

ELIZABETH LINT, EXECUTIVE OFFICER: No.

ROBERT HAAS, POLICE COMMISSIONER: Mr. Chair, I recommend that this matter be placed in a file.

DANIEL TURNER, DEPUTY FIRE CHIEF: I'd recommend that also.

RICHARD SCALI, CHAIRMAN: Motion to place the matter in file?

Moved.

ROBERT HAAS, POLICE COMMISSIONER:

Seconded.

RICHARD SCALI, CHAIRMAN: All in

favor?

DANIEL TURNER, DEPUTY FIRE CHIEF:

Aye.

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

RICHARD SCALI, CHAIRMAN: Thank you

very much, and if you can stay in contact

with the Deputy Chief, if anything else

changes, that would be very helpful as well.

UNIDENTIFIED SPEAKER: We will do.

Thank you.

GEORGE DIABAKERLY: Thank you,

ladies and gentlemen. Have a nice evening.

**SAMIRA JALLAD AND SAID ABU-ZAHRE**

ELIZABETH LINT, EXECUTIVE OFFICER:

Disciplinary matter continued from August 10, 2009. Samira Jallad and Said Abu-Zahre for operating a commercial parking lot without proper permitting at 3 Vail Court/139 Bishop Allen Drive.

RICHARD SCALI, CHAIRMAN: Before we go forward, I just want to make sure, is Barfly here at all? That matter has been continued to October 6th Mr. Bantim (phonetic). I saw you waiting and that's the only thing you could be waiting for.

MR. BANTIM: It's continued to?

RICHARD SCALI, CHAIRMAN:

October 6th.

MR. BANTIM: Okay. Thank you.

RICHARD SCALI, CHAIRMAN: Good evening. Tell us your name.

SAMIRA JALLAD: Samira, S-A-M-I-R-A, Jallad, J-A-L-L-A-D.

SAID ABU-ZAHRE: Said Abu-Zahre.

JOHN MACIOLEK: I'm John Maciolek,  
M-A-C-I-O-L-E-K. Thank you.

RICHARD SCALI, CHAIRMAN: All right.  
We were here last.

JOHN MACIOLEK: You asked for a  
legal memo. I provided one on September 17  
to Ms. Lint.

RICHARD SCALI, CHAIRMAN: Mrs. Lint,  
have you had a chance to look at it?

ELIZABETH LINT, EXECUTIVE OFFICER:  
I have and I emailed it to all of you.

RICHARD SCALI, CHAIRMAN: Comments  
on it, though, Mrs. Lint?

ELIZABETH LINT, EXECUTIVE OFFICER:  
Well, I think it goes back to conversations  
that we've had with Ronji (phonetic) that the  
easement was -- I'm sorry. It's just been  
one of those weeks.

They can't be operating under the  
zoning laws, and there was no permission  
granted to be.



RICHARD SCALI, CHAIRMAN: As I read it, the actual --

ELIZABETH LINT, EXECUTIVE OFFICER: There's no PTDM, which I understand came into effect after they were the owners of the property, the PTDM requirements, but just the same, if you're operating a commercial lot, you have to go through that.

I think they're assuming that they can be there as-of-right and they can't be there as-of-right.

SAMIRA JALLAD: Can I answer this?

RICHARD SCALI, CHAIRMAN: Here is the problem, and let's just cut to the chase. We really don't have an objection per se under our regulations for you operating there, but zoning and traffic and parking are saying you can't do it without permission from those departments.

So, before it even gets to us, we have to defer to them to say under the zoning laws, you have permission to be there, under

traffic and parking, PTDM, you have permission to be there.

So, my inclination is refer it back to them, allow to you apply for permits through them, as they wish you to do, and continue the matter until they do that.

Commissioners, I don't know exactly what more we can do.

SAMIRA JALLAD: I can answer?

RICHARD SCALI, CHAIRMAN: I can give you an opportunity to apply?

SAMIRA JALLAD: Can I answer?

RICHARD SCALI, CHAIRMAN: Sure.

SAMIRA JALLAD: Thanks. Sorry to disturb you first. It's my way, I'm wrong, I know that.

RICHARD SCALI, CHAIRMAN: No, no, you can speak.

SAMIRA JALLAD: Okay. What happened exactly what I look at -- what happened when I was in here, you said when we're a good feeling would not let us (inaudible) anywhere

and that is true. But good sense, which is the sixth sense, will let us be somewhere, right?

And Mr. Haas saying that we want something to put our hat on. You said you want to put our legal hats on, right? So what did I ask, I went and researched very well. There is one thing, when I went to them, nobody knew we even have a permit. He said, "Samira, you don't have a permit."

I said, "I do."

He said, "I search and there wasn't."

I said, "I do."

He said, "Where is it?" I showed it to him and then he stopped talking and left me. This is what happened exactly.

RICHARD SCALI, CHAIRMAN: I think we understand that. The variance expired in 1960, and so it never was reestablished and you -- maybe you didn't know that it had been reestablished.

SAMIRA JALLAD: No, no. I did know. I did know what happened exactly. The building had been built in 1914 and 1917, and the parking there was only there for resident. Then the second landlord asked for commercial parking, and it wasn't the first landlord, it was the second landlord, and they made the commercial parking, but there wasn't names at that time. There was no commercial parking, no residential.

RICHARD SCALI, CHAIRMAN: I do understand what you're saying. The problem is your argument is not with us. It's with the other departments who you have to go through to get back to us again.

SAMIRA JALLAD: Who is the other department?

RICHARD SCALI, CHAIRMAN: Well, first through the zoning through a variance or reestablishing the variance, and then filing a parking plan with the PTDM with traffic and parking. I'm not saying you're

going to get through all that process. I don't know if you'll get through that process, but maybe it will save you time in terms of being able to continue as is now until you do what you should be doing.

I don't think that we have any power at this point, Commissioners, to say "yes" or "no" to you because we want to be able to give you opportunity to go to those departments and apply for the correct permits that you do need to give you an opportunity and a time to be able to do that.

And in the meantime, to be able to come up with a plan for how you want to operate in the future.

JOHN MACIOLEK: Of course, as we talked to you before, the current use is not what you're going to see in a matter of a couple years. As we've tried to explain to you, you know, we want to go through the process of a parking and transportation plan if we're just going to do it again in a

couple years when the financing is available and the property can be completely redeveloped.

Nevertheless, it is our legal position that at the present time, there is no requirement because they had been operating for many, many years without interference from the city, and for the city now to say that you need a parking permit or you need a traffic plan, as I spell out in the memo, I don't think that's legally accurate.

If we have to disagree, we'll disagree. We can agree to disagree on that. The same with the zoning, the same with the zoning, so --

RICHARD SCALI, CHAIRMAN: What I'm saying you could make the argument to them that that's the case, because we can't tell them what to do.

JOHN MACIOLEK: I'm with you. I'm with you. We haven't heard from them, as you

know. We haven't heard from the zoning enforcement officer. We haven't heard from anybody.

It's our position that, you know, until we hear from them, and my clients have been using the property the way the property has been used since 1947, we're kind of scratching our heads thinking "What's the problem?"

SAMIRA JALLAD: Can I ask another question?

ROBERT HAAS, POLICE COMMISSIONER: Let me just say -- I don't often correct the chairman, but I don't think we can turn a blind eye to the operation at this point in time.

I think you have an affirmative responsibility to make sure that you have the proper variance, and going forward, I don't know if we can just wait another couple years before, you know --

RICHARD SCALI, CHAIRMAN: Well, I'm

not suggesting that. I'm saying giving them an opportunity to apply for the proper permits is --

ROBERT HAAS, POLICE COMMISSIONER: I think we've been more than patient and I think we've been working with your clients to reach a resolution on this issue, but I think at the end of the day, I think we need to feel comfortable about what is being done is being done properly and legally. The question is how much time do we give you.

But I would say to you that if you're going to simply wait for a variance to reach out to you on this issue, I don't think you can take a passive posture on this. I think --

JOHN MACIOLEK: Well, because it's our position that there's no zoning permit or variance that is necessary under these circumstances.

ELIZABETH LINT, EXECUTIVE OFFICER:  
If I may, Mr. Chair, we all had a meeting



with the City Manager and Councilor Decker and traffic and parking and zoning, and all parties made it very clear, zoning and traffic and parking, that they could not be there as-of-right, there was no variance, it was not grandfathered, and traffic and parking is completely opposed to the continued operation of the open air parking lot.

RICHARD SCALI, CHAIRMAN: So I mean you heard from them.

ELIZABETH LINT, EXECUTIVE OFFICER: And everyone was there.

RICHARD SCALI, CHAIRMAN: Whether you have it in writing from them, I guess, is a different story, but, I guess, you have heard from them at that meeting.

SAMIRA JALLAD: Can I ask why don't we go all to the area there and check. Just imagine if there's a parking there and/or if there is no parking, if there is -- you said the main concern for you from the first

sitting is the safety of the public, right?

RICHARD SCALI, CHAIRMAN: Uh-huh.

SAMIRA JALLAD: And it's good for us, too, because there is something. If there is no parking, what will you imagine there is there? I will tell you. Homeless people will make number one -- I will tell you. I did imagine and I sat there.

RICHARD SCALI, CHAIRMAN: I'm not imagining anything.

SAMIRA JALLAD: I did imagine because homeless people will go and make number one and two there. There will steal the houses which is in front of us. Small creatures will be. There's no people to move even. They will be there all of the time. All of the time.

RICHARD SCALI, CHAIRMAN: I think --

SAMIRA JALLAD: This is a safety for the public.

RICHARD SCALI, CHAIRMAN: I want you to understand, we only have very few options

here. We can say to you, please do not operate or order you not to operate that parking lot, you do not have a permit for that. Please shut down and there's an order that says for you to do that, or we can say to you, go and apply for the proper permits that you need through traffic and parking and do zoning to get a variance and come back to us with those permits.

We really don't have many other --

JOHN MACIOLEK: Well, there's a third option.

RICHARD SCALI, CHAIRMAN: What would that be?

JOHN MACIOLEK: You could review the memorandum that I provided to you, review it, conclude one way or the other, and perhaps it's correct.

RICHARD SCALI, CHAIRMAN: I can't review a different department's jurisdiction. I can't say to you that traffic and parking is incorrect. I can't say to you zoning is

incorrect.

JOHN MACIOLEK: Well, I think the third option would be that you would conclude that there's no permits that are necessary.

SAMIRA JALLAD: Not that department is complaining, your department is complaining. That department never complained. If they wanted to complain let them go and complain about the gas station who are doing parking there. Free parking in the gas station on all of Mass Ave they made parking and this is really dangerous.

DANIEL TURNER, DEPUTY FIRE CHIEF: Just so I can lasso this back a little bit. This is an open air license.

RICHARD SCALI, CHAIRMAN: Right, which they do need.

DANIEL TURNER, DEPUTY FIRE CHIEF: Right now the status of that license is? Is it active? Is it on hold? Is it up for renewal? Where are with this? Have we voted on this? It's still active and operating and

running?

RICHARD SCALI, CHAIRMAN: They're operating. Of course, the license is for a certain number of vehicles. I'm not sure what the number is.

DANIEL TURNER, DEPUTY FIRE CHIEF: This license has been in existence since -- I'm trying to make a decision on what happened in 1914? Was traffic and parking in existence in 1914? Was zoning in existence in 1914? So we have a license.

RICHARD SCALI, CHAIRMAN: But they weren't conducting activity in 1914.

JOHN MACIOLEK: Well, as early as 1947 and perhaps earlier.

RICHARD SCALI, CHAIRMAN: And there were variances issued at that point in time.

JOHN MACIOLEK: That's right.

RICHARD SCALI, CHAIRMAN: So it was a use that expired.

DANIEL TURNER, DEPUTY FIRE CHIEF: Basically we're kind treading on an area of

ordinances or laws or codes that actually haven't been written yet, I guess, which is -- can you backtrack based on new department's rules or new rules that have been established to a preexisting -- would this be considered a preexisting condition?

RICHARD SCALI, CHAIRMAN: I don't know.

SAMIRA JALLAD: Nobody complained.

JOHN MACIOLEK: Non-conforming use.

SAMIRA JALLAD: Nobody I'm pretty sure. Nobody complained about the parking.

DANIEL TURNER, DEPUTY FIRE CHIEF: I guess the -- Mr. Chair.

RICHARD SCALI, CHAIRMAN: Ma'am, it's not about complaining, it's about what the law is.

SAMIRA JALLAD: Did you see us? You didn't see others. Just question, if that's true? Why did you see us?

DANIEL TURNER, DEPUTY FIRE CHIEF: I would concur emphatic with Commissioner

Haas's observation of this. We can't just pretend or turn a blind eye to the situation.

I guess the way I feel if there's confusion amongst other city departments and between zoning and laws and ordinances, then we, as a Board, need to deny, revoke, whatever, cease the license until those issues are resolved or whatever, just suffer, you know, go -- if it has to take a court process to prove us wrong, but I think we're threading on dangerous ground by allowing a condition to continue and then putting ourselves in the position that, you know, should it have been the wrong decision and we allowed it.

RICHARD SCALI, CHAIRMAN: There's no confusion with the other departments, they just need to confer with those departments and get the permission from those departments.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Is there any reason -- is there any road

blocks that would prohibit that from happening at this point?

RICHARD SCALI, CHAIRMAN: According to those departments? You would have to ask them what their road blocks are. I'm sure there are obstacles in the way that would prevent them.

SAMIRA JALLAD: Why don't we wait another one year and see what comes too?

RICHARD SCALI, CHAIRMAN: That's --

SAMIRA JALLAD: It's true. That's an option, too. Let's see what the economy will bring.

First of all, they didn't make the parking. They said you have a violation. And there was no violation. I gave them everything. Then after they clean the violation, they come with a parking. I wonder tomorrow what will be the third. I wonder.

RICHARD SCALI, CHAIRMAN: We have to go by what the law says at this point.



SAMIRA JALLAD: Nobody complain with you. Nobody.

RICHARD SCALI, CHAIRMAN: It's not about complaints.

SAMIRA JALLAD: I wonder what --

ROBERT HAAS, POLICE COMMISSIONER: I would like to know what your intent is, is it to simply wait, or -- and see how long you can wait this thing out, or are you going to take some action with respect to the variance?

If you're willing to move forward and try to do the right thing, I'm willing to give you time, me personally, give you time to do that. But if you're simply going to wait a year or two years until the condition of that property changes and then make the application, I am not prepared to do that.

RICHARD SCALI, CHAIRMAN: They can't.

SAMIRA JALLAD: I ask you for one year and I can promise that.

ROBERT HAAS, POLICE COMMISSIONER:

I'm speaking for myself.

SAMIRA JALLAD: I just ask for one year.

RICHARD SCALI, CHAIRMAN: According to what you said, your intention is to tear the building down and do something else, that's another two or three years down the road.

JOHN MACIOLEK: No one has a crystal ball.

SAID ABU-ZAHRE: I am speaking with the banks to get financing.

ELIZABETH LINT, EXECUTIVE OFFICER: Mr. Chair, I would remind you, however, that they have been before zoning before and the Board of Appeals and had permits to tear down the building and build and they never did.

RICHARD SCALI, CHAIRMAN: Because of the economy had changed.

JOHN MACIOLEK: Right.

SAMIRA JALLAD: The economy is very

bad.

RICHARD SCALI, CHAIRMAN: All right. Commissioners, I think we need probably some time to think about this and to decide or do you --

ROBERT HAAS, POLICE COMMISSIONER: I need to hear back what your intent is, I mean...

JOHN MACIOLEK: Well, as we said the long-term intent is to redevelop the property; the short-term intent is to comply as best we can with the rules and the regulations, but we think we're complying. You know, our position is we are in compliance. There's no parking requirement that applies to us.

ROBERT HAAS, POLICE COMMISSIONER: Just remind us of the conversation that you had with the City Manager?

ELIZABETH LINT, EXECUTIVE OFFICER: It was all the departments, and traffic and parking says it's their opinion that they

cannot be operating a commercial parking lot, they haven't got the PTDM. The zoning said the variance expired in 1960s and was never reapplied for, that they can't be operating commercial parking lot.

JOHN MACIOLEK: We respectfully disagree with those conclusions.

DANIEL TURNER, DEPUTY FIRE CHIEF: Statute OF limitations on permits.

JOHN MACIOLEK: You can't start enforcing IT 50 years after it expires.

SAID ABU-ZAHRE: This being the case, why did we receive it from the city hall in 2009 to renew this?

SAMIRA JALLAD: Yeah, and I paid for it.

SAID ABU-ZAHRE: It said pay the fees and we did.

SAMIRA JALLAD: Each year.

SAID ABU-ZAHRE: Now what is this?

RICHARD SCALI, CHAIRMAN: I think the only thing we can do, Commissioners, is

cancel, suspend or revoke the license because of lack of zoning and the PTDM commission, or refer it back to those departments for them to apply for the proper permits.

SAMIRA JALLAD: Can I ask you a question? If a homeless guy is sleeping in your building --

RICHARD SCALI, CHAIRMAN: That's not a question.

JOHN MACIOLEK: To the extent you want to hear from us --

DANIEL TURNER, DEPUTY FIRE CHIEF: Mr. Chair? Just giving this a little more thought, the zoning that expired in 1960 in this debate hangup is the zoning issue?

RICHARD SCALI, CHAIRMAN: No, no. It's also PTDM traffic and parking.

DANIEL TURNER, DEPUTY FIRE CHIEF: Which wasn't in existence in 1960, correct?

RICHARD SCALI, CHAIRMAN: Correct.

DANIEL TURNER, DEPUTY FIRE CHIEF: So we have --

SAMIRA JALLAD: I love your smile because you know we're right.

DANIEL TURNER, DEPUTY FIRE CHIEF: In 1960 the zoning expires. Did it expire because of just lack of paperwork, payment, somebody just screwed up and forgot, or did the zoning automatically run out, or did it have to be renewed? In other words, if we -- if they went to zoning and said, "Oops, I forgot to pay this since 1960, what about my fees," and they back paid from 1960 to 2009 --

JOHN MACIOLEK: No. There's no real fees involved.

But just to answer your question a little more specifically, the first variance was granted in 1947. It expired two years thereafter. Another variance was granted, and yet, another variance was granted.

The final variance was granted -- expired in 1960. The parking that was lawfully begun with that variance continued

after 1960 up until the present time, therefore, with no enforcement action from the zoning enforcement officers or the City of Cambridge or any other department, the use that was lawfully begun in 1947, even though it expired in the context of the variance was a lawful use and absent any zoning enforcement is a what I would refer to as a preexisting, non-conforming lawful use.

DANIEL TURNER, DEPUTY FIRE CHIEF:

That's the essence of my legal argument.

ROBERT HAAS, POLICE COMMISSIONER: I wonder if the law department have any --

RICHARD SCALI, CHAIRMAN: You can refer back to the law department, Commissioners, and let them decide. I don't think we have any authority to decide what traffic and parking and zoning is going to do with this. There really isn't much for us to do at this point.

JOHN MACIOLEK: To the extent you're limiting yourself to the two options that you

referred to, i.e., referred to zoning and tracking and parking or revoke, my client would prefer that you refer it to those other departments. I mean, my clients would prefer that you just leave them alone, but if you're not going to do that, then my clients would prefer that you would refer it to those other departments.

RICHARD SCALI, CHAIRMAN:

Commissioners wish to take more time?

DANILE TURNER, DEPUTY FIRE CHIEF:

Advisement?

RICHARD SCALI, CHAIRMAN: Well, that's not going to buy you much time because we're voting October 1st.

DANIEL TURNER, DEPUTY FIRE CHIEF:

If it was to get referred, where are we going to send it now? The law department?

This has been in the law department or has this been in front of the law department.

RICHARD SCALI, CHAIRMAN: They were



part of the discussion.

ELIZABETH LINT, EXECUTIVE OFFICER:  
They were present at the meeting, and they did not take part in the discussion.

DANIEL TURNER, DEPUTY FIRE CHIEF: I think it's time they take part. I don't think we have a choice but to get our legal review of this.

SAMIRA JALLAD: I'd prefer a few weeks in October, because I wanted to go to another place to search for something. I think it's fair to keep it for October.

RICHARD SCALI, CHAIRMAN: My motion is going to be to take the matter under advisement until October 1st.

SAMIRA JALLAD: Good.

ROBERT HAAS, POLICE COMMISSIONER: I second it.

RICHARD SCALI, CHAIRMAN: Motion moved and seconded.

All in favor?

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Aye.

RICHARD SCALI, CHAIRMAN: We will vote October 1st at 10:00 a.m. as to what we're going to do with it.

SAMIRA JALLAD: Where is that?

RICHARD SCALI, CHAIRMAN: Right here.

SAMIRA JALLAD: Okay.

JOHN MACIOLEK: Thank you very much.  
Have a good night.

AMERICAN REPERTORY THEATRE, INC.

ELIZABETH LINT, EXECUTIVE OFFICER:

Application of American Repertory Theatre, Incorporated, Robert Orchard, manager, has applied for a change of premises description to include two alternate floor plans for 2 Arrow Street. The alternate seating floor plan is for 176 seats with an occupancy of 327, and the open space floor plan has a seating capacity of 60 with 240 patrons standing. Applicant is also applying for a change of manager from Robert Orchard to Erin Wood.

RICHARD SCALI, CHAIRMAN: Good evening.

Ariane Barbanell: Good evening.

RICHARD SCALI, CHAIRMAN: Thank you for your patience.

Tell us your name.

ARIANE BARBANELL: Ariane Barbanell,  
A-R-I-A-N-E, B-A-R-B-A-N-E-L-L.

ERIN WOOD: And I'm Erin Wood,  
E-R-I-N, W-O-O-D.

JONATHAN MILLER: I'm Jonathan  
Miller. J-O-N-A-T-H-A-N, M-I-L-L-E-R.

RICHARD SCALI, CHAIRMAN: Nice to  
see you all. When we were here last, we had  
a certain description, and now we have  
discovered there's other floor plans, right?

So, who wants to speak about the  
other floor plan?

ARIANE BARBANELL: I can speak about  
the other floor plan.

RICHARD SCALI, CHAIRMAN: All right.

ARIANE BARBANELL: We have a  
production in the space called the Donkey  
Show, and the set for that show is an  
environment with both standing and seated  
area. So the seating is for 60 and the  
standing is for 240, and because that show  
has an extended run, we decided to create  
configurations in that space so that we can  
program other opportunities into this space

because it is a theater and we want to keep it up and running. And so, we've submitted both that standing floor plan and a seated plan within that smaller area that we've created.

RICHARD SCALI, CHAIRMAN: So the Donkey Show, is that what it's called?

ARIANE BARBANELL: Yes.

RICHARD SCALI, CHAIRMAN: It's a show where customers -- where the people in the audience participate, is that what it's?

ARIANE BARBANELL: There's interaction from the cast, they don't participate per se. The action happens all around them. So they're standing and they watch the action happening sort of in the round, it's a theater in the round.

RICHARD SCALI, CHAIRMAN: So, it's like a dance-type of thing, people are dancing?

ARIANE BARBANELL: There's dance in the show, and there's music playing and

people are dancing as part of the show. It's not a dance club. It's part of the actual theatrical performance.

RICHARD SCALI, CHAIRMAN: Are people drinking on the floor?

ARIANE BARBANELL: People are drinking in the space, yes.

RICHARD SCALI, CHAIRMAN: 240 people are standing on the round drinking and watching the show?

ARIANE BARBANELL: But we have managed it so there's constant security that we have brought into the space to keep an eye for any possible issues within that space.

We've run cabaret-style shows like this before where there's activity happening and people are drinking during the show. We have taken all the necessary precautions.

RICHARD SCALI, CHAIRMAN: Okay. I guess -- I mean, it's not a nightclub.

ARIANE BARBANELL: No.

RICHARD SCALI, CHAIRMAN: Not that

would be a bad thing in Harvard Square, but I guess we need to be prepared for whatever action comes of that, people leaving or...

ARIANE BARBANELL: We don't want to be in the business of being a nightclub, we're a theater and performance venue.

ELIZABETH LINT, EXECUTIVE OFFICER:  
Mr. Chair, you may recall that this all came about as a result of Inspectional Services reading a flyer about the Monkey Show, and as a result of that -- the Donkey Show, I'm sorry. Whatever.

As a result of that, all of the city departments were brought in, the fire department was down there, I believe, Ms. Boyer was down there, and then, as a result we had Inspector Hedley go down actually and view the show, and he emailed me and said it was absolutely no problems whatsoever. It's a performance.

It was then that we all decided it was better if they had the alternate floor

plan on file with the License Commission so that those situations wouldn't occur again.

ROBERT HAAS, POLICE COMMISSIONER:

So why was it -- why didn't Special Service get concerned?

ELIZABETH LINT, EXECUTIVE OFFICER:

They thought it was a nightclub.

RICHARD SCALI, CHAIRMAN: All tables

and chairs were taken out.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Mr. Chair?

RICHARD SCALI, CHAIRMAN: Deputy

Chief.

DANILE TURNER, DEPUTY FIRE CHIEF:

The only question I have is what happened to Zero Arrow Street.

ARIANE BARBANELL: The show takes place in a 1970s Studio 54-style club, which is why I think that the confusion was made, and that is owned by the character Oberon who is a character from Midsummer Night's Dream and the story is taken from that play. So he



owns the club, it's Club Oberon. So we named it sort've a meta theatrical moment.

DANIEL TURNER, DEPUTY FIRE CHIEF: I think you misunderstood the question.

On the application we have ART as Two Arrow Street for your floor plan. I thought that building was Zero Arrow Street.

JONATHAN MILLER: If I may answer that.

If you recall when we applied for an entertainment license, there was a discussion of that with the fire department that Zero was not an allowable number. So we have been very careful to use Two Arrow Street on all of our official documents and for the location of this event.

DANIEL TURNER, DEPUTY FIRE CHIEF: But that's actually have we -- we applied through the city to get that address changed or --

JONATHAN MILLER: The address of the building is actually 2-6 Arrow Street, I

think actually, though Two is the main entrance to the building. So our corner of it, I mean, it's still part of the same physical building that's Two Arrow Street that's what it says in the front of the building.

DANIEL TURNER, DEPUTY FIRE CHIEF:

So, if I went down to any city department and pulled out the file for this location, it would come up as Two Arrow Street?

JONATHAN MILLER: I can't guarantee that, but I know that when I've gone onto the property database and gone under Two Arrow Street, it's come up.

DANIEL TURNER, DEPUTY FIRE CHIEF:

It's now under Two. Good. Excellent.

Thank you.

RICHARD SCALI, CHAIRMAN: And, Ms. Wood, you are going to be the new manager?

ERIN WOOD: Yes.

RICHARD SCALI, CHAIRMAN: What's

your experience?

ERIN WOOD: I've worked ART for five years in the previous configuration, and in the cabaret setting, I managed the space there as my superior managed one of the other spaces. So I have been doing that for three years. So it was kinda of a natural fit that I have been in the space and doing similar work for American Repertory Theatre.

RICHARD SCALI, CHAIRMAN: Have you ever had a liquor license in your name before?

ERIN WOOD: No.

RICHARD SCALI, CHAIRMAN: Is this your first time?

ERIN WOOD: Yes.

RICHARD SCALI, CHAIRMAN: Is this your first time serving beer and wine?

ERIN WOOD: I'm sorry?

RICHARD SCALI, CHAIRMAN: Is this your first time managing beer and wine -- actually, you have a full alcohol license,

right?

ERIN WOOD: Yes.

RICHARD SCALI, CHAIRMAN: Is this your first time managing alcohol?

ERIN WOOD: Yes.

RICHARD SCALI, CHAIRMAN: Are you familiar with all the rules and regulations with regard to alcohol, 21-Proof?

ERIN WOOD: Yes.

RICHARD SCALI, CHAIRMAN: Have you gone through our training?

ERIN WOOD: I have not. I do need to do that.

RICHARD SCALI, CHAIRMAN: All right. Questions, Commissioners?

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

No hands.

Oh, I didn't see you, I'm sorry.

JANE NATHAN: I don't come around very often anymore.

RICHARD SCALI, CHAIRMAN: Tell us

your name.

JANE NATHANS: Jane Nathans. And I own property at 1134 Massachusetts Avenue abutting Two Arrow Street, which is news to me, and I'm here to speak out in favor of getting this premises changed on paper.

I have attended previous cabaret performances in that theater, and they were extremely well managed and well run.

I haven't yet been to the Donkey Show, but I lived through the '70s.

RICHARD SCALI, CHAIRMAN: You think you can handle this one?

JANE NATHANS: Yeah, I think I can handle it. So -- and I'm actually -- the ART is a tenant of the apartment spaces I have at 1134 Massachusetts Avenue, and I've worked with Erin actually pretty much since you started for about five years as -- in terms of property management. So I don't know her experience of alcohol, but if she manages the facility the way she deals with property

issues, you guys have nothing to worry about.

RICHARD SCALI, CHAIRMAN: High recommendations from Ms. Nathans, which is tough to get through.

All right. Anybody else want to be heard?

No hands.

No questions?

ROBERT HAAS, POLICE COMMISSIONER:  
No questions.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
No questions.

RICHARD SCALI, CHAIRMAN: Pleasure, Commissioners?

ROBERT HAAS, POLICE COMMISSIONER:  
Motion to approve.

RICHARD SCALI, CHAIRMAN: Motion to approve, subject to 21 Proof training for Ms. Wood.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Seconded it.

RICHARD SCALI, CHAIRMAN: All in

favor?

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

DANILE TURNER, DEPUTY FIRE CHIEF:

Aye.

RICHARD SCALI, CHAIRMAN: Good luck.

This goes off to the ABCC first before you can call this permanent. So, we'll notify you when it comes back.

JONATHAN MILLER: Thank you very much.

ARIANE BARBANELL: Thank you.

**1834 REALTY, INC.**

ELIZABETH LINT, EXECUTIVE OFFICER:

Application: 1834 Realty, Incorporated as a foreclosing approved pledge holder of the all alcoholic beverages as a restaurant license currently held by Z Harvard Square, LLC at 14 JFK Street is petitioning to involuntarily transfer said license to Third Street Associates, Incorporated doing business as Brattle House Tavern, Peter Lee, manager. Said license, if transferred, is for 190 seats inside, 18 seats on a seasonal private outdoor patio and 20 standing. Operating hours would be from 8:00 a.m. to 1:00 a.m. Sunday through Wednesday, 8:00 a.m. to 2:00 a.m. Thursday through Saturday. Applicant is also seeking an entertainment license to include dancing by patrons; live musical instruments and/or vocalists with amplification; audio tape machine/CD playing music below, at, or above conversation level;



eight TVs; Karaoke; and disc jockey.

RICHARD SCALI, CHAIRMAN: You know what I just realized is you broke one of our own rules, we usually have clad members first.

ATTORNEY JAMES RAFFERTY: I saw that myself.

RICHARD SCALI, CHAIRMAN: You should have raised your hand at me and objected.

ATTORNEY JAMES RAFFERTY: That's not in Mr. Lee's nature. He's enjoyed witnessing the last two and a half hours of jurisprudence.

RICHARD SCALI, CHAIRMAN: I do apologize.

Just tell us your name for the record.

ATTORNEY JAMES RAFFERTY: I'd be happy to. James Rafferty on behalf of the applicant, and seated next to me are the principals of the licensee, the Lee brothers, Patrick and Peter. Peter is the better

looking one and Patrick is the one sitting closest to me.

Peter is proposed to be the manager. This is a location that has long had been a licensed premises, the home for decades of the renowned worst house kinda at ground zero in Harvard Square.

So if Mr. Cardullo (phonetic) was the dominant licensee in the latter half of the prior century in Harvard Square, I would suggest that these men here, the Lee brothers, through Grafton Street, Temple Bar and now Red Line have ascended to that title.

They have been operating now for over ten years in Harvard Square. They're a model operation, and when the opportunity presented itself, as you know the prior licensee had some difficulties and wound up losing the business, losing the lease, losing the license, the landlord and the pledge holder looked for someone who could execute a successful operation here, and they were

pleased when the Lees expressed interest.

Their proposal is for a full service restaurant entitled "the Brattle House Tavern."

You may recall it's a two-story space. Before it was Z Square, it was actually, you might recall, called Finagle a Bagel. And the dominant space is the lower level. So part of the challenge has been to make the relationship between the ground floor and the lower level effective.

So there is some proposed changes in the premises through the introduction of a bar on the first floor, on the ground floor level, but for the most part, the relationship between capacities will remain the same. It's largely -- most of the restaurant operation will occur in the lower level. But having an effective welcoming presence on the ground floor is important to the space and that's where you'll probably see the most significant change.

The numbers are closely aligned with what the prior licensee had. I think this represents probably an increase of about 20 seats over what the prior licensee had, but this particular license has some bank seats associated with it back from the worse house days.

So, we're not, I believe, looking to seek any approval, you know, in the nature of a cap issue or seeking to increase capacity.

It's just we're going to be employing all but, I believe, 40 of the license.

RICHARD SCALI, CHAIRMAN: So it's 191 seats and 20 standing?

ATTORNEY JAMES RAFFERTY: That's correct. The total occupancy is 229.

RICHARD SCALI, CHAIRMAN: And that's including the 18 on the patio, which is a private property patio?

ATTORNEY JAMES RAFFERTY: It's a private property patio. So it's a 191 seats

inside, 18 seats outside and 20 standing for a total of 229.

RICHARD SCALI, CHAIRMAN: Are you still wanted to bank the other 40?

ATTORNEY JAMES RAFFERTY: And the balance of the 40 would remain on account in the bank.

RICHARD SCALI, CHAIRMAN: What is the overall concept of this? Is it different from Grafton Street, Temple and Red Line? All of them have different flavors and feels; what is the overall feel of this particular -- I mean, I'm surprised that you were gonna go into another venture, but I guess you must have some brilliant idea for this, as you always you do.

ATTORNEY JAMES RAFFERTY: There are many priority secrets involved in this. I would be prudent in the disclosure.

RICHARD SCALI, CHAIRMAN: I don't want to know your secrets.

ATTORNEY JAMES RAFFERTY: I think

it's fair to say that it's a full service restaurant delivering product consistent with their other establishments, and perhaps some would suggest even with a higher emphasis on dining, but I'll let them...

PATRICK LEE: Just to add to that I would say that it just sort've differentiated itself from those other places. There will be certain characteristics about it that will sort've maintain a lot of the things that are characteristic of the other places, but we hope will garner its sort of own identity.

RICHARD SCALI, CHAIRMAN: Is it going to be focusing on just the food or is it going to be more entertainment? I'm trying to figure out is it going to be more like a Grafton or more like a Red Line?

PATRICK LEE: Grafton.

RICHARD SCALI, CHAIRMAN: More high-end dining?

PATRICK LEE: Yes.

RICHARD SCALI, CHAIRMAN:

Entertainment after 10:00, or how is that going to work?

PATRICK LEE: Yeah, later.

RICHARD SCALI, CHAIRMAN: In the downstairs area?

PATRICK LEE: Maybe. You know, it's not --

RICHARD SCALI, CHAIRMAN: That's not a good answer.

ATTORNEY JAMES RAFFERTY: The type -- I mean, certain entertainment, certainly some of the televisions and background music will be at the ground floor, but the live music and the dancing, presumably, will be taking place at the lower level.

RICHARD SCALI, CHAIRMAN: So, is it going to be a dance floor, a stage? I guess I'm trying to figure out where you're going to fit all that in in the basement level. That's the point I was confused about.

ATTORNEY JAMES RAFFERTY: Well, the basement space has some flexibility

associated with it, and the prior -- there's -- it's essentially a single room downstairs. It will have a bar and a large dining room, but there is certain sections of the room that can be cordoned off and separated, so.

PATRICK LEE: We have to maintain that.

ATTORNEY JAMES RAFFERTY: Right.

RICHARD SCALI, CHAIRMAN: I guess we need -- it's going to be like a switch to entertainment at some point, we need another floor plan.

PATRICK LEE: Right. So, I think in that bottom floor plan, it's sort've what you would call the dining area would be where we would have a dance floor.

ROBERT HAAS, POLICE COMMISSIONER:  
By the bar?

PATRICK LEE: On the other side of the bar, meaning sort've away from the front of the building.



DANIEL TURNER, DEPUTY FIRE CHIEF:

Is this all conceptional pending approval of the license and then you'll go forward with building plans or do we have actual plans --

ATTORNEY JAMES RAFFERTY: A building permit plan don't exist. I mean, the transaction involves a -- it's contingent upon this approval. There is a lease in place, but they're now at the concept stage once it's approved.

DANIEL TURNER, DEPUTY FIRE CHIEF:

They would go ahead and make renovation plans and get finalized documents?

ATTORNEY JAMES RAFFERTY: No question, yeah. We looked at the licenses of the prior licensee and they had an entertainment license that also had these features to it.

So I think there is some successful models, particularly of what takes place at both Temple Bar and at Grafton Street where late night dining blends well with people

that might be coming in for more of a casual visit late in the evening after going to a movie or a theater in Harvard Square.

RICHARD SCALI, CHAIRMAN: Is there a better way to kinda show where that's gonna be on the plan?

ATTORNEY JAMES RAFFERTY: We could make a modification.

RICHARD SCALI, CHAIRMAN: An alternate floor plan would be -- you have done that before.

ATTORNEY JAMES RAFFERTY: Just to show.

RICHARD SCALI, CHAIRMAN: Where the dance floor would be, where you're gonna put the live instruments if you're going to have them, what that will look like.

ATTORNEY JAMES RAFFERTY: We can do that now if you like or we could --

RICHARD SCALI, CHAIRMAN: Later when we get to -- you can bring it to Mrs. Lint, I guess.

ATTORNEY JAMES RAFFERTY: Okay.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Mr. Chair, if I may?

You mentioned upstairs and downstairs, there's two levels to this?

ATTORNEY JAMES RAFFERTY: Yes.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Are we in a situation like Winthrop Street? We need different occupancy laws where we're going to be moving people upstairs and moving couches and chairs around and creating dance floors?

ATTORNEY JAMES RAFFERTY: The floor plan has occupancies per floor that we submitted. It had a break out per each of the seats.

RICHARD SCALI, CHAIRMAN: It shows here the lower level, 144 it looks like.

ATTORNEY JAMES RAFFERTY: I don't have mine in front of me.

RICHARD SCALI, CHAIRMAN: 149 on the lower level. And then --

DANIEL TURNER, DEPUTY FIRE CHIEF:  
What's the configuration? This looks like  
the lower -- they're both the lower level.

PATRICK LEE: The one in your right  
hand is the upper level.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
So it's almost identical?

I see a kitchen and bar and two  
kitchens and bar. I don't see a street.  
This is basement and this is basement. Lower  
level.

PATRICK LEE: I think you --  
actually, can you show me that one?

Yeah. This is the old Z Square  
space actually.

DANILE TURNER, DEPUTY FIRE CHIEF:  
Right. That's what I was assuming. And then  
that's the --

PATRICK LEE: And this is the lower  
level of the new space, and there should be  
another sheet with the first floor.

RICHARD SCALI, CHAIRMAN: This one

is not yours.

PATRICK LEE: No.

DANIEL TURNER, DEPUTY FIRE CHIEF: I asked if this was conceptional at this point.

PATRICK LEE: It exists. I have one in the car, I can get it if we have to.

RICHARD SCALI, CHAIRMAN: We haven't seen it, that's all.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Mr. Chair, 1834 Realty is holding the license, is that --

ATTORNEY JAMES RAFFERTY: Yes. They were a pledge holder on the -- that's the first floor -- 1834 was the approved pledge holder of the prior licensee, and they foreclosed on the pledge pursuant to Article 9, and this is a transfer essentially what's characterized as an involuntary transfer pursuant to the rights.

ROBERT HAAS, POLICE COMMISSIONER:  
Can you explain what that means?

ATTORNEY JAMES RAFFERTY: An

involuntary transfer is the status that a pledge holder has in a license once it perfects its interest.

So, the pledge, as you know, is a security instrument against a note. There was a default under the note. The lender proceeded against the note with a demand. The demand wasn't met, so they gave a private notice of sale under Article 9, which was spelled out in the pledge agreement, they bought the license back under the private sale, so they're now recognized by virtue of the approval of the pledge that the Commission made a few years ago that they're now recognized as having control of the license, but they're technically not a licensee because they're not an operator. Because they're foreclosing an approved pledge holder they can then involuntarily transfer what is the license of a former licensee.

ROBERT HAAS, POLICE COMMISSIONER:

There's no legal recourse on behalf of the original holder of the license then at this point?

ATTORNEY JAMES RAFFERTY: Right they filed for bankruptcy. The pledge holder petitioned the Bankruptcy Court for relief from the automatic stay because they're a secured creditor. They have the pledge in place.

So, as such, the Bankruptcy Court -- we provided all the documentation to Mrs. Lint. The Bankruptcy Court approved the motion for relief from stay which then gave us the ability -- which gave the lender the ability to proceed to foreclose on the license.

So the license doesn't really become the property of the bank, they get control over and they have the ability to petition for an involuntary transfer.

ROBERT HAAS, POLICE COMMISSIONER:  
Will they sell the license now?

ATTORNEY JAMES RAFFERTY: This transaction represents an involuntary transfer and we've submitted the purchase and sale agreement because there's a commercial transaction between the applicant and the pledge holder, and the cost of the license is set forth there.

RICHARD SCALI, CHAIRMAN: I think we straightened it out. The capacity on street level is 62, the lower level is 149 and then the patio is 18, for a total of 229 with then 40 banked.

So, on the first level is that smaller capacity right there.

ATTORNEY JAMES RAFFERTY: I know that when we prepared the application, we separated out per floor in response to Chief Turner's --

RICHARD SCALI, CHAIRMAN: Okay. Any other questions from the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER:  
No other questions.



RICHARD SCALI, CHAIRMAN: Anyone from the public want to be heard?

I see a hand in the back. Come forward, please.

Oh, Denise Jillson. I didn't see you back there. You're hiding back there.

DENISE JILLSON: Am I? I'm sorry. Good evening.

Denise Jillson with the Harvard Square Business Association, and we would wholeheartedly support the applicant.

We have had such great experience with Patrick and Peter with the other three restaurants, with Grafton and Red Line and Temple.

More importantly, besides the fact they're wonderful operators and community partners, we're excited that are such stable managers that will be in the space because it's such prominent space in Harvard Square, and we're really concerned with the concept that right now it's empty, and we're anxious

for them to get in there and have a wonderful restaurant and make sure that the energy and excitement that is so deserving of upper JFK continues.

So we're hoping that he's going to act soon and maybe we can throw a Christmas party there.

Thank you.

RICHARD SCALI, CHAIRMAN: Thank you, Miss Jillson.

Anybody else want to be heard?

Pleasure of the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER:  
Motion to approve.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Seconded.

RICHARD SCALI, CHAIRMAN: Motion to approve subject to the additional floor plan on the entertainment portion.

ATTORNEY JAMES RAFFERTY: You want us it delineate on the plan where the dancing would take place? I don't if you're going to

anticipate a stage?

PATRICK LEE: No.

RICHARD SCALI, CHAIRMAN: You just need to give us another plan that just shows where that would be?

DANILE TURNER, DEPUTY FIRE CHIEF:

Are you removing tables and chairs to create the dance floor? We just need to know that you have adequate storage space to put those that you're not going to obstruct any exits.

ATTORNEY JAMES RAFFERTY: The

Commissioners still frown about dancing on the tables. There's another Donkey show going on that is bringing back...

RICHARD SCALI, CHAIRMAN: Subject to the entertainment floor plan, 21-Proof training -- actually, you have been through 21 proof.

ELIZABETH LINT, EXECUTIVE OFFICER:

Anyone that hasn't. Mr. Chair, if I may, I know we certainly have no objections to the petition, but with the prior operator or we

had significant problems with the outdoor patio, neighbors upstairs complaining on a very regular basis.

RICHARD SCALI, CHAIRMAN: Okay.

ELIZABETH LINT, EXECUTIVE OFFICER:  
We had to put in controls, music levels and so forth.

RICHARD SCALI, CHAIRMAN: You don't have music on the patio, do you?

PATRICK LEE: There are speakers out there right now. Were the background of those complaints when people were leaving at night or was it during patio hours?

ELIZABETH LINT, EXECUTIVE OFFICER:  
Both. Predominately when they were leaving, but also sometimes the music carried up. So I just want you to be aware of it.

ATTORNEY JAMES RAFFERTY: There are no residences up there, are there?

ELIZABETH LINT, EXECUTIVE OFFICER:  
Yeah, there are. So you're aware of it to avoid a problem.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Maybe they've moved by now.

RICHARD SCALI, CHAIRMAN: Make sure the levels are not audible from 50 feet away.

So that's 62 seats on the street, 62 on the street level, 149 on the lower level, 18 on the patio for a total 229 plus 40 banked.

And these are moved and seconded.

All in favor?

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Aye.

PATRICK LEE: Thank you very much.

**Veritas at Harvard Square, LLC**

ELIZABETH LINT, EXECUTIVE OFFICER:

Application: Veritas at Harvard, LLC doing business as The Hotel Veritas, Benson Willis, manager, has applied for a new all alcoholic beverages as a hotel license and an innholder's license at 1131 Massachusetts Avenue, One Remington Street with an occupancy of 213. Applicant is seeking exemption from resident manager requirement. Applicant is also seeking an entertainment license to include dancing by patrons; comedy show; reading of poetry or other words; live musical instruments and/or vocalists with amplification; audio tape machine/CD which may play music below, at, or above conversation level, and three TVs. Applicant is also applying for a garage license for 18 parking spaces and 180 gallons of gasoline in tanks of cars only.

RICHARD SCALI, CHAIRMAN: I see a

lot of nice ties and suits here and I see a lot of luggage.

Why don't we start with names?

Start over here and go down the line.

ATTORNEY JEFF TOCCHIO: Good evening, my name is Tocchio, T-O-C-C-H-I-O, and I represent Veritas at Harvard Square, LLC.

RICHARD SCALI, CHAIRMAN: Are you an attorney?

ATTORNEY JEFF TOCCHIO: Yes, I am.

BENSON WILLIS: Benson Willis, W-I-L-L-I-S and I'll be the general manager of the Hotel Veritas and I'm not an attorney.

RICHARD SCALI, CHAIRMAN: We won't hold that against you.

MARK BOIS WATSON: Mark Bois Watson, from Bois Watson Architects.

With us Tom O'Connell, who is one of -- he's the general manager of the LLC.

Also Rich Montagál (phonetic) who is another one of our owners.

RICHARD SCALI, CHAIRMAN: Okay.

Where shall we begin?

Tell us about, first your concept and then we'll get into the people's experience and background.

ATTORNEY JEFF TOCCHIO: Excellent. The concept, it's -- if you go to 1131 Mass Ave, the building is currently -- it's been all permitted, it's under construction. What it is, is it's a 32-room boutique, very high-end boutique hotel.

It's got two levels of underground parking, which are poured and are in place, and we've got 17 cars which are going to fit in there, we have got State Fire Marshal's approval already for the storage for the gasoline. We got that in our application.

What we have is, is we also have from Adam Shulman all of the local interdepartmental approvals that are required on that side. All of that was done either as part of the building permit and also just



recently, I'm making sure that we have everything and that's all included in the application that you folks have.

I got some -- the boards, if you would like to see them real quickly, I think they're very helpful because you get an idea of the scale of what we're talking about.

When you see the metal, which is out there today.

RICHARD SCALI, CHAIRMAN: Anybody from the public that wants to see this, can come forward. I don't know if anyone here that wants to see these, but you're welcome to come up here and step by the side.

Anybody here?

ATTORNEY JEFF TOCCHIO: The property is at the corner of Mass Ave, which is in the front, and then also Remington Street, which turns the corner.

What you're looking at right there is where the front door is going to be, kinda like the projection in this area, and I can

show you more details.

And what we've got, again, is four stories and it's 32 rooms that are going to be here.

The rooms on average are about 200 square feet each. They're very small, very, very high level of finish when you go in there. Most of them have queen size beds just -- that's it. We got them actually mocked up because we had to make sure that the furniture and everything would fit into a prototypical type of room.

So it's got lot of advance planning on the front side as to what will fit in there, and we got those done and we're confident we know how everything kinda fits out, so that we can go in and start ordering to fit this hotel.

What you're looking at in one area we got some glass in this corner, which is kind of, you know, a nice element. And what that does is down in the lobby where you go

in, it's going to have a lot of natural light because that's the kinda the southwest corner of the building. So that's going to be a really nice effect.

We had to go through historic for all the approvals for this building, and again, it's through all the processes and it's currently being constructed down.

So, I got this, which actually shows about what the color is going to be. This is back from 2007, you know, this rendering, which is what was approved, and these are the colors.

What is not shown, right in here, you can see kind of a cement or asphalt pad now. The asphalt pad there is going to be an enclosed patio-type of area, which is accessed off of the lobby, and that's just going to be seasonal with some tables and then Mr. Willis can describe how that's going to be accessed, controlled. It will be separated with some type of fencing,

iron-type fencing, with boxwoods, you know, things of that nature.

RICHARD SCALI, CHAIRMAN: Is that with the food and alcohol out there as well?

ATTORNEY JEFF TOCCHIO: There will be, and we can describe to you what we mean by food and alcohol, because we really haven't had a chance other than we did submit the menu and then Mr. Willis can talk about that.

And I would say at the outset, what our primary goal is, what this is about is hotel rooms, very high end, very, you know, just kind of a lux great project with great hotel rooms, and the beverages and the food services is kinda of an amenity to that kinda core thing.

As my client says, we can't do everything. What we want to do is we really want to run a great hotel, get that right and a lot of the other tangential things, they're all going to be run really well in support of

these 32 rooms.

RICHARD SCALI, CHAIRMAN: Is there a restaurant in there? I didn't see a restaurant in the lobby. Is there a lounge in the foyer area, the lobby area?

ATTORNEY JEFF TOCCHIO: Well, we call it a lobby lounge and what I can do is show you on the floor plan.

RICHARD SCALI, CHAIRMAN: I'm wondering where you're serving certain things.

ATTORNEY JEFF TOCCHIO: Sure. What I can do is show -- for all you folks, I'll be showing you the floor plan, and I'll flip it around after I show it to these folks.

Mass Ave, we've got Remington in this area. What we've got is we show the patio, and you will remember I showed the entrance where you come in, and then also the glass. You can see the large glass window.

What we got is this is a lobby which is -- we kinda describe it as an oversized

living room. It would be about one and a half times the size of this building. That actual size of that room is 484 square feet.

So what you see right here with the dotted line -- and I will show you, I've got a rendering of what that looks like -- what it's got is it's got a fireplace, it's going to have a sofa, and it's going to have some club chairs, which are around the perimeter. When I say the 484 square feet, that also includes this little hallway in front of two guest rooms.

So what's going to happen is you're gonna walk in, you've got your front desk is in this area, and then you've got a few steps up to a little higher in elevation, which brings you to the guest rooms.

RICHARD SCALI, CHAIRMAN: No bar?

ATTORNEY JEFF TOCCHIO: No bar. No bar whatsoever.

What's going to happen is in this corner, we've got it basically set out as a

beverage service locked up in cabinets behind this counter. We also have, across from that, like a coffee service which is going to be coffee, tea in the morning, you know different types.

RICHARD SCALI, CHAIRMAN:

Continental breakfast.

ATTORNEY JEFF TOCCHIO:

Continental-type breakfast. And what we're going to do is we're going to have this area as, you know, kind of a, you know, common area where you can actually have a beverage, have also -- and Mr. Willis can talk about -- but actually have food.

RICHARD SCALI, CHAIRMAN: Will there be waitstaff in the lobby area?

ATTORNEY JEFF TOCCHIO: Yes.

Depending on what night or day it is, clear, you know, drinks and things of that nature. Our expectation is that guests are going to go down to the lobby, be able to have food, maybe get a beverage if they would like to,

seasonal, depending on the season. We've got the fireplace.

Also, we've got this patio area, the enclosed area.

RICHARD SCALI, CHAIRMAN: How many seats on the patio, do you know?

ATTORNEY JEFF TOCCHIO: Well, the patio we're estimating for, say, 16 maximum people.

RICHARD SCALI, CHAIRMAN: 16 seats?

ATTORNEY JEFF TOCCHIO: We show 16 seats here. So I would say 16. It could be less. We don't expect more by any stretch. And, again, that's seasonal.

RICHARD SCALI, CHAIRMAN: No music or entertainment on the patio?

ATTORNEY JEFF TOCCHIO: We say no. What we did was we actually -- if you look at the liquor license and said "Are you going to ask for an entertainment license," we said no, but when we filed the --

RICHARD SCALI, CHAIRMAN: You filed



a lengthy application which I was concerned about.

ATTORNEY JEFF TOCCHIO: Well, we did at the time, but the person who was filing it was told you can't have like a television in the lobby.

RICHARD SCALI, CHAIRMAN: You can put your categories on the license.

ATTORNEY JEFF TOCCHIO: They said be overly inclusive and then, obviously, we can talk about it.

RICHARD SCALI, CHAIRMAN: On the patio, are you going to have like background music out there, but no entertainment out there, right?

BENSON WILLIS: That's correct. It's really meant to be just a quiet place for someone to enjoy a cup of coffee, or if it's a guest that wants to work on a laptop or something. It's not meant to be an entertainment space at all.

ATTORNEY JEFF TOCCHIO: No stage in

doors.

RICHARD SCALI, CHAIRMAN: No  
function rooms.

ATTORNEY JEFF TOCCHIO: No, no  
function rooms?

RICHARD SCALI, CHAIRMAN: No meeting  
rooms?

ATTORNEY JEFF TOCCHIO: No, no  
meeting rooms, no function rooms, and then  
that's -- if anything downstairs maybe inside  
an acoustical guitar and a stool. We're  
thinking like a poetry-type reading. Maybe a  
historian who gives a talk about the history  
of Harvard Square or something, but it's that  
type of low-key amenity that we want.

RICHARD SCALI, CHAIRMAN:  
Nonamplified type of stuff?

ATTORNEY JEFF TOCCHIO: Correct.  
Absolutely correct.

RICHARD SCALI, CHAIRMAN: No  
dancing?

ATTORNEY JEFF TOCCHIO: Correct.

BENSON WILLIS: No comedy night.

RICHARD SCALI, CHAIRMAN: No comedy night.

All right. So let's go through -- why don't you go through this with Mrs. Lint and cross out what you don't want.

You're just looking an acoustical one or two piece --

BENSON WILLIS: On a rare occasion.

RICHARD SCALI, CHAIRMAN: -- background music.

How many TVs?

BENSON WILLIS: No TVs. We'll wire for in case there's some type of an event that we need to bring a TV out for, but on a daily basis there will not be a TV in the lobby.

RICHARD SCALI, CHAIRMAN: No comedy shows or dancing by patrons?

BENSON WILLIS: Correct.

RICHARD SCALI, CHAIRMAN: Live music is acoustical without amplification.

BENSON WILLIS: Correct, occasional.

RICHARD SCALI, CHAIRMAN: That all sounds much better.

ATTORNEY JEFF TOCCHIO: The advertisement sounded.

RICHARD SCALI, CHAIRMAN: I thought there would be a dance club in the lobby. It sounded too high end for me.

ATTORNEY JEFF TOCCHIO: So with respect to that, that's a first floor you can. We've got the food service area.

As part of the application, we actually provided more of a detailed blow-up of that area.

May I ask if it's appropriate we can --

RICHARD SCALI, CHAIRMAN: One other question about the patio. Are there a number of different patios upstairs, are they private patios off the rooms?

ATTORNEY JEFF TOCCHIO: There are two private patios starting with the second

floor, third floor and then fourth floor. The sizes of those -- those are relatively small, and I can -- just give me a second, I'm just gonna --

RICHARD SCALI, CHAIRMAN: Are they for those people that are in those rooms?

ATTORNEY JEFF TOCCHIO: Yes.

BENSON WILLIS: There are several that are small from 60 square feet, and then I think the largest is maybe 200 square feet.

There is one common patio, terrace that is for the guest use, for the people that don't have their own private terraces.

Again, that's going to be no piped-in music. Nothing at all out there.

RICHARD SCALI, CHAIRMAN: No food or alcohol out there?

BENSON WILLIS: We are hoping to be able to provide our guests, if they do want to have a glass of wine outside that we would certainly be able to serve them.

The guest rooms do not have mini

bars so that will certainly help us control the beverage consumption or the beverage service. So, they will call down to the front desk and we would be able to deliver them a glass of wine if they're eating outside or a cheese plate or charcuterie, something like that.

It will certainly will have security cameras, so after they leave we'd be able to see that they're gone and be able to clean or clear out their dishes and glassware.

But, again, a fairly small -- I think that's 300 square feet, and meant to be sort've deck chairs rather than cafe chairs and tables, that sort've thing.

RICHARD SCALI, CHAIRMAN: Tell me about your food.

BENSON WILLIS: It's minimal food service. Again, since we don't have a full service restaurant, the pure purpose of it is to provide an amenity to our hotel guests, if someone's checking in late and they don't

want to travel out somewhere.

So the food service is all going to be -- it's going to be prepped in advance. So things like --

RICHARD SCALI, CHAIRMAN: No kitchen?

BENSON WILLIS: No kitchens and no -- we'll have a microwave, we might have a Panini press, something like that, but it's all meant to be fairly simple and very easy to execute for whatever staff might be working.

RICHARD SCALI, CHAIRMAN: No cooking, no smells coming out?

BENSON WILLIS: No cooking, no smells. Well, smelly cheeses I can't really account for. It's all meant to be very simple, small tapas servings.

So it's going to be -- we'll be able to serve that through room service and also through -- in the lounge itself.

RICHARD SCALI, CHAIRMAN: And I'm

going quickly. We're trying to get through the list of things.

You've got your abutter notifications, okay?

Trash pickup? All done? Inside? Outside? Where is that done through?

BENSON WILLIS: It's being done on the side of the building. We haven't finalized with our trash purveyor yet. We're still working on exactly who it's going to be.

RICHARD SCALI, CHAIRMAN: From the Remington Street side?

BENSON WILLIS: It's my understanding.

MARK BOIS WATSON: Out of the garage.

RICHARD SCALI, CHAIRMAN: Out of the garage. The pickup will be in the garage and then out so nothing will be taken --

BENSON WILLIS: Right. So that's what we just have to figure out if the



service is going to be providing that, but that is going to be done.

RICHARD SCALI, CHAIRMAN: How many cars in the garage?

BENSON WILLIS: 17.

RICHARD SCALI, CHAIRMAN: All for patrons?

BENSON WILLIS: Correct.

RICHARD SCALI, CHAIRMAN: Charging them to park?

BENSON WILLIS: Yes.

RICHARD SCALI, CHAIRMAN: All right. Sorry to go really fast, but I have a list of things to ask.

ATTORNEY JEFF TOCCHIO: On the decks we got all the other privates, two of the privates that are facing over near 1137, we've got the plans to provide arborvitae, a screening around the edges.

Also, for the one which is on the back corner on Remington Street, we'll also -- we'll do the same. We're talking about a

six foot arborvitae in planters lining the edge.

RICHARD SCALI, CHAIRMAN: On the ground level of the building?

ATTORNEY JEFF TOCCHIO: No. Actually, on the deck, so, you know, providing a screen, which is up there, so when you're down on the street looking up, up three levels you will see arborvitae. They're kind of a hedge rowy look.

When you're actually up there, you're going to come out and you're going to be -- you will have green out, about and around you. And that's -- comments were made even early on, residential neighborhood when you go back there, so that's...

RICHARD SCALI, CHAIRMAN: So there going to be a pretty view back there, so residents on Remington --

ATTORNEY JEFF TOCCHIO: Opaque, if you will, it will look nice, but not --

RICHARD SCALI, CHAIRMAN: I'm sure

they have other opinions about the view.

ATTORNEY JEFF TOCCHIO: The concern is not to have folks up there having a glass of wine looking out into other neighboring, you know, abutting buildings. So, it's a tight neighborhood and that's something that we need to actually do.

RICHARD SCALI, CHAIRMAN: Questions of the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER:  
No questions.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Cab issues?

RICHARD SCALI, CHAIRMAN: Hotels are not part of the cab.

ATTORNEY JEFF TOCCHIO: Correct.

RICHARD SCALI, CHAIRMAN: Tell us a little bit about you and the owners and who you are because I don't think we really know anything about you.

MARK BOIS WILLIS: I've lived in Boston for the past 22 years, so I'm anxious

to be on this side of the river. Always working -- primarily working in hotels and restaurants.

My longest tenure I was at the Four Seasons Hotel for about six years, a combination of front desk and accounting.

Also worked for a number of small restaurant and hotel groups. Worked for Mistral as the controller. Worked for 15 Beacon on Beacon Hill, I was the guest services manager.

I worked for Radius on the front of the house, the floor manager side of things, and I ran Beacon Hill Hotel and Bistro, which is a small hotel right on Beacon Hill, right on Charles Street, a wonderful place.

And most recently, I was at the Bullfinch Hotel, which is in the west end near North Station. I was general manager there immediately before this job.

ATTORNEY JEFF TOCCHIO: And the owners, they're the developers of Marina Bay

over in Quincy, which is residential, beautiful boardwalk, you have restaurants, all different waterfront amenities, office buildings.

They also are the primary developers of the Granite Links Golf Club, which is in the City of Quincy, in the Town of Milton, they're there pursuant to 50 year land lease.

What happened was the family went in and closed their municipal landfills. So they actually worked in all the financing so that a private group could do this, go in and get the long-term land lease, they built athletic facilities, both for Quincy, also for Milton. They have now got 27 holes of golf, revenues are shared between those private developers, also with municipalities, they have got a 43,000 square foot clubhouse, which also has function facilities. It's absolutely magnificent. That's been a huge, huge success for the City of Quincy, and those are just some examples of some of the

more high profile projects that they have been involved in. They also --

RICHARD SCALI, CHAIRMAN: Anything in Cambridge?

ATTORNEY JEFF TOCCHIO: No, not yet.

RICHARD SCALI, CHAIRMAN: One of the owners is a Cambridge resident, though, right?

ATTORNEY JEFF TOCCHIO: Yes.

Actually, one of -- well, one of the owners owns one of the units over at -- well, let me put it this way: One of the owners has 1137 next door, also Rich Montagal, who is also one the owners is -- if I read your birth certificate -- how many years?

RICH MONTAGAL: 49. Born and raised in Cambridge.

RICHARD SCALI, CHAIRMAN: So you know Cambridge pretty well.

RICH MONTAGAL: I know Cambridge pretty well.

ATTORNEY JEFF TOCCHIO: The

ownership of broad base what we tried to do is really get an understanding of -- getting to know the neighborhood.

We're really excited about having the opportunity to kinda of extend some of the tourist traffic down that side of Mass Ave out of the square.

Promotions that we're talking about now include having actual people come in on shopping tours of Harvard Square, where we'll talk to -- we can actually talk to merchants and offer some type of shopping experience with gift certificates, credits, things of that nature, but that's something that we're looking to do from our perspective, and you can just see it from the name of the hotel. We view Harvard Square as a huge amenity, a huge upside. We're making a really large investment, and a lot of it is based on the solidity of the neighborhood and just the quality of the neighborhood, and the quality of the square. And what they're going to do

if you start to see their marketing materials, it's all -- it really is prominent on the square and this property's position in the square.

RICHARD SCALI, CHAIRMAN: You want to be on Miss Jillson's concierge's tour, I'm sure. She's probably got a long list of things --

ATTORNEY JEFF TOCCHIO: Next year, yes. The timing will be perfect.

RICHARD SCALI, CHAIRMAN: Assuming we approve of.

ATTORNEY JEFF TOCCHIO: Exactly. Otherwise we'll have something built which is going to be beautiful.

RICHARD SCALI, CHAIRMAN: All right. Why don't we give anybody in the audience a chance to speak.

Anybody want to speak? This lady right here.

VIOLET THOMAS: Hello. My name is Violet Thomas and I live on Remington Street,



No. 14.

RICHARD SCALI, CHAIRMAN: 14  
Remington Street?

VIOLET THOMAS: 14 Remington Street.  
First of all, I think the hotel does look  
very beautiful. It's a lovely thing. My  
main concern, of course, is noise, and  
outside patio. And I would have preferred if  
all of that was on Mass Ave, so that the  
noise would have carried over onto Mass Ave  
where it gets drowned rather than facing  
Remington, which is a very quiet street.

Seeing, of course, your application  
for an entertainment license brought me here.

RICHARD SCALI, CHAIRMAN: My heart  
stopped when I read it, too.

VIOLET THOMAS: It was a pretty  
scary description because from a very small  
hotel, it seems that it morphed into the  
Middlesex Lounge or the Hong Kong, with a  
Karaoke, et cetera, and when -- are there  
going to be crowds of people drawn there?

I have one question regarding the patio. How late might people be out there making even what has been considered just conversational noise?

ATTORNEY JEFF TOCCHIO: Benson, can you address that?

BENSON WILLIS: We have not set a certain time frame yet. Obviously, with it being very close to hotel rooms as well, obviously we're cognizant of our neighbors, but we're also concerned about our paying guests. But we need to make sure that we're monitoring that noise.

We don't have a set time. We're certainly open to think of what is an appropriate time.

Again, the guests if they're enjoying a quiet evening out on the porch, if they're not speaking --

VIOLET THOMAS: And there was the issue of background music noise.

BENSON WILLIS: There's absolutely

no music that's going to be on that patio.

MARK BOIS WATSON: What we did with the patio location, we have to be adjacent to our lobby, but actually it's more facing the Dolphin, it's at that end because if you look at the lobby, the lobby is closest to the residential part of Remington, and we tried to keep that patio as near Mass Ave as works.

VIOLET THOMAS: Sometimes there are funny things that happening, though, with the acoustics outdoors and it could reverberate against the tall brick building in a funny way.

RICHARD SCALI, CHAIRMAN: Part of our rules state that nothing can be heard from 50 feet away from the outside premises. You got to maintain that's the rule. That's our -- decibel levels, we have to have decibel levels. It's an automatic rule.

Anybody else? Ms. Nathans?

JANE NATHANS: I have some questions. Can you discuss the resident

manager exemption and also what you think about it?

RICHARD SCALI, CHAIRMAN: Actually you don't have anyone living there, right?

BENSON WILLIS: Right.

RICHARD SCALI, CHAIRMAN: Most hotels don't. I think it's on the application. You just probably checked that off for some reason. I'm not sure why.

ATTORNEY JEFF TOCCHIO: Correct. Yep. The way that you folks put it together, it's kinda that's the definition, and then right on the form, it's asking for a waiver from it, and it's not in our business plan to actually have the manager be on site.

What will happen is Mr. Willis is the general manager. There will also be -- in his hours are going to be kinda business hours, if you will, then what we do is we have a second manager, and then there's even a third manager that kinda is in on gap times.

The absolute, and I asked all these questions because I want to understand how they put this together, the absolute lowest number of people in the dead of night on a Monday night or whatnot, there will be a desk manager and a house -- what do you call it?

BENSON WILLIS: A house person. So this person is doing laundry and that sort of thing, but they'll also be walking the halls and making sure that there is not any issue going on upstairs.

ATTORNEY JEFF TOCCHIO: That's lowest persistent level, and that number kinda swells up while you have -- you got housecleaning services, and depending on time so it flex es between 2:00 and --

BENSON WILLIS: It will be up to maybe eight or nine people on staff at one point if all the managers have to be there if it's a busy check-in day or check-out day that sort've of thing.

JANE NATHANS: Thank you. In terms

of these 16 seats on the patio, then there are -- if guests would like a drink in the lobby, it would be just the number of seats in the lobby, so it would be that, plus that and then off season, which is very short around here, those 16 seats would just go into storage or -- and they just simply wouldn't be used?

BENSON WILLIS: Correct.

JANE NATHANS: Now, can the public come in and ask for a drink, or is it only hotel guests?

ATTORNEY JEFF TOCCHIO: I'm going to address that, and ask you folks, when I look at all the state statutes, the whole innkeeper, you know, the laws talk about, you know, here comes the wayward stranger who's looking for overnight accommodations, you know, a beverage and food of sustenance.

JANE NATHANS: I'm thinking about the inn at Harvard which went through a long process.

RICHARD SCALI, CHAIRMAN: Right.

But we had a condition on the inn at Harvard that the service would be guests only, and guests of guests, I guess, but that really never materialized, I guess, as well as we had thought it would, where people from the public can come in and have a drink. It really hasn't become a big issue.

But, I think, under a hotel license, unless we place an exemption on it, it would be for the public coming in as well.

ATTORNEY JEFF TOCCHIO: I didn't pick this up, but this is actually a rendering of the size of the lobby, it's really small, really intimate.

And if someone comes up and says, you know, "Hey, I heard your place is just wonderful. It's a great place to relax and I'm going in the corner to have a drink and read a book and whatnot," we wouldn't discourage that. If it was somebody coming in saying, "Hey, I'm here to drink." That's

not the type of clientele that we want to have anything to do with because it's not what we're creating here.

If we cannot have that, that restriction, we think that would really work very well with our business plan.

JANE NATHANS: Well, I own property across the street, and I don't live in it anymore, and I wanted to know if I could come in and get a cup of coffee.

RICHARD SCALI, CHAIRMAN: Sounds like you can.

JANE NATHANS: Is the kitchen -- it would be for room service, that would be 24 hours, but it's really just everything is prepared so it's quite limited?

BENSON WILLIS: Exactly. It's extremely limited, sort've of our mantra has been whatever we do, we want to do it really well. So we don't want to serve a particularly bad sandwich. We're not going to have (inaudible) serve croissants or



something like that.

So the food quality has to be extremely high, so we want it to be good and quick and easy for the staff to be able to execute, and that will be available through room service or through the lounge.

JANE NATHANS: How long were you with the Beacon Hill Hotel?

BENSON WILLIS: I was there for about two years.

JANE NATHANS: I know somebody I can ask about you.

RICHARD SCALI, CHAIRMAN: We'll find out the dirt.

JANE NATHANS: Well, I thank you for answering all of the questions. I just want to -- since this is the first time the project has been before the License Commission, I would just briefly like to say is that I've been to every single public hearing on this project for obvious reasons, and this project is always characterized by a

complete lack of communication with the surrounding neighbors.

And as I was standing against the wall, I spoke to someone from 1137, and I said, "Did they get in touch with you to tell you about this and about the hearing?"

And he said, "No. Nobody got in touch with me. I'm actually not even on your abutter list, which I was for the other boards."

So my concern as a property owner and for the fact that you folks are very well aware of how deceptively residential that neighborhood is, is that there really is a great lack of communication between the people who are proponents of this project and the things they want to do and the surrounding neighbors.

And again, I read the description where everything had been checked off and missing Dancing with the Stars because, yet again, this project has made me waste my time

and come over here to see exactly what these folks are doing.

And I want to thank you, the Board, for doing your job and asking the right questions at the beginning and getting that -- all of these requests clarified.

But just to put the flea in your ear is that if there are problems, there has not been sufficient communication, and I would like to see that remedied in the future.

The project appears to be of very high quality. They tore down buildings that I hated to see go, but time matches on, and this is what we have now, and I want it to add to the neighborhood and really show that end of Harvard Square as the real gateway to Harvard Square, which it's been known as for about a hundred years, but really hasn't acted as.

So, I have no specific -- I think this is good. I am very pleased with what I heard here and --

RICHARD SCALI, CHAIRMAN: You know you can always complain to us.

JANE NATHANS: Yes, I do know your phone number.

RICHARD SCALI, CHAIRMAN: In terms of being -- we hold hearings very regularly, you know our history here, so it's not a matter of it going unnoticed if there's a problem.

JANE NATHANS: But I just wanted to put the flea in your ear.

RICHARD SCALI, CHAIRMAN: Sir, come forward.

Let's take this lady right here.

I'm sorry. Come forward.

JOY BONSIGER: No, no. That's okay. I'm Joy Bonsiger (phonetic). I'm an abutter. I'm at 9 Remington Street. And I kept my kids up because this looked like a very important conversation to be having.

I've got a number of concerns, but I'm sort've piggybacking on what my neighbor

was saying.

This was really the first time I had heard anything about outdoor space that's actually going to be looking over my backyard and over my children' bedrooms and, in fact, the upper deck will be looking down on my children's bedrooms.

RICHARD SCALI, CHAIRMAN: Are you right behind on the Remington?

JOY BONSIGER: On Remington. I'm the house right next door.

So, and, in fact, when going into initial negotiations with regard to the abutters agreement, I was told over and over and over that there would be no outdoor space.

So the first I heard of this was through another neighbor several weeks ago. I was not engaged in any conversation about this. In fact, I've had troubled communications with them over the last year or more, and have asked on numerous occasions

to get help with that and have not had help forthcoming.

I'm really concerned about what things are going to look like going forward, both with regard to licenses, but also with regard to the use of outdoor space, and I don't have a tremendous amount of confidence in their capacity to negotiate around issues.

I'm not really sure -- I don't have even have a recommendation, but --

RICHARD SCALI, CHAIRMAN: Your concern is primarily, obviously, what you're looking at from your window, and what is going on that side of the building in terms of patios off balconies and that kind of thing or --

JOY BONSIGER: Noise off of balconies, noise, our privacy. This is going to dramatically impact our quality of life, and I wasn't -- no one called me and asked me what this was going to be like for us and whether I had concerns.

RICHARD SCALI, CHAIRMAN: Did you guys have a neighborhood meeting or anything? This has gone through a very long process, but normally, there's neighborhood meetings or even -- or business association.

JANE NATHANS: They're encouraged at each public hearing during the development process and it didn't happen.

RICHARD SCALI, CHAIRMAN: Didn't do that, huh?

ATTORNEY JEFF TOCCHIO: During the approvals these were discussed.

RICHARD SCALI, CHAIRMAN: Did you go before the Harvard Square Business Association? Did they come to you, Ms. Jillson?

DENISE JILLSON: They're members of the association.

MARK BOIS WATSON: It went through the main -- it went through the Planning Board and the Board of Zoning Appeals, so there were lots of meetings.

Decks were always indicated on the drawings, up on the upper stories, so they aren't new, but you know what that is like going through this process. So it was awhile, I think it was, you know, roughly five or six months, and we actually had a subsequent meeting that I attended with the abutters at 1137, and they were actually supposed to be talking about some of the private terraces that are down on the second floor because they actually are quite close to 1137, and we agreed to do some screening to mitigate.

It's not been no communications. You can never have enough communication.

RICHARD SCALI, CHAIRMAN: It's just helpful sometimes. I know we encourage that they go to the neighborhood organizations and groups. It dispels a lot of misconceptions. It's more helpful than harmful I've always found. Water under the bridge now, I guess, at this point.



But this lady is concerned, I guess, about that patio process and noise coming from the patios which we asked about before.

ATTORNEY JEFF TOCCHIO: And, again, the arborvitaes that we actually talked about --

RICHARD SCALI, CHAIRMAN: It sounds like you have very small rooms with probably, what, one or two people in each room, so it doesn't sound like a lot of parties going on in those rooms. I think they're small. And there's no entertainment. You might have one or two people out on the patios that may or may not be associated with that one room, right? Except for that one --

ATTORNEY JEFF TOCCHIO: Right. That one will be like kind of a common patio. So if you're staying in the hotel, you may walk through the door and go out there. Again, you're going to walk out, but there will be seating, there going to be the arborvitaes that are in place.

What we did is we was figured that we do the arborvitaes because of what we offered to do over here next -- this is the 1137, their properties are over in here, you know, it's three stories up, and what we can do is screen it, control it. We don't envision it going to be used beyond what somebody in a residential neighborhood if they want to go out on their rear deck and have a drink and converse with somebody, that's --

JOY BONSIGER: Somebody in the residential neighborhood originally asked for a variance would have had to told their neighbors that they wanted a variance for a porch or patio outside, and that would've been fully informed and there would have been conversation about that, and I could've gone to that hearing and said, you know, "I approve of the building, but I really don't want the deck."

There was no opportunity to have any

kind of a conversation about that, so I don't think that's a fair comparison.

ATTORNEY JEFF TOCCHIO: It has been permitted when they went through the entire permitting, whether it's historic, with, you know, the Zoning Board, they passed in all the green cards. It's there. It's being built. It has been approved.

The opportunity to attend a public meeting and comment has occurred.

RICHARD SCALI, CHAIRMAN: Not really. You have to get through us first. We're the end of the line, but we're not the total end of the line. All these things can be discussed.

Is there anything else you want us to know while you're here?

JOY BONSIGER: No.

RICHARD SCALI, CHAIRMAN: Anybody else want to speak?

This gentleman over here wants to speak.

Can you come forward?

GABRIEL TANNENBAUM: Sure. Yes.

RICHARD SCALI, CHAIRMAN: Hi. Tell us your name.

GABRIEL TANNENBAUM: Gabriel Tannenbaum. I live at an abutting residence. I had the opportunity to say hello to these gentlemen representing the hotel before the meeting and I found them to be very cordial. I'm also concerned about what my neighbor has to say.

RICHARD SCALI, CHAIRMAN: What is your address?

GABRIEL TANNENBAUM: Bradford Hall, 1137 Mass Ave.

So, the two things I thought of during the course of the hearing was one with respect to the times that alcohol could be served. I think Mr. Willis was asked the question when could folks be out on the patio, which to me also means, you know, when could they be out there with alcohol.

He said, "Well, we haven't yet considered that." And per the application --

RICHARD SCALI, CHAIRMAN: He will have to consider that before we can approve it. He will have to tell us.

MARK BOIS WATSON: I didn't mean to imply -- I say that in the spirit of clarification --

GABRIEL TANNENBAUM: I wonder if perhaps that could be clarified before the end of the hearing.

And secondly, a lot of the concerns I hear, I think, are as a result of lack of communication and some problems may be -- folks will just have to agree to disagree, and that's inherent in the profit making business versus the just kinda living in the residence business and I respect everybody's right, including mine, to do that. I suggest or request that maybe going forward we find some sort of a mechanism so that people are informed of these decisions to be to the

extent that the horse is not out of the barn and maybe we can alleviate this sort of thing in the future.

I represent only myself, but I would be happy to participate in that process, you know, with my own interests in mind, but it might help everybody to live together in a neighborly way.

That's all, Mr. Chairman.

RICHARD SCALI, CHAIRMAN: Thank you very much.

GABRIEL TANNENBAUM: Thank you.

RICHARD SCALI, CHAIRMAN: Anybody else?

JUAN ALONSO: My name is Juan Alonso. I live on Remington Street.

RICHARD SCALI, CHAIRMAN: Your name again?

JUAN ALONSO: Juan Alonso, J-U-A-N, A-L-O-N-S-O.

RICHARD SCALI, CHAIRMAN: And your address?

JUAN ALONSO: 14 Remington Street.

I was wondering about the air conditioning units and where they're pointed.

RICHARD SCALI, CHAIRMAN: Very good question.

Tell me, they're inside somewhere.

MARK BOIS WATSON: The one cooling the room, but they're on the roof of the building.

JUAN ALONSO: On the roof.

JOY BONSIGER: Near the 1137 building?

MARK BOIS WATSON: They are located as close to the Mass Ave as we can get them without having them be in full view over the cornice, and I'm not sure we know exactly how many there are yet, that's the final engineering, but that's where they are, which is where they have always been through the process.

We don't have any ground level air conditioning.

RICHARD SCALI, CHAIRMAN: Are you familiar with our noise ordinance? You know you have to meet the decibel level at all times?

MARK BOIS WATSON: Yes.

RICHARD SCALI, CHAIRMAN: I'm sure you have the most modern up-to-date HVAC system that probably has a tested decibel level, I hope.

MARK BOIS WATSON: Whisper quiet. We also have the ability to screen them and obviously work to meet the ordinance.

RICHARD SCALI, CHAIRMAN: You have to meet the ordinance.

Ms. Fraey right here and then Ms. Jillson.

ERICA FRAEY-HASEGAWA: I'm Erica Fraey, 1137 Mass Ave.

RICHARD SCALI, CHAIRMAN: Your name?

ERICA FRAEY-HASEGAWA: Erica Fraey,  
F-R-A-E-Y-hyphen-H-A-S-E-G-A-W-A:

My concern really is about if we can



firm up the alcohol situation because my unit is just within inches of where the proposed patios would be. I'm in one of the corner units, 26, and the paintings or drawings are lovely.

We were actually invited to a meeting a year ago, just a few of us went, but we were really impressed and very enthusiastic.

I think just over the course of a year we've been quite disappointed with the gap in communication and sticking to production schedule.

I believe we've asked on numerous occasions for just updates, you know, just how it's going. We understand it's New England, weather restricts production, but I believe the original deadline was supposed to be this month, and when we've asked, you know, just for more details, for production schedules, it's been like pulling teeth.

So this kind've gap in communication

would be helpful just to be kind've, you know, kept abreast.

ATTORNEY JEFF TOCCHIO: Right.

ERICA FRAEY-HASEGAWA: Because I do hear -- I get my updates from the construction workers because my bedroom is just a few feet away.

RICHARD SCALI, CHAIRMAN: They knock on your window and give you an update or --

ERICA FRAEY-HASEGAWA: No. I hear their conversations if my window is open, and even when it's closed. So I'm just one of those very concerned about sort've are they going to be drinking until 10:00, or 2:00 in the morning.

And then also I was curious about smoking. I don't know if that ties in with the alcohol.

RICHARD SCALI, CHAIRMAN: No smoking on patios.

MARK BOIS WATSON: Exactly.

ERICA FRAEY-HASEGAWA: That would

definitely come right into my bedroom.

RICHARD SCALI, CHAIRMAN: No smoking by city ordinance on the outside patios.

Why don't we talk about the alcohol hours right now, okay, because we have a lot of patios in the city that have different time frames. Some of them stop at 10:00, some of them stop at 11:00, some stop at 1:00.

Most of our patios don't go past 1:00 a.m. in our city. So, I guess, maybe you may want to think about what it is you want to provide to your customers, whether, you know, 10:00 p.m., 11:00 p.m., midnight is appropriate. I don't know. I guess you need to come up with your idea about what entails and, of course, if you do do that, it has to be completely enclosed so people can't leave with the alcohol from that patio. I think you probably need to discuss that and decide what you want to do.

ATTORNEY JEFF TOCCHIO: Do you have?

BENSON WILLIS: Yeah. I mean, certainly the intent is to have a very quite well-run hotel. So the outside patio, the common patio, certainly putting some type of hour restriction on that and locking the door at a certain hour is absolutely something I'm comfortable with. It would be nice if all our guests behaved, but sometimes --

RICHARD SCALI, CHAIRMAN: They talk loudly or, you know...

BENSON WILLIS: Exactly. We're certainly very open to locking the patio at a certain hour. You know, what hour is that, it's 11:00. I'm certainly comfortable with doing an 11:00 close on the outdoor patio, the one upstairs. And then, again, on the Remington Street side, again, we've got guest rooms right above that as well, so we don't want to be having a loud gathering right below our expensive guest rooms. The intent is to keep it very low-key.

RICHARD SCALI, CHAIRMAN: You think

11:00 p.m. is reasonable? Is that something you want to talk about or something you want to decide now? I'm not sure what --

BENSON WILLIS: Yeah, I think --

RICHARD SCALI, CHAIRMAN: It's 11:00 p.m.?

BENSON WILLIS: 11:00 p.m. is certainly fair and reasonable.

RICHARD SCALI, CHAIRMAN: Does that sound reasonable to people in the audience?

TINA DASZ: I have some responses to include a time.

RICHARD SCALI, CHAIRMAN: Why don't you come up then.

Did you want to say anything else?

ERICA FRAEY-HASEGAWA: No.

RICHARD SCALI, CHAIRMAN: Come on up.

TINA DASZ: My name is Tina Dasz, D-A-S-Z. I'm one the trustees and owners of 1137 Mass Ave, and I'm facilitating the delivery of five or four responses this

evening from owners that could not be here or have requested that I read their responses into the record.

And please bear with me, these responses are based on the very broad application that was filed, but most of it still is pertinent.

The first item I have is a memo with 12 signatories, plus myself. Would you like me to read the names of the people who are on this?

RICHARD SCALI, CHAIRMAN: Are you going to submit a written copy of it?

TINA DASZ: We're submitting --

RICHARD SCALI, CHAIRMAN: Yeah. If you can just say that they're residents, we can put them on the record.

If you want to paraphrase for them, that's okay, too.

TINA DASZ: I would like to go ahead and just read it. Thank you.

I am a signatory to this one.

"Please allow this submission to reflect the support of our future neighbor, the Hotel Veritas, and also to convey our concerns regarding portions of their application for approval this evening.

We are all owners at the residential building at 1137 Mass Ave directly abutting the 1131 Mass Ave and physically attached at one section. While some of us reside there, others of us rent our units mostly to students attending universities in the area, but also to folks not wishing to be in the heart of the square where bars and entertainment already exist.

One of our concerns relates to the applicant's request for noise producing entertainment proposed to extend until 2:00 a.m. seven days a week.

While we submit that the hotel is the positive addition to the neighborhood, the prospect of noise producing entertainment was never made part of the initial

application of this project for the project's approval with the Planning and Zoning Boards, and with the configuration of hotel room decks and how the outdoor patio seating proposed at this property, our fear of noises of any kind emanating from these locations will already have a negative impact on the quality of life for the residents of our building, especially those located on the side of our building, which is only a few feet and inches from the hotel and even attached to one location.

The granting of this application could clearly impact the desirability of the units in our building, the future tenancy, as well as resale value.

Another concern raised has been additional traffic and diminished available parking for our residents and neighboring residents by those visiting the hotel's proposed bar.

Again, if that was our



understanding, this is the response.

We are mindful that the hotel's application also mentions their underground parking facilities, however, we assume these few spaces will be provided to registered guests and not for hotel visitors.

Although we wish the hotel success in its venture, we wish to remind the Licensing Board that they have chosen to locate this project in a density populated residential area, and that this only recently disclosed proposal use of their property will directly impact the residents' comfort and quality of life.

We therefore request that the Licensing Board review the concerns from the abutting residents' perspective and not the grant any noise producing entertainment beyond 10:00 p.m. on any night, and preclude any noise producing entertainment on the patios and deck areas."

RICHARD SCALI, CHAIRMAN: Thank you

very much. I think most of the questions have already been answered on that.

TINA DASZ: It really has. But, again, I'm not at liberty to alter any of this.

RICHARD SCALI, CHAIRMAN: Great.

TINA DASZ: The next submission is from Miss Ann Peter, owner of Unit 6 at our building.

"Unfortunately due to illness, I will not be able to attend the hearing scheduled for 6:00 p.m. today.

I am the owner of Unit 6 and 7 Bradford Hall, a combined unit.

Please, would be kind enough to consider my requests that, number one, the application for an entertainment license be reviewed due to the potential noise and nuisance that this will cause the residents of Bradford Hall and other abutters as shown on the floor plans. There's only a small lobby lounge area, 16 seats, in which indoor

entertainment can take place.

As shown on the City of Cambridge property plan, Veritas Hotel is very close to Bradford Hall and is actually attached to it at one point right onto my condo unit."

She's on the first floor.

"Where there is also a hotel deck on the second floor many of the residents of Bradford Hall are working professionals, students or members of faculty who will directly be disturbed by potential noise entertainment in the building.

Number two: The application for a liquor license be delayed and/or severely restricted. The hotel is not complete and it's very unlikely that it will be complete by the date given in application, November.

Any minimum the Commission should wait until it has been completed and been shown to be competently managed before considering granting a liquor license.

My confidence in the owners is not

high based on the fact that they have been in breach of the construction mitigation agreement that they signed with the Bradford Hall Association Trust and have been reluctant to respond to our issues.

Furthermore an application for a liquor license for such lengthy periods, 18 hours a day, seem excessive and could lead to drunkenness and rowdiness.

Please see some further points and questions in support of my request.

Entertainment License: Why is this necessary? This is a small luxury hotel with very limited lounge and lobby space and no restaurant. There's a great deal of entertainment in the immediate area of Cambridge. And it appears that the noise and disruption of entertainment in the hotel itself would be a nuisance rather than a benefit to the hotel residents.

The hotel has 32 rooms, but the maximum occupancy is shown as 213 in the

application for lodging house or innholder's license. This is an average of 6.6 persons per room, which is unrealistic.

The types of entertainment specified in this application, dancing, live music.

And the occupancy number leads to the conclusion that is the applicant's expectation that there going to be a number of entertainment 'patrons,' who are not residing at the hotel.

The coming and going of nonresident patrons to attend entertainment would increase the noise and nuance to the abutters.

Liquor License: The application is for a restaurant/victualer liquor license; however, there is no restaurant shown on the plan. The quote 'kitchen' is only 65 square feet and it is equipped with ice maker, refrigerator, microwave and dishwasher. The menu submitted shows a few 'finger food.'

There are several restaurants within

a few yards of the building that are open late and that have liquor licenses. There is a convenience store that sells wine and beer and snacks.

Are the outside patio and the three decks considered to be common areas on which liquor can be served and consumed? If so, it should be noted the hotel decks overlook the abutting residential properties on Remington Street and 1137 Mass Ave. In fact, one of the decks is actually attached to Bradford Hall. The potential for disturbing the residents is considerable.

Also, there is potential fire hazard of those who have consumed alcohol, also those who smoke cigarettes and are careless with lighted cigarettes and matches.

Management Issues: There is no resident manager. The manager resides in Boston.

Respectfully submitted, Anne Peter."

RICHARD SCALI, CHAIRMAN: I think

the only question in that particular letter had to do with the occupancy of 213.

MARK BOIS WATSON: Right out of the building code. We just --

RICHARD SCALI, CHAIRMAN: That's not room occupancy. Talking about people in the building walking around and common areas space and all that.

MARK BOIS WATSON: The reality is that there's going to be that there's 60, 80 people in the building on a really busy moment.

But we used just in the application, we used the potential occupancy the building code number. It sounds inflated. That's not how many people who actually will be in the hotel.

ATTORNEY JEFF TOCCHIO: That's so many square feet per human being.

MARK BOIS WATSON: It's based on a square footage. If you add everything up in the entire building, the building code would

give you that number.

RICHARD SCALI, CHAIRMAN: In the common area, the lobby area, how many can you fit in that area?

BENSON WILLIS: We might have seating for 16 people.

RICHARD SCALI, CHAIRMAN: It's small.

TINA DASZ: A few more short ones.

RICHARD SCALI, CHAIRMAN: A lot of these issues have already been resolved. I hate to waste our time --

TINA DASZ: You're absolutely right.

This is from owner -- Unit Owner No. 51, Costas Terzidis, T-E-R-Z-I-D-I-S, Associate Professor at Harvard University Graduate of School Design.

"To Whom It May Concern: It has come to my attention that the Veritas, LLC is applying for alcohol license for their 1131 Massachusetts Avenue soon to be erected hotel.



I would like to let you know that as a professor at Harvard University, I am opposed to stimulus that is an issue if it's by chemical means, especially when such stimulus can also be addictive, an alcoholic beverage is one of such stimulus that is both addictive and hallucinatory.

I believe that people should seek means of entertainment that are independent of external chemical dependency, and if they do, they may enjoy themselves in a much more fulfilling and profound manner.

In addition, entertainment that extends beyond normal hours is disruptive to people's mental states, especially when it is performed in the night.

The reason is that it deprives people from sleeping, which young people should do, and it disturbs students from working on their university homework.

So, as an educator, I'm opposed on music entertainment that extends beyond

10:00 p.m.

If you have any questions or further information, please contact me."

And the last one is from Mr. Athenathias (phonetic) Borders the new residence owner, No. 37.

"To Whom It May Concern: While I am unable to physically participate in this evening's hearing due to a conference with my class schedule, I thought it was critical to send along this correspondence in order to communicate my concerns regarding the Hotel Veritas application for annual entertainment licenses.

To provide some context, my name is Athenathias Borders and I am the proud owner and current resident of Unit 37, Bradford Hall. I'm also a recent first-time home buyer. I purchased the property -- I purchased the apartment this past May, and a current full-time and sleep-deprived student of Harvard Business School.

My main rationale for purchasing the apartment this past spring was so I could have a quiet haven in Harvard Square so I could retreat after a hectic day of classes of campus.

Unfortunately, I'm afraid if the Hotel Veritas is granted the entertainment licenses it is currently seeking, my home will no longer be able to provide the refuge I seek.

I'm primarily concerned over the 2:00 a.m. time entertainment that licenses would allow, as I am often up at that hour and studying, and the noise from this would prevent me from actively engaging in my studies.

Oppositely on nights when I am able to complete my studying before 2:00 a.m., I am concerned that the noise will prevent me from falling asleep.

I'm a very a busy student. I desperately need every minute of sleep I can

capture.

I am hoping the Cambridge License Commission will reconsider the 2:00 a.m. time in the application for an earlier more reasonable alternative so that the entertainment at the Veritas Hotel will not negatively impact my life or the lives of other busy tenants at Bradford Hall.

Thank you very much for your attention to the correspondence. If you have any questions, please do not hesitate to contact me at the information provided at the top of this letter."

RICHARD SCALI, CHAIRMAN: Thank you very much.

Anybody else? Ms. Jillson?

Did you want to tell us anything?

CORI: My name is Cori.

RICHARD SCALI, CHAIRMAN: What do you want to tell us. Your name is Cori. Hi Cori.

DENISE JILLSON: Denise Jillson.

I'll be very brief.

Just to clarify, Hotel Veritas is a member of the association, they contacted us probably a year ago. We spoke a lot about marketing, branding, advertising, partnering and delighted that they're here and welcome their presence, particularly in that area of Mass Ave where it's so -- it seems so depleted right now.

So, we're hoping for a beautiful looking building and a lot of activity and looking forward to partnering with them, just to alleviate some of those concerns.

RICHARD SCALI, CHAIRMAN: Thank you, Ms. Jillson.

ATTORNEY JEFF TOCCHIO:  
Mr. Chairman, I, too, have neighbor -- I will not read them.

RICHARD SCALI, CHAIRMAN: Positive letters.

ELIZABETH LINT, EXECUTIVE OFFICER:  
I'll take them.

Mr. Chair, I just wanted to clarify, since we're taking things off the entertainment, Karoke and the deejay.

BENSON WILLIS: Gone, gone, gone.

ELIZABETH LINT, EXECUTIVE OFFICER:  
Just wanted to make sure.

RICHARD SCALI, CHAIRMAN: We'll add your letters to the record as submitted.

ROBERT HAAS, POLICE COMMISSIONER:  
You're playing music below conversation level, right?

BENSON WILLIS: Correct. There will be some type of lobby music, but not loud.

RICHARD SCALI, CHAIRMAN: Pleasure of the Commissioners?

Financing pledge of license, anything, did you submit a pledge agreement?

ATTORNEY JEFF TOCCHIO: Their financing is all in place. Pledge agreement has all been submitted with People's Federal Savings.

RICHARD SCALI, CHAIRMAN: Did you

apply for a lien?

ATTORNEY JEFF TOCCHIO: Did we apply for a lien on the license?

RICHARD SCALI, CHAIRMAN: Or pledge license? I didn't see it.

ATTORNEY JEFF TOCCHIO: I don't know.

RICHARD SCALI, CHAIRMAN: Your bank didn't require a pledge.

ATTORNEY JEFF TOCCHIO: We've got an agreement with them. There's a pledge which -- collateral pledge, yeah.

RICHARD SCALI, CHAIRMAN: If you're applying for a pledge with us, you need to have it on the agenda to apply for that.

ATTORNEY JEFF TOCCHIO: We do not see its requirement.

RICHARD SCALI, CHAIRMAN: All right. Questions from the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER: I'm still not -- I mean, you're proposing a 11:00 closing time for the patio. That

didn't seem like that's a definitive answer.

I don't know if we can vote until we know exactly what time you plan on ceasing operations.

ATTORNEY JEFF TOCCHIO: 11:00, it's definitive.

RICHARD SCALI, CHAIRMAN: That's your plan? Your ultimate decision? That's what you want?

ATTORNEY JEFF TOCCHIO: Yes, sir.

BENSON WILLIS: I think we're certainly interested in hearing feedback going on tonight, based on tonight, I think 11:00 is fine.

ROBERT HAAS, POLICE COMMISSIONER: Well, the times I've heard, 10:00.

RICHARD SCALI, CHAIRMAN: You know actually these things are certainly reviewable. If you feel like you want to try 10:00 and then we decide in six months, well, this is going really well, come back and people have more of a trust as to how you're



operating and what is going on and Ms. Jillson's know we have that review all the time where we change and amend.

And time closings are only pursuant to a local issue, not an ABCC issue. So, it wouldn't take much time just to review that for changes.

Deputy Chief?

DANIEL TURNER, DEPUTY FIRE CHIEF:

Mr. Chair, can I just get clarification?

There was discussion earlier about what we're defining as outdoor patio. Are we talking about the ground level corner of Remington Street side patio only that we're restricting hours, or are we encompassing all of these rooms and balconies as part of the patio?

RICHARD SCALI, CHAIRMAN: The smaller patios are private, one- or two-person patios.

ATTORNEY JEFF TOCCHIO: We understood that was the ground level right next to the front door and then also the --

what we call the common patio or terrace on the third floor. So those are the two areas that are available.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Can I see the common patio again? Is everybody clear on that 'cause I know there was discussion and concern on balconies.

RICHARD SCALI, CHAIRMAN: Balconies per se would be for the person in the rooms, not people hanging out there.

JOY BONSIGER: There are rooms that will share the common patios.

MARK BOIS WATSON: If you get me the two renderings for the outside, I can show almost all of that.

What happens -- see this bow is bigger than this bow? This room gets out onto this small patio. There's just room for two chairs.

Up on the third floor these -- this room can get out onto the patio as a private little place to put a pair of chairs. Here

how this terrace extends beyond that and that actually -- you're looking now from Remington. So this end of it is actually private, but this is that little place where actually guests can come out below here and get to here. That's what we're talking about.

When everybody is saying patio, what they're referring to is that grade level thing. So the two things --

RICHARD SCALI, CHAIRMAN: We consider that a patio.

MARK BOIS WATSON: Right. So the patio is down here. This is accessible commonly and everything else are these little tiny -- see this railing here? This room and there's a room around the corner there, they also have private patios there, but, again, you can only get to those through the room. They're room based.

DANIEL TURNER, DEPUTY FIRE CHIEF: This one that you say it's accessed by -- the

common patio, is that coming off a function room?

MARK BOIS WATSON: No. Off a corridor. There's no function room in the hotel.

DANIEL TURNER, DEPUTY FIRE CHIEF: It's for the rooms that do not have --

MARK BOIS WATSON: It means you go there and read a book and go outside.

RICHARD SCALI, CHAIRMAN: Is there alcohol service on that patio?

BENSON WILLIS: That's the intent. We did want them to be able to have a glass of wine.

RICHARD SCALI, CHAIRMAN: I think that's the concern of the neighbors is that common balcony and the common patio on the ground level.

ATTORNEY JEFF TOCCHIO: There's not a bar out there, not a server. But what they will have is a telephone and they can call down the desk and ask for something be sent

up.

RICHARD SCALI, CHAIRMAN: People are concerned about people out there chatting and talking and, you know, having a little party for themselves out there on the patio.

DANIEL TURNER, DEPUTY FIRE CHIEF: Do you have that space broken down to maximum occupants that could be on that patio at one time?

MARK BOIS WATSON: It's about -- it's around 15 feet.

RICHARD SCALI, CHAIRMAN: We need a number.

DANIEL TURNER, DEPUTY FIRE CHIEF: That might be a good restrictive approach.

ATTORNEY JEFF TOCCHIO: It's 26 by 18, which is about 600 square feet, I believe. That was just a scaling of it off before.

RICHARD SCALI, CHAIRMAN: Why don't you review that and come up with a number of seats that would be allowed out there. We'll

review that.

ATTORNEY JEFF TOCCHIO: Number.

MARK BOIS WATSON: That's just under 500 square feet, but if you used --

RICHARD SCALI, CHAIRMAN: I'm not saying you have to do it right now because people are waiting.

MARK BOIS WATSON: I think it's a ten, occupancy of ten. I mean, that's for table seating.

Does that sound right to you?

BENSON WILLIS: Yeah, but we wouldn't even do that, we wouldn't have tables. It simply would be deck chairs. We might have six chairs up there maybe.

DANIEL TURNER, DEPUTY FIRE CHIEF: That clears it up for me. Does that clarify it at all? It's a public patio that would have a maximum occupancy -- and this is a ball park figure -- ten people.

RICHARD SCALI, CHAIRMAN: Public patios would be a patio for people who are on

that floor. People from the street can't go up there.

MARK BOIS WATSON: Hotel residents.

BENSON WILLIS: Meaning public to the building.

JOY BONSIGER: Residents who have guests, their guests are not allowed up there?

RICHARD SCALI, CHAIRMAN: People who are associated -- well, staying at the hotel, could be their friends that could go out there with them, too.

Do you need more time to look at the number? It doesn't have to be done tonight.

DANIEL TURNER, DEPUTY FIRE CHIEF: Trying to get a rough idea.

ATTORNEY JEFF TOCCHIO: Those are numbers.

BENSON WILLIS: Having six chairs that makes them big and comfortable.

RICHARD SCALI, CHAIRMAN: We're not likely to vote right now.

Let me just say we're not likely to vote right now tonight. So, you can take your time and think about it. You don't have to rush to make any decisions.

Any other questions?

DANIEL TURNER, DEPUTY FIRE CHIEF:

No questions.

ROBERT HAAS, POLICE COMMISSIONER: I guess from my standpoint, I just want a hard number for the time you close the patio and then also I think there's some concerns about the balcony and how you're going to make sure you manage that properly so you don't have situations to disturb the neighborhood.

But, again, I would encourage you, kinda thing about that, think about what your management plans are going to be and come back with a proposal, because I'm not prepared to vote on it tonight either, so you can come back to us with those numbers.

GABRIEL TANNENBAUM: Mr. Chair, may I be recognized for one suggestion or a



comment?

Perhaps one of the ways to alleviate some concerns everyone has is to make it so if there's a complaint that comes into the desk about excess noise, the hotel is going to be required to shut down the patio for the remainder of the evening.

This is truly a high-end boutique hotel. I'd expect it would be a rare situation where someone would come out there and have too much to drink or something like that, and, you know, those folks might clear out the next day, and the next day you have a new group of people paying 500 bucks a night, and they're less likely to do that.

I'm particularly concerned for my neighbor who's the abutter with the small kids who's right there, and my other neighbor who's three feet away.

Maybe there's some middle ground so that you can have the booze out there, and make your guests happy and the abutters can

be --

RICHARD SCALI, CHAIRMAN: I think we just need a procedure for how to handle it first and the condition may come later, but they need to hear from them how they're going to secure that if there is a problem.

GABRIEL TANNENBAUM: Understood, Mr. Chairman.

Thank you.

RICHARD SCALI, CHAIRMAN: All right. Pleasure of the Commissioners? Both make a motion to take the matter of advisement with clarification on three things, the two common patios, the patio on the ground level and the balcony on the third floor for capacity and time, and looking at those hours of service, and then how you're going to do the security and management of those areas as well.

You can get that information back to Mrs. Lint. We're scheduled to look at this again October 1st, but that's not set in stone.

You have a question?

JOY BONSIGER: I'm wondering about the safety of the decks in terms of they're just trees on the edges of the deck as opposed to a solid screen.

RICHARD SCALI, CHAIRMAN: Making sure things aren't blowing off the decks?

JOY BONSIGER: Or people aren't falling off.

RICHARD SCALI, CHAIRMAN: I think that's probably under the code. I'm sure we can make sure that's the case. If people are falling off the decks, we're really in trouble.

MARK BOIS WATSON: Not desirable.

RICHARD SCALI, CHAIRMAN: Not good for business.

DANIEL TURNER, DEPUTY FIRE CHIEF: Should we hit for a hard number on the occupancy for the hallways -- we're looking at 213 and that's really off the charts. Can we narrow that down?

RICHARD SCALI, CHAIRMAN: We normally do a capacity of people in the rooms, and those you're going to serve in the common areas. We don't come up with an occupancy of the whole building.

So, you can put -- you can do -- you can level that out in terms of giving us that number, but a number for food and alcohol service and --

MARK BOIS WATSON: We give a room occupancy number and then for each of these areas that are going to be part of this license, a number. Sounds good. We'll break that down.

RICHARD SCALI, CHAIRMAN: Fine. That's a motion to take the matter under advisement. Moved.

DANILE TURNER, DEPUTY FIRE CHIEF: Seconded.

RICHARD SCALI, CHAIRMAN: Seconded. All in favor?

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

RICHARD SCALI, CHAIRMAN: Thank you  
all very much.

Let's take a two-minute break.

(Short Recess Taken.)

**LESLEY UNIVERSITY**

ELIZABETH LINT, EXECUTIVE OFFICER:

Application: Lesley University, Kevin Murphy, Director of Facilities and Operations, has applied for open air lot license at 1663 Massachusetts Ave/3 Wendell Street for 13 parking spaces.

RICHARD SCALI, CHAIRMAN: Good evening. So, this is one of those lots that were not licensed and we discovered it after the fact?

KEVIN MURPHY: We still have -- this is one that is associated with the two new dormitories and, in fact, we're working on the paperwork now.

RICHARD SCALI, CHAIRMAN: On the other ones?

KEVIN MURPHY: Uh-huh.

RICHARD SCALI, CHAIRMAN: This is the 13 spaces for 1663 Mass Ave which is a dorm?

KEVIN MURPHY: 1663 and 1665 are the retail spaces in the large building. One Wendell Street, which is the same structure

is the dormitory. 3 Wendell, separate structure is the dormitory.

RICHARD SCALI, CHAIRMAN: So who's parking in the 13 spaces?

KEVIN MURPHY: That would be commuter students. We don't have parking for our residential students on campus.

RICHARD SCALI, CHAIRMAN: Those students are commuting just to go to the college?

KEVIN MURPHY: Yes.

RICHARD SCALI, CHAIRMAN: Not living there.

KEVIN MURPHY: Not living there.

RICHARD SCALI, CHAIRMAN: This is a paid facility?

KEVIN MURPHY: It is.

RICHARD SCALI, CHAIRMAN: Is it paid monthly?

KEVIN MURPHY: Monthly or I believe the students pay for it on a semester basis. Employees in other lots pay monthly.

RICHARD SCALI, CHAIRMAN: First come first serve? How do they determine who gets the spaces?

KEVIN MURPHY: It is first come first serve, much like the airlines, you usually sell a few more tickets than you have.

RICHARD SCALI, CHAIRMAN: Wouldn't want to be that student.

All right. Anybody from the public want to be heard on this matter?

Questions?

ROBERT HAAS, POLICE COMMISSIONER:  
No questions.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
No questions.

RICHARD SCALI, CHAIRMAN: Pleasure of the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER:  
Moved.

DANILE TURNER, DEPUTY FIRE CHIEF:  
Seconded.



RICHARD SCALI, CHAIRMAN: Approved  
and seconded.

All in favor.

ROBERT HAAS, POLICE COMMISSIONER:  
Aye.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Aye.

RICHARD SCALI, CHAIRMAN: Thank you,  
Mr. Murphy.

**SPAULDING HOSPITAL-CAMBRIDGE, INC.**

ELIZABETH LINT, EXECUTIVE OFFICER:

Application: Spaulding Hospital-Cambridge Incorporated, Ronald Freeman, Manager, has applied for a common victualer license to be exercised at 1575 Cambridge Street. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served and consumed on said premises and to have a seating capacity of 150 seats. The hours of operation going to be from 6:30 a.m. to 6:30 p.m. seven days per week.

RICHARD SCALI, CHAIRMAN: Good evening.

Just tell us your name.

RON FREEMAN: Ron Freeman.

RICHARD SCALI, CHAIRMAN: This is Youville.

RON FREEMAN: This is Youville Hospital, yes. Spaulding Hospital is purchasing us.

RICHARD SCALI, CHAIRMAN: So Spaulding is going to be running the cafeteria?

RON FREEMAN: Correct.

RICHARD SCALI, CHAIRMAN: Is it managed by you?

RON FREEMAN: Yes. I currently am senior director of facilities for Youville and I will be the senior director of facilities for Spaulding.

RICHARD SCALI, CHAIRMAN: All the cooking and everything is done right there and food ordering, no outside management company or anybody else coming in?

RON FREEMAN: We have an outside managing company that manages the kitchen staff, but everything is all there, it's for in-house patients.

RICHARD SCALI, CHAIRMAN: You're still in charge?

RON FREEMAN: Correct, yes.

RICHARD SCALI, CHAIRMAN: And the hours are?

RON FREEMAN: 6:30 to 6:30. Exactly what is going on now it's just changing the

name from Youville Hospital to Spaulding Hospital-Cambridge.

RICHARD SCALI, CHAIRMAN: Questions?

ROBERT HAAS, POLICE COMMISSIONER:

No questions.

DANILE TURNER, DEPUTY FIRE CHIEF:

No questions.

RICHARD SCALI, CHAIRMAN: From the public, any comments?

No comments.

Pleasure of the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER:

Approve.

DANIEL TURNER, DEPUTY FIRE CHIEF:

Seconded.

RICHARD SCALI, CHAIRMAN: Motion

moved. Seconded.

All in favor?

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

DANILE TURNER, DEPUTY FIRE CHIEF:

Aye.

RONALD FREEMAN: Thank you. Have a  
nice night.

EXNE, LLC D/B/A EAST BY NORTHEAST

ELIZABETH LINT, EXECUTIVE OFFICER:

Application: EXNE, LLC doing business as East by Northeast, Phillip Tang, manager, has applied for a new all alcoholic beverages as a restaurant license at 1128 Cambridge Street with a total seating capacity of 25. The proposed hours of operation are 5:00 p.m. to 12:00 a.m. seven days per week. This address is located in Cap No. 7. Applicant is also applying for an entertainment license to include an audio tape machine/CD playing background music below ordinary conversation level.

And just for your information it's the location of the former Bernardi Restaurant.

RICHARD SCALI, CHAIRMAN: Okay.

Bernardi's turned their license in?

ELIZABETH LINT, EXECUTIVE OFFICER:

Yes.

RICHARD SCALI, CHAIRMAN: Good

evening. Tell us who you are.

DANIEL CHAFFEE: My name is Daniel Chaffee.

ATTORNEY RUDOLPH FREEDMAN: I'm Rudolph Freedman representing EXNE, LLC. To my right is Phillip Tang, two ls in Phillip. He was the owner -- co-owner and manager of the restaurant.

As Ms. Lint mentioned, this is at 1128 Cambridge Street, formerly the Bernardi Restaurant.

There will be no major changes to the layout. Existing 25 seats. Some minor decorative changes, cosmetic changes inside.

The applicant has acquired the assets from the Bernardi Restaurant and has signed a lease for that location and is changing the cuisine. And Mr. Tang will tell you a little about his concept, but it will be Asian influenced and wishes to offer alcoholic beverages as a complement to the meal.

RICHARD SCALI, CHAIRMAN: What is

your menu?

PHILLIP TANG: The menu, it's local sustainable Chinese inspired cuisine.

RICHARD SCALI, CHAIRMAN: And the alcohol you're looking for is a full alcohol license? Why is that?

PHILLIP TANG: I would like to have -- I feel like right now a lot of places like have specialty cocktails are very important to complement the food. There is no -- the restaurant is very small, there's no bar, but would like to be able offer cocktails, specialty house made cocktails with the food.

RICHARD SCALI, CHAIRMAN: 5:00 p.m. to 12:00, so no luncheon menu, just dinner?

PHILLIP TANG: Dinner, maybe lunch on the weekends, just on the weekends. I'm not sure if that was --

RICHARD SCALI, CHAIRMAN: You didn't apply for that. So if you are going to do that, we can amend, but we have to make sure we have the correct hours.



PHILLIP TANG: Can we amend that?

RICHARD SCALI, CHAIRMAN: You can come back and apply or you can amend now, if you'd like.

PHILLIP TANG: May I amend it now? I would like to do lunch, I guess, 11:00 to 3:00 on Fridays, Saturdays and Sundays.

RICHARD SCALI, CHAIRMAN: Tell us your experience in the restaurant business.

PHILLIP TANG: Currently, I'm working at Hungry Mother in Kendall Square. Prior to that I took some time off and I spent a month in Taiwan where I worked in a restaurant there.

And I also traveled around a little bit. My grandfather lives there. And I just kind of did a little bit of research for the restaurant. And prior to that, I was a sous chef at TW Food in Cambridge. I also worked at Rialto and Lumiere in West Newton, and prior to that, I lived in Washington, D.C.

RICHARD SCALI, CHAIRMAN: This is

the first restaurant in your name?

PHILLIP TANG: Yes.

RICHARD SCALI, CHAIRMAN: So, you have no other restaurants anywhere else?

PHILLIP TANG: I have no other restaurants anywhere else.

RICHARD SCALI, CHAIRMAN: Is the family involved?

PHILLIP TANG: The family is involved, yes. My parents lived in the DC area and they have two restaurants in the DC area. So I feel like my support team is strong, they have a lot of restaurant experience as a whole.

RICHARD SCALI, CHAIRMAN: Primarily it will be you that will be running it?

PHILLIP TANG: Yes.

RICHARD SCALI, CHAIRMAN: Questions?

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Is there a floor plan?

PHILLIP TANG: There's a floor plan.

ATTORNEY RUDOLPH FREEDMAN: There's

a floor plan submitted with the application.

RICHARD SCALI, CHAIRMAN: What is the cap area?

ELIZABETH LINT, EXECUTIVE OFFICER: Seven.

RICHARD SCALI, CHAIRMAN: Cap area is seven. So overwhelming neighborhood support, proof of need, lack of harm.

ATTORNEY RUDOLPH FREEDMAN: There's no neighborhood -- no active neighborhood association, but there was communications with the neighborhood services, and if you want to explain some of the businesses in the area.

PHILLIP TANG: I am right next door to Midwest Grill. I spoke to some owners there. My landlord is Joe Sacara (phonetic) of Tosca Restaurant and, you know, he told me that unfortunately there's no neighborhood association in that neighborhood, but we did notify all of the abutters.

ELIZABETH LINT, EXECUTIVE OFFICER:

They're trying to get it going, but it's not quite up and running.

ROBERT HAAS, POLICE COMMISSIONER:  
Inman Square.

ELIZABETH LINT, EXECUTIVE OFFICER:  
Not a big association.

I do have a letter from Councilor  
Toomey.

RICHARD SCALI, CHAIRMAN: In favor.

ELIZABETH LINT, EXECUTIVE OFFICER:  
Absolutely. He writes in support of the application: "The manager, Phillip Tang, spent a lot of time working in Cambridge establishments and understands the responsibilities of running a successful restaurant in Cambridge.

Being so close to the Inman Square neighborhood, there's a clear public desire for there to be a successful restaurant at this location. An alcohol license would allow the new establishment to successfully compete with the surrounding restaurants and

strengthen Inman Square as a dining destination. I stated on a number of occasions that vacant storefronts along Cambridge Street are not desirable and the city should support any reasonable request that can help business thrive along this corridor."

RICHARD SCALI, CHAIRMAN: Did Bernardi have a full license?

ELIZABETH LINT, EXECUTIVE OFFICER: They did.

"And I have no opposition to the application."

RICHARD SCALI, CHAIRMAN: Anybody from the public want to be heard on this matter?

Commissioners?

ROBERT HAAS, POLICE COMMISSIONER: Approve.

RICHARD SCALI, CHAIRMAN: So motion to approve subject to 21-Proof training.

PHILLIP TANG: I've already spoken

to Frank Connolly and I am scheduled for next week.

RICHARD SCALI, CHAIRMAN: All right. We like that. Hours of operation, 5:00 to 12:00, seven days a week, and 11:00 to 3:00, Friday, Saturday and Sunday.

ELIZABETH LINT, EXECUTIVE OFFICER: Six-month review. We always do on new licenses.

RICHARD SCALI, CHAIRMAN: Six-month review. Moved. Seconded.

All in favor?

ROBERT HAAS, POLICE COMMISSIONER: Aye.

DANILE TURNER, DEPUTY FIRE CHIEF: Aye.

RICHARD SCALI, CHAIRMAN: Thank you very much.

Background check on that okay?

ELIZABETH LINT, EXECUTIVE OFFICER: All set. Sorry about. I meant to say that.

**CASCAP HOUSING, LLC**

ELIZABETH LINT, EXECUTIVE OFFICER:

Application: Cascap Housing, LLC, Marcia

Hannon, Senior Project Manager, has applied for a Garage and Gasoline license at 125 Harvard Street for 19 parking spaces and 190 gallons of gasoline in the tanks of autos only.

RICHARD SCALI, CHAIRMAN: Good evening.

Tell us your name.

MARCIA HANNON: I'm Marcia Hannon, H-A-N-N-O-N.

RICHARD SCALI, CHAIRMAN: This is for a garage at 125 Harvard. Where is the building?

MARCIA HANNON: 125 Harvard Street. It is the print shop condominium. It's for 24 first-time home buyers in the City of Cambridge program.

RICHARD SCALI, CHAIRMAN: And is that low income?

MARCIA HANNON: Yes.

RICHARD SCALI, CHAIRMAN: The 19 spaces are for people who live in those



condominiums?

MARCIA HANNON: Yes.

RICHARD SCALI, CHAIRMAN: Are they assigned spaces?

MARCIA HANNON: They are. They're going to be deeded.

RICHARD SCALI, CHAIRMAN: How many units in the building?

MARCIA HANNON: 24 units and 19 parking spaces.

RICHARD SCALI, CHAIRMAN: Someone will not get a space.

MARCIA HANNON: It's priced cheaper if you don't get a space.

RICHARD SCALI, CHAIRMAN: Higher price.

MARCIA HANNON: Yeah.

RICHARD SCALI, CHAIRMAN: Questions?

ROBERT HAAS, POLICE COMMISSIONER:  
No questions.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
No questions.

RICHARD SCALI, CHAIRMAN: Anybody from the public want to be heard?

Abutter notifications?

ELIZABETH LINT, EXECUTIVE OFFICER:  
I don't have the green cards -- yes, I do.  
Yes, I do.

RICHARD SCALI, CHAIRMAN: There you go.

Pleasure of the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER:  
Approve.

RICHARD SCALI, CHAIRMAN: Motion to approve. Seconded. All in favor?

DANILE TURNER, DEPUTY FIRE CHIEF:  
Aye.

ROBERT HAAS, POLICE COMMISSIONER:  
Aye.

MARCIA HANNON: Thank you very much.

**RK TRADE CORP. D/B/A C'EST BON CONVENIENCE**

ELIZABETH LINT, EXECUTIVE OFFICER:  
Application: RK Trade Corp d/b/a C'est Bon

Convenience, Radwan Kheireddine, manager, holder of an all alcoholic beverages as a package store license at 1436 Massachusetts Avenue has applied to pledge said license to Mistafa Ahed Khalil.

RICHARD SCALI, CHAIRMAN: Good evening.

Tell us your name for the record.

RADWAN KHEIREDDINE: My name is Radwan Kheireddine, R-A-D-W-A-N.

RICHARD SCALI, CHAIRMAN: This is an application for a pledge.

Who is Mr. Khalil?

RADWAN KHEIREDDINE: A friend of mine.

RICHARD SCALI, CHAIRMAN: He's loaning you money.

RADWAN KHEIREDDINE: Yes.

RICHARD SCALI, CHAIRMAN: What is the pledge for? What is the money going to be used for?

RADWAN KHEIREDDINE: I fall behind

on my payment for rent and posted with ABCC and I have to fix the soil.

RICHARD SCALI, CHAIRMAN: We've got two problems. One is that we can only allow a pledge if you're renovating or if you're purchasing the license. Cannot be used towards the rent.

So I think -- did Chris O'Neil in my office call you about this issue?

RADWAN KHEIREDDINE: He asked me and I told him exactly what it is.

RICHARD SCALI, CHAIRMAN: The ABCC won't allow a pledge of a license for back rent or bills that you have.

Is there an agreement between you and Mr. Khalil?

RADWAN KHEIREDDINE: Yeah.

RICHARD SCALI, CHAIRMAN: Did it say what the purpose of loan is for in the agreement?

RADWAN KHEIREDDINE: Yes.

RICHARD SCALI, CHAIRMAN: The only

way we can approve it is if it's for renovation of your premises.

RADWAN KHEIREDDINE: I mean, there is a renovation to the store.

RICHARD SCALI, CHAIRMAN: So you need to go back and renegotiate with Mr. Khalil and redo your agreement or you can't -- it will not be approved by the ABCC if it's for back rent. They won't approve it.

RADWAN KHEIREDDINE: Okay.

RICHARD SCALI, CHAIRMAN: That's just the way the law is. There's no option we have on our part to say yes or no on that.

RADWAN KHEIREDDINE: It's a license I own.

RICHARD SCALI, CHAIRMAN: Right.

You can take a loan against a license, but we can't allow a pledge of that license accept for renovations or purchase of the license, that's the only thing that we're allowed to do.

RADWAN KHEIREDDINE: So we say for renovations, but I have to make -- I'm not saying Mr. Khalil would like that.

RICHARD SCALI, CHAIRMAN: You need to talk to him about what he wants to do and what you want to do in terms of that -- what the purpose of loan would be. I'm giving your parameters and you can decide what you and what Mr. Khalil want to do.

ROBERT HAAS, POLICE COMMISSIONER: You don't want to jeopardize your license. Whatever you decide that you're structure for this pledge that it's in keeping with the statute, you know what I mean?

RADWAN KHEIREDDINE: Okay.

RICHARD SCALI, CHAIRMAN: So what you can do is go back and talk to Mr. Khalil and get back to either Mrs. Lint or Mr. O'Neil.

RADWAN KHEIREDDINE: For another hearing?

RICHARD SCALI, CHAIRMAN: Well,

we're scheduled to vote October 1st, so before October 1st, just get back to them.

RADWAN KHEIREDDINE: I see. I'll let him know before.

RICHARD SCALI, CHAIRMAN: Right. He can resubmit the agreement, you can do that, or decide what you want to do from there.

You can still get a loan against the license. We just can't accept a pledge of the license.

Do you understand what I'm saying?

RADWAN KHEIREDDINE: I do.

RICHARD SCALI, CHAIRMAN: Motion to take the matter under advisement? Moved.

DANILE TURNER, DEPUTY FIRE CHIEF: Seconded.

ROBERT HAAS, POLICE COMMISSIONER: Do you want to continue it or take it under advisement because I don't think you can vote on it right now.

RICHARD SCALI, CHAIRMAN: Continue to October 1st. I'll amend my motion to

continue to October 1st. Moved?

DANILE TURNER, DEPUTY FIRE CHIEF:

And seconded.

RICHARD SCALI, CHAIRMAN: All in favor?

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

DANILE TURNER, DEPUTY FIRE CHIEF:

Aye.

RADWAN KHEIREDDINE: Thank you.

RICHARD SCALI, CHAIRMAN: Oh, I'm sorry.

Mr. Radwan, have you gone through 21-PROOF training?

RADWAN KHEIREDDINE: Yes.

RICHARD SCALI, CHAIRMAN: Did you complete it? 'Cause I have note here from Mr. O'Neil that you didn't do the 21-Proof training.

RADWAN KHEIREDDINE: Mr. Who?

RICHARD SCALI, CHAIRMAN: Chris O'Neil in my office? Did you have



Mr. Connolly come out and do your 21-Proof training?

RADWAN KHEIREDDINE: Yes, absolutely. Me and my wife did it.

RICHARD SCALI, CHAIRMAN: You both did?

RADWAN KHEIREDDINE: Yes.

RICHARD SCALI, CHAIRMAN: All right. Thank you.

**PUGLIESE RESTAURANT, INC.**

ELIZABETH LINT, EXECUTIVE OFFICER:  
Application: Pugliese Restaurant, Inc.,

d/b/a Pugliese Restaurant, Robert Salines, manager, holder of an all alcoholic beverages as a restaurant license at 635 Cambridge Street has applied for a change in premises description to add a seasonal outdoor patio with 16 seats on the public sidewalk for service of food and alcohol. Applicant is also applying for a change of d/b/a to Pugs Bar & Grill.

RICHARD SCALI, CHAIRMAN: Good evening.

ROBERT SALINES: Good evening. Robert Salines, 635 Cambridge Street, owner of Pugliese Bar & Grill since 1989.

RICHARD SCALI, CHAIRMAN: We're changing the name, which, I guess, has been the name all along.

ROBERT SALINES: We're changing the name. We're doing business as Pugs Bar & Grill. Nobody can pronounce Pugliese.

RICHARD SCALI, CHAIRMAN: They're not from Cambridge, if they can't pronounce

that.

Is that the name that's on the outside?

ROBERT SALINES: Pugliese is on the label and then the blade sign says "Pugs Bar & Grill."

RICHARD SCALI, CHAIRMAN: The label, what's that?

ROBERT SALINES: The sign against the building. It always said "Pugliese Restaurant," and there's a blade sign, overhanging sign that we put up when we did the renovation that says Pugs Bar & Grill.

RICHARD SCALI, CHAIRMAN: All right.

ROBERT SALINES: So we have both names on the door.

RICHARD SCALI, CHAIRMAN: Okay. Outside patio on the public sidewalk, 16 seats. Did you do --

ROBERT SALINES: We had it when we were doing the nonalcoholic nonfood.

RICHARD SCALI, CHAIRMAN: That's a

different agreement.

ELIZABETH LINT, EXECUTIVE OFFICER:  
Yeah.

RICHARD SCALI, CHAIRMAN: Do you an  
insurance policy covering it?

ROBERT SALINES: They have the  
binder. The best -- best does the binder.

ELIZABETH LINT, EXECUTIVE OFFICER:  
No. That goes to the DPW Department.

ROBERT SALINES: Okay. So, the  
binder that I gave him is not the same  
binder.

ELIZABETH LINT, EXECUTIVE OFFICER:  
Call Chris tomorrow and he'll tell you what  
you need.

RICHARD SCALI, CHAIRMAN: DPW  
permit? Did you go through DPW already?

ELIZABETH LINT, EXECUTIVE OFFICER:  
Do you have it in hand?

ROBERT SALINES: I don't know. What  
did I have before?

RICHARD SCALI, CHAIRMAN: Did you

get put on the City Council agenda?

ROBERT SALINES: Yes, I went that, d/b/a and they put me on the City Council last week or the week before.

RICHARD SCALI, CHAIRMAN: For the patio?

ELIZABETH LINT, EXECUTIVE OFFICER: You have to get that as well.

ROBERT SALINES: That's from the City Council.

RICHARD SCALI, CHAIRMAN: Get that from the City Council and go to DPW and get your permit from the DPW.

ROBERT SALINES: Okay.

ELIZABETH LINT, EXECUTIVE OFFICER: I have a letter from Councilor Toomey in support. As you know he is proponent of outdoor dining that it promotes local business and he's very happy to see this.

RICHARD SCALI, CHAIRMAN: All right. Patio's going to be completely enclosed, no one can walk off with alcohol and go out on

sidewalk.

ROBERT SALINES: I'm going to change the way it is now. Right now there's a chain around it, with those urns. I may put the boxes that they use and things that you had --

RICHARD SCALI, CHAIRMAN: It had to be stable and defined and they can't be moved around and you have to stay --

ROBERT SALINES: We have them affixed to the ground right now. We'll have them bolted down and we'll take them out in the wintertime. But I think --

RICHARD SCALI, CHAIRMAN: Patio season is March 1 to November 30.

ROBERT SALINES: Okay.

RICHARD SCALI, CHAIRMAN: All right. Questions?

ROBERT HAAS, POLICE COMMISSIONER: Everything's been approved, you just have to submit the paperwork, is that right?

ELIZABETH LINT, EXECUTIVE OFFICER:

Yep.

RICHARD SCALI, CHAIRMAN: He went to City Council already. We need the insurance binder and the DPW permit.

Did he sign?

ELIZABETH LINT, EXECUTIVE OFFICER:  
No. We can't give it to him until we --

RICHARD SCALI, CHAIRMAN: Okay.  
You realize it's 750 a year additional?

ROBERT SALINES: I thought I would get a discount. You guys never give a break.

ELIZABETH LINT, EXECUTIVE OFFICER:  
That's per the City Manager.

RICHARD SCALI, CHAIRMAN: That's the City Manager's fee.

Pleasure of the Commissioners?

ROBERT HAAS, POLICE COMMISSIONER:  
Motion to approve pending submission of paperwork.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Seconded.

RICHARD SCALI, CHAIRMAN: Seconded.  
All in favor.

ROBERT HAAS, POLICE COMMISSIONER:  
Aye.

DANILE TURNER, DEPUTY FIRE CHIEF:  
Aye.

RICHARD SCALI, CHAIRMAN: Thank you  
very much. Thank you for your patience.

ROBERT SALINES: Thank you. Good  
night.

**SUNSHINE TRANSPORTATION**

ELIZABETH LINT, EXECUTIVE OFFICER:  
Application: Continued from September 9,



2009, Sunshine Transportation and Anouar Diaissaoui, manager, has applied for a jitney license to operate two vans which will accommodate 15 passengers from Logan Airport to seven hotels in Cambridge. Operating hours will be from 10:00 a.m. to 1:00 a.m., seven days per week.

Since we're here last, I had an email from Michael Muwe (phonetic) concerned that under the ADA regulations any jitney service or shuttle service which is provided primarily engaged in providing transportation services to the public is required to ensure that they provide equivalent service to people with disabilities, including people who use wheelchairs.

RICHARD SCALI, CHAIRMAN: Is that the first time he submitted a letter like that for jitneys? Other jitneys don't have that.

ELIZABETH LINT, EXECUTIVE OFFICER:  
I can only tell you what I received.

ANOUAR DAISSAOUI: But I do have someone who has a wheelchair taxi that we can provide for the airport and we could get a special ticket for that.

RICHARD SCALI, CHAIRMAN: I guess what he's saying is that the van that you use on the vehicle that you use has to be accessible or provide some services that are accessible.

ANOUAR DAISSAOUI: We have someone that is a subcontract and we do use that for a taxi who has a wheelchair that goes to the van, it's a minivan, but the company will only operate two vans, but the other thing if someone has -- it's a handicap wheelchair, if we need that, we can provide that.

RICHARD SCALI, CHAIRMAN: A mechanical wheelchair, you can't get that into your van.

ANOUAR DAISSAOUI: Not in the van, in the back of the van. You know, in the bumper it's like the taxi they do have, it's

the same thing. They have to cut the bumpers and put all the wheelchair, it's like that.

RICHARD SCALI, CHAIRMAN: You don't have a van like that, do you?

ANOUAR DAISSAOUI: Those 15 passengers they don't come like that.

RICHARD SCALI, CHAIRMAN: What kind of vehicles do you have?

ANOUAR DAISSAOUI: Ford E350 and Chevy 3500 Express.

RICHARD SCALI, CHAIRMAN: How many people does this hold?

ANOUAR DAISSAOUI: Chevy holds about 10 and the E350 -- usually hold more than ten, but you have to take the back seat and trunk and put the luggage, and the E350, the Ford, is 11 passengers, that's including the driver, and the other, the Chevy, is ten including the driver.

RICHARD SCALI, CHAIRMAN: And how are we doing with hotels? How many hotels do you have permission from?

ANOUAR DAISSAOUI: Seven.

RICHARD SCALI, CHAIRMAN: In writing, all seven?

ANOUAR DAISSAOUI: I got them, yeah, about, I don't know. I didn't get them because I had to do -- someone else did. I had surgery on my foot, I didn't get time to do it, but someone else did it for me. We had a letter that says like that's they're allow us since the transportation cannot drop off -- only drop off in the property of the hotel, and has one of the concierges sign and approve us. I do only dropoffs, no pickups.

RICHARD SCALI, CHAIRMAN: Not picking up at any of the hotels?

ANOUAR DAISSAOUI: Not at all. I told you that I have about four and a half, five years experience with other companies.

RICHARD SCALI, CHAIRMAN: Were the routes approved by traffic and parking?

ELIZABETH LINT, EXECUTIVE OFFICER:  
Yup.

RICHARD SCALI, CHAIRMAN: Okay. Questions from the Commissioners? This is only on the recommendation to the City Council obviously. You still have to go on to the next step if we approve you to the City Council, if we recommend it.

ANOUAR DAISSAOUI: Okay.

RICHARD SCALI, CHAIRMAN: The question for me is do we need another jitney service in the city?

ANOUAR DAISSAOUI: Yeah, well, you see this is -- I told you about the reason why I didn't apply for Boston. You know there is more room in Cambridge, probably there's too more room left, I don't want it use that room, I do have experience about that. I'm not telling -- I don't want to work for somebody else. If I don't get that I have to drive for someone. That's the reason I want to go to the next stop.

I told you work for JC Transportation, you know, I could apply for

Boston, but they would put me in a waiting list.

RICHARD SCALI, CHAIRMAN: They have a waiting list, huh?

ANOUAR DAISSAOUI: That's Boston. Cambridge, they don't have any waiting list. This is not a waiting list for Boston, the Massport.

ELIZABETH LINT, EXECUTIVE OFFICER: How many do we have?

RICHARD SCALI, CHAIRMAN: We got about five or six.

ELIZABETH LINT, EXECUTIVE OFFICER: Because we didn't approve.

RICHARD SCALI, CHAIRMAN: We have some that the DP --

ANOUAR DAISSAOUI: I don't want to go through that DOT, you know, I'm trying to 'cause -- that's the last step.

RICHARD SCALI, CHAIRMAN: They still have to approve you. We have to recommend to the City Council, City Council then has to

send it to the DTE and they have to then approve.

ELIZABETH LINT, EXECUTIVE OFFICER:  
DPU.

ANOUAR DAISSAOUI: I'm not registered with them yet. But I want to get approved here first and then I go take the next step and get my -- the DOT number and everything, ICC number for the -- and those you have to have -- before you get into Logan, you have to get approved from the DOT. They have to check the vans for safety and everything and get you like a DPU sticker.

RICHARD SCALI, CHAIRMAN: How --

ANOUAR DAISSAOUI: I'm trying to take the next step, that's the reason why I did it.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Credit cards, can you take credit cards? Did we discuss all that?

ANOUAR DAISSAOUI: I have in application actually, I do take credit card.

RICHARD SCALI, CHAIRMAN: Wireless, handheld?

ANOUAR DAISSAOUI: No, no. I have those machines, wireless machines, you swipe it and it approve you. Only swipe. I don't use copies. Only swipe. And it has -- the customer has to sign.

RICHARD SCALI, CHAIRMAN: Do you have a minimum charge on those?

ANOUAR DAISSAOUI: No.

RICHARD SCALI, CHAIRMAN: Can you charge any amount?

ANOUAR DAISSAOUI: No, we don't have a minimum, you know.

ELIZABETH LINT, EXECUTIVE OFFICER: He has a fee for his.

RICHARD SCALI, CHAIRMAN: That's right. Whatever the fee is.

ANOUAR DAISSAOUI: It's a flat rate. You don't charge this.

RICHARD SCALI, CHAIRMAN: Okay.

ROBERT HAAS, POLICE COMMISSIONER:



This is strictly pickup at Logan and dropoff at the hotels, that's it.

ANOUAR DAISSAOUI: That's it, no pickups.

RICHARD SCALI, CHAIRMAN: You wouldn't be hanging out at the hotels, you wouldn't be in the driveway making the taxicab drivers crazy?

ANOUAR DAISSAOUI: I know the business. The reason why we're doing this only for picking up from Logan and drop off at several properties in Cambridge, that's all. We're not picking up. You can tell -- if you see me picking up, you can tell me.

RICHARD SCALI, CHAIRMAN: They'll tell me. Believe me.

ANOUAR DAISSAOUI: You see there is plenty business at Logan. I'm doing this as next step for me, the biggest step for me. There's the reason why I'm doing it. I don't want to lose that for, you know, like -- there's a lot of business at Logan that's the

reason I'm doing it 'cause I have been in the business for almost five years, so I told you probably, I use to manage -- JC owns two companies, JC and Ace, one of them goes to Boston and one goes to Waltham. So I --

RICHARD SCALI, CHAIRMAN: Where do you live?

ANOUAR DAISSAOUI: Saugus and North Revere line so I'm --

RICHARD SCALI, CHAIRMAN: I was hoping you would say you were a Cambridge resident.

ANOUAR DAISSAOUI: This is second time for the Cambridge neighborhood.

RICHARD SCALI, CHAIRMAN:  
Discussion, Commissioners? Under consideration? It seems like he's not going to be hanging out at the hotels and he's --

ROBERT HAAS, POLICE COMMISSIONER:  
He's giving you permission to revoke his license if he does hang out at the hotels.

ANOUAR DAISSAOUI: I would not do

that.

DANIEL TURNER, DEPUTY FIRE CHIEF:  
Have we denied similar applications in the  
past where --

ELIZABETH LINT, EXECUTIVE OFFICER:  
Not recently.

RICHARD SCALI, CHAIRMAN: We have  
never had a dropoff only application, this is  
different. We have denied some other jitney  
applications because they didn't hotel  
permission either.

ROBERT HAAS, POLICE COMMISSIONER: I  
think, you know, if we approve this, you're  
going to have to make it very clear to the  
Council that your intent is only to pick up  
at the airport and drop off and no pickups at  
the hotels.

ANOUAR DAISSAOUI: That's why --

ROBERT HAAS, POLICE COMMISSIONER:  
I'm saying if you want City Council to take  
this under consideration because the taxicab  
industry in the city is very strong and very

vocal and --

ANOUAR DAISSAOUI: I know. The price is high for the medallion. I respect that. They need to make the money. The reason I provide that, I told you I just need a next step, that's why I put it all in the paper. I just going to make dropoff -- only dropoff.

And, like I said, it's -- I have a cousin, he owns a medallion, Boston Cab, and I know especially the business been low for them, you know. I respect that a lot. I know what the rules here are. Even I see like a lot of people hanging out in Boston, you know, when you drop off, there's the people who doesn't -- you know, the people who hang in the hotel, the people who doesn't have runs to the airport, they go and hustle, that's not us 'cause I know a lot of people in Boston that give them \$500 ticket for the Hackney. I'm not into that. So like I provide everything and I said only dropoff at

properties, that's all.

RICHARD SCALI, CHAIRMAN: Do you have Massport permission to be at the airport yet?

ANOUAR DAISSAOUI: I have a company that I only do reservations like through website AD Transportation, I own with another guy, a partner, and I have a sticker and everything from Massport, but only, like I said, to have it run at the airport you have to have a jitney license.

RICHARD SCALI, CHAIRMAN: They want to see a jitney license before they give you a Massport license?

ANOUAR DAISSAOUI: Jitney license or you have to get a certain certificate from the Department of Transportation. Like I said, like a lot of people -- I'm not -- like I told you, this is my first step been doing this. I was a driver, yeah, but I was trying to make a next step, that's the only thing.

RICHARD SCALI, CHAIRMAN: What's

your feeling, Commissioners?

ROBERT HAAS, POLICE COMMISSIONER: I vote to approve the recommendation to City Council.

RICHARD SCALI, CHAIRMAN: All right. The Commissioner is making a motion to recommend approval to City Manager for City Council for dropoff only at seven hotels, no pickup in Cambridge, two vans only, seven days a week?

ANOUAR DAISSAOUI: Seven days a week, 10:00 a.m. to 1:00 a.m. Last flight usually comes out around 1:00.

RICHARD SCALI, CHAIRMAN: Massport permission, Massport permit.

ROBERT HAAS, POLICE COMMISSIONER: I guess my confusion is, if it's only a dropoff business, why would he need a jitney license from us?

ELIZABETH LINT, EXECUTIVE OFFICER: I assume for a fee.

RICHARD SCALI, CHAIRMAN: Are you

going to like hotel to hotel?

ANOUAR DAISSAOUI: Yeah. Jitney license is --

RICHARD SCALI, CHAIRMAN: Are you on a schedule?

ANOUAR DAISSAOUI: Yeah. You probably -- I did with that Adam Shulman.

RICHARD SCALI, CHAIRMAN: You're going to go like every hour or every two hours? How are you doing this?

ANOUAR DAISSAOUI: Every 45 minutes. Because what I'm doing I go and actually first stop is -- I don't know if you have that right.

ELIZABETH LINT, EXECUTIVE OFFICER: Yes.

RICHARD SCALI, CHAIRMAN: You're going to wait at the airport, people are going to make a reservation at the airport with you?

ANOUAR DAISSAOUI: No, no.

RICHARD SCALI, CHAIRMAN: They're

just going to get on, they want to go to Cambridge.

ANOUAR DAISSAOUI: The system at the airport at Logan, how it works, you have a run, like I want do like every 45 minutes a run or every one hour, so the first one come out, leave, you have six minutes each terminal, you pick up and you don't pick anything, you have to go and purchase another ticket. You have four terminals. You have to go to the first terminal, six-minute wait there. If there's any people going, only those hotels, if they're not going to do that because there's a Hackney state troopers, they could follow. So you go to the next terminal, another six minutes. So each terminal six minutes. If you don't pick anything, you have to come back and wait for the next run that Massport gives, this is not like you have to purchase a ticket and go and pick up reservation.

RICHARD SCALI, CHAIRMAN: You can



only get in there once to do that loop and you have to go out of the airport.

ANOUAR DAISSAOUI: Six minutes, each terminal. A, B1, B2, C and Terminal E. You have to wait six minutes each terminal. Like I said, I have everything, and like for the jitney license like they have to get -- to get a run, you have to get a jitney license at the Logan.

RICHARD SCALI, CHAIRMAN: Are you operating in any other cities or towns?

ANOUAR DAISSAOUI: No.

RICHARD SCALI, CHAIRMAN: This is your first then.

All right. So the motion still stands, Commissioners? Dropoff only at the seven hotels, don't pick up in Cambridge, two vans only, seven days a week, 10:00 a.m. to 1:00 a.m., Massport permission needed, that's a recommended to the City Manager for City Council, moved and seconded.

All in favor?

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

DANILE TURNER, DEPUTY FIRE CHIEF:

Aye.

RICHARD SCALI, CHAIRMAN: Which means then now this gets written up by Mrs. Lint, it goes to the City Manager's office and then it goes on their next available City Council meeting. There's no City Council meeting this coming Monday because this is a holiday, and then it will be the following Monday which is the 6th.

ROBERT HAAS, POLICE COMMISSIONER:

There's no City Council meeting?

(Discussion off the record.)

RICHARD SCALI, CHAIRMAN: It gets referred to the City Council and then if you want to speak at the City Council meeting, you have to sign up beforehand, before the meeting on the sheet of paper to sign, they will not let you speak unless you sign up.

ANOUAR DAISSAOUI: Where is it going

to be, here?

RICHARD SCALI, CHAIRMAN: City Council chambers on the second floor of City Hall.

ANOUAR DAISSAOUI: Oh, the next building over? And when is it going to be taken like -- a week from this Monday?

RICHARD SCALI, CHAIRMAN: It would be a week from this Monday.

ANOUAR DAISSAOUI: Do you know what the room number -- am I going to receive any information --

RICHARD SCALI, CHAIRMAN: No. You probably should make sure that the City Clerk notifies you then.

ANOUAR DAISSAOUI: I should come here and take everything by one the week days.

RICHARD SCALI, CHAIRMAN: You'll get a letter in the mail from us, and then you will want to go to the City Clerk's office on the first floor at City Hall to make sure

you're on the agenda.

ANOUAR DAISSAOUI: Okay. I get a little confused.

RICHARD SCALI, CHAIRMAN: Call Chris in our office.

ANOUAR DAISSAOUI: Okay. Thank you so much. I appreciate it. Have a good night.

### RATIFICATIONS

ELIZABETH LINT, EXECUTIVE OFFICER:  
Last but not least, ratifications. Refinance

Medallion 253A, 256A, 40, 162, 215, 85, 134, 193, and 16 and then the sale of 253A.

RICHARD SCALI, CHAIRMAN: Which is the --

ELIZABETH LINT, EXECUTIVE OFFICER: Accessible.

RICHARD SCALI, CHAIRMAN: Accessible medallion. Paperwork all in order.

ELIZABETH LINT, EXECUTIVE OFFICER: Yes.

RICHARD SCALI, CHAIRMAN: Motion to accept?

ROBERT HAAS, POLICE COMMISSIONER: Motion.

RICHARD SCALI, CHAIRMAN: Seconded. All in favor?

ROBERT HAAS, POLICE COMMISSIONER: Aye.

DANILE TURNER, DEPUTY FIRE CHIEF: Aye.

RICHARD SCALI, CHAIRMAN: Any other business before us, Mrs. Lint?

ELIZABETH LINT, EXECUTIVE OFFICER:

No.

RICHARD SCALI, CHAIRMAN: Motion to  
adjourn? Seconded. All in favor?

DANILE TURNER, DEPUTY FIRE CHIEF:

Aye.

ROBERT HAAS, POLICE COMMISSIONER:

Aye.

(Meeting adjourned at 10:40 p.m.)

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS  
NORFOLK COUNTY, ss.

I, Jill Kourafas, Certified 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 to the best of my knowledge, skill and ability.

In Witness Whereof, I have hereunto set my hand this 1st day of October 2009.

---

Jill Kourafas  
Certified Court Reporter  
License No. 14903  
Notary Public  
Commission expires 2/26/10

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