

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, April 6, 2010
6:07 p.m.

REPORTERS, INC.
CAPTURING THE OFFICIAL RECORD
617.786.7783/617.639.0396(fax)
reportersinc.com

INDEX OF AGENDA PROCEEDINGS

<u>Agenda Matters</u>	<u>Page</u>
Investigative: Hersha Hospitality	5
Informational: Hersha Hospitality	50
Application: City of Cambridge, Department of Public Works	89
Application: Everest Crossing, LLC	91
Application: Coleman Murray, Inc.	99
Application: Bertucci's Restaurant	109
Application: T.W. Food, LLC	116
Application: House Corp., Inc.	126
Application: Go Café, LLC	134
Application: Super Duck Tours	139
Application: Cityview, Inc.	155
Application: Disciples, LLC	156
Application: MKTA, Inc.	178
Application: Allied Waste Systems	186
Ratifications: Medallion 189, 189, 79	190
Discussion: Hybrid Grant Money	191

P R O C E E D I N G S

MS. LINT: License Commission General Hearing, Tuesday evening, April 6, 2010. It's 6:07 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room. Before you the Commissioners: Chairman Richard Scali, Deputy Chief Dan Turner, and Commissioner Robert Haas.

If anybody is here for the application of Paradis, that's been continued to the next hearing.

MR. SCALI: Paradis Cafe? Is anybody here for Paradis Cafe. Continued to April 27.

MS. LINT: And the review of Cafe Anatolia has also been continued to next month.

MR. SCALI: Cafe Anatolia, is anybody here on that matter? April 27 on that matter as well.

MR. SCALI: Ms. Boyer, you're here for Holiday Inn?

MS. BOYER: Yes

MR. SCALI: And Officer, you're here
for?

OFFICER DONAHUE: Holiday Inn.

MS. LINT: The minutes.

MR. SCALI: Motion to accept the
minutes from our April 1 meeting.

MR. HAAS: Motion.

MR. TURNER: Seconded.

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

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Investigative matter:
Hersha Hospitality Management d/b/a Holiday Inn
Express, holder of an Innholder's license at 250
Monsignor O'Brien Highway due to a complaint
received by the License Commission regarding the
illuminated sign on the building.

MR. SCALI: Ms. Boyer, you're heading
up this one?

MS. BOYER: Yes, I am. Thank you.

MR. SCALI: Holiday Inn, here?

MR. KOVATS: Yes, we're here.

MR. SCALI: Come on and have a seat up
here next to Ms. Boyer if you would.

Tell us who you are for the record.
We'll start with Ms. Boyer.

MS. BOYER: Andrea Boyer, Chief
Investigator for the City of Cambridge License
Commission.

MR. STEARNS: I'm Frank Stearns from
the law firm of K and L Gates, and there's four
people from the Hersha Hospitality group here
tonight covering different disciplines from within

the hotel company so we can address the questions.

MR. SCALI: Tell us who you have up here.

MR. KOVATS: Steve Kovats, Vice President of Operations for Hersha.

MR. SCALI: Kofax?

MR. KOVATS: Kovats, K-O-V-A-T-S.

MR. PASEWARK: Greg Pasewark, P-A-S-E-W-A-R-K, Director of Construction for Hersha.

MS. O'BRIEN: My name is Kathy O'Brien. I'm the Regional Director of Operations from the Boston market.

MS. LEHNEN: My name is Tom Lehen. I'm the property manager.

MR. SCALI: Property manager for?

MR. LEHNEN: General manager for the Holiday Inn Express, Cambridge.

MR. SCALI: Ms. Boyer, we're going to start with you.

MS. BOYER: In January there was a new sign that was put up on the Holiday Inn Express located on Monsignor O'Brien Highway. It was

brought to our attention from a resident, Jean Spera, that the sign was going up and that it was going to be in their mind possibly problematic based on an old ownership of the Holiday Inn Express. It was stipulated that they had to have a certain sign that was up on the Holiday Inn Express on Monsignor O'Brien Highway, and the residents were in fear that it was not going to be in the same dimensions.

So on February 3, we had a meeting with the residents. Kathy O'Brien was there, Tom Lehnen, Jean Spera and her sister. We discussed the problems of the Holiday Inn sign. They stated what the sign had previously been and the color scheme that they liked and what sizes that they wanted. Then based on that information it was taken back by Kathy O'Brien to the corporate office to have that matter discussed.

We had e-mail back and forth to see if there had been any solutions brought to the table. There hadn't at that time so it was placed on the agenda to have it discussed in front of the

Commission.

There was a meeting that took place between the Executive Officer and some representatives of the Hersha group. At that time it was asked to get more specifics from Jean Spera, her sister, and some residents of exactly what they would like the sign to be. It was e-mailed back to me. I'm not sure if you have that information. Would you like me to read that information?

MR. SCALI: I'm looking at a couple of e-mails that I do have here from Mrs. Lint but I think it has to do with the other matter, not with the sign issue. If you could just maybe paraphrase or give us information. Actually I've got your report here, Ms. Boyer.

MS. BOYER: That may be a little different from the meeting that we had recently. I'll just read a few things and then I think some people are here also. They may want to say what exactly they're looking for.

The same with the sign; that they would like the sign to be as close as possible to

the size of the sign which was removed. Also, the size of the total signage should be about half the size of the current size that's up there at this moment. The large green box with the large white *H* needs to be removed; that's the request.

All the lettering should be in scripted font and be the size of the words "Holiday Inn" on the current sign. The color of all the lettering, wording on the sign when unlit should be as close as possible to the color of the previous sign, which was a brown bronze brown color, and would consider a current navy blue color. The bright neon green lettering is unacceptable when lit and the colors of the letters should be smoky white with a brightness level comparable to that of the Doubletree Hotel sign.

When the meeting was held between the Hersha group and the Executive Officer there were some stated concerns from the Hersha group about being able to change the sign at all, and I'm sure that they will speak about that. And that kind of is where we're at, at this moment.

MR. SCALI: The one thing I've learned is that if you're here for a long enough time things come back again before you. So having been here 24 years I have the benefit of knowing what happened in 1997 and all the hearings we had back then. Commissioners, you weren't here back then, and maybe you're happy you weren't here back then.

As I recall, and I'm sure Ms. Spera will refresh my memory if I'm wrong, we went through numerous meetings and discussions with the then owner, not this owner, about the size of the sign, the color of the sign, the brightness of the sign. This went on for months and months. As I recall, I think what happened was we came to some agreement; that there was some kind of decision made with regards to all those items, the color, the size, the shape, the brightness of that sign. The owner at the time agreed that that would be the way that it was.

I guess when we had the transfer hearing when the Holiday Inn took over this particular location, we did not mention this sign

at that time which probably we should have at that point.

MS. BOYER: The sign wasn't in question at the time of the transfer. They weren't changing anything except just ownership. SO if I think of the information at the time it just wasn't a question because it wasn't a problem.

MR. SCALI: I'm surprised Ms. Spera didn't bring it up back then.

So you have not come to any conclusions on this?

MS. BOYER: I think it's still back at corporate to try to figure out -- from the last that we heard the information that was stated at the meeting was still going to be going back to corporate to see what changes could be made. We're just kind of overlapping some of the hearing and also what they may be bringing to the table.

MR. SCALI: Questions for Ms. Boyer?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Mr. Stearns.

MR. STEARNS: Thank you very much. I'd just like to give a little bit of a background from the perspective of the Hersha group, who again, is represented here tonight and currently is in control of the property today and has been since 2006. This was an acquisition.

The Hersha group is a national publicly held company. They're in the hotel operating business. They own many hotels throughout the United States, not exclusively Holiday Inns. They operate hotels under many different flags or brand names: some Sheraton, some Holiday Inn, Marriott, and there are others.

When they bought the Cambridge location they bought many other hotels in the local market and nationally at the time. Since about 2600, when they took over this facility in Cambridge they've invested over \$500,000 in improving the property with landscaping improvements, painting and deferred maintenance to the building, improvements to the port couchere, improvements to the rooms and windows, as well as

to the inside. They continue to have plans to continually improve both the customer experience inside the hotel as well as the exterior of the property from a community setting standpoint.

It is the case that in 2009, Intercontinental Hotels, which owns Holiday Inn, implemented an international branding initiative for all of the Holiday Inn locations that are either corporate-owned, or franchise-owned, or owned pursuant to this kind of relationship like the one with the Hersha group. It's an obligation of the Hersha group to do everything they can to comply with the branding standards of the flag.

What they did was they hired a licensed sign contractor, they filed all the requisite paperwork with the Community Development Department and the Inspectional Services Department, and quite simply they went ahead and obtained a building permit from ISD with all the necessary bonding and requirements and zoning conformity. They received a building permit and proceeded to install the new signs pursuant to the properly issued building permits

from ISD.

Quite candidly, they didn't expect any controversy associated with this. They thought they had gotten the approvals they were required to, and followed the code, and put up the signs.

I think the description of the discussions to date from the standpoint of Hersha group are accurate. There have been discussions. I think one thing that we can elaborate on further is today Hersha did have subsequent discussions following these meeting with Intercontinental. We do have a letter that we received from the Intercontinental Hotel group. I don't know if you want us to submit it into the record.

MR. SCALI: Sure. Why don't you pass it around to Mrs. Lint and we'd be happy to look at it.

MR. STEARNS: It basically says that from the standpoint of Holiday Inn and corporate from Intercontinental that they don't have the flexibility to tell us now that we can modify the sign or that we can do something that's a variance

from the branding standards. So from our vantage point we view this hearing tonight not as confrontational, not as an expression that any kind of discussions with the staff or with the neighbors have fallen down, but just sort of to continue. You know, this is sort of the natural next step. We really aren't in a position to take down or modify a lawfully approved and proper sign.

So we are here to hear in this context -- we did see the list of what some of the issues were, and requests I guess we would call them for how could the sign on the building be different.

I do want to point out that the nature of the investment is over \$75,000 at this point in terms of design, fabrication, installation, bonding, construction costs, and there would obviously be significant additional costs should there be a need to make any sort of major modification to the signage that's now in place in the building. Again, we're open to further discussion about it.

We have quite recently been given some

of the information from what the Chairman is referring to went on in '97 and '98. I don't know that we have anything that says definitively all of these issues or whether they were codified in any one place. But again, I think we're here with an open mind. We're here to be cooperative but we do not have a lot of flexibility with respect to a sign that we think is basically lawful.

MR. SCALI: I'll be very honest with you, it's the very same argument that was used in 1997: they couldn't change it, they weren't allowed to change the design, it would cost them a lot of money. At the time, I was not -- I was sitting over there at that time but there were three different people here on the Board, and what they ordered at the time was that the sign be turned off so it couldn't be used. Then at that point, it was up to the licensee to find a sign that would comply with not disturbing the neighborhood.

So we have precedent for that because of a previous ruling with a previous licensee. If

it disturbs one it disturbs many. I went by there and I looked at it. I realize that it's green, and the previous sign was like a smoky white. The sign was just kind of long and white. It was not intrusive. It was kind of a low light. I don't know whether the other Commissioners had a chance to go by and look at it at all, but I know that -- and I'm sure the Spera's are here and can testify as to how they feel about it. If it's the same testimony as it was in 1997, I can guarantee you they're not going to give up on this particular sign being changed. And not that I've made any decision about that but --

MR. KOVATS: But at that time there was a little bit of a difference. That difference being -- we talked about this -- Intercontinental at that point in their lifespan had agreed to work with the hotel owners and at that point, the local community. Now we've been asked to speak to Intercontinental Hotels and we've done that, and their re-launch is so important to their brand that they won't variate[sic] from that signage package.

MR. SCALI: I can't imagine they don't have some variation.

MR. KOVATS: I just want you to know, Richard, that as a good partner in town, if we lose that franchise to that hotel, it will be catastrophic to the property and to the ownership group. We can't afford to lose the sign on that building. I would be detrimental to our business and we're great partners in town. We're a great employer, we're a tax contributor. So we're trying to work this as well as we can, too.

You see from the letter from IHG that our hands are tied as it relates to their re-launch at this point. Everything in our business is about branding an image.

MR. SCALI: There are exceptions to every rule. Having been here this long I know -- I understand your argument but I know that there are franchise exceptions to every rule because it has happened in the past. I'm sure there's a process or a way that you apply for an exception, or understand what's happening with the community.

I'm sure that every hotel has their individual neighborhood problems. I can guarantee you that there's -- I mean you go to the Holiday Inn on Cambridge Street in Boston and they have a completely different sign. How is that sign not the same as the one that's on the one here in Cambridge?

MR. KOVATS: It has not re-launched, and if it doesn't re-launch, it will close as a Holiday Inn. It won't stay as a Holiday Inn. There are many of them that are closing actually.

MR. SCALI: I'm not sure who's launched and re-launched.

MR. KOVATS: The ones with the old signs have not re-launched.

MR. STEARNS: We recognize that there may be esthetic differences, and one of the issues that we are concerned about is that everybody's perception of what is beautiful or attractive or tasteful or nice, everybody's perception can be quite different on something like that. And to make a modification to a lawful sign that would

cost in the order of magnitude of maybe \$50,000 some-odd with re-fabrication, in the face of the greater risk that Hersha is pointing out of losing the ability to market and brand the hotel as a Holiday Inn, it seems that that just doesn't really -- in our view the punishment is sort of greater than the crime, to use an expression.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Mr. Chair, at this point in the discussion I'd like to have a little more background on what the actual complaint is. If we're talking about a sign and some of the things Ms. Boyer has mentioned, it kind of seems unreasonable to be looking at certain colors just because somebody doesn't like a color or a shape of a letter. To me that doesn't really seem reasonable. Or, is it an illumination thing? Is it a quality-of-life due to illumination at night? I'd like to have a little more specifics of what the problem is.

MR. SCALI: I think the complainants

can come forward. Why don't we take them now to come on up.

MR. STEARNS: Step back?

MR. SCALI: If you could step back that would be great.

Have a seat and just tell us who you are for the record.

MS. SPERA: I'm Jean Spera. I live at 12 Schiarappa Street in Cambridge.

MR. SCALI: So here you are again.

MS. SPERA: Here we are again. I do have something prepared to say. A lot of it obviously is probably repetitive given what you've just said. But just to indicate that I am the main abutter to the Holiday Inn Express located at 250 Monsignor O'Brien Highway. I'm here to speak tonight on the matter before you, specifically the signage issue, and also the underage drinking complaint.

I'm representing my own interests as well as my sister who resides in the same premises, and the immediate neighborhood. I also have a

petition from the neighborhood, which I can give you. One moment and I'll pass it over to whomever.

MR. SCALI: Thank you.

MS. SPERA: I would like to say basically that the Holiday Inn Express has been unwilling to work cooperatively with its neighbors in East Cambridge; that it continues to ignore the rules and regulations and decisions of the City of Cambridge and the authorities charged with implementing them; and most importantly that it continues to act I think in a disrespectful and discourteous manner towards the neighbor and the residents.

As the main abutter I've been involved with concerns about this hotel and its predecessor since 1996. At that point in time there were lots of concerns about the original construction of the hotel, which was then called the Cambridge Inn. However, once it was built it seemed to settle in rather nicely. It erected a discrete black lettered sign which contained the words "Cambridge Inn," in script. When lit the sign was dim white

and that met the approval of the abutters in the neighborhood as a whole.

In 1999, Cambridge Inn was taken over by Bristol Management, d/b/a Holiday Inn. So Holiday Inn was involved in 1999. In the spring of 1999, they removed the Cambridge Inn sign, and without notice replaced it with a Holiday Inn sign, which resulted in a major neighborhood dispute for several months as Mr. Scali indicated.

I and neighborhood representatives came before this Commission numerous times. They met separately with the Holiday Inn and its attorneys during the period of May through September 1999. The final resolution was reached in September of 1999 by the License Commission who granted the license for the management with stipulations regarding the signage.

The sign which they wanted to put up, and this was Bristol Management, d/b/a Holiday Inn, was a large sign with neon f=green lettering, and it contained the big yellow daisy with the orange center, which was the corporate logo at the time.

Again, when it was lit it was bright and glaring, and the light intrudes directly into the bedroom upstairs on my second-floor as well as my den and office space on the second-floor. So it directly impacts on our living space.

In general it's garish. It's unsightly. And when you walk out your front door I don't think anybody wants to look up at a big green neon sign with a big *H* stuck in the middle of it. So it was horrible.

Basically we came before the Board and the ruling was that it would change to, again, the scripted letters saying "Holiday Inn," and that the letters they chose when unlit was a brown bronzy color, and when lit it was a dim smoky white color. We worked several times meeting on that particular white color to try to get it the correct dimness.

That sign remained in place until January 2010 when the sign was hastily removed without notice. Obviously it was now owned and managed by Hersha Hospitality. We notified Ms. Lint, and Andrea Boyer came down and all of that

happened the same way she described it, so I'm not going to reiterate that again.

I just want you to know that the sign is large, it contains a big neon green box with a white *H* in it. I has scripted green letters, "Holiday Inn," and then a larger set of navy letters that say "Express and Suites." When lit the boxed portion lights up as a garish green neon color with a bright white *H* in the middle. The Holiday Inn again is a garish green color and the blue "Express" words light up in white, but a bright white.

As I said to you, it faces us directly when we come out the front door, it shines into the bedroom, it also impacts on our yard right next to our house, which obviously we would like to sit out in, in nice weather in the spring, summer, and fall. You know, sit out there to cool off. Also, have a barbecue and you have to look up and see this big garish light reflecting on you. So it's certainly not attractive nor is it appropriate.

Additionally, when lit the sign

reflects into the second-floor of 12 Winter Street, currently, 25 Winter Street, and 33 Winter Street as reported by the residents. It's also now visible from Gore Street, the corner of Gore and Schiarappa. I have a neighbor at I think it's 389 Cambridge Street who can see it out of her window as well. So this is totally different than previously.

So it's clearly inappropriate. It's a blight on the residential neighborhood. I think Andrea indicated some of the changes we would like to see made to the lettering. We would also like to note that I've taken a look around at the hotels in Cambridge, including the Hotel Marlow, including the Sonesta, the Marriott, they Hyatt, and none of them have any signs like this at all, and they're not even in a residential neighborhood. So you're facing the river and they have better signage than this. So this is totally inappropriate.

It seems to me that the other establishments are certainly taking into consideration the importance of representing

themselves as quality establishments and are respectful of the neighborhood and the community.

And as Mr. Scali said, corporations that I've been involved with and that I've seen across the State of Massachusetts and other places as well certainly make changes in order to respect the residential areas in which they're located and also community standard. So I don't think there's a one-size-fits-all mentality, and most of the corporations that exist, and you can go to Nantucket, and Martha's Vineyard, and Cape Cod, and see all of those kinds of changes that happen.

So again, I would just like to also make a comment regarding some of the other issues that were mentioned with regard to our meeting on April 3, at the Holiday Inn as well as some of the comments concerning the underage drinking, and some of the other neighborhood concerns which we came upon as we talked to different neighbors in terms of getting this petition signed.

With respect to the underage drinking in particular and partying in general, people are

concerned that there seems to be an indication that Emerson College students are housed at --

MR. TURNER: These matters are separate.

MR. SCALI: Ms. Spera, can we take up this matter first with the lighting?

MS. SPERA: Sure, sure.

MR. SCALI: Because I want to make sure we get through this before we get to the next matter, because that's more of an informational hearing as opposed to disciplinary. So I'll give you an opportunity to speak on that.

So basically the sign as I heard you saying is the green color, and the brightness of it reflecting into your second-floor window, into your yard the same as it had been previously years ago, disturbing your peace and tranquility of your property. And what you're looking for is for the sign to be similar to what it was before, which is the low smoky white color, all one color. And just on that one side, not on the other side. Just on that one side facing your house.

MS. SPERA: Yeah, right, which I should have mentioned. On the previous occasions nobody had an issue with what kind of signage they had on the side of the hotel that faces Monsignor O'Brien Highway from Somerville going into Boston.

MR. SCALI: On the Twin City Plaza side.

MS. SPERA: Right, because there's no residential, you know, houses or anything on that side, so nobody had an issue with that. And that's why there were two distinct signs on the hotel.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. SCALI: Commissioner?

MR. HAAS: I'm just trying to understand. You're looking for a more muted sign on your side of the property?

MS. SPERA: Uh-huh.

MR. HAAS: Would it be almost like a reverse negative of what the sign looks like now? Would that be something more in line with what you have in mind? Or, you want it more bland in terms

of coloration?

MS. SPERA: More bland like that navy blue or a brown color, and without that large box with the green *H* in it. Or the green box with the white *H*, I should say.

MR. SCALI: And that reflects directly into your windows?

MS. SPERA: Yes. Sitting down to watch TV or work on your computer you've got this green light coming in.

MR. SCALI: Questions, Mr. Stearns, at all?

MR. STEARNS: A couple of comments. We actually can submit into the record the actual documentation that was submitted to the Inspectional Services Department for the building permit by the sign contractor. What's very interesting about it is that in most respects the new signs are smaller than the old signs. The documentation in the building permit reflects this; that the overall size of the sign area is shrinking from approximately 175 square-feet to 95 square-

feet on one side of the building, and approximately 228 square-feet to 95 square feet on the other side of the building. So there is some empirical evidence in terms of the comparison of the previous signs to the new signs that the signs are actually smaller. If it's important I'll put this into the record. It's in your files at Inspectional Services.

MR. SCALI: I think the issue is not so much the size of it as the reflection of it, and the color of it as I recall. The way the old sign was kind of narrower and longer. This is from what I saw when I went down there, sort of taller and bigger and greener. So basically the size of it is not really going to make a big difference. I think if it was muted, if it was not green, and muted the way that it is now it probably wouldn't be an issue for Ms. Spera, but I could be wrong.

MR. STEARNS: We have also done some photographs and some photograph renderings comparing the old and the new, and some photographs of the current condition. There is as evidenced by

this photograph, a streetlight, a very very bright streetlight, which is on a utility pole right in front of her property.

One of the things that we would entertain if this was seen as a productive step is to have maybe an independent person who is an expert in lighting assess this, take a look at it from an independent perspective. Somebody who is maybe a professional engineer with expertise in lighting take a look at the sign, the streetlight, any other ambient conditions and give some feedback or recommendations or input based on their independent professional opinion.

MR. SCALI: I don't think she's complaining about the streetlight because it's not reflecting in her bedroom window. I think you have to realize I've heard this all. I heard in 1996, 1999. The sign where it's placed on that building reflects right into her bedroom window. It's just the placement of the sign on that wall into her particular bedroom window. That's just how it is. This light here doesn't reflect that way into her

house. I wish I could use your argument as a way to make it seem less impacting on you guys but this is a very old story.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: There is one thing I would like to clarify. When the license transferred over, even though the previous conditions or the conditions that were put on the previous licensee were not discussed with the issuance of the new license, would those conditions transfer over with the license, silently.

MS. LINT: We tend not to carry conditions over. We look at each individual licensee individually. We had that same issue with a restaurant up on Mass. Avenue and Cambridge.

MR. TURNER: Thank you.

MR. SCALI: Does anybody else want to be heard on this matter?

MR. KOVATS: I've been to the site at night. The streetlight is shining on the front of those houses dramatically, and I do this all around

the country. The effect that the residents are seeing is from the streetlight. The lumens coming off of the Holiday Inn signage can be seen but are not reflecting or causing an issue on the front of this house, or these houses.

So we're prepared to -- like our attorney has said earlier -- bring somebody in to either tell us that we're wrong and the residents are correct, or vice versa. But I can tell you just from being there at night and having stood there that streetlight puts off a lot of light that would actually block out the lighting that's coming from the Holiday Inn sign, unless you're standing outside and looking directly at it. But if you're in the home, you're only seeing the reflection or the lumens from that actual streetlight. You can see there's a big hue around that streetlight.

MS. SPERA: I totally disagree having been in the house, and standing outside the house, and standing in front of the Holiday Inn. So if you want my personal opinion, I'll tell you. You look out the window and you see a big green glaring

light in front of your face. There is no way that that streetlight has anything to do with that. The streetlight reflects down on the ground and it's been hooded for that particular reason. It does not reflect into the house. The green garish light does, and if it didn't, we wouldn't be here today for that reason.

I don't enjoy coming in front of the License Commission; it's not something I want to do. I have other things. I should be at a school committee meeting tonight and I'm not because I'm here. I don't take this lightly. I would not go out of my way to come here to be problematic. I'm here because it is a concern.

I've lived there my entire life, my family has lived there for generations, and this is intrusive and it's uncalled for, and it's inappropriate, and it's horrible looking. Nobody I can think of that comes to visit me, that walks down that street, that lives in that neighborhood can look at that sign and say it's attractive, remotely. I can't see another hotel that's looking

for quality guests to have a sign that's that garish and ugly as that in that location. Now, if you want to have it on a highway somewhere that's fine. But in a neighborhood? When you come into a neighborhood that has houses surrounding it, this is totally inappropriate and nobody would want that across the street from them.

MR. STEARNS: We could submit for the record, not tonight, but if you needed it we could do follow-up with both Hersha as well as with Intercontinental. We could I'm sure give you plenty of data of other comparable locations which are on mixed commercial/residential districts where there are residential abutters where the national signage is. This isn't a unique situation.

MR. SCALI: I think you're missing the point. The point is that no matter where a hotel is located every situation is different. Every glare, every reflection is different depending on the setting. My feeling is, and I'm only one vote, your time is better spent going back to your franchise, finding out what exceptions there might

be, what alternatives you have, what ways you can make it one color, and in the most inexpensive fashion is my recommendation to you. Because I think that's the direction the Board went in 1999.

I don't know how easily you can do that. I don't know whether it's possible. I'm sure there are other designs that Holiday Inn has for other locations. Like Dunkin' Donuts has different signs for different locations. They redesign for different -- Harvard Square has a different design than East Cambridge. I'm sure every franchisee or franchisor has a different design for different models.

MR. STEARNS: But the irony is we may be able to go out and find people who think the new sign is a major improvement over the old sign as well. So it's a little bit of a subjective chase.

MR. SCALI: It makes no difference.

MR. KOVATS: And at permitting time it would have been a lot easier for all of us. We're from -- our offices are in Harrisburg and Philly. We're a great neighbor. We're a great tax paying

neighbor. We employ folks here.

MR. SCALI: I'm not disputing that at all.

MR. KOVATS: We're spending money in the community, and weren't told about what was going on here. We never knew when we bought the hotel and then when we went lawfully and applied for a permit, because we don't put up signs without a permit, now we're being told after the fact.

MR. SCALI: I don't dispute that at all.

MR. KOVATS: But how do we remedy that?

MR. SCALI: You fix it.

MR. KOVATS: I mean this town isn't that big.

MS. BOYER: But to clarify that, I did come down the day it was being put up and said there was a problem with the sign. I don't want you to think as if it was -- the sign was still down.

MR. KOVATS: It was already purchased,

it was in the works. What was the date of the permit?

MS. BOYER: I'm just stating it's not as if it was --

MR. SCALI: Also, our file is open and available to your attorneys at the time to review before they purchased the property so that should have been done as well. There's a public record of what happened in 1999.

Questions, Commissioners?

MR. HAAS: I have no questions.

MR. TURNER: No.

MR. SCALI: Pleasure of the Commissioners?

MS. LINT: Mr. Chair, I do have a letter from Councilor Toomey writing in regard to the complaint regarding the sign. He writes that "this issues is about being a good neighbor," and he hopes the Holiday Inn will "comply with the original agreement which was previously adhered to without issue," and that he's "in support of the residents and hopes the License Commission enforces

the terms of the agreement that is protective of the neighborhood."

MR. SCALI: All right.

MR. TURNER: Mr. Chair.

MR. SCALI: Deputy Chief.

MR. TURNER: Through you to Ms. Spera.

MS. SPERA: Yes.

MR. TURNER: Just so I can kind of grasp the whole concept of this I'm going to throw a big "what if." What if the hotel decided to take the current sign and downscale it say to half the size, but it's the original colors and shape, would that be satisfactory? In other words, I'm trying to figure out if it's the brightness or if it's the colors that's upsetting.

MS. SPERA: It's the colors and it's the design, so it's that big block green *H* and the colors.

MR. TURNER: So if it was just as bright but different colors?

MS. SPERA: No, no, it's also the brightness. That was the key factor was that same

white level of lighting that you see in most other hotels including the Doubletree and the Marriott.

MR. TURNER: What we're trying to achieve here then and for your edification is just a complete elimination of what's there and something totally --

MS. SPERA: Yeah, well, it would eliminate that big *H*. Nice scripted Holiday Inn letters. I said the size of the way it says "Holiday Inn" now is fine, without the green. That can be a dark navy blue. It could be a brown when it's unlit, and when it's lit it can be that nice dim light that you see at the Doubletree, and the Marriott, and the Marlow, and everywhere else in the City of Cambridge.

MR. TURNER: I understand. Thank you.

MR. HAAS: I have a question. Just so we have a better appreciation before we take a vote, are you at an impasse over this issue now and you're looking for the Commission to make a decision on this? Or, is there still room for negotiation on this?

MR. STEARNS: Well, again -- I don't want to be repetitive -- we, I think, have been very candid about what we can't do and we've offered up something that we think would be productive, which is to look at with a lighting expert, to look at the situation and see whether there can be some -- see whether something helpful can come of that.

MR. HAAS: So you're closer to an impasse than you are willing to negotiate any kind of modification to the sign is what you're saying.

MR. KOVATS: We wouldn't negotiate the modification; that would be done by the brand.

MR. HAAS: It would be up to you as the Hersha management group to go back to your franchisee.

MR. STEARNS: We would have to intermediary with Intercontinental and we don't have that leeway or authority this evening.

MR. HAAS: I'm not talking about tonight. I'm talking about is there an appetite to go back and see if you can get modifications to the

sign or not. I guess that's the fundamental question I'm asking.

MR. STEARNS: We have an existing business relationship with them. We can bring back the results of this hearing, we communicate with them. We can do all that.

MR. HAAS: The question is will you?

MR. STEARNS: I don't want to create a false expectation. I think the letter that they wrote in response to us bringing it to their attention, we submitted it to the record and that is their position presently. We absolutely can talk to them again. We absolutely can come back.

MR. HAAS: I know what you can do. Is that something you're willing to do? Otherwise, there's no point in us continuing to have this process. Then we'll just have to make some decision about what we want to do with respect to the sign. My preference is to give you more time to try and see if you can resolve this issue. And if you're willing to do that, my preference would be to see you do that and try to reach an amicable

solution. Because you are going to be neighbors going forward and it's not going to be helpful to anybody if it's going to be somewhat adversarial. So my question to you all is --

MR. KOVATS: We will do that. We will take this conversation back to the brand and have that dialogue.

MR. LEHNEN: Excuse me. or the record, I had a conversation this morning with the brand manager and he stated absolutely there is to be no changes to be made. I think that's the issue we're having with this. But 100 percent, yes, we want to be good neighbors, absolutely. That's what we want to do so we will go proceed forward. What we're saying is that they said no, but we will proceed forward and cross that bridge because maybe a no can be turned into yes. I don't know.

MR. HAAS: That's what I'm asking. If you're willing to do that then I could see an opportunity to continue this matter. If you're not willing to do that then I think at some point in time the Commission is going to be asked to make a

decision relative to the merits of this argument.

MR. STEARNS: We are willing to do that. And we may, in spite of the Chairman's pessimism, we may pursue this other independent look at the area on the streetlight. We may come back to you with something that we think is relevant and useful.

MR. HAAS: Again, from my perspective, and I would imagine the Commission would feel the same way, it would be helpful if you could have ongoing communications with the affected neighbors rather than this being the first forum in which they hear what your proposed solutions are going to be as well. Because I mean you'll have a better idea then as to where we're going to be, as opposed to trying to negotiate this in an open forum like this.

MR. SCALI: I guess if it isn't resolving Ms. Spera's problem in terms of the reflection in her windows, it isn't resolved. So that's the point of the conversation. If you want to take the time to figure out what that solution

is, whatever it may be -- maybe you've got other ideas that I don't know about or maybe your consultant has other ideas that we don't know about. But I guess they need to be in her window from the second-floor making sure that the bright green isn't reflecting in her bedroom windows.

MR. STEARNS: We also think that this is really properly in the jurisdiction of the ISD.

MR. SCALI: It actually is not, because they don't regulate hotels the way we regulate hotels under the licensing laws.

MR. STEARNS: But they regulate signs.

MR. SCALI: For the construction of the sign, yes.

MR. STEARNS: For the zoning compliance of the signs.

MR. SCALI: I guess that would be a legal question, Mrs. Lint.

MR. TURNER: Mr. Chair, the 1999 issue, how long did it take to get resolved?

MS. SPERA: May to September.

MR. TURNER: That's not too bad.

MR. STEARNS: He originally suggested, I think he said it started in '97, so maybe you were thinking it took two years.

MR. SCALI: There was a previous issue, yes.

MS. SPERA: It did. There was a conversation with the first hotel owner and a conversation with the second.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: In light of the representations by the Hersha group, I would move that we continue this matter to give them an opportunity to see if they can find an amicable resolution.

MR. SCALI: Continued for further hearing?

MR. HAAS: Yes.

MR. SCALI: Date in mind, Commissioner?

MR. HAAS: I have no dates in mind.

MR. SCALI: What do you have

available, Mrs. Lint?

MS. LINT: May.

MR. SCALI: Second hearing in May?

MS. LINT: Yes.

MR. SCALI: Which would be the 25th of May.

MS. SPERA: Is that on a Tuesday?

MR. SCALI: It's a Tuesday night, yes.

Motion then to continue to May 25.

MR. STEARNS: Is there another date?

MR. SCALI: We have two hearings in May, May 7 and May 25.

MR. STEARNS: It's just my daughter's birthday. What's the first hearing in June?

MS. SPERA: Of course, I'm living with a sign reflecting in my bedroom window and my computer room.

MR. SCALI: We can give you May 7, if you'd like. I'm sorry, May 11.

MR. STEARNS: Let me just check because not everyone here is local. Can we get back to you tomorrow on the date, or do you have to

put it in the record right now?

MR. HAAS: It's part of the motion.

MR. SCALI: It's part of our motion.

MR. STEARNS: To the next available date and then we'll work it out.

MR. SCALI: Our next available date is April 27.

MR. STEARNS: I think that would be too soon.

MR. KOVATS: Let's make it the 25th.

MR. SCALI: May 25, moved.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you.

MR. SCALI: The next matter -- don't go away. We're going to talk about the informational hearing that we mentioned already. Officer Donahue, please, would you come forward?

MS. LINT: Informational: Hersha Hospitality Management d/b/a Holiday Inn Express, holder of an Innholder's license at 250 Monsignor O'Brien Highway due to a police report received by the License Commission regarding a room of underage individuals in possession of alcohol.

MR. SCALI: Officer Donahue, just give us your report from that particular evening of -- what evening was that, Mrs. Lint? What date was that?

OFFICER DONAHUE: It was the evening of January 16, which was a Saturday night. I just want to say good evening to everyone.

MR. SCALI: Good evening.

OFFICER DONAHUE: On Saturday, January 16, 2010, at 10:08 p.m., my partner and I were dispatched to meet a parent at No. 5 Third Street, which is the Dunkin' Donuts at the corner of Third

and McGrath.

After responding to that address we met a concerned parent by the name of Debbie. She explained to us that she was from Lowell and had received knowledge that her 16 year-old son Anthony was in a hotel room full of minors that were drinking and doing drugs at 250 Monsignor Highway in Cambridge. She further explained that she had confirmed that one of her son's friends had rented the room at the hotel, the Holiday Inn Express, but that the hotel staff would not tell her which room he had rented. She requested we investigate the matter, which we did.

We responded to the Holiday Inn Express at 250 Monsignor O'Brien Highway, entered the hotel and spoke with the hotel manager, and asked her if an individual by the name of Nicholas Andrews had rented a room there. She said that he had and gave us the room number as 416. My partner and I responded to the fourth floor of the hotel. We stood outside the door at 416 and listened in for a couple of minutes. We could tell there was a

party going on. You could hear young voices.

At that point, I covered up the peep hole with my thumb and knocked on the door. You could hear the music was immediately turned off, all the talking kind of died down. Then there was some discussion that there was somebody knocking at the door and what they were going to do about it. Finally, a female voice said, "I know how to take care of this," and opened the door.

As soon as she swung the door open we could see several bottles of hard liquor immediately inside the door. There were several bottles of tequila, Jack Daniels whiskey, Captain Morgan rum, Petrone. They had two quarter kegs of Bud Light, a 30-pack of Bud Light.

As soon as we entered the door my partner said, "how many people in this room are 21?" None of the hands went up. At that point, there were 11 people inside the hotel room. I believe four of them were 18 years old. The rest were under 18.

At that point we called our patrol

supervisor. He came down several minutes later. We explained to him everything we had done up to that point. He recommended that we seize the alcohol and call everyone's parents, which we did.

The individual who rented the room came forward. He volunteered that he had rented the room. He had been 18 less than a week. But he stepped up and admitted that he had done that. We summonsed him to court, charged him with selling or delivering liquor to persons under 21, contributing to the delinquency of a minor, 10 counts, and possession of liquor under 21.

We seized all the alcohol and stood by for about two hours while the parents all traveled that way to pick up their kids. All the kids in the room were either from Dracut or Lowell, so most of the parents had to travel extreme distances to get there. That's why it took over two hours for all the parents to respond.

MR. SCALI: Did you have any contact with the hotel at that point, Officer?

OFFICER DONAHUE: The only contact we

had with the hotel was to ask the manager the same question the parent had asked: if the individual had rented a room there and then which room it was. And she provided us with the room no problem. From that point on we had no -- our attention was focused on that individual room, 416, and we didn't have much contact with the manager from that point forward.

MR. SCALI: So from the point that the parent called in -- you were dispatched from that call -- you went directly into the hotel?

OFFICER DONAHUE: First we met the parent at Dunkin' Donuts and had a conversation. She provided us all the background information as to what she knew, how she knew it, and how far she had gone looking into it. Then she asked us to look into it and we spoke with the manager. They confirmed that that individual did rent a room and she provided us with the room number, which she did not provide to the parent.

MR. SCALI: You went to the front desk and talked to the manager?

OFFICER DONAHUE: Yes.

MR. SCALI: And they provided the room number to you alone?

OFFICER DONAHUE: Correct.

MR. SCALI: Then you went up with the manager?

OFFICER DONAHUE: No. She had to stay there. She had people coming in and out. So the two of us, myself and my partner responded up to Room 416. As I said, we listened to the door for several minutes. We could tell just by the sound of the voices that there were young people inside. And as I said, I covered up the peep hole and knocked on the door. They swung the door open and immediately you could see the liquor in plain view just inside. As I said, the first thing we asked was how many people there are 21, and none of the hands went up.

MR. SCALI: I'm just curious about your interaction with the hotel because this is more about the licensing of the hotel and how responsible they were; what actions they took to

make sure that this wasn't going to occur.

So did you have any further contact at all with any of the management of the hotel at all?

OFFICER DONAHUE: No.

MR. SCALI: So you just at that point called the parents and then waited for them to come?

OFFICER DONAHUE: Right. We were pretty much focused on that individual room from the point we went up there and the door was swung open. We called our patrol supervisor and he responded to that room. We physically had to take all the alcohol out of the room ourselves, which was no easy task. And we had really no dealings with the management from that point on.

MR. SCALI: I guess that concerns me that there was never any follow-up. The management didn't come to find out what was going on?

OFFICER DONAHUE: No. I don't know if it was a staffing problem or not, but to come up four floors she would have had to abandon the desk, and we didn't see any other hotel personnel there

at all.

MR. SCALI: Just one person.

OFFICER DONAHUE: I think if there was more staffing I imagine somebody would have come up with us, but we didn't see any other staff other than the woman.

MR. SCALI: Questions?

MR. HAAS: Officer Donahue, when you and Officer Druits approached the door, how noticeable was the noise? Did you have to put your ear up against the door or was it noticeable from the hallway in terms of noise emanating from the room?

OFFICER DONAHUE: Once we got off the elevator, which is in the center of the hotel, we immediately knew where we were going without having to look at the numbers.

MR. HAAS: So it was noticeable with the noise emanating from the room.

OFFICER DONAHUE: We just followed the noise, and it was the last room on the left at the end of the hotel. We confirmed that that was in

fact the room.

MR. HAAS: Do you know if there were any other guests on that wing of the hotel? Did anybody else come out while you were there from the room?

OFFICER DONAHUE: No one else came out but we could see people in their rooms as we were walking back and forth.

MR. SCALI: Were you curious whether other guests were complaining?

MR. HAAS: I'm just curious if it was -- at that volume I would imagine guests would have been calling the front desk to complain. But again, also I think if it's that noticeable maybe it is a staffing issue. But I would think that the hotel would have some kind of opportunity to check it's wings and floors.

MR. SCALI: I would think there should be some type of security or something that would be checking into these issues. Maybe they have another answer that we don't know.

MR. HAAS: Thank you.

MR. SCALI: Questions, Deputy Chief?

MR. TURNER: Officer Donahue, was it ever disclosed how the alcohol ended up in the building, how it was brought in? You mentioned I believe two half-kegs of beer. Was that brought in the front door right by the manager on duty?

OFFICER DONAHUE: We never got a direct answer on that from any of the kids. If adults had procured it for them, they would've been even more reluctant to come forward with that. That being said, once they opened that door I must say the kids were pretty cooperative. They weren't evasive in any way. They didn't lie to us in any way. All the name and date of birth information that they provided to us was truthful. Then as the parents would respond to the address to pick up the individual kids, the parents, almost to a person, thanked us for calling even though they were upset with their children and had to travel long distances. They appreciated that they were being informed and exactly what they were up to.

MR. TURNER: Thank you.

MR. SCALI: To your point, I guess if there's all this alcohol coming in, they certainly didn't carry it up the stairs I wouldn't think. They must have rented the elevator and if they're wheeling in kegs, is anybody watching?

OFFICER DONAHUE: They were half-kegs or quarter-kegs but it's nothing but a plastic ball, a big plastic ball about this large with a cap on it. I've got to tell you that must have weighed over 100 pounds, each one of them.

MR. SCALI: So they had to wheel it in somehow into the elevator in the front lobby and up.

MS. LINT: Kids are resourceful.

MR. HAAS: That didn't hide it underneath their jacket, that's for sure.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Was it ever revealed what attracted them to Cambridge? Was there anything specific about this establishment?

OFFICER DONAHUE: I didn't hear that

answer. When the mother first gave us the rundown she said one of her sons friends was going to rent a hotel room in Boston and they were going to go down. Then apparently she called the parents of several of the other kids and the other parents had been given a different story.

MR. TURNER: It would just be interesting to see if this is a common occurrence at this particular place because it's an easy place to rent a room and sneak into. Was proper identification used on the room rental as far as age and everything?

OFFICER DONAHUE: Yes. He had a Mass. driver's license and a credit card. But as I said, he was 18 less than a week.

MR. TURNER: Thank you.

MR. SCALI: Questions?

MR. HAAS: No other questions.

MR. SCALI: Mr. Stearns.

MR. STEARNS: Yes. Tom, do you want to come up?

MR. LEHNEN: Sure.

MR. STEARNS: Tom is the current general manager and is probably the closest to the facts.

MR. SCALI: Pull that chair up right there.

MR. LEHNEN: Do you have questions for me prior to me --

MR. SCALI: Maybe you can clarify for us how does your -- first of all, who was on at that time of night is the big question, and how are they making sure that this alcohol is not being wheeled in through the elevators? Is there a way to monitor that I guess in terms of your staffing?

MR. KOVATS: One think I did want to say is Tom was not working for the hotel at that time. So the research that he's done, he's done nicely for us, it has been through some people that work there and some people that don't work there. He's not answering like he was at the property that day.

MR. SCALI: Is anybody here who was there that night?

MR. KOVATS: No.

MR. SCALI: Was there a manager on duty that night?

MR. LEHNEN: There are two current employees that work at the hotel now that were actually dealing with the officer, actually one. Janelle, was the name of the woman that you dealt with.

OFFICER DONAHUE: Okay.

MR. LEHNEN: The other gentleman that checked the guests in, his name is Nick. Both are still employed with the hotel and I was able to secure statements from them in terms of what they were able to find out. We have a log book and there's a log book dating from this date exactly what happened. There's not much to it quite frankly, just the fact that the police were called in. The parent called us indicating that there was a report of a missing child. The story matches exactly what the officer stated; that we do not as a hotel give customer's -- for the security of the guests -- names, and therefore, obviously the

police received that information.

So those two employees are here and Nick was the one who checked them in. Nick tells me that several people were checking in at one time and the registered guest was not 21. But the policy at the time is that one guest had to be 21 in order to rent a room. He did not take a copy of this person's ID, but that in fact there was one person that was 21. That was the hotel policy at the time.

MR. SCALI: So when this kid, Nicholas Andrews check in, he came with his ID. It showed that he was 18.

MR. LEHNEN: He did not check Nick Andrews' ID. He asked if there was anyone 21 or older in this group, because the hotel policy at the time was such that there needs to be someone 21 or older to rent a room at our establishment.

MR. SCALI: So did he see someone who was 21 or older?

MR. LEHNEN: He saw an ID and he does not recall what the name of that person was because

it dated so far back. He didn't take a copy of the ID.

MR. KOVATS: We wouldn't copy their driver's license anyway.

MR. SCALI: Are you suggesting that somebody who was not in the group checked them in, who showed an ID that was 21?

MR. LEHNEN: Correct.

MR. SCALI: Because nobody in the group was 21.

MR. LEHNEN: But he said he was with the group as they were checking in. What I'm suggesting is perhaps that person wasn't in the room when the officer went up to visit the room.

MR. KOVATS: But went there to acquire the room with whoever checked in.

MR. HAAS: If I recall correctly, the officer testified to the fact that this one individual, Andrews was the one that was basically was registered to the room.

MR. LEHNEN: That's correct.

MR. HAAS: How big was this group that

presented itself at the desk?

MR. LEHNEN: I don't know exactly. I could find out. I could ask him again how many people. He said a few people checked in at that time.

MR. HAAS: For that one room?

MR. LEHNEN: Right. And the policy at the time was that there must be a person that's 21 or older to get a key to check into a room.

MR. SCALI: How big is this room?

MR. LEHNEN: It's 400 square feet.

MR. SCALI: So why would you be checking a huge group of people into a hotel room that small?

OFFICER DONAHUE: We found 11 people in the room and that's their names and addresses.

MR. LEHNEN: Commissioner, I said a few people. I don't know exactly how many people. We could be check with Nick and find out how many people.

MR. STEARNS: We don't think all 11 registered.

MR. HAAS: No, I'm not saying that. But it sounds like a group of people presented themselves at the desk. We have one individual who has basically identified himself as 18 by a week who's taking responsibility for renting the room. There's some inconsistencies here. And also, I'd have to wonder if you've got a group of teenagers, whether they're three, four, or eleven, why would you rent a room to a group of teenagers like that?

MR. LEHNEN: At the time, the policy was such that someone had to be 21.

MR. SCALI: Not the person who signs has to be 21?

MR. LEHNEN: That's the change that I made since this became an issue. I corresponded with Ms. Lint and explained the new policy which is the registered guest must be 21. The person who signs the registration card must be 21.

MR. HAAS: I guess knowing more about the situation, would your clerks or managers probe more if you had a group of teenagers showing up at the desk that wanted to rent a small room,

questioning why they're renting the room?

MR. LEHNEN: Yes, absolutely. There are a lot of kids that check into our facility because there are a lot of colleges, youth groups and such that do rent rooms. We do have a party policy statement that groups receive when they check in. Certainly there are checks in terms of what's happening on the floors, and if there's people complaining, we're addressing those issues right away. So yes, for the security and safety of the guests we are very aware that. And if there's a large group of people, I don't think the hotel is going to want to check 11 people in at one time; that would not be a good decision at all.

MR. SCALI: It doesn't sound like a very good decision.

MR. LEHNEN: And I wasn't there to see what happened but the statement that I made was that Nick said that there were a few people that checked in at this one moment, and that the registered guest didn't present his ID; that Nick asked is there anyone 21 in front of - you know, if

I'm Nick, "Are any of you 21," and someone produced the ID so he checked them in.

MR. HAAS: I guess my question to you again would be, do you limit the number of people that can go to any one given room? Is it five?

MR. LEHNEN: Five people.

MR. HAAS: So it's no more than five people to room?

MR. LEHNEN: The room holds five people so we wouldn't check in more than five people. There are ways to get into the --

MR. HAAS: That's my next question.

MR. LEHNEN: The elevator, the stairs. There's unfortunately numerous ways to get into the hotel. People bring luggage. We additionally have a policy that there's to be no alcohol brought in. It doesn't matter if you're 21 or 45. We do not allow alcohol into the building. We do not have a license. It's not an acceptable practice whatsoever to bring alcohol in. If people bring in their own alcohol, which they do in hotels, they typically will smuggle it and hide it in a suitcase

or whatever manner. Additionally, they sometimes go out perhaps a fire exit and will - a friend will let them out and then they'll sneak around the building and walk up the stairs. Things like this do happen and unfortunately we don't have guards posted at all stations around the building. This is my assumption of what happened in this case.

MR. HAAS: But again, based on the officer's testimony it sounds like it was quite a bit of alcohol that was brought into the hotel. It seems to me that I don't know if they'd be lugging all that up the stairs but that they'd be taking elevators. So what are the points of access to the elevator? Is there other points of access to that elevator beyond going past the front desk?

MR. LEHNEN: No, sir.

MR. HAAS: So then somebody had to walk past the front desk. Let's say for the sake of argument they took it up the elevator; they had to walk past the front desk with these half-kegs and then take them up to the fourth-floor.

MR. SCALI: Which weigh 100 pounds.

So someone had to wheel that on a dolly.

MR. LEHNEN: For lack of argument, yes, that would be the case. But for reality sake, these things get smuggled in via other means.

MR. STEARNS: How many people were working at the front desk that night?

MR. LEHNEN: I do not know the answer to that question. I believe that there were two but I'd have to go back o the records.

MR. HAAS: Do your employees do walk-throughs of the hotel occasionally?

MR. LEHNEN: Yes. We typically have scheduled two employees. There's a security person that his or her shift will vary but typically it's 11:00 to 7:00. Lately I've been having them come in a little earlier, leaving earlier. That person's responsibility is to make rounds in the building, to clean the building, keep things safe and secure, as well as the second person being responsible for checking guests in and out and not leaving the posted front desk area.

MR. HAAS: Do you know what time they

checked into the hotel?

MR. LEHNEN: I do not know the exact answer to that. It must have been around 10:00, just prior to 10:00 p.m.

MR. HAAS: So they're up and running probably within 10 or 20 minutes or checking into the hotel?

MR. LEHNEN: Sir, I said I don't know the answer to this question. I could check the computer and it probably has the exact time of check in, if you'd like.

MR. HAAS: No other questions.

MR. SCALI: It sounds like these kids came a long way from Dracut and Lowell, which means that probably the word is out that this is a pretty good place to have a party. That's my guess; right, Commissioner? Why would you come all the way from Lowell and Dracut?

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: That was going to be my point. You know January 16, I was wondering if

that date was significant for some reason.

MR. SCALI: That was the holiday weekend probably.

MR. TURNER: A question to Officer Donahue. You mentioned that a complaint was sought. Is that still pending?

OFFICER DONAHUE: It is. I haven't been notified as to a court date yet on it.

MR. SCALI: It was the long holiday weekend, the Martin Luther King weekend.

OFFICER DONAHUE: Exactly.

MR. SCALI: Any other questions?

MR. HAAS: I was going to say something about the sign because the sign went up in January, too. I don't know if there's any correlation.

MR. SCALI: Must have been a busy month, January.

Ms. Spera, did you want to something?

MS. SPERA: In going around to get some of those petitions, I just wanted you to know that people have concerns about whether Emerson

College students are staying there. The other question is, as recent as Easter Sunday and into the wee hours of April 5, which was April 4, the neighbors indicate that there was a loud party going on, on the premises up until 3:00 or 4:00 in the morning, and those were the neighbors on Winter Street.

MR. HAAS: Did they call the police, do you know?

MS. SPERA: No, they didn't. Because I asked them that and they said they did not, and so that's something they'll obviously have to do more frequently.

MR. SCALI: It could you that coming from the Windows.

MS. SPERA: They could hear that coming from the windows or something?

MS. SPERA: I guess they heard it right -- the back of their houses are on -- the front of their house is on Winter Street and the back yards of their houses obviously abut on the side of the hotel, so obviously that was where that

was coming from.

The other thing they mentioned was that in the summer there was some report of prostitution at the hotel, and that that complaint was being investigated by the Cambridge Police Detective Robert Gray.

MR. HAAS: Sergeant Gray.

MS. SPERA: So these are other concerns. And again, I'm just going to mention these only because I'm here tonight and I suppose if you don't mention them they don't count somehow or another.

Just to let you know that we also mentioned it at the meeting we had on February 3, the trash company truck as well as the delivery trucks enter -- they come off the highway, back in down Schiarappa Street and into the exit into the parking lot of the hotel. So that happens frequently.

The other thing is their snow. They had their snow plow person, who when you call up the hotel nobody knows who this person is even

though it says Cambridge Landscaping on the side of it. And that person plows the snow out of the hotel parking lot across the street onto Schiarappa Street sidewalk. Even though we've called up and said don't have your snow put over here, it continues to happen.

Then the other issue is -- this was happening frequently, I don't know if it's lessened -- their fire alarm was going off constantly. So they'd be down two or three times to that hotel. I don't know if it was a malfunction or whatever it was.

The other thing is the overflow parking. Originally the hotel had a second lease on a parking lot somewhere so that if their parking lot was full, which happens frequently, and I see people double-parked, et cetera, the overflow will now come out onto the street and will take a resident parking place. And because it's usually late at night, as you can see from all the people coming to go to their parties, then you can't really -- I mean you're not going to call the

Cambridge Police to come down and give a ticket, and the meter people aren't there. So people end up if you come home yourself after 11:00, then people have to drive around to try to get a parking spot because of people from the hotel. And obviously because they have out-of-state plates you also know that they're more than likely from the hotel. So that happens quite a bit. So those are just some of the additional concerns that have arisen.

MR. HAAS: You mentioned that there is a suspicion about Emerson College. Why Emerson College particularly?

MS. SPERA: I don't know. This is what one of the neighbors who walks around quite a bit and works for the City of Cambridge reported to us.

MR. SCALI: Do you have students that stay there? I know that some of the BU students stay at other hotels. Do you have students that use them as dorms?

MR. LEHNEN: No.

MR. SCALI: There's no temporary housing for Emerson or anything like that?

MR. LEHNEN: No.

MS. O'BRIEN: I will say that if you see a student -- there could be a student group that is there for a weekend, like a sports team comes in and is playing against Harvard or MIT, that sort of thing. So you may see youth groups but there's no housing or permanent dormitories.

MR. SCALI: Does anybody else from the public want to be heard on this matter?

I guess I'm just going to make a suggestion. Since the other matter is continued until May 25, maybe when you come back at that point you could update us on the issue of your front staffing and how they handled the situations maybe in a letter in writing to Mrs. Lint about that. It sounds as if maybe -- and it may be just a monetary economical issue I'm sure in terms of having staffing available at that time of night in terms of being able to check the floors and be at the front. It sounds like one, maybe even two

people are not enough if that's what's going on on a very busy weekend. I'm not sure, but maybe you could look at that and report back to us on that.

I know that you actually changed your policy on someone being 21 but if you could just put that in writing to us in terms of what your policy is.

MR. LEHNEN: Would you like to see this?

MR. SCALI: Did you already do that?

MR. LEHNEN: Yes.

MR. HAAS: The other thing I'd mention to you is that if the residents do go about parking in a residential area, we'll tow the cars and I don't think that's going to be good for your customers. So you may want to notify your customers not to park in residential parking spaces.

MR. LEHNEN: I agree with you there. We do have an arrangement with the Meineke lot across the street that we've been parking our cars over there. We have a very good system worked out.

We do not want any of our cars to block your driveways or your spots at all. So I appreciate you bringing that to my attention and we will continue to monitor that and assure that that doesn't happen.

MR. HAAS: So I would tell your neighbors to call us because we will respond, we will ticket, and we will tow.

MR. KOVATS: Just a comment about some of the comments that were made, from our perspective as the owner. As I said earlier today, we want to be a great neighbor and a good citizen of the community. Anything that happens at the property we take very seriously. This situation unfortunately we found out about it at the time the letter was sent to us as it with regard to the signage. We had heard that the police were at the property but not to this degree. So that's a little concerning to me too.

We like to work with law enforcement, and if there's anything like prostitution going on at the hotel, which I've been in the business now

for 30 years; that happens in hotels but we work with local law enforcement anywhere in the country to address that. We haven't heard of that at the hotel. We haven't had any incidences of alcohol or underage drinking. People that do go to hotels though, they do go after dinner and they might have had some cocktails and they do invite friends up to their rooms. We don't necessarily have people not do that; local residents bring family over.

There are times sometimes when I might rent a room with my wife and I'll invite three or four of my friends over and we'll sit in the room and have a beer together and get loud, and we address that. Certainly we don't condone underage drinking or over drinking by anyone as a company. We have establishments that have full service food and beverage liquor licenses and we TIPS train our people. We take all that very very seriously. So we would gladly work with the town and the local residents about things like that.

As it relates to the fire alarms, sometimes someone smokes near a smoke head and the

fire alarm goes off. Recently we did have an alarm when someone was doing some mechanical work at the property and they set the alarm off, so that does happen at hotels also. And sometimes through a prank someone will pull a pull station and unfortunately there's no ink that comes out of them so we don't always know who does that but they're there for life safety and we take that very seriously. I'm a volunteer firefighter and I work with my town and my police department, and very seriously as a company we do that.

The snow plow issue we address with our vendor. And also the dumpster company that goes down the street the wrong way, we've addressed that with them. We'll call if we see it and have them ticketed. Sometimes if you hit somebody in their wallet it makes more sense. I've been told that Cathy has addressed that for us several times. I know recently, Tom had a conversation with them that it's disturbing to us and to the residents, and it's unsafe to be going up the street the wrong way.

Then the parking situation, Cathy and her team actually a couple years ago set up paid parking so when we get into our busy season we do actually pay for auxiliary parking lots around the hotel that we can manage and use for our customers to keep them off the street. Because frankly, even if they take some residential parking, there isn't that much and we'd have to park quite a bit away. We're trying to make it very very convenient for that customer when they stay with us to know where they're going, where their car is and that it's safe and all of that too.

So all of these issues that were brought up today are all great to hear. Tom is the new leader at our facility for us. We brought him in and I guarantee that you'll see continued even more greater support with Tom and his team at that site.

MR. SCALI: Is he the contact person now at the hotel?

MR. LEHNEN: Yes.

MR. SCALI: Is he considered the

manager?

MR. LEHNEN: Yes.

MR. SCALI: I guess you should be applying for a change of manager at some point in time.

MR. KOVATS: Tom is the direct contact for the facility. Kathy is also in Boston so she's at this facility at least a couple of days a week every week.

Thank you for your time today and meeting with us.

MR. LEHNEN: Also, if I could just add one thing if I may, regarding the liquor liability. I have 25, actually 30 years of experience myself in this business most of which is in food and beverage. I've held numerous liquor licenses in other hotels. I'm a certified TIPS trainer, not just a TIPS server but a certified TIPS trainer. So in terms of the awareness and legal ramifications, I'm well aware of that. But first and foremost, we're concerned about the safety and security of everyone. I want you to know I have

lots of experience and I'm well aware of that and we'll continue 24/7 to be aware of that and take action.

MR. SCALI: Any questions?

MR. HAAS: I would just kind of echo the Chairman's concerns that if you have groups of underage people coming long distances to a particular hotel that there's got to be concern about why they picked your place over some other place. I would encourage you to make sure that your clerks and your managers, if they see something that doesn't seem right that they respectfully push back a little bit and say what's going on here.

MR. SCALI: It sounds like just a staffing issue and making clear what your policy is to your staff. Actually this is probably a great subject matter for our 21-Proof trainer to come in and help you with that, which is free to anybody who's a CLAB member. Frank Connolly will come down to your hotel and train people. If you want to bring up this subject matter with him, he'll

arrange the training around those issues for you.
Mrs. Lint can give you those --

MS. LINT: They don't have a liquor
license.

MR. HAAS: No.

MR. SCALI: That's right; it's an
Innholder license, no alcohol. That won't help
you.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Not to drag this out any
longer, but just in closing comments, based on what
I've heard about this particular situation just to
extend a thank you to the Cambridge Police
Department for the way they responded to this.
This sounds like a situation that certainly could
have gotten out of hand but it sounds like it was
brought under control rather quickly and followed
up appropriately, and to Commission Haas for their
good work.

MR. HAAS: To Officer Donahue and
Officer Druits and their good judgment.

MR. SCALI: I would definitely agree.
Pleasure of the Commissioners? Under
advisement?

MR. HAAS: I'd like to take it under
advisement because I do want to look at the
security plan and things like that. I still have
to do some follow up with respect to the sign.
When is our Decision Hearing?

MS. LINT: We put the other one to May
25; right?

MR. HAAS: I'm just thinking about the
Decision Hearing for this issue.

MS. LINT: We can put it on the same
date.

MR. HAAS: Okay.

MR. SCALI: Motion then to continue to
May 25.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: See you all on May 25.

If you want to give information to Mrs. Lint beforehand, please do that. That way you can kind of gather everything together and be ready. Thanks very much.

MS. LINT: Application: City of Cambridge Department of Public Works, 147 Hampshire Street has applied for a Garage license with additional flammables storage. Said license, if approved, would include 10,700 gallons of Class 1A, 1B, 1C ((1) 10,000 gallon UST gasoline, 650 gallons of gasoline in tanks of autos, 10 five gallon gasoline containers), 11,000 gallons of Class 2 ((1) 10,000 UST diesel fuel, 1,000 gallons in tanks of autos), 1,860 gallons of Class 3A, 3B, ((21) 55 gallon drums of misc. oil for maintenance, (1) 275 AST waste oil, (1) 375 AST public waste oil), and 640 cubic feet of flammable gases ((8) 80 cu. ft. cylinder of acetylene).

This is for the garage at the DPW yard.

MR. SCALI: Someone needs to be here though. Is anybody here at all from Public Works?

MS. LINT: It's supposed to be Sidney Cox.

MR. SCALI: Why don't we continue this matter, Mrs. Lint, so they can appear. If you

could let Mr. Cox know.

Motion to continue to April 27.

MR. HAAS: Motion to continue.

MR. TURNER: Seconded.

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

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Is that the 27th or the
23rd?

MR. SCALI: The 27th.

MS. LINT: Application: Everest Crossing, LLC d/b/a as OM Restaurant, Bikram Yonjan, Manager, holder of an All Alcoholic Beverages as a Restaurant license, 2:00 a.m. closing, at 92 Winthrop Street has applied for a change of manager from Bikram Yonjan to Matthew Fondas. Applicant is also applying for a change of premises description to clarify the number of indoor seats and outdoor patio seats on the license.

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

MR. FONDAS: Matthew Fondas.

MR. CHOWDHURY: Solmon Chowdhury, owner, Everest Crossing, LLC d/b/a OM Restaurant and Lounge, 92 Winthrop Street, Cambridge.

Next to me is our general manager who runs the restaurant and I'd like to have him on board as also our manager of the liquor license.

MR. SCALI: Just tell us your experience in the restaurant alcohol business, if you would?

MR. FONDAS: I've been working in the restaurant business 16 going on 17 years. I've worked as manager of a restaurant for the past 12 years. I've been working with OM Restaurant for the past six months and I've worked in the hospitality industry my entire career of employment.

MR. SCALI: Have you ever had a license in your name before?

MR. FONDAS: No sir.

MR. SCALI: This is the first time?

MR. FONDAS: Yes.

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

MR. FONDAS: Yes, I have with Frank Connolly and John McKeehan.

MR. SCALI: So you've got that under your belt.

MR. FONDAS: I am ServSafe certified, ServSafe bar certified and able to teach the class. I am CPR, First Aid certified, TIPS certified and two or three different styles of ServSafe

certificates that are from different towns that I worked in throughout the cities or Massachusetts.

MR. SCALI: Background check all set?

MS. LINT: Yes.

MR. SCALI: So Mr. Fondas, it's a summer evening there at OM Restaurant, you're filled to capacity on the first level, your patio is filled to capacity, what happens with your customers at that point?

MR. FONDAS: We go on a wait outside so we don't break capacity.

MR. SCALI: How do you count capacity?

MR. FONDAS: To do a headcount we have a ticketer so I just make sure that -- and I count my staff into that count as well. That way it gives me a little leeway.

MR. HAAS: So while you have customers outside how do you make sure that they're not creating a disturbance while they're waiting to get into the restaurant? What do you do, anything?

MR. FONDAS: We have like the velvet ropes like at clubs or hotels to guide people, to

keep people from disturbing the rest of the guests. Most of them are usually patient enough to wait and be patient to come on in.

MR. CHOWDHURY: We haven't really had that issue lately. We haven't been full capacity.

MR. HAAS: You're hoping for that through, aren't you?

MR. SCALI: It's going to be a beautiful week this week. The weather is going to be in the 80s.

MR. CHOWDHURY: We can't wait.

MR. SCALI: Winthrop Street is going to be hopping I'm sure this weekend. Ms. Jillson is saying yes, she's hoping it will be.

MR. CHOWDHURY: With all her support, yes. She does a great job actually helping all of us.

MR. SCALI: Any other questions for Mr. Fondas?

MR. HAAS: No other questions.

MR. SCALI: The other issue is the patio clarification.

MR. CHOWDHURY: Yes. We have about 60 seats outside. Out of that, 24 seats in the front on the sidewalk, and then we have 36 seats on a private patio. The 60 seats during the summertime starting March 1, get taken away from inside. We don't really get to use those 60 seats. Probably if we're lucky we get to use them for -- last year I think we used it for about a month. This year, in the last month we probably used it about four days so far. So it affects our business inside a lot because we're taking 60 seats out. So we'd like to keep our capacity inside the same just in the summertime to increase our capacity by 60 seats just for outside.

MR. SCALI: So 60 seats on the sidewalk in the front and 36 on the patio?

MR. CHOWDHURY: 24 on the sidewalk in front and 36 on the patio, which is also covered by an awning so even if it's raining they all could stay there.

MR. SCALI: So this is temporary seasonal seating, not to be reflective from your

inside seats.

MR. FONDAS: Yes.

MR. SCALI: Has Zoning signed off?

MS. LINT: Yes, Ranjit signed off for 60 seasonal outdoor seats.

MR. SCALI: Questions?

MR. TURNER: Refresh my memory. This is the one we had different time zones we had so much seating, and then we moved furniture, and then after a certain time it was another seating. So basically we're looking to increase again?

MR. SCALI: No. No more moving any furniture?

MR. CHOWDHURY: No. It's actually going to help our process because right now in the summertime we're going into like eight different seating areas.

MR. TURNER: So you want to keep the numbers the same inside but you're asking to show the outside as an increase for temporary seasonal, outdoor seasonal.

MS. LINT: And it is what we do for

just about every other establishment.

MR. TURNER: Understood.

MS. LINT: Originally it was a Zoning issue.

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

MR. HAAS: No questions.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve on the change of manager and a motion to approve on the seating. You've submitted your plans and everything; right?

MS. LINT: I have them.

MR. SCALI: Motion to approve on the change of manager, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Motion to approve on the

change of premises description clarification of
patio.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye..

MR. HAAS: Aye.

MR. SCALI: Thank you very much. Good
luck, Mr. Fondas.

MR. SCALI: Application: Coleman Murray, Inc. d/b/a The Field, Jerry Coleman, Manager, holder of an All Alcoholic Beverages as a Restaurant license, 2:00 a.m. closing, at 20-24 Prospect Street has applied for a change of premises description to include seasonal outdoor seating on a private patio with service of food and alcohol. This will replace the previously approved public patio sidewalk.

MR. SCALI: Good evening. Just tell us your names for the record, please.

MR. HOPE: Attorney Sean Hope on behalf of the petitioners, and tonight I have with me --

MR. MCGRATH: Shamus McGrath.

MR. SCALI: We don't get to see you that much. It's usually everyone else we see.

MR. HOPE: We're seeking a change of premises description. We'd like to add seasonal outdoor seating to the rear private deck patio. We were before the Commission a couple months ago requesting outdoor seating in the front. After

review with an architect and kind of looking at the space I think there was probably some time spent out there with the full traffic pouring down Prospect Street, we thought it would be better to utilize the rear private back area for our outdoor seating.

It was really made possible -- the landlord erected a stockade fence that allotted a private area. There was some activity in the evening times. It's kind of an alleyway so people would go down the alleyway and we really couldn't control that back area. But once the stockade fence was put up it became the perfect back area to have tables and chairs and patrons.

MR. HAAS: Does this change the number of seats you'll be able to put outside as compared to what you proposed initially.

MR. HOPE: The plan there shows I think 24 seats for the Prospect Street side. Obviously that was based on the available space. So we would like to have and I believe the plan will show 64, and that was really based on keeping

the egresses open but having comfortable seating.

There would be alcohol and food service so they'd have alleyways for the different barkeeps to go and serve food but to make sure there was standing room as well.

MR. SCALI: This is going to be bigger than your inside. The patio is bigger than the inside property; right?

MR. HOPE: I think that the back area is about 1,000 square feet, and capacity, even though it shows the two front areas at 31, there's a total of 94 seats because you have the two recreational areas, plus the two dining areas. So technically it's not bigger but it does look bigger on the plans.

MR. SCALI: So serving food at all times out there; right? We're not talking about people drinking out there?

MR. HOPE: There will be alcohol served out there as well as food.

MR. SCALI: But with food.

MR. HOPE: Definitely. So it would be

the same as the inside premise except --

MR. SCALI: Music outside?

MR. HOPE: I don't think there's be any anticipated music. I know we'd have to come back before you.

MR. SCALI: That's not the right answer. Yes or no?

MR. HOPE: I mean I didn't want to foreclose the idea that we would come back in front of the Commission and maybe request it.

MR. SCALI: Maybe in the future you're saying.

MR. HOPE: Possibly.

MR. HAAS: So maybe.

MS. LINT: Not at this time.

MR. SCALI: Who's right behind the fence; is it a commercial property?

MR. HOPE: It's a commercial property, yes. It's commercial on all sides actually. The landlord owns the strip of shops; there's the eyeglass place. It's all owned so we had support.

MR. SCALI: No residents back there?

MR. HOPE: No residents.

MR. TURNER: Mr. Chair, through you to the applicant, two questions. The circular designs, I'm going to assume umbrellas or heaters?

MR. HOPE: That design is not actual where the chairs may be. We're looking at the concept.

MR. SCALI: That's not a good answer, Mr. Hope.

MR. HOPE: So let me rephrase.

MR. SCALI: You need to have exact plans.

MR. TURNER: That was my first question. I assume these are umbrellas, the circles on here.

MR. HOPE: Yes.

MR. TURNER: Because we have those heaters, the propane.

MR. HOPE: This would be seasonal summertime so we're expecting it to be very warm and to have people --

MR. TURNER: Has this been run by

Inspectional Services? I guess my question would be, and I don't know the answer where it's outdoor seating but I'm going to make an assumption where it's above 50 seats that you need a second means of egress from the patio area.

MR. HOPE: There's a second means of egress along to the alleyway.

MR. TURNER: I think it has to be --

MR. SCALI: Two on the outside.

MR. TURNER: I would need clarification on that.

MR. SCALI: He wants clarification on whether they need a second exit.

MR. TURNER: A second exit from the patio.

MR. HOPE: So second outside of the one that exits into the alleyway.

MR. TURNER: Right, you can't exit back into the building. In other words, you have to have two means of egress from the patio.

MR. HOPE: So along the alleyway it's a stockade fence, so actually we could create --

we'd have to obviously change the plans to reflect that but I think if we needed to --

MR. TURNER: It would appear that you'd have to give up two tables and four seats to do that.

MR. HAAS: It's a chainlink fence as I recall.

MR. HOPE: It's a chainlink fence now. The idea is to make it a little more aesthetic.

MR. TURNER: Just to clarify it prior -- let's not call it a final.

MR. HOPE: So would the Commission like to review this and submit another revised plan to you subject to?

MR. SCALI: Are you saying you're going to change the design of the seats?

MR. HOPE: Not even. If we need to do a second means of egress from that back area, we'd have to obviously take tables out and we'd want to show that.

MR. HAAS: So you're going to reduce your seat count?

MR. HOPE: If we need to.

MR. SCALI: You may not have to reduce it.

MR. TURNER: If they just move this table over here and -- again, it's as if. It's big.

MR. HOPE: We'd like to keep that number of seats if we can.

MR. SCALI: Does anybody from the public want to be heard in this matter? No hands. Abutter notifications? Concerns, Commissioner?

MR. HAAS: I think we all had concerns about it being on the sidewalk particularly along Prospect Street with that amount of traffic. I know the Deputy Chief was really concerned about the railing and its proximity to a travel lane and things like that. So I think this is a much better solution.

MR. HOPE: We would waive the seating there in lieu of this better idea so we wouldn't be requesting those.

MR. SCALI: I just had visions of

things slipping under that fence and people's hand going out onto Prospect Street with cars whizzing by.

MR. TURNER: And having walked down there and not even realized it was down two one lane of traffic.

MR. HOPE: The buses, right, it's a tough place.

MR. SCALI: Any other concerns?

MR. HAAS: No other concerns.

MR. SCALI: When do we vote, April?
Or is it May?

MS. LINT: The 25th. No, that's Tuesday, sorry.

MR. SCALI: It's the next Thursday after that.

MR. HOPE: Is there any way Commission would feel that they could vote on it tonight? I know that the owner wanted to try to take advantage of this warm weather.

MS. LINT: It still has to go to the ABCC anyway.

MR. SCALI: I think we just need a clarification on the set up though and the plans.

MS. LINT: Put it on the 27th?

MR. HAAS: I guess we could give conditional approval based on the fact that you have a second means of egress given the number of seating capacity and a revised drawing to reflect egress and the modified seating plan.

MR. SCALI: So that's your motion.

MR. HAAS: Motion.

MR. SCALI: Motion for a conditional approval subject to a new plan, if need be submitted on the egress and number of seats.
Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck.

The Decisionmaking meeting is actually on the Thursday, which would be the 6th of May.

MS. LINT: Application: Bertucci's Restaurant Corp. d/b/a Bertucci's Brick Oven Ristorante, Erin Landaverde, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 21 Brattle Street has applied for a change of premises description to include an outdoor seasonal patio on the public sidewalk with 12 seats for service of food and alcohol.

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

MR. DEVLIN: My name is Joe Devlin. I'm from the Demarcas Law Offices in Lynn, MA. With me is Erin Landaverde who is the manager of record and the general manager for this location. We're here before you for an extension of the license premises to include the 12 seat patio that is now part of the Common Victualer's license.

Would you like me to proceed?

MR. SCALI: So this is for the public sidewalk; right?

MR. DEVLIN: Yes.

MR. SCALI: This would be 12 seats.

Is this on the curbside or against the building?

MS. LANDAVERDE: Against the building.

MR. SCALI: Has Public Works been out there to measure and approve your site?

MS. LANDAVERDE: Uh-huh.

MS. LINT: They already have an outdoor patio, it's just not with the alcohol.

MR. DEVLIN: It's under the Common Victualer's. I have another copy of the plan, too, if anybody needs it.

MR. SCALI: How are you going to enclose this patio then? Because with alcohol you have to make sure it's completely enclosed.

MR. DEVLIN: On the plan in the right corner is an architect's rendering of the metal fence that's going to go there. The top measurement is 36 inches; it's architecturally designed; it's good looking; it fits in with the architecture around that area. There's not a lot of space. Sometimes you see just the velvet rope or more widely spaced rungs, but this one is fairly tightly spaces.

This is directly in front of the restaurant and a restaurant windows, the restaurant wall overlooking the sidewalk is all windows, so this patio seating is visible from various places including the hostess desk. There is a dedicated waitstaff already to that outdoor seating where that's the person's only tables. The employee runners to bring out the food and they employ bus staff to remove the plates, so the waitstaff's time inside is minimalized -- or minimized. That's a George Bush word right there. They're going to train the hostess staff to also be cognizant of the front, and the entryway to this gate is right by the front door and this gated area is also visible from the hostess area.

MR. SCALI: Is one table handicapped accessible, because you're required to have a handicapped accessible table.

MS. LANDAVERDE: As long as the fence is open on the side that would be to the door.

MR. DEVLIN: The immediate table would be handicapped accessible. If you go out there now

you can actually see the outline because they've outlined it with potted plants. That's the dimensions of it now.

MR. SCALI: Just because it's closed in with the railing it's a little more difficult to have a wheelchair roll up. You've got to make sure you leave space for that wheelchair to roll up.

No smoking on the patio?

MS. LANDAVERDE: No.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

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

MS. JILLSON: For the record, I'm Denise Jillson, the Executive Director of the Harvard Square Business Association. We would be overwhelmingly in support of this idea. In fact, my office overlooks this patio so I can keep an eye on things.

MR. SCALI: It sounds like you'll be right there eagle eye watching the whole thing.

MS. JILLSON: I could have a webcam.

MR. HAAS: She can, we can't.

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

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: What time do you close the patio?

MS. LANDAVERDE: We close at 10:00, and then at 11:00 on Friday and Saturday.

MR. SCALI: So you're going to keep the same hours on the patio as the inside?

MS. LANDAVERDE: Yes.

MR. SCALI: Thank you very much. Good luck.

MR. DEVLIN: Thank you.

MR. SCALI: Try to get it through as

quickly as possible for the ABCC and then with our City Manager's agreement. You know there's a fee then for the rental of that property; correct?

MS. LANDAVERDE: That public sidewalk there?

MR. SCALI: That's a public sidewalk.

MR. DEVLIN: Yes, it is.

MR. SCALI: So there is a fee that's paid to the City; it's \$750 per year.

MR. DEVLIN: I think they've been paying.

MR. SCALI: They wouldn't be paying it yet, only when it's alcohol. SO it's an additional \$750.

MR. DEVLIN: One of the first attorneys I ever worked for said, "Once you get what you want, run out of the courtroom." I think they're following that. Thanks very much.

MR. SCALI: You didn't run quick enough.

MS. LINT: There is a whole contract that would have to be filled out. I don't see that

here. You can contact us tomorrow and we'll help you with that.

MR. DEVLIN: I will. Thank you.

MS. LINT: Application: Continued from February 23, 2010. T.W. Food, LLC, Tim Wiechmann, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 377 Walden Street has applied for an Entertainment license to include background jazz with three instruments and no vocals. Applicant is also applying to extend the current Saturday and Sunday hours, which are 5:00 p.m. until 12:00 a.m., to 9:00 a.m. to 2:00 p.m., and then reopening at 5:00 p.m. Alcohol service will start after 12:00 noon on Sundays.

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

MR. WIECHMANN: Time Wiechmann from T.W. Food, LLC.

MR. SCALI: How have we been doing with the resolution of that big issue?

MR. WIECHMANN: The big issue is the ventilation system and we seem to have made some progress after some negotiation. The main resident involved is Ben. We've agreed between us to take care of the problem between us in terms of sharing

the cost. I've brought in my landlord and he's going to share a third of cost.

MR. SCALI: So you and the resident and the landlord, the three of you will be --

MR. WIECHMANN: Equally, and he and I would work on it together so it meets his needs and meets the needs of the restaurant.

MR. SCALI: Can I ask what the resolution is? Is it moving that whole ventilation system up?

MR. WIECHMANN: We've had two estimates done and we're not exactly 100 percent sure but we're going to just trust our own judgment between the two of us in terms of maybe bringing it up off the roof, because it's against the side of the building, and the duct shakes like that. But if the fan is on the roof on stilts -- I mean I don't have that much experience with this.

MR. SCALI: That's what my point was going to be because I don't want you to spend a lot of money on something that's not going to solve the problem.

MR. WIECHMANN: I agree. We both don't want to do that.

MR. SCALI: You've got to make sure that somehow whatever resolution you come up will be tested somehow before you do it. Or, do it and test it so that you don't -- I'm not sure.

MR. WIECHMANN: How would you suggest?

MR. SCALI: An engineer or somebody has to give you an opinion on that to make sure that the noise issue is going to be resolve.

MR. TURNER: An engineer, or would a hood installer suffice? You know, a professional in the installation of that equipment.

MR. SCALI: It's more of an acoustical issue.

MR. WIECHMANN: We both want it to be really quiet.

MR. BATTAGLIA: I think the bottom line is --

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

MR. BATTAGLIA: Ben Battaglia. I was

the resident most vociferously protesting the extension of the hours the last time. We have worked the issue collaboratively, and we have committed to resolving it. I think the details of how we're going to solve it have yet to be fleshed out. I think there's a level of confidence that we're going to be able to take care of it kind of together.

MR. SCALI: I guess I just don't want you to spend a lot of money and still be in the same boat.

MR. WIECHMANN: Neither do we.

MR. BATTAGLIA: I appreciate that sentiment and I think that's clear. The approach that we've taken is to try and speak to a number of people with respect to its replacement, getting a few different estimates, and then trying to do the best we can. Based on that -- and if you have a different approach that would be fantastic because we're certainly open to suggestions.

MR. SCALI: The suggestion I'm going to make to you may cost some money, and that would

be to have an acoustical engineer come out and help you with that, but you've got to pay for that. So that adds to the cost you're already talking about in changing it.

MR. WIECHMANN: Do you mean after it's done or before it's done?

MR. SCALI: With the design. Andrea Boyer can refer you to somebody that we know. Cavanaugh-Tocci, and there's another one in the City that we use as well.

MR. BATTAGLIA: Who was the first one?

MR. SCALI: Cavanaugh-Tocci.

MR. BATTAGLIA: Cavanaugh-Tocci?

MR. SCALI: Yes.

MR. BATTAGLIA: And you said Ms. Boyer would be able to refer us to those?

MR. SCALI: Our investigator, Andrea Boyer. She's the one who came out originally. She can refer you to those people. You'd have to hire them on your own though to do the testing. That's just a suggestion. If you can do it on your own without that acoustical engineer then that's fine,

too. It just adds to your expense.

If this issue is resolved with the ventilation system, are we then saying this is okay with the hours on the entertainment?

MR. BATTAGLIA: Yeah, I'm saying that. Tim is committed to not start these hours until such a time when the event has been replaced. I've spoken to the folks who are the primary drivers of the opposition and we're okay with it.

MR. HAAS: You have spoken to the other residents?

MR. BATTAGLIA: Yeah. The woman who was with me yesterday -- not yesterday, on February 23 -- she and I have been working with Tim and we're in agreement. I can't speak on behalf of anybody else.

MR. SCALI: Excellent.

MR. WIECHMANN: It's not that easy.

MR. SCALI: You've come a long way. If you could go down to the Holiday Inn and help them start talking, I'd appreciate that.

MR. TURNER: Two meetings and they've

resolved their issues.

MR. SCALI: You've come a long way in a month-and-a-half.

MR. BATTAGLIA: It's all worked out fine. Well, it's not worked out fine yet but we have a path.

MR. SCALI: You're talking.

MR. WIECHMANN: I have no desire to start brunch and run an old hood fan if not everybody's happy.

MR. SCALI: So timeframe at all?

MR. BATTAGLIA: We're still in the process of sourcing quotes.

MR. WIECHMANN: Getting estimates and so forth.

MR. BATTAGLIA: So my expectation is that we'll finish with those quotes within the next couple of weeks. Then from there I'm not positive on what the actual timeline will be.

MR. WIECHMANN: It takes two weeks to do the install, so a month or so.

MR. HAAS: It sounds like you're going

to go ahead with your work if you're getting quotes to do the installation. I think the Chairman's caution is -- I just hate to see you go through this and find out it doesn't work or doesn't achieve what you want it to achieve, but it's your prerogative.

MR. WIECHMANN: We don't have a choice, do we?

MR. TURNER: I'll just throw this into the mix. When is the last time your ventilation system was inspected?

MR. WIECHMANN: Twice a year.

MR. TURNER: Are you aware of the new regulations on the clean outs?

MR. WIECHMANN: I just trust that they're going to do a good job.

MR. TURNER: They did change the code. It's all on our fire department website but you may want to look into it. They need clean outs every floor level now. So as you're going up it may very well be that you have to hire somebody to come in and add additional clean outs. So this all may be

happening at a good time for you.

MR. WIECHMANN: Right. My gut instinct is that it needs to be replaced and we want to do it the right way. So I appreciate that.

MR. SCALI: Anybody else want to be heard on this matter? No hands. Do we want to approve this subject to the ventilation system? You want to continue it?

MR. HAAS: It sound like it's conditional that this gets done first before they can even get to the hours.

MR. WIECHMANN: It is between him and I, yeah.

MR. SCALI: So we need to really hear it again to make sure that everything is done okay. So we're talking another month or so at least.

MR. WIECHMANN: Let's give us two months, six weeks.

MR. SCALI: The second hearing in June?

MR. WIECHMANN: Yeah.

MR. SCALI: Does June 22 give you

enough time?

MR. BATTAGLIA: Probably, you know what I mean? It should be.

MR. SCALI: If you need more time, we can always extend it.

MR. BATTAGLIA: The bottom line is we're trying to get it done as quickly as possible.

MR. SCALI: Motion to continue to June 22.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck.

MS. LINT: Application: House Corp., Inc., Michael Nagle, Resident Manager, holder of a Lodging House license at 69 Chestnut Street has applied for a change of resident manager from Michael Nagle to Matthew Peverill.

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

MS. DAVIS-WAJTKUN: Lauren Davis-Wajtkin, Assistant Director of the FSILG office at MIT.

MR. PEVERILL: I'm Matt Peverill. I'm the resident advisor at PiCa.

MR. SCALI: So this is the Cambridgeport area; right?

MR. PEVERILL: Uh-huh.

MR. SCALI: And this is a fraternity?

MR. PEVERILL: It's an independent living group so we take men and women.

MR. SCALI: So Mr. Peverill, tell us your experience. How long have you lived there?

MR. PEVERILL: I've been living there since this fall.

MR. SCALI: A Junior, Senior?

MR. PEVERILL: I'm not a student.
I've been working in Boston in information
technology for two years now.

MR. SCALI: So you're there on a
regular basis?

MR. PEVERILL: Uh-huh.

MR. SCALI: What is your policy on
parties, events in the residence?

MR. PEVERILL: PiCa is a dry house so
they don't have an insurance policy around
drinking. So they're not supposed to be having
large policy parties and in my experience they do
not. Obviously I speak to the social chair
regularly whenever there's going to be any kind of
event to make sure they're following those rules,
and also again during rush period. Anytime there's
going to be freshman in the area you usually talk
to the social chair and make sure everything is all
right.

MR. SCALI: So no large parties means
just small events. Are you there at those small

events or do you make sure they're being monitored?

MR. PEVERILL: I'm usually not there myself but again, I work with house officers to make sure they're being watched. In my experience when I've walked by I don't think I've seen more than 15 guests at a time very often at all, and I've never heard any complaints of noise or anything.

MR. SCALI: Mrs. Lint, do you have any information on this particular house?

MS. LINT: I had a message from Ms. Gallop today that is a great residence and they've never had any problems with them whatsoever.

MR. SCALI: Coming from Ms. Gallop that's big words.

MR. PEVERILL: We try.

MR. HAAS: What's the capacity of that house?

MR. PEVERILL: I believe we are licensed for 34 people.

MR. HAAS: Are these individual rooms?

MR. PEVERILL: Some rooms are

individual, some have more.

MS. DAVIS-WAJTKUN: But you're not full to capacity; right?

MR. PEVERILL: We're not full to capacity.

MS. LINT: It's 32.

MR. PEVERILL: Right now we have I believe like 24.

MR. SCALI: Are you going to be there in the summertime, too?

MR. PEVERILL: I will be there in the summertime.

MR. SCALI: And you have outside people coming in in the summertime?

MR. PEVERILL: Yes.

MR. SCALI: So not students but you then rent the rooms out to people who are --

MR. PEVERILL: Usually they're students and we have meeting to approve everyone that comes into the house. It's usually acquaintances and friends of people who were there during the school year.

MS. DAVIS-WAJTKUN: The independent living groups generally have a much stricter policy around boarders than our fraternities do; they're a much more close-knit community.

MR. SCALI: No roof decks?

MR. PEVERILL: We do have a roof deck but it's been inspected.

MR. SCALI: There's no hot tubs up there?

MR. PEVERILL: There are no hot tubs on the roof deck.

MS. DAVIS-WAJTKUN: Or beer cans in the ventilation system.

MR. SCALI: Just asking.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: I'm just going to throw this out there. You're aware of your responsibilities with the fire protection sprinkler system, hood cleaning kitchen. We actually haven't had any issues with this address. The last time I was there it was the typical housekeeping. Like

when students come in and out make sure they take their stuff with them and it doesn't just end up in the basement? Is that wood shop still in the basement? This is going back a number of years but the last time I was there, there was a wood shop in the basement and it was kind of disorderly.

MR. PEVERILL: We have a work room in the basement and it's someone's responsibility to keep it up.

MR. TURNER: Where the sprinkler control valve is if I remember.

MR. PEVERILL: There is a sprinkler control valve there.

MR. TURNER: As long as that's kept clean and picked up.

MR. PEVERILL: I think there's a marking on the floor where the path to that valve is.

MR. TURNER: It's once a year on the sprinkler system inspection, and hood cleaning is now an inspection program, which you're probably going to be either twice a year or four times a

year depending on the use of it.

MR. PEVERILL: I work with the student house managers to make sure that kind of thing gets taken care of.

MR. TURNER: Make sure the bills are paid for these services.

MR. PEVERILL: That too, and I keep an eye on the house and make sure that there's clearly --

MR. TURNER: And a fire safety plan; you go over it with your residents?

MS. DAVIS-WAJTKUN: There's also staff at the Institute that help out with that. There's escape plans posted throughout the building.

MS. DAVIS-WAJTKUN: Matt has completed all our training for emergencies including fire safety training.

MR. TURNER: Thank you.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. SCALI: Does anybody from the public want to be heard on this matter? I see no

hands. Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Application: Go Cafe, LLC, Daniel Goldstein, Manager, holder of an All Alcoholic Beverages as a Restaurant license (not yet opened) at 1682 Massachusetts Avenue has applied for a change of doing-business-as from Go Cafe to Rafiki Bistro at said location.

MR. SCALI: Good evening Mr. Goldstein.

MR. GOLDSTEIN: Good evening, Chairman Scali.

MR. SCALI: So you don't like Go Cafe?

MR. GOLDSTEIN: I do like Go Cafe but the business partner's wife has a different opinion.

MR. SCALI: So Rafiki is more --

MR. GOLDSTEIN: It's Swahili for friends.

MR. SCALI: Okay. Does anybody from the public want to be heard on this matter? Concerns?

MR. HAAS: No concerns.

MR. TURNER: No concerns.

MR. SCALI: Motion.

MR. HAAS: Motion to approve.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Thank you very much.

MR. GOLDSTEIN: Chairman Scali, in our original hearing and follow-ups that -- I don't know if it's appropriate at this time to let you know that we've conformed to all the follow-ups: issues about demarcating the parking lot in the back and making sure that the sidewalk and the street were not obstructed, insuring that crash bar on the back door exit is in functioning order, no smoking signs posted on the back door.

I have a question if I could direct it to the Deputy Chief. We were informed yesterday I think that there is a requirement for us to have pull stations and a fire panel in this building. We've done no construction. I have an ancil system

that's linked into a heat sensor system to an ADT unit.

MR. TURNER: Which is not compliant. This is an issue that basically I researched it as far as I could research it in my office. When you have a suppression system to meet current standards, or they change the standards, it has to sound an audible alarm on the premise. I also looked at your occupancy load and where it's more than 50 it triggers your pull stations, your warning system.

MR. GOLDSTEIN: We haven't done anything in this facility other than painting and aesthetic changes.

MR. TURNER: But it was also brought to our attention that you're contracting, or possibly contracting with ADT to put a device up for monitoring.

MR. GOLDSTEIN: It's existing.

MR. TURNER: I have no call but to make -- until you can prove to me where code doesn't require it, then I'm going to require it.

MR. GOLDSTEIN: I only bring it up in the context that it feels like it's in the 11th hour and that it will inhibit the opening.

MR. TURNER: When are you opening?

MR. GOLDSTEIN: This is the variable that determines us opening.

MR. TURNER: Tomorrow, a month?

MR. GOLDSTEIN: I'm ready to open.

MR. TURNER: Tomorrow?

MR. GOLDSTEIN: I think there's another step in the process with this that goes to ABCC and back. So again, I'm not sure this is the right forum for it. I'm happy to come visit.

MR. TURNER: Sure, come by the office tomorrow.

MR. GOLDSTEIN: I'm interested in complying in any way I can but I'm wondering if --

MR. TURNER: All I can tell is from what I researched that's what I see that would be required, unless you can show me where otherwise it's not required. Believe it or not, what triggered is the change to the ventilation on the

exhaust hoods, the new regulation. And everything else has kind of fallen into place with it. That's how I got there.

MR. GOLDSTEIN: I'll pay a visit tomorrow.

MR. SCALI: Thank you very much. Good luck.

MS. LINT: Application: Super Duck Tours LLC and Boston Upper Deck Trolley Tours, Jack Harte, Manager, holder of a Jitney permit has applied to temporarily change their approved route to stop on Brattle Street during April and May. This change has been coordinated with Traffic, Parking, and Transportation and the Harvard Square Business Association. Applicant is also seeking approval to use green and yellow trolleys.

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

MR. CRAZE: Dennis Craze.

MR. HARTE: Jack Harte.

MR. SCALI: We weren't going to have a hearing on this and then I started thinking people are going to wonder how did they get permission to temporarily stop on Brattle Street. I said we'd better really be safe about this and have you come in and really make sure that everyone is okay with this.

So from what I understand somewhere along the way they don't want you to stop on Mount

Auburn Street; right?

MR. CRAZE: Correct.

MR. SCALI: And they would rather you stop on Brattle Street.

MR. CRAZE: Correct.

MR. SCALI: Which is right along --

MR. HARTE: It's just west of Palmer Street.

MR. SCALI: And this is just temporary?

MR. CRAZE: This is to make sure that it's not a problem for the circle. In other words, we'd like to have it as our approved stop regularly and they said we would try it to see if there were any problems with it, just the same as we did with the mall. When we first started we were going to see if that presented any problems. We've now been doing this for quite a while. I don't know of any problems. I don't know if you guys have heard anything. We're good citizens out there.

MR. SCALI: I guess some people just didn't know about it; that's the thing. As soon as

they see you there the phone is going to start ringing again. I don't if you've been doing it now already. I guess you have been doing it now already. No one has called you, Mrs. Lint?

MS. LINT: No one has called.

MR. CRAZE: We're bringing a lot of passengers in from Boston into Cambridge and hopefully those people are spending a lot of money in Cambridge.

MR. SCALI: Questions?

MR. HAAS: So the significance of the green and yellow trolleys is what?

MR. CRAZE: The green and yellow trolleys are the new ones which originally we've had a few charters in Cambridge and we got some phone calls, because they are significantly taller than the trolleys that we run today, the white ones. But the new trolleys have all the benefits of being green; that they're zero-emissions units. We are presently building four more of these units which we hope to have by June. We would love to get rid of our older units, which are the white

ones, which are gas and they are significantly older, and bring in something that's more modern and much more green for the area.

So we've been running the green ones in Boston now for a year-and-a-half and have been very well received. We've had some local people who have ridden on it and it's a phenomenal vehicle to tour with because you're above the traffic. When you're sitting on a trolley, for most of them you're at car level and you can't see anything. This gives them the ability to be over the traffic and really see something so it's a nice riding experience. They're very quiet.

MR. SCALI: What is the detriment? Is it tall enough that it's going to hit wires on certain streets?

MR. CRAZE: No, no. We've been on all the route through charters and what have you and we have no issues with them. They're 13'4. Normal height is you can't be above 13'6. And it's a much safer vehicle in that it has what's called an engine break, so that the minute the driver takes

his foot off the accelerator it automatically breaks the vehicle. It's got all the new pluses that you'd want for safety and it's much more comfortable for passengers.

MR. SCALI: And you drivers have been coming in for their permits?

MR. CRAZE: Correct.

MS. LINT: I can attest to that.

MR. SCALI: Does anybody want to be heard on this matter? Ms. Jillson. It's going to be stopping outside your window on this one, too?

MS. JILLSON: Actually it's true. Denise Jillson, Harvard Square Business Association. We're really excited about this possibility and worked very closely to try to determine what's the best place for the trolley to stop. We have made some recommendations and then the Traffic Department went out and they actually looked and determined that this area that's just beyond Palmer might be the best place.

The concern that we had of course, as the Business Association would, is that the

trolleys were coming through, they were stopping up on Mount Auburn, which was really slightly outside of the business district. So people weren't getting off so much. They were occasionally, of course, but not enough to really significantly impact the community. So we were hoping for is to be closer to the business district, and therefore, people would get off, wander around.

What we have encouraged all along and what we were delighted about is that people can get off for a couple of hours and then come back to the trolley stop, and then get back on and continue the tour. As long as they spend their money in Harvard Square, we're perfectly happy with that.

The other thing is just in terms of the green vehicle, we did last year for the concierge event -- Super Tours had donated two of the vehicles for the concierge tour. So we were able to really ride on the vehicle and to see what it was like, and it's really quite enjoyable.

They've been wonderful community partners and have donated several times to the

Association for various events, and have just been very good community partners and one that we would be excited about working with.

MR. CRAZE: One of the things that we do is we give away a free ticket to the Harvard Natural Museum of History as part of our tour, because we want people to get off and that encourages them to get off in the Square and walk over there. We're also doing quite a bit of promotional work with the Coop.

MR. SCALI: So you have no concern about the crowding on the sidewalk, people getting off and interfering with Cardullo's and the other places that are along the way.

MS. JILLSON: We've talked to the businesses, particularly the Coop and Cardullo's, and MDF and Motto, and Bertucci's, and all the businesses on Brattle Plaza. Actually they are particularly hopeful that this is going to be helpful this year because the MBTA is going to start work on Brattle Plaza very shortly, which you know, we just got that area back to normal after

all of the construction. Now, probably within the next two to three weeks, the MBTA is going to come in and probably for the next 15 months there will be construction on the plaza, which is really going to be a detriment. SO we're hoping that this might have -- it will balance it out.

MR. SCALI: There will be a lot of construction going on.

MS. JILLSON: So now that Bertucci's has their lovely patio and it's going to be right beside a jack hammer. So for all the work that -- anyway, what were hoping is that at night and on the weekend when they're not doing construction that it will still -- it won't be as pretty as it is now but it will be helpful.

The other thing, and you probably heard about this, I spoke with Ms. Clippinger today and it seems as though the trolleys are going to be going to Quincy Street, I think.

MR. SCALI: That's not currently on your route?

MS. JILLSON: I think that she's

making some changes, not these trolleys but the trolley stop that's on Mass. Avenue. So this is all the more reason why this is important because it's going to be not on Mass. Avenue but down on Quincy Street. So the trolleys -- the tour buses are going come. The tour buses are going to go to Quincy Street and not to Mass. Avenue. So I think that this will be really helpful.

MR. SCALI: We advertised this as temporary, which means just May and June?

MR. CRAZE: As we understand it, it's supposed to be a trial to see if it works, and if it works and we have no issues and there's no merchant issues, then we would apply again to do it regularly. Obviously we have no issues, we'd like to do it. That's really the spot to drop people off.

MR. SCALI: Obviously there's more than us. We're just recommending to the City Council. So if this is temporary, I don't know that we need to go to the City Council to do that. It's just that once you permanently do it, it has

to go.

MR. CRAZE: We'd like to come back. Obviously we don't think it's going to be a problem. We're trying to put together some stuff with the merchants to give a coupon book out for Harvard Square for those types of establishments to encourage them to do that stuff.

MR. HARTE: We had a fairly busy weekend this past weekend and the drivers reported back to me that more passengers were getting on and off in that area. We actually increased our ridership into Cambridge as a result.

MR. SCALI: I just didn't want you to feel overwhelmed by having to come back again.

MR. CRAZE: Well, we enjoy it. In fact, we're going to write a book about some of this stuff. It's very interesting.

MR. SCALI: Any other questions, Commissioners?

MR. HAAS: So for how long would you anticipate this trial period being?

MR. HARTE: May 31 is what's on the

temporary license.

MR. CRAZE: So we would like to schedule a meeting to come back before the end of May 31, because we'd obviously like to go through the season. We run all year round, so we bring people in all year round. There's not a lot in the winter months but still if you're going to do something, we'd like to do it consistently in order to provide a service that people can count on.

MR. HAAS: So we can continue this to May 25?

MS. LINT: I would put it on the first hearing in May because it has to go to the City Council.

MR. HAAS: May 11?

MR. SCALI: Yes. So this would be just a temporary issue and then you want to continue it for the permanent hearing?

MR. HAAS: They need a recommendation from us to go to the City Council; right?

MS. LINT: Right.

MR. SCALI: On a permanent basis; this

is just a temporary basis.

MR. HAAS: And I think they want to do this so they can get that done in time.

MR. CRAZE: We'd like to finish the whole season there because it's very confusing for the customers to be getting off --

MR. SCALI: Change.

MR. CRAZE: Right.

MR. SCALI: So we would need to re-advertise it as a permanent change if you are okay with it once you go through the two months.

MR. CRAZE: We have started. We started April 1. It's much easier for the -- I think a lot of people are reluctant when you drop them off on a side street; they're afraid they may not get back to that particular street if they're not familiar with it.

MR. SCALI: You talk to Mrs. Lint about getting it set up for your hearing in May, and that way you shouldn't have too much lag time if everything goes as planned. We'll go from there.

So motion then to accept as temporary.

MR. HAAS: Trial period.

MR. SCALI: That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. CRAZE: The second part of that is the green trolleys, which is another part where we're seeking permission to use the green and yellow trolleys. We've offered to take anybody that would like to go for a ride to see the difference. It's a really nice vehicle.

MR. SCALI: I trust Ms. Jillson's opinion on these kind of things. Generally she would be very honest with you if they were ugly or unsafe or anything like that. I know she's been on them with the concierge.

MS. JILLSON: The color is rather bright but the ride is fabulous.

MR. CRAZE: I didn't want to tell you it was green after the whole thing with the Holiday

Inn.

MR. HARTE: We don't go by that lady's house.

MR. CRAZE: And we don't have any *Hs* that light up on the side of the trolley.

MS. LINT: And I have not had any phone calls.

MR. HAAS: I would make a motion to approve the change in trolleys to the green and yellow trolley.

MR. SCALI: Motion to approve the green and yellow trolleys.

MR. CRAZE: And you understand that probably won't start until the new ones start to come in, which will probably be --

MR. SCALI: So the white ones are --

MR. CRAZE: The white ones will be here for a little bit longer until the new ones -- they're in the process of being built now. I don't have delivery dates. If you would like us to notify you when we begin, we can do that.

MR. SCALI: Yes.

MR. HAAS: Will you expect to do that by the time you come back again, or no?

MR. CRAZE: We could have them by then but I'm not sure.

MR. SCALI: You can update us at that point when you come back in May.

Motion then to approve for the future use.

MR. HAAS: Why don't we do one motion? Do that first because there's the trial period for May 31. You started to make a motion on the second.

MR. SCALI: So the first motion was for a trial period through May 31, on the change on the stop to Brattle Street. It was moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: And then the second motion is to approve the green and yellow trolleys with notification to us when that will start.

MR. CRAZE: Correct.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Cityview, Inc. d/b/a Cityview Trolley Tours, Michael Thomas, Manager, holder of a Jitney permit -- are they here?

MR. SCALI: Cityview? No Cityview. All right. Maybe we'll put them on for the next hearing if they're around. No show on Cityview. Try to put them on for April 27.

MS. LINT: Application: Continued from March 9, 2010. Disciples, LLC d/b/a Bull B.B.Q., Daniel Shin, Manager, has applied for a new All Alcoholic Beverages as a Restaurant license at 57 JFK Street, basement level, with 95 seats. Proposed hours of operation are Sunday through Wednesday from 11:30 a.m. to 11:00 p.m. and Thursday through Saturday from 11:30 a.m. to 1:00 a.m. Applicant is also applying for an Entertainment license to include an audio tape machine/CD playing music below conversation level. This is located in Cap Area No. 1.

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

MR. KIM: Attorney Yun Kim representing Disciples, LLC.

MR. SHIN: And I'm Daniel Shin. I'll be the manager of the restaurant.

MR. SCALI: When last we were here the issue was not so much you in particular, or your client, but the policy on our alcohol licenses and the availability of licenses in the Square, or in

the building as a matter-of-fact as well. Have we had any progress on that front at all.

MR. KIM: Yes, we have. I have discussed in detail the current situation at 57 JFK Street. There were two to three liquor licenses available for sale. We have decided since the price was way above the limit we were looking for we have decided to withdraw the liquor license at this time and proceed with an Entertainment license and a Common Victualer license tonight.

MR. SCALI: I guess you've had no luck in negotiating at all with any of these people who have licenses for sale.

MR. KIM: The price has been well over \$200,000. Mr. Kim, a member of the LLC is investing upwards of \$400,000 at this time. He is getting all the money from all of the places but he wouldn't be able to come up with an additional \$200,000. Therefore, at this point, we are still in the process of negotiating. There was one other available at the Tamarin Bay. We are still making some progress; however, we are not going to be able

to finalize any kind of purchase and sale at that point and we are in the process of completing the renovation sometime within the two weeks timeframe.

MR. SCALI: What spot are you in?
This is the spot where Bambay Club was?

MS. LINT: No, Shilla.

MR. SCALI: You're in the spot where
Shilla was?

MR. KIM: Where Shilla was; the
basement unit.

MR. SCALI: So there's no license in
that space right now, is there?

MS. LINT: No.

MR. SCALI: That license is gone. So
you think you can operate with just a Common
Victualer.

MR. KIM: For the time being until we
have generated enough money to purchase a license
either within the 57 JFK Street or within the area
of Harvard Square.

MR. SCALI: So everyone is asking over
\$200,000?

MR. KIM: \$250,000, \$295,000 from the Bombay Club the last time I checked. We just wouldn't be able to generate additional over \$200,000 at this time. Mr. Kim decided along with a couple of the members of the LLC to operate the business without the liquor license for the time being.

MR. SCALI: Questions?

MR. HAAS: The only concern I have quite honestly is that as long as you have these pending licenses or open licenses, the Commission is going to be reluctant to at some point in time say if you decide to come back and say we want to apply for a new liquor license when there's still licenses available. I just want to be very clear that I think our position is going to be consistent with respect to if there's an available license particularly within that area, we would want you to at least take advantage of the licenses at some point in time, and not come back and say we tried to negotiate it, we can't get a license so therefore we want an all liquor license. I just

want you to be very careful about that.

MR. SCALI: And on the flip side of that I want to caution the current licensees that are trying to ask these expensive prices; that they're got a bird in the hand. When you've got someone offering you something -- I don't know whether you've made any counter offers. I guess it's helpful sometimes if they have a number. There's some negotiation there. I'm sure there's negotiation there.

I want to make sure the current licensees understand, too, that they can't wait forever either trying to hold onto licenses and sitting on them. Because if that's the case, we have the power to just take what we need at that point if someone else needs a license. The price gouging thing is just -- the reason why we started granting no-value, non-transferable licenses is because of those prices.

MR. KIM: What appears to me even though I don't deal with too many liquor license transfers in the Cambridge area, people usually

remember how much they paid three or four years ago. And because of the market, the downcline of the market there a totally opposite position as to what the seller's position is and what the buyer's position is.

Mr. Kim was under the impression that we wouldn't have a problem obtaining a non-transferable license when we initially signed the lease. This problem came up and we tried to fix the problem. A lot of it was beyond our control. It was the landlord and some other tenants in there. At this point, we wouldn't be able to come up with an additional \$200,000, upwards of \$200,000. We are still in the process of going back and forth. If it works, we will try to continue.

MR. SCALI: So you are negotiating?

MR. KIM: We are still negotiating but Mr. Kim indicated to me that he doesn't have the revenue to proceed at this point with the liquor license but would like to open up the restaurant right away and still operate obviously with your

permission.

MR. SCALI: I think if there was a like license currently in your spot where you're going to be, I'd have trouble saying yes to that. Because there's nothing in your particular storefront that's a liquor license, I guess I wouldn't object to them just operating the CV.

MR. TURNER: Wasn't there a discussion of a Beer and Wine at one point.

MR. SCALI: There is a Beer and Wine that's potentially for sale too. Is that --

MS. LINT: Wagamama's.

MR. SCALI: I don't know if you've talked to Wagamama at all.

MR. KIM: Yes, we are still. We're trying to negotiate somewhere in the middle. Wagamama was much more reasonable when it comes down to the price.

MS. LINT: They didn't pay as much for theirs.

MR. SCALI: They paid less for their license. That's probably why they're willing to

give a little break.

Does anybody from the public want to be heard on this matter? Yes.

MR. CHOWDHURY: I own OM Restaurant and Lounge at 57 JFK Street, Solmon Chowdhury. I actually had a conversation with him about maybe four months ago in terms of purchasing a liquor license but since then he actually never approached me. So if he's claiming that he had conversation with me, that's not true, because I haven't had any conversation with them in a while.

MR. SCALI: I don't know that he said that.

MR. KIM: I don't think I said that.

MR. SCALI: He said he was talking to Tamarin.

MR. CHOWDHURY: I spoke to Mr. Kapoor also, and I don't think he's in negotiation with anybody either.

MR. SCALI: SO your license is for sale and you're willing to talk and negotiate?

MR. CHOWDHURY: Absolutely. I've been

trying to talk to them for a while and the opportunity never came up. I did pay about \$350,000 for my license. I understand that at that time that was the value of the license but we do have mortgages to pay on the licenses.

MR. SCALI: That's always the problem.

MR. CHOWDHURY: I am willing to sell it for less but if they think they can get a full liquor license for \$100,000, I don't think that's the current market value.

MR. SCALI: That may be very optimistic.

MR. CHOWDHURY: And one other thought we had was somehow if Wagamama is looking for a full liquor license, we can do a three-way transaction. But that hasn't happened either because nobody came to us either. I took the initiative to get in touch with Wagamam but then they have to find a buyer for their license also and they just haven't found it.

MS. LINT: It sounds like a win-win.

MR. SCALI: So you're willing to talk

and you're willing to negotiate?

MR. CHOWDHURY: Absolutely.

MR. SCALI: I'm sure you can all get together somehow. Maybe Ms. Jillson can somehow assists with her members to get them together to confer.

MR. CHOWDHURY: The second issue I have is actually -- I'm not familiar with the concept that they have that they're trying to bring in. One of the things I heard is that they're going to be a tabletop cooking. I do have a restaurant right above them and I'd like to say I do attract a very high-end clientele in my establishment, and I am really concerned about the fumes from the table or the smell of the food that's rising up through the floor and we're right straight above them. I just want to make sure that they have the proper ventilation system so it doesn't affect my business.

MR. TURNER: I haven't seen any plans on it.

MR. CHOWDHURY: I came to the Building

Department to see if they had any kind of plan in place but they haven't been able to tell me anything either. So before the license gets approved I'd like to see that at least they come by and sit down with us so that way we know it's not going to affect our business.

MR. TURNER: As we sit here today, I assure you if that is the concept for tabletop cooking, it does have to meet all current standards and certifications for it, which would be ventilation, proper ventilation and suppression, or whatever they are proposing.

MR. CHOWDHURY: Thank you.

MR. KIM: Thank you, Mr. Chowdhury. That's the concept that Mr. Kim is bringing in. It's a tabletop barbeque restaurant, and that's the main reason that he's you spending well over \$400,000 for the proper ventilation system, and that's going to be obviously meeting the codes requirement. When everything is finished we'll properly receive all the proper inspections contingent upon --

MR. SCALI: It does require Health, Building and Fire Department signoffs before we do anything. It might be helpful to take those plans to the Fire Department and Building Department to make sure you're up to code on all those tabletop issues.

MR. TURNER: They might have been by our office. I don't remember. Maybe a phone call?

MR. KIM: It wasn't me. Were you there?

MR. SCALI: Have you gone to the Fire Department at all?

MR. HYUK KIM: A couple of time I met with Chief Francis.

MR. TURNER: Okay that's why.

MR. SCALI: He's gone; he's retired.

MR. HYUK KIM: It was a while ago. He told me he has seen a couple of those concepts in Cambridge. As long as you come up with machines that are approved by the government, NSF or something.

MR. TURNER: They have to be listed

for use.

MR. HYUK KIM: UL listed.

MR. TURNER: And generally it's a downdraft ventilation system.

MR. HYUK KIM: And as long as you meet the code you're okay to go, and we are buying those machines that are listed.

MR. TURNER: In other words, you can't just design your own.

MR. HYUK KIM: We have guys that are doing the proper work.

MR. SCALI: Does anybody else want to be heard? Ms. Jillson?

MS. JILLSON: Bull is a member of the association. They joined several weeks ago, probably actually several months ago. And Wagamama are members as well as OM and Tamerin Bay. So I do want to go on the record as saying that if there is any way we can help bring all of these parties together -- because in fairness to Bull, I do think when they started out that these licenses were not available. They got into a situation where time

has gone by and they're making plans and getting the space ready, and these licenses are available. So change happens all the time, and to the extent that we can bring people together and try to make a deal and help them out, we're happy to do that and I'm happy to be on record as saying that.

I know that originally when they looked at this restaurant that alcohol sales I'm sure were part of it. It seems as though being unable to meet a very high standard in terms of a sale price is going to be difficult.

On the other hand, I understand that your expectation is that while these are available we shouldn't just be handing out for a fee, no-value, non-transferable licenses. We would expect that that's the right thing to do. It is the right thing to do. So it seems like everybody is in a tough spot and we certainly want to be sympathetic to anybody who has spent \$300,000 or \$350,000 several years ago for a license and suddenly it's available. So it's not an easy situation but I do feel confident that if all the parties are willing

to negotiate, we should be able to get there.

MR. SCALI: I knew Ms. Jillson would come up with something. It may just mean everyone getting in one room and talking about it. Maybe it's a matter of switching and dealing. She can't negotiate prices for you but in terms of getting the parties together to talk about it I guess is the most helpful portion of it so you all know one another.

MS. LINT: We don't have a menu either. So this concept is kind of new and as counsel to the Board what concerns me is they're sitting here telling you that they're ready to open before they even had approval from the Board. So that concerns me that they went ahead and did all this build out and the fire department hasn't been down there. I find that very problematic.

MR. SCALI: Are you ready to open?

MR. KIM: It's going to take another four weeks to finalize all the paperwork, get the proper inspections, and be able to be in a situation to be operational. We do have the menu

that I wanted to present back in March. Was it the 9th that we got continued at that point? It's here for you to review. I do have three copies that I brought in.

We also have the Cambridge Chamber of Commerce supporting us opening a barbeque type of restaurant in Harvard Square area. Mr. Kim is trying to be involved and the community organizations. He has along with another member there over 20 years of experience in restaurant operation. They currently operate a restaurant in the Boston area, in the Allston area.

Most importantly, Shilla used to be there. We're not going into a remote residential area; we're going into a very competitive Harvard Square where there used to be an Asian type cuisine available for that specific location. I think adding the barbeque concept will be a great mix to the restaurants in the area.

MR. SCALI: Pleasure of the Commissioners? Do you need some time to think about this?

MR. HAAS: I'd like to take it under advisement.

MR. SCALI: You're withdrawing your application for the alcohol license at this point?

MR. KIM: Yes. We are withdrawing the license for beer and wine.

MR. HAAS: So you'd keep the same hours of operation even without a liquor license?

MR. KIM: Yes.

MR. SCALI: And you really feel like you're going to be able to survive just with the CV?

MR. KIM: For the time being, yes. We had a very lengthy discussion especially after the last meeting I went to at Mr. Kim's restaurant in Boston. We had almost an hour-and-a-half discussion about the whole situation. I was asking them to come up with the money, a couple hundred thousand dollars, and they might be able to -- as more of an investment, which was my advice. But at this point he's putting in because of the special ventilation that needs to go in, he's putting in an

additional well over a hundred thousand dollars just for the ventilation alone. He's got to bring in all the fresh air.

He wouldn't be able to come up with over \$200,000, which was initially offered to us. Within the past couple of months, I don't think the price has reduced dramatically to a point where Mr. Kim should be able to finance. That's why we're trying to go forward.

MR. SCALI: Are you locked into this lease?

MR. KIM: Yes. We are locked into the lease.

MR. SCALI: You have no way out?

MR. KIM: No way out.

MR. SCALI: Did you negotiate out the deal with the lease?

MR. KIM: Initially, yes.

MR. SCALI: So you didn't put a clause in there that said if I don't get a liquor license, I'm not going to pay the rent.

MR. KIM: There was negotiating back

and forth. What was conveyed to us was that there shouldn't be a problem, and free liquor license was at that point -- that was more part of the plan that we had and that's why we came up with about \$400,000, and that's the main reason we are just not able to back out of the lease or even continue with the liquor license. So we would like to operate, open the restaurant with everything inspected and approved just as a barbecue restaurant for the time being.

We do want to sit down as -- there's too many people involved. I do a lot of purchase and sale and going back and forth. Sometimes they last for a month, two weeks, sometimes they last over a year. That's why my advice was to have all the city inspections done, meet the code, start a restaurant. If the concept takes off and he can generate some additional funds, at that point we might be financially capable.

MR. SCALI: We don't want to see you get in there and then not survive. That's the last thing we want to happen to a new establishment

paying rent in the Square.

MR. KIM: There's still a lot of money going in.

MR. SCALI: Under advisement, Commissioners? Under advisement means not until May 6. When does your rent start?

MR. KIM: It started.

MR. HYUK KIM: November of last year. Oh, sorry, September of last year.

MR. SCALI: You've been paying rent since September?

MR. HYUK KIM: We've had some free rent period by pretty much.

MR. KIM: It kicked in and that's why we are moving forward. He was trying to have the contractors come in and renovate the entire system, and that got delayed for a couple of months.

MR. HYUK KIM: Another reason why we'd like to move forward is just because the lease started from September of last year and it's been close to nine, ten months now. Every month we're bleeding and I don't think this negotiation between

the seller and buyer of the liquor license will end anytime soon. I've talked to I'm not sure if the manager or owner of Wagamama, Mr. Peace. He's not willing to sell his Beer and Wine unless he gets a full liquor license and he thinks the price is way out of his range so he's not going to sell us the Beer and Wine.

MR. SCALI: That's where Ms. Jillson can probably assist in getting everybody in the same room somehow as members, not to be legally advising you but to get you all together to talk about how you all can work with one another outside the landlord issues and try to get people to at least have a reasonable negotiation back and forth. I know that Ms. Jillson will do whatever she can to assist assist you all and to get you in the same room at least to talk.

Stick together because I just find this outrageous that you're paying rent since September. I guess it's just a legal matter I understand.

Commissioners, I guess maybe if we

give them the CV at this point that when they're ready with their inspections at least they're able to operate.

MR. HAAS: It's got to be contingent upon them passing inspection.

MR. KIM: Of course.

MR. SCALI: Is that acceptable?

MR. TURNER: Yes.

MR. SCALI: Motion is then to allow the Common Victualer only with the background music audiotape machine/CD player, 95 seats, 11:30 a.m. to 11:00 p.m. Sunday through Wednesday, 11:30 to 1:00 a.m. Thursday through Saturday, contingent upon passing all your inspections and paying your fee obviously. That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. KIM: Thank you very much.

MR. SCALI: Good luck.

MS. LINT: MKTA, Inc. d/b/a Cinderella's Restaurant, Antonio Barros, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 901 Main Street has applied for a change of premises description to include a seasonal outdoor patio on the public sidewalk for eight tables and 28 seats.

MR. SCALI: Good evening. Thank you for your patience.

MR. BARROS: I'm Antonio Barros, owner of Cinderella's Restaurant.

MR. SCALI: So you did your abutter notifications; right?

MR. BARROS: Yeah.

MR. SCALI: So this is for the public patio seats --

MR. BARROS: This is a letter from my neighbor.

MR. SCALI: Public patio seats against the wall; right?

MR. BARROS: No. It's going to be on the curbside. I'm going to have four to six feet

next to the wall for the pedestrian.

MR. SCALI: How many feet?

MR. BARROS: Four to six.

MR. SCALI: So it's eight tables and 28 seats.

MR. BARROS: Yes.

MR. SCALI: Has Public Works been out there to measure for you?

MR. BARROS: Yes, I have a paper here for them.

MS. LINT: This drawing won't suffice for the City Manager. It's not an architectural stamped plan.

MR. SCALI: You have to have an architectural drawing for alcohol service. It requires an engineer to draw the plan because the Legal Department requires that for the City. If it was non-alcohol, there's more flexibility. But if you want to serve alcohol, there's also a fee for that alcohol service on the sidewalk, which is \$750 a year.

MR. BARROS: That I'm aware of. For

the engineer I just need to go over there to do my drawing.

MR. SCALI: An engineer needs to do an official -- what do that call it?

MS. LINT: It needs to be an official architectural plan with meets and bounds, and stamped. You can talk to Chris tomorrow and he can explain it to you.

MR. SCALI: Are you having barriers that are going to be around?

MR. BARROS: Yes.

MR. SCALI: What kind of barriers?

MR. BARROS: I don't know yet but I have seem some around here in Cambridge. I'm trying to put one with a chain and just to mark.

MR. SCALI: It has to be very stable and it has to be non-movable. People can't move it.

MR. BARROS: Fixed, yes. Fixed on the floor, yes.

MR. SCALI: You need to show us that plan too, what that looks like.

MS. LINT: That has to all be on the plan.

MR. BARROS: With the engineer I can bring all together.

MS. LINT: I'll talk to you tomorrow. You can come in.

MR. SCALI: Was there objection by the church next-door?

MR. BARROS: No.

MS. LINT: Yes.

MR. BARROS: Yeah?

MS. LINT: I have a letter from Toscani's in support from Gus. I have a letter from a Denise Heinz in opposition. It's her opinion that there's not enough space for tables and chairs plus pedestrians including strollers and wheelchairs.

In addition, I've had conversation with Lawrence Atkins who's a member of that church. He was supposed to get a letter to me but he was sent out of town. He was deployed to something.

MR. SCALI: What was his problem?

MS. LINT: That because of the church and church services they don't want children leaving church services and having tables and chairs with alcohol on them.

MR. BARROS: That's (inaudible) the church -- what church?

MS. LINT: Since I didn't get it in writing, I can't say.

MR. HAAS: It's probably the church across the street.

MS. LINT: I believe it's the one right across the street.

MR. SCALI: You would be serving food; right? There's no alcohol alone served out there?

MR. BARROS: No, no, no, because my license does not allow me to serve alcohol. I have only beer and wine, and I don't think peoples going to drink right after church. I don't know on Sunday, noontime. My license does not allow me to sell only beer and alcohol; it has to be with food.

MR. SCALI: What are the hours of your patio going to be?

MR. BARROS: It's going to be 11:00 to 1:00.

MR. SCALI: 11:00 a.m. to 1:00 a.m.?

MR. BARROS: Yeah.

MR. HAAS: Maybe if you consider modifying your hours on Sunday that might address the concerns of the church.

MR. SCALI: To later in the day?

MR. HAAS: A little bit later in the day.

MR. SCALI: Well, you can't serve alcohol at 11:00 a.m. on Sunday anyway.

MR. HAAS: What you might want to do is think about doing a late lunch on a Sunday on the patio just to get around the church hours.

MR. BARROS: Make Sunday hours I can start serving outside alcohol after 5:00, no problem.

MR. HAAS: I wasn't even thinking about that long.

MR. SCALI: Just earlier in the afternoon.

MR. HAAS: Maybe if you want to just do a dinner on Sunday night that would solve that problem as well.

MR. BARROS: We can do that.

MR. SCALI: You need to go get your engineer's drawing first before we can do anything. Show the barricades and how it's going to be set up. Think about your hours on Sunday and whether you might want to change the hours. Get all that information to Mrs. Lint or to Chris in my office.

MR. BARROS: I can open for lunch to serve food outside but not alcohol?

MR. SCALI: The Commissioner's suggestion is that you might want to modify your Sunday hours so you're serving alcohol later in the day.

MR. HAAS: You can serve lunch for example, and just not serve liquor until later in the day.

MR. SCALI: You just need to put that in writing what your plan is.

MS. LINT: Has the DPW been down?

MR. BARROS: Yes.

MR. SCALI: Do you want to continue this?

MR. HAAS: Continue it.

MR. SCALI: We're going to continue it to April 27, so that will give you time to get everything done with the engineer.

MR. BARROS: All right.

MR. SCALI: So motion to continue to April 27.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: So just get all that clarified.

MS. LINT: Application: Allied Waste Systems of MA, LLC d/b/a Allied Waste Systems, formerly BFI, has applied for a Disposal license to operate in Cambridge. This route was formerly serviced by BFI.

MR. SCALI: Last but not least. Just tell us your name for the record.

MR. DUGAN: Gino Dugan.

MR. SCALI: How are you?

MR. DUGAN: Fine.

MR. SCALI: I guess you were on our agenda the last time but something happened.

MR. DUGAN: Yeah. I apologize. They gave me a Blackberry. It's supposed to make me more efficient but that hasn't worked out so well.

MR. SCALI: Typed it in but never looked at it?

MR. DUGAN: Actually I lost it.

MR. SCALI: So this was BFI.

MR. DUGAN: We're formerly BFI, yes.

MR. SCALI: So Allied Waste bought BFI?

MR. DUGAN: They merged, yes.

MR. SCALI: We're you always with them?

MR. DUGAN: I've been with the company for 29 years actually, the division that services this area.

MR. SCALI: So they merged with BFI and they're known as Allied Waste Systems of MA?

MR. DUGAN: Yes.

MR. SCALI: So you know the drill, you know in an area you can't pick up before 7:00 a.m., and if it's a commercial area or Harvard Square or unless it's along Mass. Avenue. I don't think we have any complaints lately. I'm not sure if the police have had any complaints.

MS. LINT: Not lately.

MR. DUGAN: It's been good.

MR. SCALI: You've advised your employees about that; that we can ticket them directly and fine you directly.

MR. DUGAN: It's all the exact same employees. It's just a name change.

MR. SCALI: Have the routes changed at all?

MR. DUGAN: No.

MR. SCALI: Your customer list has merged with BFI's list?

MR. DUGAN: Yes. Allied Waste had no customers in this area. It's a national company. So there was no competition, no merging or route overlappings. I didn't have to divest of anything in this area. They're mainly out of Scottsdale, Arizona and the southeast.

MR. SCALI: So they just took over the BFI customers and routes?

MR. DUGAN: Yes.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you for waiting.

MS. LINT: Ratifications: Medallion 189 was a stock transfer, and the 189 was a refinance, and 79, and that's it.

MR. SCALI: The paperwork is in order?

MS. LINT: Yes.

MR. SCALI: Motion to accept.

MR. HAAS: Motion to accept.

MR. SCALI: Moved.

MR. TURNER: Seconded.

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

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Just so the Commissioners know, all of our hybrid grant money is now exhausted.

MR. HAAS: It was the last time.

MR. SCALI: Then you all know about it. I can't remember, sorry.

MR. HAAS: I asked you if you wanted to think about offering another medallion.

MR. SCALI: I would entertain anything the Commissioners would entertain.

MR. HAAS: We're going to keep the grant program alive it would seem to me that in terms of the revenue.

MR. SCALI: It would be a wonderful way to continue if the public doesn't object.

MS. LINT: We don't get the grant money.

MR. SCALI: There is the possibility we get the grant money from the State grant program that we applied for, which is the Clean Air.

MR. TURNER: Can the City handle an additional medallion, or is it pretty saturated out

there?

MR. SCALI: That's the issue I guess in terms of what we have to hear.

MR. HAAS: Mr. Chair, if you don't mind, I'd like to bring up one additional issue.

MR. SCALI: Sure.

MR. HAAS: In light of the City Council's proposed order regarding employment arrangement for the hotels, I'd like to recommend the Commission refer the matter back to the City Solicitor's office for a legal interpretation as to whether or not the Commission has the ability to promulgate regulations concerning the hiring practices of the hotel industry.

MS. LINT: It was my understanding from the managers meeting today that although he was referring it to us, he was referring it to the City Solicitor's office and said that we should not put it on our agenda until we have an opinion from them.

MR. SCALI: I think that's what we would automatically do. Even if we had a hearing

we'd have to refer it to the City Solicitor's office anyway.

MR. HAAS: I think since we know it's out there we should just go ahead and request the City Solicitor's office to research it.

MR. SCALI: So you're making a motion that we do that when we receive it?

MR. HAAS: Uh-huh.

MR. SCALI: Any discussion?

MS. LINT: I think it's done.

MR. SCALI: Motion to defer, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Make note of that Mrs. Lint, when you receive it and get it back from the Law Department.

Anything else before us? Motion to adjourn.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

(Whereupon, the proceeding was
concluded at 9:09 p.m.)

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
BRISTOL COUNTY, SS

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

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

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

In Witness Whereof, I have hereunto set my hand this 17th day of April, 2010.





ANNE OUELLETTE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 16, 2012

**THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT
DOES NOT APPLY TO ANY REPRODUCTION OF THE SAME
BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL
AND/OR DIRECTION OF THE CERTIFYING REPORTER.**