

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, May 11, 2010
6:00 p.m.

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P R O C E E D I N G S

MS. LINT: License Commission General Hearing, Tuesday, May 11, 2010, at 6:00 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room. Before you are the Commissioners: Chairman, Richard Scali, Deputy Chief Dan Turner, and Commissioner Robert Haas.

MR. SCALI: Motion to accept the minutes from our last meeting of May 6.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Investigative matter:
American Multi-Cinema, Inc. d/b/a AMC Theatre,
holder of an Entertainment license due to a report
received by the License Commission from the Fire
Department regarding a fire alarm on April 2, 2010.

MR. SCALI: Is anyone here from AMC?

MR. HAAS: Do you want to take the
testimony from the Fire Department? Or do you want
to wait?

MS. LINT: Second call since it's just
a few minutes after?

MR. SCALI: We'll do a second call on
AMC if that's okay?

MS. LINT: Okay.

MS. LINT: Application: Season to Taste Catering, LLC d/b/a Season to Taste, Robert Harris, Manager, has applied for a six-day Wine and Malt Beverages as a Restaurant license and Common Victualer license at 2447 Massachusetts Avenue. Proposed hours of operation are Tuesday through Saturday from 5:00 p.m. to 12:00 a.m. with a seating capacity of 12. The restaurant will only be open when the manager is on premise. This is located in Cap No. 6. Applicant is also applying for an Entertainment license to include an audio tape machine/CD, which may play music below, at, or above conversation level.

MR. SCALI: Season to Taste.

MR. HARRIS: My attorney, Jim Rafferty is not here yet. Is it possible for me to wait until he arrives?

MR. SCALI: Yes. We will certainly do that. Second call on Season to Taste.

MS. LINT: Application: E.W. Enterprises, Inc. d/b/a Dreamworks Motor Cars has applied for a Used Car Dealer Class II license, office only, at 577 Massachusetts Avenue. This license if approved would be moved from 453 Windsor Street to the new location.

MR. SCALI: Abutter notification? You've got them right there. Do you have the affidavit with that Mrs. Lint?

MS. LINT: I do not.

MR. SCALI: Do you have the affidavit that goes with that? There should be a sheet of paper that lists all the abutters. You probably have that in your packet, I'm sure.

MR. WANTMAN: That one I hope.

MS. LINT: No.

MR. WANTMAN: The Licensing Commission, the City of Cambridge --

MR. SCALI: We'll work on that. Why don't you tell who you are for the record, please.

MR. WANTMAN: My name is Ernest Wantman. I was granted a license originally by

this Board exactly 10 years ago this evening, May 11, of the Year 2000. I do more wholesaling than I do retailing, a very little bit of retailing.

The office license that was granted to me back then was for 453 Windsor Street, which was my residence at the time. It's a family home; it belonged to my dad. Dad has since deceased. I would like to be able to move it to a commercial area, if you will, on Mass. Avenue here rather than have it at that address.

I hope that I have never had any black marks against me, or red marks, or any marks against me in the 10 years that I've been doing business.

I am a member of the Massachusetts Independent Auto Dealers Association, so we all strive to conform and do everything according to the letter of the law. And again, like I said, to my knowledge I've never had anything negative or anything to the fact that I haven't done everything 100 percent.

MR. SCALI: This is just an office

only; right? No vehicles?

MR. WANTMAN: That's correct.

MR. SCALI: You're renting space at 577 Massachusetts Avenue?

MR. WANTMAN: Correct.

MR. SCALI: You go to like the auctions and that kind of thing; is that what you do?

MR. WANTMAN: Generally I buy I'm going to tell you 99.99 percent, almost 100 percent from new car dealers that will still sell to me. We have the cars reconditioned sometimes mechanically, and then I sell once a week at the Adessa auction in Framingham. That's the only one that I currently attend.

MR. SCALI: Are you associated with a repair facility?

MR. WANTMAN: I am, yes.

MR. SCALI: Which one is that?

MR. WANTMAN: I use APA here, which is on Kelly Road. And I do have a couple of others but I do use him as well.

MR. SCALI: When you go into the office here, is it one office? Are you sharing an office space with anybody or is it just one space for you?

MR. WANTMAN: It's one saved for me, correct. There's an attorney there but I have my own separate office.

MR. SCALI: So you have your own door and your own separate entrance and all that?

MR. WANTMAN: Yes. Well, it's a common entrance but I do have my own door with a lock on it to go in and out so everything is secure. That's correct.

MR. SCALI: So normally you know we have a moratorium on any used car dealers but your argument I'm gathering is you're already existing but moving to a new location.

MR. WANTMAN: Correct.

MR. SCALI: So that's the argument.
Questions?

MR. HAAS: You mentioned that you sell vehicles at Adessa, or you sell and buy at Adessa?

MR. WANTMAN: I almost never buy; only sell, correct.

MR. HAAS: Where do you get the vehicles from that you're going to be selling?

MR. WANTMAN: I have been getting them from Stoneham Ford.

MR. HAAS: New car dealerships?

MR. WANTMAN: Correct, all new car dealers. Once in a great while it might come from a private party through somebody being deceased or something like that; somebody will call me. But for the most part almost 100 percent from new car dealer trades.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. SCALI: Does anybody from the public want to be heard in this matter? No hands. Questions, concerns? Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much. You just need to get us that affidavit. If you don't have one, Chris can get you one.

MR. WANTMAN: Just come by the office and find an affidavit?

MR. SCALI: Just look for Chris. It's the affidavit with a list of all the abutters. You have to sign at the bottom and have it notarized. Make sure that we get that back from you.

MR. WANTMAN: Okay, but I sent out those forms that I was supposed to, a copy of what was in the Chronicle, so just get the affidavit.

MR. SCALI: Exactly right.

MS. LINT: Application: Charles George Companies, Inc. has applied for a Disposal license to operate in the City of Cambridge.

MR. SCALI: Charles George?

MS. LINT: We're not doing well tonight.

MR. SCALI: Second call.

MS. LINT: Back to Season to Taste?

MR. SCALI: Season to Taste. Mr. Rafferty is here. Let's go back to the second item.

MR. RAFFERTY: For the record, James Rafferty on behalf of the applicant, Season to Taste. Seated to my right is Robert Harris, and Mr. Harris is the proprietor of Season to Taste.

I don't know if the Commissioner is familiar with Mr. Harris or his business but he is located up in North Cambridge on Mass. Avenue and he operates his very successful catering business there. Part of Mr. Harris' vision for his business was to be able to have a venue where people who might be considering using his catering service

could come in and experience a meal. They might be people with an immediate plan or people who might be thinking about the future.

His business has been operating at that location now for nearly --

MR. HARRIS: Since August of last year.

MR. RAFFERTY: Almost a year. It's been very successful. The principal function of the business is a catering business where food is prepared at this location and served off site. But there are weekends, particularly in the winter time when they do not have a catering assignment that they would like to have the opportunity to have a table, which they have a table now; to have guests come in on a fairly scheduled basis and sit down and have a meal.

It would be not a traditional restaurant, it's a single table, but the concept is that you and five of your friends could book the third Wednesday in March and have a nice dinner party. You would get to experience the service,

the linens, everything that Season to Taste does if you were to have them at your son or daughter's wedding or at some function. So it would allow them to market themselves and also serve the public and provide a nice dining opportunity, a rather unique dining opportunity.

To do it to the level they like, they would like to be able to provide wine with this food. Hence, the request for a Beer and Wine license for this very limited, somewhat unique concept.

MR. SCALI: So it's one table with like 12 seats; is that what it is?

MR. HARRIS: It's 10.

MR. RAFFERTY: Ten seats at a single table.

MS. LINT: The application said 12.

MR. HARRIS: I'm sorry, 12. If it's friends, then it's 10, if it's family it's 12 I guess. It's all one big table with benches.

MR. SCALI: Here is my concern: A new Beer and Wine license is expensive because when

you're not buying one our fee is almost double. Are you going to be able to pay that fee on a yearly basis where you're going to be so limited?

MR. HARRIS: The problem is that we want to be able to charge a certain amount of money for our dinners. In order to do that we want to be able to provide both beer and wine. We're not really looking to make a tremendous -- if that breaks even that allows us to then have dinners of 10 to 12. So we could definitely afford to pay for it. It's just we want to be able to provide a complete experience so that we can have our customers come and enjoy dinner.

MR. RAFFERTY: As it's been explained to me by Mr. Harris, there is a value to the service beyond merely the revenue from the meal. It's the marketing, it's the notion that people went there and enjoyed everything about it, and hired him for an event. It could be a large event, it could be a small event.

I think you're right, if this were simply a sole proprietor operating a 12-seat

restaurant, the economics are really difficult. But viewed on a broader scale of what it means for his catering business and how he might be able to showcase his service, his product, and his skills, he sees this as a worthwhile investment.

MR. SCALI: How often would you be having the functions, and how often would you be open to the public?

MR. HARRIS: It's open to the public in that anyone can call and book the table. My vision was to have it available five nights a week with one seating.

MR. SCALI: So book ahead, make a reservation; anybody can come in if you book ahead.

MR. HARRIS: Sure, absolutely.

MR. SCALI: Can you walk in off the street if the table is not booked?

MR. HARRIS: We weren't planning on doing that. It's more just for -- because for example, if it's like that and it's one table, and you have different parties, it's -- it's more just for folks who want to have -- maybe their kitchen

is too small because they live in Cambridge and they've got friends from out of town. It's also this growing movement of supper clubs kind of, but we want to actually really do it in a legitimate fashion.

MR. RAFFERTY: You've heard of those phantom things that go on, and this might be a counterbalance to that.

MR. HARRIS: It also feeds into seasonality because I'm primarily a wedding caterer, and that season ends around the holidays. So I have four months where I still want my employees to work and to be able to market what we do. So it's that approach as well.

MR. SCALI: So one-day licenses wouldn't do it for you?

MR. HARRIS: I'm sorry.

MR. RAFFERTY: I'm sorry. He has a bunch of petitions in his bag back there that I wanted to have him provide. He has generated a lot of enthusiasm in the neighborhood about this concept. It's unique, but I do think based on the

response he's gotten, he expects that it will have a nice appeal.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: I inspected the establishment today and I think there's a true faith effort by the owner. He's installed a brand-new kitchen exhaust system that meets today's standard. It passes inspection. The facility has an alarm system so it meets all the code compliance as far as a modern-day restaurant as if you had a 200-seat restaurant. So for a small venue he's invested in the business to the point where I'm pleased with what I saw today.

MR. SCALI: Has North Cambridge Stabilization spoken on this at all?

MR. RAFFERTY: I did have a conversation but I hesitate to characterize anyone else's words. I don't know if they've -- have you spoken to them? I know you've had some conversation. They told me they were supportive of it, and Mr. Cleary said favorable things to me when

I saw him in another context. But I would hesitate to convey an endorsement because I haven't seen anything in writing to that effect.

MS. LINT: No one contacted me.

MR. RAFFERTY: I would credit them with being vigilant and attentive, and I often find that their absence or silence is a form of endorsement.

MR. SCALI: So they know about it?

MR. RAFFERTY: They're very familiar, and I know you've had direct conversations.

As you know, there was an approach and a conversation. To even put the catering use in this location we had to get a variance about a year ago from the BZA, and that was for the catering business. At the time the variance for the catering business was approved, it was indicated that there would be accessory dining. So on that I did have conversations, and I know they supported that. If you take a look at the Zoning variance you'll see a year ago that it was contemplated. In the petition it says, "Catering with accessory

dining." So that was understood.

MR. SCALI: Questions?

MR. HAAS: Can you just describe what the space looks like? It's a part of a larger building? I'm just trying to picture what this looks like.

MR. HARRIS: It's a single-story storefront that's right on Mass. Avenue that's abutted by Budget Copy on one side and Marco's Pizza on the other. When you open the door it's one big space. There's a kitchen to the right and then a table to the left with a dish area and a sanitation area in the back.

MR. RAFFERTY: It formerly served as Mexican fast-food. I'm sure it had a CV license. A Cesar Mendoza received a variance in 2004.

MS. LINT: That sounds familiar.

MR. RAFFERTY: Didn't he operate --

MR. HARRIS: I don't know if he had Beer and Wine. I know he had Malt.

MR. RAFFERTY: But he had a Mexican take-out, wasn't it?

MR. HARRIS: Yes, absolutely.

MR. SCALI: No seats, just take out?

MR. HARRIS: No. It was called Maria Bonita and it had --

MR. SCALI: Oh, that's right.

MR. RAFFERTY: It's had a use as a restaurant. It just so happened that the catering -- it's hard to find catering in the zoning use so it was assembling and packaging of products to be sold off premise, and for that you needed a variance. If he was simply going in to do a restaurant he wouldn't have needed the variance. So it had its permitting challenges in terms of getting the catering business.

Previously, Mr. Harris had been operating his catering out of the kitchen of the Mariposa Bakery down here in Central Square. So this has allowed him to -- he lives in the neighborhood. He lives a block or two from the location so it's proved to be a very convenient and successful location for him.

MR. SCALI: Any questions?

MR. HAAS: So the whole prep area and stuff is all open to the people who are going to be eating?

MR. HARRIS: Yes. There's a division where they sit probably three or four feet away from where the cooking is going on. It's designed to create a kind of intimate experience where they get to basically have a personal chef for the evening.

MR. HAAS: How are you going to market this concept?

MR. HARRIS: It's going to be through our website and through word-of-mouth. We have an extensive e-mail list because we have serviced a lot of people in the last six years and we want to appeal to them. Also, when I have clients in who are looking to get married sometimes they will eat when we host a tasting. So they taste the food and get excited and want to have their family in, so it's kind of an accessory to that as well.

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

Concerns?

I guess my only concern is that we recommend you buy a license first in the City before we issue new licenses. I'm gathering there are no six-day Wine and Malt licenses available, Mrs. Lint; right? Any Wine and Malt licenses available?

MS. LINT: Possibly Wagamama but I know that's being negotiated.

MR. RAFFERTY: I've heard of that but to the point of economics for a 12-seat, occasional open Beer and Wine, that Wagamama license which I've heard is a capacity of over a hundred, it would be prohibitive. Our hope is that notwithstanding the issues present with the cap that the low impact nature of this particular use would allow the Commission to find that it would not have any adverse impact on the surrounding uses.

MR. HAAS: Mr. Chair, having said that I suppose we could actually put a condition on this license that if Mr. Harris at some point in time

wanted to go to a full service restaurant then we could have him come back and that license would then be subject to --

MR. RAFFERTY: Any increases in capacity could be subject to -- right. Because he'd be limited to this floor plan and this capacity.

MR. HAAS: I think we just want to be cautious in that if there are available malt liquor licenses and you were to decide to become a full size restaurant, I think the position of the Board based on our prior conversation would be that we would want you then to investigate purchasing a license. I appreciate what you're trying to do and just think it economically makes no sense to try to purchase a license that wasn't available given the fact that it's a very limited application.

MR. SCALI: What day are you closed?

MR. HARRIS: Sunday and Monday; is what we decided?

MR. SCALI: So you're only operating five days?

MR. HARRIS: That's the plan.

MR. RAFFERTY: Did you want to exclude Sunday? I thought you told me you thought Sunday might be nice.

MR. HARRIS: Sunday brunch.

MR. RAFFERTY: I'm looking at the CV license. That would tell us, would it not?

MR. SCALI: Because your license, if we grant it is six days, we need to know what day you're not going to open.

MR. RAFFERTY: We put Monday.

MR. HARRIS: Monday for sure.

MR. RAFFERTY: Because you might want the ability to open on Sunday.

MR. SCALI: If that changes, you need to let us know.

MR. RAFFERTY: As we discussed, Mr. Scali, when we filed this, there is a unique aspect to this. There could be a Saturday where he is doing a wedding and it wouldn't be open. I know often times if you're permitted to be open, you have to be open.

MR. HAAS: But it's reservation only; right?

MR. SCALI: I think if you're open to the public and people know that you're open, then you need to post that somewhere saying that you're open. If you're not open then the public needs to know you're not open or not serving this evening, or whatever it may be.

MR. RAFFERTY: We talked about putting a calendar up every month on the door with what nights they'll be open. The schedule of the farm table is subordinate to the catering schedule; that's the primary focus. So if there is a large commitment to an event on a particular evening that's known well in advance that they simply wouldn't be open for business.

It's not likely to encourage or receive much in the nature of walk-in business. He'd have to know ahead of time to have the food prepared; he'd have to know how many were coming. He prepares the menus quite thoughtfully. It's not like a full-service menu. Then you'd have to be

prepared to eat dinner with strangers if you just walk in off the street.

MR. SCALI: It's a more book ahead schedule.

MR. HARRIS: Exactly.

MR. SCALI: Anything else?

MR. HAAS: Does he have to do any training?

MR. SCALI: Have you been through our 21-Proof training at all, you and your staff?

MR. HARRIS: The folks under me who are doing my bartending for my catering service now are all TIPS trained. I personally am not.

MR. SCALI: We have a training organization called 21-Proof, which is through our CPC so we would require you and your staff to go through that training.

MR. HARRIS: Not a problem.

MR. SCALI: Any other concerns?

MR. HAAS: So you're familiar with the fee schedule?

MR. HARRIS: Yes, I am.

MR. SCALI: You're familiar with the fact that it's someone in the area of --

MS. LINT: \$4,000.

MR. SCALI: It's in the area of that amount per year.

MR. HARRIS: My understanding was like \$3,500.

MR. SCALI: So you're not going to come to us looking for a reduction in a month or so; right?

MR. HARRIS: I'll take it a step at a time. No, no, of course not.

MR. SCALI: It's not likely you're going to get a reduction in the fee.

MR. HARRIS: I assume that's the case.

MR. SCALI: If you're having trouble meeting that fee that's not going to be --

MR. HARRIS: A reason to have a reduction.

MR. SCALI: Right.

MR. RAFFERTY: Oh, I told him all about you people so he knows he's on his own.

MR. SCALI: Well, that's the reason for the new licenses being granted; because of the additional fees.

MR. HARRIS: Understood.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve to include 21-Proof training.

MR. SCALI: Motion to approve a six-day Wine and Malt; schedule to be posted; 21-Proof training.

MS. LINT: No value and non-transferable.

MR. SCALI: No value, non-transferable license. That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck. I hope it works. Thank you Mr. Rafferty.

MR. SCALI: Anybody from AMC?

MR. TURNER: We could read the report into the record.

MR. SCALI: Could you come forward and read the report. I'm sorry, I don't know your name.

CAPT. GOVER: Captain Gover, G-O-V-E-R, with the Fire Department.

MR. SCALI: We'll go back to Item 1 then so we're not keeping the Captain waiting any longer.

This was called originally in the beginning with regard to a fire alarm on April 2, Captain. So if you could just let us know what happened that night.

CAPT. GOVER: On April 2 at 23:39, Engine 1 and Ladder 1 were dispatched to No. 10 Church Street to the movie theater for a fire alarm sounding. Upon arrival to the building there were several people in front of the main doorway and it blocked our entrance into the building, delayed our entrance into the building. One of the people was

the sole employee working that evening who was handing out coupons, apparently so that people could come back at a later date because it was interrupted due to the fire alarm sounding.

We went in the building to investigate the cause of the fire alarm, and in doing so there was at least one movie cinema with the movie still playing and people still in their seats. We found a pull station pulled and we reset the pull station.

I spoke with a manager that evening, Laura Ensin (phonetic) of AMC and I expressed my concern. I asked her if there were any other employees in the building and she said no. I then got the -- there happened to be an off-duty employee there who was very helpful. I asked him what the seating capacities are and he stated there are five cinemas and the total capacity for the seating is 1306 people, when you add up those five cinemas.

The fire alarm was in trouble. After we reset it, I notified the manager to have the

fire alarm system restored to the normal condition by calling her fire alarm company electrician who services that building.

MR. SCALI: So somebody pulled the fire alarm but there was no fire?

CAPT. GOVER: Correct.

MR. SCALI: And when you got there, there was one person working for 1306 seats?

CAPT. GOVER: Correct.

MR. SCALI: And chaos with people coming out?

CAPT. GOVER: Yeah. People were coming out, and then also people were blocking the entrance to the building delaying our investigation to see if there was actually a fire in this building or not. It definitely delayed the operation, and having the only employee of the building giving out these coupons/vouchers delayed -- it just seemed like blocking that entrance and it definitely delayed the operation.

MR. SCALI: So they were pretty quick to give out coupons to what, come back again free?

Is that what it was?

CAPT. GOVER: I would assume so but I can't confirm that. It just seems like giving out the coupons -- I wish that the manager on duty met us. The fire alarm panel is in the front lobby behind the concession stand, which at that time of the night is closed.

MR. SCALI: It sounds like there's two problems. One is that there was only one person on duty who couldn't help you because they were doing other things; and two, they don't have a very safe exiting plan for getting people out of there.

CAPT. GOVER: I would think for an establishment like that, that people I would assume should be trained on what to do in the event of a fire or fire alarm activation. Certainly blocking the entrance and giving out coupons or vouchers certainly would not be part of that plan.

MR. SCALI: Questions?

MR. TURNER: Captain, were you able to determine if that evening if the theater was operating at max capacity?

CAPT. GOVER: I don't have the numbers as far as the number of people in the cinema that evening.

MR. TURNER: But it was a substantial amount?

CAPT. GOVER: It was a substantial amount.

MR. TURNER: The potential is that that same situation could happen again with 1,306 people in the theater and only one person kind of overseeing everything from selling the tickets to in the event of an emergency trying to get that place evacuated.

CAPT. GOVER: Correct.

MR. TURNER: Mr. Chair, clearly the reason I requested the License Commission for the hearing is this is a public safety concern. I am very interested in knowing what the policy of AMC theater is and would be interested in trying to set some conditions upon their license, or at least try to get an explanation as to why only one person is running this place. Clearly this is a public

safety issue.

Certainly there is no law that says you have to evacuate. I'd be interested to know if it's AMC's policy to evacuate the property. But to have the only responsible person which is the manager on duty running out the door ahead of the patrons is kind of like the captain of a ship jumping into the lifeboats prior to evacuating his sinking ship. Thank you, Captain.

MR. SCALI: Questions?

MR. HAAS: Based on what you said Deputy, are you telling me that if a fire alarm goes off they're not required to evacuate?

MR. TURNER: There is no law that says you have to evacuate until the fire department declares the building an emergency and takes charge and orders the evacuation. That's the general policy of most establishments and businesses to evacuate on a fire alarm on activation.

MR. HAAS: When you went into the theater, Captain, how many people were still in the theater would you guess? Was it a whole cinema

that was full of people?

CAPT. GOVER: It was a cinema with the big movie screen and there were several -- I mean there were in excess of 20 people easy. It could be way more beyond that. I'm not sure of the exact amount but there were several people still in their seats watching the movie.

MR. HAAS: When you refer to talking to the manager that manager is the person that was giving out the coupons; right?

CAPT. GOVER: Correct.

MR. HAAS: that was the only person that was on the premises aside from this off-duty employee; right?

CAPT. GOVER: Correct.

MR. HAAS: No other questions.

MR. SCALI: So it sounds like we really need AMC here, obviously. We didn't want to keep the Captain waiting over this report.

MR. HAAS: You have somebody in the back.

MR. SCALI: I'm sorry.

MR. LOCHARD: I'm Carl Lochard, the general manager of the building.

MR. SCALI: Are you the general manager of the theater or the building?

MR. LOCHARD: Of that building, the theater.

MR. SCALI: I didn't realize you came in, I'm sorry. Have a seat and tell us your name again.

MR. LOCHARD: Carl Lochard, L-O-C-H-A-R-D.

MR. SCALI: So you are the --

MR. LOCHARD: I'm the general manager. I supervise Laura and my other manager.

MR. SCALI: Did you hear the Captain's report at all? Were you here to hear it all?

MR. LOCHARD: I was briefed on the report after the incident as well. Pretty much Laura was brand new to that building. It was roughly the beginning of her second week so she wasn't familiar with our evacuation plan but we do have one in place in our emergency preparedness

guide.

MR. SCALI: Was she there alone?

MR. LOCHARD: Yes. Pretty much with the size of that building, AMC's policy is usually to have a closing usher stay to a certain point. But on said night, pretty much the usher had to go home. They weren't able to stay until the very end. We have one closing manager and usually a closing usher who is monitoring the building, walking around making sure guests are okay. If they have a concern, they'll contact the manager, and on that night she didn't have one.

MR. SCALI: She didn't have anybody else to help her?

MR. LOCHARD: Pretty much it was just her that night.

MR. SCALI: But why was that?

MR. LOCHARD: The employee who was working that night actually left a little early. She thought that everything would have been okay, but that wasn't the case.

MR. SCALI: Are you associated with

the AMC franchise? Or are you separate? Are your policies not your own policies?

MR. LOCHARD: The policies are set by the corporate office.

MR. SCALI: Does it really make sense to have potentially 1,300 people with one employee on?

MR. LOCHARD: It depends on the night. Usually on the weekdays and stuff like that there's nowhere near that amount, and if we do have -- say we're nearing capacity we would definitely have more employees on duty. Most nights on the weekdays there's usually about 20 to 30 people on.

MR. SCALI: Employees?

MR. LOCHARD: No, no, watching films in the building.

MR. SCALI: You mean 20 to 30 customers?

MR. LOCHARD: Correct.

MR. SCALI: In all those theaters?

MR. LOCHARD: Correct. For the most part during the weekdays it's very slow and

relatively empty.

MR. SCALI: What night of the week was this?

MR. LOCHARD: August 2, if I'm not mistaken that might have been -- I'm sorry, April 2, might have been a Thursday if I'm not mistaken.

MR. SCALI: A Friday?

MR. LOCHARD: It wasn't a Friday.

MR. SCALI: I would think that would be a pretty busy night on a Friday night. The Captain was saying there was a lot of people there.

CAPT. GOVER: It was very crowded outside the building delaying our entrance into the building as well as the people in the cinema itself still watching the movie. The manager never prompted us as far as the fact that there were people still in the cinema. I was surprised investigating the cause of the alarm that there were people still in that building.

MR. LOCHARD: With our evacuation procedure we search all the auditoriums, and with her being relatively new to our establishment and

pretty much AMC that's something that she wasn't aware of, and pretty much that fell on me because within her first week we were going over everything but that's one of the things we failed to cover in the first week.

MR. TURNER: Who runs the movies? Who runs the equipment?

MR. LOCHARD: The equipment is run by management and the staff during the day depending on how many staff members we have on whether it be the staff member or the manager running the shows, we take care of that. Now, at the time of when the incident occurred pretty much she was the only one so everything was already shut down, concession stand, box office. No more tickets were being sold. She was in the process of actually closing up the paperwork.

MR. SCALI: I'm a bit confused.

MR. TURNER: In your plan if an alarm goes off, the movie keeps playing?

MR. LOCHARD: No. Movies automatically shut off and with that incident I

actually had ADT and some of my technicians from the home office come and checkout those projectors. The ones that I guess were -- those were actually new equipment that weren't wired properly. And since then I have had that corrected. Pretty much the films and everything continued to play while the alarm had gone off.

MR. SCALI: How many films were running that night?

MR. LOCHARD: There's five cinemas and I believe when the alarm took place it was about two.

MR. SCALI: So two films were still running?

MR. LOCHARD: Correct.

MR. SCALI: So what if someone has a problem with the film or there's a problem with the projection, and what if there's a problem with somebody at the theater, you let one person take care of it?

MR. LOCHARD: Well, yeah. Pretty much that's not normally how it goes. If the manager is

present, they'd be the one handling that situation. That's why we have those closing ushers who monitor the auditorium.

MR. TURNER: So on a normal operating day you'd have at least two people on what you would consider a slow night?

MR. LOCHARD: Correct.

MR. TURNER: In this case, it was a Friday night. You're saying it was a slow night. What happens if all of a sudden 1,300 people show up because they decide to go to the movies that night?

MR. LOCHARD: Oh no, no. Pretty much during operating hours we have more than enough people to handle all those guests. It's once pretty much the building is closed for the evening because let's say the last show starts at 10:15, we close 15 to 30 minutes after that last show.

MR. TURNER: Once you put the shows on you figure everybody is seated, everybody is comfortable, and you start letting your people go.

MR. LOCHARD: Uh-huh.

MR. SCALI: Captain?

CAPT. GOVER: In my report that I wrote, she stated being the manager, Laura Ensin; that all five movie cinemas were showing movies when the fire alarm sounded.

MR. SCALI: They observed that, you're saying?

CAPT. GOVER: That's what Laura Ensin stated.

MR. SCALI: Oh, the person on duty.

CAPT. GOVER: Yeah. I have my report. She stated that all five movie cinemas were showing movies when the fire alarm sounded.

MR. TURNER: Any recommendations from your perspective on what we can do to improve the situation down there? Or, perhaps what you would have liked to have seen?

CAPT. GOVER: What I would like to see is a building evacuation plan where the people aren't evacuated to immediately in front of the doors blocking our entrance. Or, if we had to use a hose or the ladders, obstructing that. And

certainly more than one employee. Then also somebody who's going to take charge and meet us at the door and say, you know, in the event of that evening, there's still people in Cinema No. X, or Cinemas No. X. And if we have any questions as far as the building that person should be familiar with the building and shouldn't be tied up giving out coupons or vouchers.

Likewise, if we had a medical emergency especially that evening in a cinema, we just got a call that there was a medical emergency at that location, and if the manager, the only employee there was in Cinema X and we enter the front door, there's nobody there to direct us to this cinema where the medical emergency is.

MR. SCALI: So is there like an evacuation written plan or policy that you have?

MR. LOCHARD: Yes, I do.

MR. SCALI: Is there something you can give to us so we could see it?

MR. LOCHARD: If you like, I can definitely make some copies for you.

MR. SCALI: It really sounds to me from what the Captain is saying that you need to review the amount of employees that are on duty, number one, and then make clear to them that they're trained in what happens should this happen again.

MR. LOCHARD: And pretty much actually the following Sunday we actually had a meeting covering everything once again, making sure everyone was up to date on that.

MR. SCALI: Is there something you can give us in writing that clarifies that for us because this is an investigation, which could turn into disciplinary if we feel it goes to that level. We're hoping it doesn't, of course. We want to make sure that the public is safe, number one, and that the fire department gets the response that they need when they go out there from your people.

MR. LOCHARD: I could definitely get that all together for you.

MR. SCALI: Anything else, Commissioners?

MR. HAAS: Just to clarify for me, when the alarm goes off it's designed to shut off the projectors and I'm assuming turn the lights on?

MR. LOCHARD: Pretty much the lights go to their highest point and all projectors shut off.

MR. HAAS: Is that a corporation response?

MR. LOCHARD: That's standard for all movie theaters. Usually when an alarm faults like that everything automatically shuts off just in case it is an actual emergency so we can get everyone organized and out of the building.

MR. HAAS: Deputy Chief, is there a way to do a fire alarm test at some point in time to see if the equipment is working properly the way it's supposed to?

MR. TURNER: I don't see why not.

MR. LOCHARD: We can definitely get ADT and the fire department out to test it.

MR. SCALI: If there had been a real fire there that could have been a real mess.

MR. HAAS: The only other thing I'd ask Deputy Chief, is just that the review kind of outlines the three key points that the Captain brought up in terms of making sure there's a designated point of contact to assist the fire department when they're responding. That employee issue, you're going to have to kind of work out. It would seem to me I understand what you're doing in terms of reducing your staff as the night goes on, but that could be the time as you had in this case, a problem. And clearly the one person is not enough to manager all those activities all at the same time. So you need to kind of reassess that I would think.

MR. SCALI: I would think from a safety point of view I wouldn't want to be the only employee there in that building managing money, and people, and alarms. I just doesn't sound very safe.

MR. TURNER: Mr. Chair, I think the important thing to note here is when an alarm comes in, unless a phone call is made or somebody

notifies the fire department while en route, the fire department has no idea what they're responding to. All they know is that a fire alarm has gone off in the building; there's a problem in the building that significant of an emergency.

When you arrive at building it is extremely helpful, especially in a building of this size and nature, when somebody can come to the fire department and say, somebody who is familiar with the building can come to the fire department and say, yeah, somebody maliciously pulled a false alarm or a smoke detector accidentally went off due to whatever reason, burnt popcorn or what have you. But to arrive to this situation and to have no cooperation from management and to pretty much have to solve the problems on your own becomes very difficult. So I think that's a thing of importance to note here.

MR. SCALI: I'm going to make a motion that between now and our decision-making meeting, which would be the first Thursday in June -- is it June 1 -- the Mr. Lockhard, you get back to us with

an evacuation plan, an employee scheduling plan for us, if you would, as well, including someone taking charge if there is a problem, greeting the fire department at the door.

MS. LINT: It's June 3.

MR. SCALI: June 3 is our date.

Arranging a test with the fire department, if you would, on the system to make sure everything is in order. There was one other thing that the Commissioner said that I forgot.

MR. HAAS: I think the review of the plan is to make sure it has all the elements that the Captain identified in terms of what's prudent I think in terms of assisting the fire department in their response whether it be a medical emergency, fire alarm, or an actual fire emergency inside the building. Including the responsibility of employees with respect to the evacuation and clearing the entranceway. So not just simply getting people out of the theater, but making sure the entranceway is clear of anybody so that the fire department has unimpeded access into the

building.

So your check will also check not just the functionality of the fire alarms, but also make sure it turns off these projectors and then brings the lighting to an acceptable level for people to leave the theaters; right?

MR. TURNER: I assure you we will do a comprehensive inspection and testing of the alarm system. We'll check the exit capacities, the exit doors, et cetera.

MR. SCALI: So you can arrange that with Deputy Chief Turner or his staff. I'm not sure the Captain will be involved but whoever from your staff would be appropriate.

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

MR. HAAS: Motion to take the matter under advisement until June 3, and a report back from the fire department.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: On June 3, our meeting is at 10:00 a.m. in the morning, here. So perhaps you could be hear at that time, or your staff, to explain that to us. Thank you very much. Captain.

MS. LINT: Second call at the bottom of Page 1: Charles George Companies.

MR. SCALI: Charles George?

MR. KARRAS: Yes.

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

MR. KARRAS: Chris Karras.

MR. SCALI: Chris Karras, K --

MR. KARRAS: K-A-R-R-A-S.

MR. SCALI: And you are the --

MR. KARRAS: President.

MR. SCALI: President of Charles George Companies.

MR. KARRAS: Right.

MR. SCALI: So how long have you been operating?

MR. KARRAS: I'm the third-generation in the family business. So in Cambridge?

MR. SCALI: Yes. I don't think you've ever had a license with us; right?

MR. KARRAS: No, I don't believe we have.

MR. SCALI: Did you just find out about the license?

MR. KARRAS: I did. We received a letter in March. We primarily do construction demolition debris; however, we are doing a little bit more municipal waste now so we're taking care of One Kendall Square Properties.

MR. SCALI: Who did you get the letter from; Public Works?

MS. LINT: Me.

MR. SCALI: Mrs. Lint, are you tracking down disposal companies?

MS. LINT: I track down everything.

MR. KARRAS: Yes. We were unaware because we have a license and permit for every town and municipality, Newton, Brookline.

MR. SCALI: Not Cambridge of all places?

MR. KARRAS: Imagine that.

MS. LINT: We actually had an e-mail from Public Works with the names of the several companies that they had seen on the street.

MR. SCALI: They're checking you out.

MR. KARRAS: They checked us out so we're here to pay our dues.

MR. SCALI: How many years have you been in Cambridge? Should we do back fees all the way back?

MR. KARRAS: That's a long time. We have been here for many years.

MR. SCALI: There's a list of haulers that you -- do you have regular customers?

MR. KARRAS: I already supplied her a list of current customers that we provide service for in the City. I believe I still have a copy of that list.

MR. SCALI: Does the list change very often?

MR. KARRAS: It changes, sure. Monthly most likely. Something more permanent, our Waste Recycling Program over at One Kendall Square has been there for a year, but that's a five-year term. Something like that wouldn't change but the construction work changes every three months to

year.

MR. SCALI: Every time a construction job is done then that would change again?

MR. KARRAS: Correct.

MR. SCALI: Concerns?

MR. TURNER: No concerns.

MR. HAAS: No concerns.

MR. SCALI: Does anybody from the public want to be heard on this matter? There's the new dumpster permit policy; are you familiar with that through Inspectional Services?

MR. KARRAS: Usually the general contractor or the building owner would have to have their permit in sight. We provide the City of Boston a street bond. I don't know if Cambridge requires that or not.

MS. LINT: I don't think Public Works is requiring that.

MR. SCALI: Inspectional Services may require that. That's not something you would normally get because you don't put the dumpsters out there.

MR. KARRAS: We put them on the street; however, we do require whoever owns the location to get their own permits.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: So you have never had a license in Cambridge?

MR. KARRAS: I believe years ago there was a license but not in the most recent times, no.

MR. HAAS: Why would you have gotten licenses in other jurisdictions and not Cambridge? I'm confused about that.

MR. KARRAS: We never were notified. We have Brookline, we have Newton, we have the City of Boston.

MR. HAAS: But you're aware of the fact that you need a license to operate in those jurisdictions; right?

MR. KARRAS: Every single municipality is different, believe it or not. The City of Haverhill, for example, you need a permit to run on Route 125 but not on the back roads. In Brookline

-- honest to goodness, every single municipality has a different set of rules and regulations. We do try to comply with everything obviously, otherwise we wouldn't be here.

MR. HAAS: So you're in compliance with the hours of operation?

MR. KARRAS: A hundred percent, very clear, crystal clear.

MR. HAAS: We never had any complaints?

MS. LINT: I've never had a complaint. I would have sent this sooner if I had a complaint.

MR. SCALI: So nothing before 7:00 a.m.; right?

MR. KARRAS: No.

MR. SCALI: And nothing after 6:00 p.m.?

MR. KARRAS: Right.

MR. SCALI: Except on weekends when it's 9:00 a.m.

MR. HAAS: Motion to approve.

MR. SCALI: Back fees, Commissioners?

It must be 30 years times what, \$125. That's a pretty good chunk.

MR. KARRAS: Plus interest.

MS. LINT: We don't charge interest.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: I guess we're not doing the back fees so you're off the hook.

MR. KARRAS: Thank you very much. Is that an annual renewal?

MS. LINT: Yes

MS. LINT: Application: Continued from the May 6, 2010 decision hearing. Middle East Restaurant, Inc. d/b/a The Middle East/Zuzu, Nabil Sater, Manager, holder of an All Alcoholic Beverages as a Restaurant license (2:00 a.m.) and Entertainment license at 472, 474, and 480 Massachusetts Avenue, 2-4-8 Brookline Street has applied for a change of premises description, increase of occupancy from 59 to 100, and an alternate floor plan inside Zuzu. Total occupancy will increase from 982 to 1033. Applicant is also applying to amend their current Entertainment license to include a DJ.

MR. SCALI: Good evening, gentlemen.

MR. SATER: Good evening.

MR. SCALI: Just give us your name for the record.

MR. SATER: Joseph Sater, S-A-T-E-R, 171 Auburn Street, Cambridge, 02139.

MR. SATER: Nabil Sater, 7 Brookline Street, Apartment No. 6, Cambridge.

MR. SCALI: Our concern last time was

that was Zuzu zoned for that use and was there a Building Department permit for that change of use. I believe we have an update from Inspectional Services.

MS. LINT: Yes. Apparently the use is fine. I believe the fire department was satisfied.

MR. TURNER: I received the phone call from Mr. Sater stating that he's been to Inspectional Services and has the Inspectional Services approval. I have not seen the document so I'm assuming that -- we're building plans submitted by an architect showing the floor plan, the amount of the occupancy?

MR. SATER: Exactly.

MR. TURNER: I'm assuming since ISD signed it off -- again, I didn't have the opportunity to speak to the building official.

MS. LINT: They signed off on May 7.

MR. SCALI: Is there an explanation on there at all?

MS. LINT: Just signed by the building inspector.

MR. SATER: What the requirements, you want a fire door between the two buildings.

MR. SCALI: A fire door --

MR. SATER: Between 472 and 474.

MR. SCALI: Were there parking issues at all? Was there a concern about the parking?

MR. SATER: No. The parking issue goes with the age of the building.

MR. SCALI: So the only concern was the fire door?

MR. SATER: Exactly.

MR. SCALI: And other egresses?

MR. SATER: No, that's it.

MR. SCALI: So you had to put another fire door in?

MR. SATER: Exactly. We were offering to have the exit right to the street by changing the front but they said there's no need for that. If we're going to do that, it's going to take a little time to change the whole front. The place is fully sprinkler and we're not asking for full capacity in there, just enough to make it

comfortable and not overcrowded. Instead of 130, we're asking for 110.

MR. TURNER: The fire sprinklers do allow an increase in occupancy by code.

MR. SCALI: As long as we know that our egresses are safe, and the Building Department is okay with it, and the fire department is okay with it, the bigger concern is the policy of the Commissioners on adding more people. You being then the largest capacity establishment in the City at 1,033.

I'm not calling into question your security and your safety plan, and the way you operate has been excellent over the past years, but I guess originally when that came about that was going to be a restaurant and not an entertainment facility.

MR. SATER: But still we committed for it as a restaurant. Zuzu is a high end, high end Middle East restaurant. We take into consideration Zuzu is a totally separate room from the other rooms. Anytime we have more than 200 or 300

people, we have a detail in there even in the middle of the week. That's on our suggestion. Even with all the economy for what happened, we didn't cut back or compromise on people's safety. We always have a detail in there. But if there is no essential need for it, we don't bother with it.

MR. SCALI: The entertainment can't be in the front window; you know that, right? You've got to move that -- if we do grant, it's got to be in the middle of the back of the building. It can't be in the front window because it just emanates.

MR. SATER: We'll do that.

MR. SCALI: Questions?

MR. HAAS: My primary concern, Mr. Chair, is similar to your concerns in terms of the number of people that we are now looking to have between the two establishments. I just want to be reassured that there's sufficient egress in case of emergency; that you could evacuate that number of people in a sufficiently expedient amount of time so nobody is going to be placed in danger or

trapped inside the building. That's my only concern.

I look to the Fire Department because that's where their expertise lies. I'm assuming ISD looked at those issues and obviously you understand the implications if you should God forbid have a catastrophic event over there. I've seen what happened down in Rhode Island. I don't want to see something like that happening.

MR. SATER: I hope not to live that.

MR. HAAS: I hope but I just want to make sure that we've taken all the steps to make sure that that can't happen. So that's my only reservation.

MR. SATER: We make sure people will be safe. We sacrifice our time, our schedule. We're there 7 days, 14 shifts a week. The first floor is all doors. The Deputy Chief would know the building. It's all right on the street with so many exits in there.

MR. HAAS: And the basement area, it's at ground level at -- so it's not truly a basement?

Does the grade drop off so that's exposed at grade level, the basement area? Or, are there steps that people have to negotiate to get out of the basement?

MR. SATER: The entrance for the basement is from the other side. It's from 480 Massachusetts Ave. and Brookline Street. Actually they'll enter from Brookline Street.

MR. HAAS: Is it a straight shot out to the street if they had to evacuate from the basement? Or, do you have to navigate some stairs to get out of the basement?

MR. SATER: There is an entrance and two means of egress. There is an entrance double door and fully sprinkler. You have Green Street behind it to the basement.

MR. SCALI: But when you exit out of Green Street do you have to go up the stairs to get out, or do you go right out to Green Street?

MR. SATER: No, I mean it's a basement. You go up the stairs right to Green Street.

MR. SCALI: Stairs coming up the front to Mass. Ave. or Brookline Street?

MR. SATER: Brookline Street, stairs.

MR. SCALI: If you're downstairs, you're in a basement level.

MR. HAAS: There's enough stairways for people to get out of there? You're talking about 900- some odd people in the basement capacity; right?

MR. SATER: It's 575. It's well equipped, double door, fire sprinkler.

MR. SCALI: That's been approved many many years ago. That's not new.

MR. TURNER: We'll see.

MR. HAAS: Well, I don't want to see. That's the whole point.

MR. SCALI: That's not new. We're talking about the upstairs first-floor Mass. Ave. level. To me that's not in question but I understand your concern. Obviously if you're adding another 130 people to that mix, is that going to impact the basement, people coming out of

the basement through that area?

MR. SATER: That shouldn't impact. It does not reflect on the entrance, you know, both entrances of the room. It's right in the middle.

MR. HAAS: But as you add more people, as the Chair is indicating, it adds also in terms of delaying in terms of people getting out. There's more people you have to move out of a building if you had to get them out of there very quickly.

MR. SATER: We're adding like 60 people and this is totally separate. The Zuzu exit and the Zuzu room is totally away from the club.

MR. HAAS: But if you had a fire in both establishments or it involved both establishments, I would imagine you'd have to evacuate both establishments. You wouldn't leave one establishment running if you had a fire emergency in one of the two because they're so closely connected to one another; right?

MR. SATER: That's true but you have proper exits. You have Mass. Avenue, you have

Green Street, and you have Brookline Street, and we have the alley. The building is a freestanding building with doors from all sides.

MR. SCALI: I know you're reluctant, Commissioner.

MR. HAAS: I'm a novice at this. I'm looking at the Deputy Fire Chief because I want him to reassure me that everything is okay.

MR. SATER: If you'd feel better, you're more than welcome to come and tour the building. I don't want you to sign off if --

MR. HAAS: I'm really horrible in terms of trying to guesstimate how long it takes somebody to get out of a building. That's why I kind of look to the experts.

MR. SATER: They pull the fire alarm on us quite a few times as a matter of fact; everybody out before. Plus the full sprinkler.

MR. TURNER: Mr. Chair, through you to the Commissioner, looking at it from the fire department perspective certainly fire is unpredictable. It's an unpredictable beast, and

clearly how people behave in a fire situation is unpredictable. I can't assure that any building, even as we sit here this evening that we are perfectly safe in evacuating the building should a fire occur in this building. We can only hope that through fire alarm systems and sprinkler systems that early awareness of a fire condition occurs, and through the fire alarm system and that through the sprinkler system that fire will be controlled, if not extinguished immediately.

I guess we can only rely on is that these systems are maintained. They're inspected and tested for their required scheduling process, and this is in reality how these places survive.

Most of the bad fires that occur that make the news across the world -- around the world, across the country and around the world, generally something is lacking, and most commonly it's a sprinkler system when you read about these types of tragedies. So just the fact that -- it has to be some comfort to know that the building is fully sprinkler protected, and I think that is a huge

advantage when you have a large capacity occupancy of this nature.

MR. SATER: May I add one thing? I want you to know Chief that the building is well maintained. They come in and clean the hood way beyond what we is asked of us. So Nabil does a good job with that. Plus the sprinkler system and the fire alarm system is hooked into a company, a phone company, so if anything would happen, you know, even if it's misfiring or anything wrong with it they'll call the fire department. Our sound system is hooked into the fire alarm, so if the fire alarm goes off, the sound system will shut off.

MR. HAAS: I don't want you to interpret my reservations -- your reputations proceed you. I think you're both very responsible businessmen so I'm not even calling that into question.

MR. SATER: No, no. I'm just telling you.

MR. HAAS: I appreciate that. I don't

want you thinking that I think you're running a slipshod operation. It's far from it. I was just looking for some assurances, not insurance that this is going to happen. I just want to make sure we've taken reasonable steps and people are reasonably protected.

MR. SATER: One thing I would like to add, if I may, that we do have when we have the shows we would have probably more than 30 people on the floor, not one or two people, plus the two details.

MR. SCALI: Do you want to run AMC Theater and send your employees down there?

MR. SATER: We care about safety very very much.

MR. SCALI: Does anybody from the public want to be heard in this matter? No hands. Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve with the caveat that the entertainment not be in the front window; that it be moved back. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you.

MS. LINT: Application: Ataturk, Inc. d/b/a Bosphorus Mediterranean Restaurant, Ramazan Gabree, Manager, has applied for a new Wine and Malt Beverages as a Restaurant license and Common Victualer license at 1164 Cambridge Street. Proposed hours of operation are 8:00 a.m. to 1:00 a.m. seven days per week with an occupancy of 144 (135 seating, 9 standing). This is located in Cap No. 7. Applicant is also applying for an Entertainment license to include an audiotape machine/CD which may play music below, at, or above conversation level.

MR. SCALI: Good evening. All of sudden a big crowd came in. Tell us who you are for the record.

MR. RAFFERTY: Good evening, Mr. Chairman. James Rafferty on behalf of the applicant. Seated to my right is Ramazon, R-A-M-A-Z-O-N Gabree, G-A-B-R-E-E.

MR. SCALI: And?

MR. PATEL: Bupesh Patel, the architect.

MR. SCALI: So Mr. Gabree, you're the owner, manager?

MR. RAFFERTY: That's correct. He is the principal of the entity. He would be the manager/operator of the restaurant. He is one of two Mr. Gabrees in the room. His father, Mr. Gabree, Sr. has arrived here from Turkey about two or three days ago and is not too fluent in English. So if you hear Mr. Gabree, someone whispering to him, they're translating what's happening, but he's very eager.

He's a big part of the concept here. Mr. Gabree operates a restaurant in Turkey and the younger Mr. Gabree grew up around that restaurant, hence the name of the restaurant, Bosphorus. I imagine some people recognize what Bosphorus is, the Bosphorus Straights located near Istanbul. I personally thought it was an item that was on the periodic table in chemistry class when I first saw the name Bosphorus, but it shows you there's a whole aspect of Mediterranean culture that is currently being addressed in the Cambridge

restaurant market.

So as eclectic and international as we are in the greater Inman Square area, what Mr. Gabree is proposing here is a very authentic Turkish style restaurant, a Mediterranean style restaurant with a Turkish emphasis. He's very excited about this opportunity.

I'm sure the Commission is familiar with the location. The location was a licensed premises for many years on Cambridge Street. It was the home of the Santo Christo Center.

MR. SCALI: I know it well.

MR. RAFFERTY: It was a private license. Going through its CO, it had a capacity of 395 people. So you may here all types of comments about life on that block but it should be recognized that what has happened since the Santo Christo change of ownership is that Moses Rezaei has purchased the property, and working with the City of Cambridge and its facade improvement program has undertaken a very significant improvement to the facade. It was a cinder block

-- I think it's fair to call that slightly unwelcoming facade. It is located in the business district along Cambridge Street just one doorway in from the corner of Tremont Street. It is somewhat of a unique building. It has a very long depth to it.

MR. SCALI: Has it been empty all those years?

MR. RAFFERTY: There hasn't been a tenant since Santo Christo moved. There's been a lot of renovation, a lot of capital, a lot of deferred maintenance in the building, a lot of improvements have occurred. What the new owner discovered the last time there was an applicant here is there is a unique zoning challenge associated with the property, and that is that the business district along Cambridge Street extends 100 feet in on either side of the street. This lot is exceptionally long and it resulted in the rear portion of this lot actually lying outside of the business district.

So it was grandfathered for a private

club but not for other commercial uses. So it meant that you couldn't use the back 25 percent roughly, and that would have to be residential. It was a classic hardship. We were able to remedy it by going to the Zoning Board and obtaining a variance to allow for the entire property to be used as a commercial use.

In granting that relief however, the Zoning did impose a significant restriction on the building, and that is that the rear door of the building which previously was the source of a fair amount of activity, and the record of the prior hearings reflect a lot of testimony about people who witnessed things happening in the back alley there that were not particularly compatible with the residential abutters.

So the Zoning Board in fact granted the zoning relief that we sought but said that that can only be used as emergency egress. So for this use for this building, whether it's for this tenant or any other tenant, the loading, patron egress, everything will be occurring on the Cambridge

Street edge of the property.

MR. SCALI: So the back door only for emergency exit, meaning no trash, no customer exits; everything has to come out the front door?

MR. RAFFERTY: That's correct. I can share with you a copy of the decision of the Zoning Board. "The use of the rear door into the right-of-way between 82-84 and 88-90 Tremont Street be limited non-recurring emergency egress only." That is a condition that goes with the building and that's what allows the remaining portion of the building to be used commercially.

What Mr. Rezaer has done in his build out of the building is actually create two spaces that run the length of the building. The proposal this evening occupies about two-thirds of the overall floor plan of the building. I bet Mr. Patel could give us the width on that. If you thought of the building as a long rectangle, this would probably help you understand.

MR. SCALI: Is there just a plan you could show us of the floor plan?

MR. RAFFERTY: Yes. In addition to the floor plan that we submitted this plan here shows the overall apportionment of the building. The larger area I believe marked Area 2 is where the Bosphorus Restaurant would go. And then of course, we have the floor plan itself, which we submitted with the application.

MR. SCALI: So Area 2 is where the restaurant would be?

MR. RAFFERTY: That's correct.

MR. SCALI: And Area 1 is?

MR. RAFFERTY: Untenanted at the moment. It could be any type of a commercial tenant permitted by Zoning.

MR. SCALI: This is a very long narrow space.

MR. RAFFERTY: Yes. That's the point. It's very long. You can see that the length of the building extended beyond the commercial district so getting a tent into this building became a challenge. There were some unique elements associated with the building.

In working with Mr. Patel he has come up with -- maybe Mrs. Lint has a more manageable version of that.

MS. LINT: I have a small one here.

MR. SCALI: What is the seating capacity?

MR. RAFFERTY: The proposed seating is 112 seats: 60 in booths and 52 in tables, and 23 stools at the bar.

MS. LINT: And nine standing.

MR. RAFFERTY: So 112 seats and 23 stools and 9 standing.

MR. SCALI: No entertainment except background music.

MR. RAFFERTY: Background music and a few televisions but no live music, no karaoke, no dancing, none of that.

The request -- Mr. Gabree's background is in the restaurant business. As I said, his father operates a restaurant in Turkey and is going to be involved in assisting his son here. Part of what he's done -- and he's looked at a number of

locations and as you might imagine, he's very keen on locating this concept in Cambridge because he believes strongly that it has the type of clientele that will support and patronize a Turkish restaurant. I'm informed by Mr. Gabree that there are really only two authentic Turkish restaurants in the greater Boston area. One is in?

MR. GABREE: Arlington.

MR. RAFFERTY: And the other is in?

MR. GABREE: Brookline Village.

MR. RAFFERTY: There are none in Cambridge. Part of his approach here is to create both in appearance, ambiance, and cuisine a very authentic Turkish restaurant. In the broad spectrum it's Mediterranean with Turkish influences, and Mr. Gabree could talk a lot about it.

He's worked previously -- his most recent assignment was at the Red Lion Inn in Cohasset where he's worked as a chef. He has a strong background in food and really wants the emphasis of this to be on the food itself.

The area as we know has a number of restaurants. It is zoned for restaurant use and it allows for restaurants. But for this to succeed Mr. Gabree feels that particularly wine is a necessary complement to the cuisine and the product that's being offered.

He made an effort because he learned through I believe perhaps your office that there may be a Beer and Wine for sale of a size like this at Wagamama. He made several attempts to contact Wagamama. He was unsuccessful. Mr. Patel did likewise. I can't make any representations beyond that although my understanding of the Wagamama license, and I've learned more about it in the last few days that I knew before that, was it's not so much that they don't want it but it's seen as part of an effort to go to a more full-service all alcohol license and it would involve that for sale.

MR. SCALI: They are looking for another license to take that place which would be full alcohol.

MR. RAFFERTY: But at the moment in

this capacity at this location he is not aware of one that's for sale. This is an enterprise that the beer and wine is really critical, particularly the wine to making this experience work. His contractual arrangement, his lease arrangement with the owner is that if he's not successful in getting the Beer and Wine license, he simply isn't able to go forward and make the type of capital commitment.

MR. SCALI: Who actually owns the building?

MR. RAFFERTY: This gentleman right here.

MR. SCALI: And his name is?

MR. RAFFERTY: Moses Rezaei, R-E-Z-A-E-I.

MR. SCALI: How long have you owned the building?

MR. REZAEI: For more than two years, almost three years.

MR. RAFFERTY: This is what the interior of the space looks like,. He's exposed a brick wall, he's partitioned the space. He's

worked with several brokers in trying to figure out how to best create demising walls. It's a challenging space, frankly.

MR. SCALI: Has Mr. Gabree had a license in his name before?

MR. RAFFERTY: Not in his name. He has worked at licensed establishments and he has worked at none -- he's had some CV experiences in Dorchester but not a license in his name.

MR. SCALI: This is a venture for him with a liquor license except for his experience as an employee in other restaurants.

MR. RAFFERTY: That is correct, other than his family-run business in Turkey.

MR. SCALI: This is about as low key as you can get. No entertainment, wine and malt, hours of operation, 8:00 -- are you serving breakfast?

MR. GABREE: Just on the weekends.

MR. SCALI: So it's breakfast, lunch, and dinner.

MR. GABREE: That's correct, sir.

MR. SCALI: And you're looking for 1:00 a.m., seven days a week.

MR. GABREE: Yes.

MR. RAFFERTY: I think it's fair to say that in his discussions with the landlord, which I've been privy to because I did represent the landlord in the zoning matter, there was an understanding that there needed to be a use here that would have a high level of compatibility with surrounding uses, both the commercial uses and the residential.

There was interest frankly on more entertainment oriented venues, more fast-food style venues, and I think the landlord wisely concluded that there probably didn't exist the necessary support for those types of uses. He's gotten to know Mr. Gabree and is very impressed with his commitment.

Mr. Gabree has spent the last six months working on this concept, searching locations, developing his menu, and he's confident that this can succeed. But for him to make the

type of capital commitment to do a full build-out restaurant here -- because I advised him that it's been a practice on some occasions where the Commission might suggest why don't you get open and see how you do and then come back. I think with some pizza oriented things that might be seen as more manageable. It's very -- it's essential, and as I said, the terms of his business relationship with the landlord is that if he's not able to obtain the license, it's really not something he can go forward with.

MR. SCALI: SO you realize if we did grant it, it would be no value, non-transferable. Are there any pledges proposed?

MR. RAFFERTY: No, there's no pledges because we understand the impact of a pledge on a no-value license.

MR. SCALI: No landlord issues in terms of commitment to the license at all?

MR. RAFFERTY: No. Nothing remotely close to that. This is the only building owned by the landlord. He bought this as an opportunity.

He's a registered pharmacist and works as a pharmacist. He bought this as an opportunity and it's been a challenge, because he bought the building and has come to learn a lot about being a commercial landlord. He's learned a lot about zoning. He's learned about licensing.

MR. SCALI: And neighborhood issues, too, I'm sure.

MR. RAFFERTY: Every day he learns something new he tells me. He continues to put and has put money into the building and is very eager to try to make the building be productive, contribute to the environment on Cambridge Street.

He did receive a commendation from the city for the work on the façade. It really is something that he has put a great deal of effort into. His father works closely with him. He's seated behind him. It's another father-son team. There's a synergy and an excitement about what Mr. Gabree is proposing and they're very eager to see if they can obtain the necessary licensing.

I would just conclude by saying I've

seen a lot of the commentary. I've read some of the communications. It's not clear to me the relevance of a lot of that to one of the more critical issues, which is the beer and wine issue. Some of them would suggest that a restaurant in this location just isn't compatible and I would say that that's not consistent with what the zoning permits, and it's certainly not consistent with what the experience is along this commercial corridor.

Nearly all of the commercial activity on Cambridge Street is abutted by residential uses. This one has the added benefit, the added safeguard of a legal prohibition for which the Building Department can enforce, not merely the License Commission, that back door. That back door is not going to present a challenge and it's --

MR. SCALI: I think Santo Christo ruined it for a lot of people in that neighborhood. After what happened there I think people are just very skeptical.

MR. RAFFERTY: I attended the prior

hearing of the other applicant and I heard those stories, and they were not pleasant. The description, and the physical conditions, and the level of activity. If you go out there now in terms of what this landlord has done, the amount of effort and capital he's put into the building, the level of attention.

In fairness, we all know it's tough with volunteer organizations owning property and managing property. We see periods of attentiveness and perhaps phases where their leadership is less geared toward responsiveness. I don't want to cast aspersions on the prior licensee but perhaps it fell victim to that. I understand that.

It's a very different scenario now. We've got a very hands-on landlord with an owner-operator coming in with a family focused Turkish restaurant and we're very eager to succeed.

MR. SCALI: Abutter notifications?

MR. RAFFERTY: I have provided them.

MS. LINT: I know there was a question that I have heard from some abutters that they were

not notified. It was supposed to be a 300-foot radius and I'm not sure that that happened.

MR. SCALI: Is that the plan that you submitted, the 300-foot radius?

MR. PATEL: Yes.

MR. RAFFERTY: Mr. Patel did the notifications, but I'm told that there's a card signed by a person that called saying they hadn't gotten notice.

MS. LINT: Well, there was another person.

MR. RAFFERTY: Someone called and yet they've got a signed card there, so I'm not sure how we reconcile that.

MS. LINT: That's no longer an issue.

MR. SCALI: I think there was confusion with regard to you whether you're renting or owning. If you're an owner, of course, you get notification. If you're renting, you would not.

MR. RAFFERTY: We used the assessor database.

MR. SCALI: Questions from the

Commissioners?

MR. HAAS: Where do your employees go when they're going to take a break?

MR. GABREE: I am going to have a basement. I have a basement I'm just going to set up.

MR. HAAS: So none of them smoke or nobody would want to go outside?

MR. GABREE: I don't want anybody to smoke outside at all, not even my customers.

MR. HAAS: So you're saying your employees are basically trapped inside the restaurant?

MR. GABREE: They can take fresh air, of course they can.

MR. HAAS: So where do they go to get the fresh air?

MR. GABREE: They can go to the Square. They can go in 15 minutes and come back.

MR. HAAS: So you're going to have them walk out through the front of the restaurant to leave the building; is that what you're

proposing?

MR. RAFFERTY: That's the only way. All the egress is on Cambridge Street for any commercial use in that building.

MR. HAAS: I understand that. I just want to make sure that -- oftentimes we see emergency exits being used as an employee egress. I just want to make sure that's not going to happen here.

MR. GABREE: That's not going to happen.

MR. HAAS: I'm looking at the restrictions you have and the way I understand it is the only time you could ever use that back door is if you need to evacuate that building.

MR. GABREE: I'm not going to use that door at all.

MR. RAFFERTY: That's certainly what the condition requires.

MR. GABREE: Neither are my employees or customers.

MR. HAAS: So your kitchen help would

never try to go out the back door.

MR. GABREE: No, sir. Only in an emergency.

MR. PATEL: There's a staff area that's actually in the middle of the restaurant, and the trash area is in the back. That's purposely done so that there will be no ability for anybody to actually congregate in the back.

MR. HAAS: So did you alarm that back door?

MR. PATEL: At present, it's going to be alarmed; correct?

MR. RAFFERTY: I think the placement of the kitchen is deliberately forward of that back area. That back area is intended just to further insulate that activity from the back end of the building.

MR. PATEL: This is basically a trash area that can't be occupied and this is the dish area. The idea is this is the station area and it's quite generous, and it's specifically for that so that when they are between rotations, that's

where they would place themselves.

MR. SCALI: So the trash is inside the building?

MR. RAFFERTY: Yes.

MR. SCALI: How do you get it out of the building?

MR. PATEL: Presently passageways are designed to take all the trash out of totes, which are basically 130 pound plastic trash cans that have oversized wheels to take them out the front.

MR. SCALI: Will there be a pickup off of Cambridge Street?

MR. GABREE: Yes.

MR. SCALI: From a trash company?

MR. GABREE: Trash company, private.

MR. SCALI: So all deliveries through the front door?

MR. GABREE: That's correct.

MR. SCALI: It happens on Mass. Ave, every day.

MR. RAFFERTY: I was going to say along the length of Mass. Ave. and Cambridge

Street, I think if you were to track the deliveries, I'd say over 80 percent of them come in the front door.

MR. SCALI: It a matter of coordinating and making sure customers are not in the way and viewing all this happening. Any other questions, Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard on this matter? Who wants to go first? I think we have a petition, right, Mrs. Lint?

MS. LINT: The very next packet.

MR. SCALI: Let's start with this gentleman right here. If you want to sit down, you can stand up, whatever you'd like to do. Tell us who you are for the record, please.

MR. BROWN: David Brown.

MR. SCALI: Your address is?

MR. BROWN: 84 Tremont Street, No. 1.

MR. SCALI: So tell us what you want

us to know.

MR. BROWN: I'd also say this is my wife, Michelle Genovo, and my neighbor.

MR. SCALI: Michelle?

MS. GENOVO: G-E-N-O-V-O.

MR. MICHAELS: I'm Steven Michaels, M-I-C-H-A-E-L-S, and I live at 82 Tremont, No. 2.

MR. SCALI: Are you speaking for everybody?

MR. BROWN: I am. There's also additional signees on the letter. Basically our perspective is that we appreciate the interest in trying to develop the space and make it an economically viable space, make good use of it. I do appreciate the façade improvements you've made to it. But at the same time we've never felt that this space is really suitable for purposes of a restaurant. It's true that our experiences were first formed with the Santo Christo ownership and the considerable difficulty they had in controlling that space.

We feel that the space itself,

particularly where it extends into the residential district as it does is inherently difficult to control in terms of noise, that back door, and in this case, cooking fumes and general interference with the residential use around it.

MR. SCALI: I think when you were here last time when there was a previous -- were you here last time when there was a previous applicant?

MR. BROWN: Yes.

MR. SCALI: As I recall, your biggest concern was that back door, trash coming out, people coming down that alley, employees being out there noisy like the Commissioner said. So this is probably about as low key as you could get if you're going to have a restaurant use at all. You know, beer and wine, no entertainment, no use of that back door. Understanding that perhaps if they worked out the issues with their trash disposal out the front way and any kind of noise or fumes. So are you completely opposed to any restaurant use in that particular location, or is it just that if there are certain conditions, you would feel more

comfortable?

MR. BROWN: No. Certainly we are opposed to any restaurant use in that location.

MR. MICHAELS: We feel that it's not possible to fully mitigate the impacts of a restaurant use in that space such that it won't have a negative impact on the residences that surround it, which are not only as we are behind it, but in addition, in buildings on either side. It's a one-story building so you have residences up above it on both sides. So whatever equipment goes on the roof, or venting and HVAC, it is going to create noise that is also audible on all three sides. We're concerned about the baffling or sound management of that as well as whatever fumes may be exhausted.

There was an additional issue that was brought up on a meeting with Mr. Patel which is that on a frequency of somewhere around once every four to six weeks the grease container will need to be evacuated from the building. We were told that they were informed by the discussions with the fire

department that that would have to come out through the back alley, which of course is a concern for us because there's no fire protection back there for moving a flammable barrel. You don't know anything about that?

MR. TURNER: It's the first I've heard of it.

MR. MICHAELS: That would concern us also because it would mean de-alarming the back door to do that on a regular basis, which would concern us then that there might be other uses made for that back door other than emergency egress.

MR. SCALI: Were you all at the Zoning hearing on the variance?

MR. BROWN: Yes.

MR. SCALI: Did you all testify against that being so?

MR. BROWN: I did. I was unsuccessful there.

MS. GENOVO: In a way successful in that the ruling contained a lot of contingencies to that back door.

MR. BROWN: And to the restrictions that were imposed in our minds were at least commensurate with not using that space as a restaurant, or at least permitting the back door to be open so that there could be free traffic and deliveries back there.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Did we ever establish who owns that alleyway? Is that a right-of-way?

UNIDENTIFIED SPEAKER: Except for the lines along the side, which is ours.

MR. TURNER: I'm just curious and I'm just going to throw this out there, theoretically, what if it was a plumbing supply warehouse that moved in there and all the deliveries were made up in the back alley, would that be okay?

MR. BROWN: Absolutely not.

MR. TURNER: Or a furniture manufacturing company. Say Jordan's Furniture put a warehouse on Cambridge Street and that's where deliveries went in and out with furniture.

MR. BROWN: There's a restriction against that.

MS. GENOVO: That's where we felt successful in that they're not able to do that. Where we're concerned with the restaurant is 120, 140-odd patrons parking and coming in and out. The only logical way to get back to the train to Central Square is to cut down Tremont Street. We take quite a burden on Tremont Street already. I think to add that number of patrons until 1:00 a.m. is asking a lot.

MR. SCALI: Obviously it's zoned for commercial use. There's going to be some commercial use there. I suppose you're envisioning some low impact office space or something.

MS. GENOVO: An insurance company.

MR. MICHAELS: There are obviously a lot of potential retail uses that would not keep the hours of the restaurant, would not have the venting of food odors or things of that sort. It would not have necessarily the same HVAC requirements and would not pose the issues

associated with a liquor license, or a wine and beer license.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Through you to Mr. Patel, how are you going to address that? I did happen to go down. I was looking at the back alley and looking at the one-story roof, and I did notice that the -- and that was my concern as well, that the residential abutters actually are higher than the one-story roof.

MR. PATEL: Basically the interior space is 12 feet and there's a section on there above that plan. Generally the way it's going to be designed is there will be a mechanical venting system that's inside the space in the middle of the restaurant. It will go up inside an existing chimney which is right here.

I basically informed the neighbors that the existing equipment is back here. This will be in the middle of the actual property and it will exist in front of this chimney. So all the

mechanical equipment that relates to the hood will all be underneath the roof. The only thing that will be above the roof will be the actual duct itself and that will be up against the chimney and carry up, abutting an existing hood that's for the restaurant next door, Spice and Rice, and will go just like the legal requirements request, four feet above the residential building abutting it.

MR. TURNER: Are you going to install adequate cleanouts in this duct equipment that's inside?

MR. PATEL: There will be two cleanouts. There will be a cleanout -- it's basically right here. This is where the hood will be. There will be a cleanout at this point here, and there will also be a cleanout at the top where it exits the roof.

MR. HAAS: That's a hot issue these days.

MR. PATEL: Exactly. There's new codes relative to that that make it much more restrictive as far as how that's installed.

MR. TURNER: How about HVAC, air-conditioning, heating. I'm sure we have to heat the building, air-condition it.

MR. PATEL: The neighbors were also informed at that meeting that that equipment will also exist up front in front of this chimney and will be installed on the roof, but as the regulations require, it will be installed and engineered based on the decibels levels that's required for the City.

MR. SCALI: Installed where? On the roof on the front of the building?

MR. PATEL: In front of this very large chimney that exists. It's basically about eight feet by four feet.

MR. SCALI: Is that abutting another building?

MR. PATEL: Yes. There's a commercial building here that's a restaurant on the first-floor and residential two floors above that. That's the most immediate concern.

MR. TURNER: So potentially that

equipment could be right under somebody's window?

MR. RAFFERTY: Yes. But the cooling requirements for the restaurant aren't any different than what residential cooling would be or other commercial uses in the sense that the roof top equipment gets placed in these locations up and down the street.

MS. GENOVO: I think it's the number of bodies really that we're talking about cooling in a restaurant versus another use.

MR. MICHAELS: Plus the cooking.

MR. SCALI: Is there a HVAC system up there already?

MR. PATEL: There is not. But what it's engineered for because it's such a long space is the same tonnage that it would be for any type of retail use. It's not in excess because it's a restaurant mainly because it's such a --

MR. SCALI: The landlord is saying that there is. There is something up there now?

MR. REZAER: There is a huge old one that exists still, but it's not being used.

MR. RAFFERTY: There historically was always cooling there.

MR. SCALI: Is it in that location where it's going to be placed now, in the same location?

MR. PATEL: It's not. It's right back here on the roof and then it kind of wraps around the back.

MR. SCALI: In the back of the building?

MR. PATEL: Yes.

MR. SCALI: So that will be taken down?

MR. PATEL: That's all going to be taken down.

MR. RAFFERTY: You can see a picture of it here. You can see where it overhangs. It's at the very back of the building now. What was explained to the abutters is the placement of the equipment will be much closer to Cambridge Street. You can just see the back of it.

You also see depicted in that picture

a shed that was a source of concern at this hearing at the Zoning Board about possible rodents and the like, so that shed was removed as required. It was one of the other issues that were addressed by the landlord. So that shed which was a source of concern was removed in response to neighbors' concerns.

MS. GENOVO: I must add that as part of our letter it was partially removed. There's a little piece that still sticks out. It's about two cinder blocks long and it now provides a perfect shelter for a lot of people who like to use it.

MR. RAFFERTY: It depends on your definition of partial, but there is a photo and if you look at what was there and what is there now.

MS. GENOVO: What was there was locked and people had learned that they couldn't get in there, and now it's completely open with a little private awning.

MR. SCALI: Mr. Patel, I want to make sure that if this does go forward that that HVAC system has to meet the noise ordinance, you

understand that?

MR. PATEL: That's correct.

MR. SCALI: Which means that if there's a problem with that, it gets shut off.

MR. PATEL: That's right. It's a five-ton unit. I've installed the same unit on two residences off Brattle Street where it's quite contentious when it comes to decibel levels. Suffice it to say, it satisfied the decibel levels there.

MR. SCALI: Are there any power vents up there at all?

MR. PATEL: No. That's why we're kind of fortunate because the ceiling is so high inside the space. I can put the mechanical system that forces the air out the hood system inside the restaurant so all that noise will be internalized in the building. The existing owners actually insulated all the ceilings and the walls, and prior, there was no insulation. So it's quite a big difference as far as sound baffling goes.

MS. BROWN: Could we also just stress

the cap issue. That was our number one issue. And that the lack of strong a neighbor support especially with abutters. There's a lot of people on that letter that strongly believe this use is not a good use for that building and that we're going to end up --

MR. SCALI: So Mr. Rafferty, what do you say about the lack of overwhelming neighborhood support on a cap issue?

MR. RAFFERTY: Mr. Chairman, the truth of the matter is that there is some support for it, but if the suggestion of the abutters is that the Beer and Wine is what makes this objectionable, I'd say that's not consistent with the complaints that they cited in their letter around exhaust, noise, and everything else.

I understand that the preference is that perhaps this not be a restaurant, but one notes that there are restaurants abutting this location on either side. I have noted that if the proponent doesn't get his Beer and Wine license, he won't locate his restaurant here.

MR. SCALI: So he wouldn't go forward with that at all?

MR. RAFFERTY: Right. So one could conclude that one of the ways to stop the restaurant is to oppose the Beer and Wine license and suggest that there are impacts associated with the Beer and Wine that would be different than the impacts we just heard. But given the nature of this operation, and Beer and Wine licenses in general, absent any type of entertainment or nightclub, I just think that the concern that this Beer and Wine will have an adverse impact on the surrounding uses isn't borne out by the empirical data at the Commission about Beer and Wine and restaurants. People are going to have their meal, they're going to have something to drink, and then they're going to leave. It's not going to be a nightclub style environment where people are going to be sitting around drinking beer and wine.

This would be like other ethnic international restaurants where the beer and wine, particularly the wine is quite critical to the food

product. So to envision this succeeding, it simply cannot. So we are vulnerable on that issue to the extent that if someone thinks that the beer and wine presents a unique burden, I would say that I don't think there's any evidence to suggest that.

MR. SCALI: And even the idea of waiting six months?

MR. RAFFERTY: This is a several hundred thousand dollar capital investment in the space. You saw the space; it is raw space today. You just can't make the commitment to this space with -- because we explored that and that's been clear from the start, and I think the applicant has been up front with both the landlord, the neighbors, and now with the Commission.

MR. SCALI: So you've considered all the options and it's Beer and Wine with the CV or nothing?

MR. RAFFERTY: Given what -- yeah, you cannot deliver the concept that Mr. Gabree hopes to do in a location like this, being part of the community of restaurants in the greater Inman

Square area, and make this work without beer and wine.

MR. MICHAELS: Mr. Chairman, I have a comment.

MR. SCALI: Yes.

MR. MICHAELS: With regard to the Beer and Wine license and the context of this gentleman's comment, they have applied in this design for 22 or 23 seats at the bar, and that would make that one of the larger bars in the Inman Square area. So while they're only planning on serving beer and wine I would maintain that that invites a somewhat different mix of clientele than the restaurant by itself would.

MR. SCALI: Would that make a difference, if it was a smaller bar, to you?

MR. MICHAELS: It raises a concern for us about the clientele coming in.

MS. BROWN: The hours at the restaurants that are in Inman Square, for instance, the East Coast Grill, they close at 10:00. The closest I found in the surrounding areas was 11:00

on Friday and Saturday nights.

To have an expansive bar staying open until 1:00 a.m. is not in our opinion in concert with the --

MR. SCALI: Would an earlier closing hour and a smaller bar make any difference to you in terms of your opinion? I know you're opposed in general.

MS. BROWN: We were concerned that the Commission would not hear our cap issues so we've listed a number of conditions that we would request be built into the license if we did not succeed in convincing you that the cap was an issue.

MR. RAFFERTY: I wanted to comment on Mr. Michaels' comment about the size of the bar. I think it's a legitimate comment. I looked at the size of the bar and had the same conclusion.

MR. SCALI: I was going to say that; 23 seats is kind of a lot.

MR. RAFFERTY: I did advise the applicant. I said well, this was done before my involvement but I would anticipate that the Commission could look at this and say that the size

of that bar for a beer and wine concept is probably larger than it needs to be, or maybe you would want it to be to create that type of ambiance. So I think there's legitimacy to that comment and we'd be prepared to do something.

I think the issue about the 1:00 a.m., as those of us who do licensing, a 1:00 a.m. license means the kitchen might be open only until 10:00 or 11:00, but there isn't much dinner business going on at 10:00 on a midweek, much after 10:00 or 11:00. But the application says 1:00 a.m. because the licenses have an hour associated with them. I don't anticipate that this would have any different profile than the restaurants referred to earlier. It's an attempt to be part of that eclectic mix and why Mr. Gabree is so excited about this particular location. He thinks there are interested and educated consumers of fine cuisine that frequent this area.

MR. SCALI: It doesn't sound to me like it's going to be a bar room, but obviously if there's a smaller bar and an early closing hour, it

would be more restaurant oriented, of course, which is what you want. I think that may be a consideration.

MR. RAFFERTY: Understood.

MR. SCALI: Thank you very much. Does anybody else want to say anything else? Come on up. If somebody already said it, please say I agree with everything they've already said, ditto to what everyone else already said.

MR. MCLELLAN: Ditto and some additional.

MR. SCALI: Tell us your name.

MR. MCLELLAN: My name is Kevin McLellan, M-C-L-E-L-L-A-N.

MR. SCALI: Your address?

MR. MCLELLAN: 1156 Cambridge Street, which directly abuts the building. I rent from Libral (phonetic) Batista who is the owner and proprietor of 1156.

For clarification, on the actual legal notice it says, "below conversation level"; that music be played below conversation level. But on

the City of Cambridge application that's on your website it says, "below, at, or above conversation level."

MR. SCALI: Which is it, Mrs. Lint?

MS. LINT: The way our entertainment application reads, that's the category. So sometimes people cross out what they don't want, but most people just check it and that's what comes across.

MR. RAFFERTY: It's below, at, or above, but it's only background music.

MR. SCALI: So background music below conversation level?

MR. RAFFERTY: Below, at, or above was what was checked off.

MR. SCALI: Well, they're asking. Are you going to be above conversation level?

MR. RAFFERTY: It's never been clear to me what that distinction is. I'm not being flippant here.

MR. SCALI: It just means it can be a little louder.

MR. RAFFERTY: That's what I mean.
So if it's below conversation level, does that mean
it can't be heard? Or is it more like --

MS. LINT: Background music.

MR. RAFFERTY: It's definitely
background. I always advise people you'd better do
that one. Below, at, or above, it's the one
category that you check off.

MS. LINT: You should probably cross
out "above."

MR. RAFFERTY: If it's below
conversation level and people are having
conversation, does that mean you can't hear the
music?

MS. LINT: Pretty much.

MR. RAFFERTY: I always wondered, why
would someone take below?

MR. SCALI: Other concerns?

MR. MCLELLAN: For example, if there
are televisions and there's a game and that could
be loud; right? The conversation could be louder;
right?

MR. SCALI: TVs generally have to be a reasonable level so you cannot hear them anywhere outside the building from 50 feet away.

MR. MCLELLAN: The other concern that we have is that my apartment, the actual fire escape if there were to be a fire, is to the roof of this building. I don't know how that could be taken care of.

MR. SCALI: Is that a concern, Deputy Chief? Is that generally the case?

MR. TURNER: ISD as far as the building goes. I don't know how it got there, whether it's approved to be there.

MR. MCLELLAN: And if the garbage is not to be removed from the back of the building that means that it's going to be removed to the front of the building, and we are directly -- we are right on Cambridge Street and that's one of Mr. Batista's concerns as well as the --

Yes, I am repeating the hours of operation, but for clarification I was wondering if the proposed hours of operation are 8:00 a.m. to

1:00 a.m., what are the actual hours in which there will be someone working on the premises? Would it be 7:00 to 2:00, which means that there would only be five hours where the building was unoccupied.

MR. SCALI: Good question. We'll find out.

MR. RAFFERTY: Could I just get a clarification on the fire comment because I'm not sure I understood it? You don't mean to suggest that there's a fire escape onto the roof?

MR. MCLELLAN: My fire escape, it abuts the building.

MR. SCALI: Is it very close to an alley between the buildings?

MR. MCLELLAN: I have never used it so I don't know where it actually goes.

MR. RAFFERTY: But there's no structure going from that building onto our building, a fire escape. I mean there are some locations where that's the case, but that isn't the case with this building.

MR. SCALI: We'll have to find out.

We'll take a look I guess; right?

MR. TURNER: Fire escapes are the jurisdiction of Inspectional Services under the building code.

MR. SCALI: We'll have to take a look.

MR. MCLELLAN: Thank you.

MR. SCALI: So is it your intention to serve breakfast at 8:00 in the morning?

MR. GABREE: That's correct, sir.

MR. RAFFERTY: Just weekends?

MR. GABREE: Just weekends, just Saturday and Sunday. I'm going to open at 8:00, sir. No one will enter before.

MR. SCALI: No employees before 8:00 a.m.?

MR. GABREE: No.

MR. RAFFERTY: Employees, some will come in to prep the food if you're going to open at 8:00.

MR. GABREE: It's not going to be necessary because my technique is different. I'm not going to serve --

MR. SCALI: Like a brunch maybe?

MR. RAFFERTY: The customers and the employees arrive at 8:00 and they're ready to go.

MR. GABREE: I'm going to serve pan omelets. It will be a different style, like a Turkish style pan omelets. It doesn't need any prep.

MR. SCALI: So the idea of closing a little earlier than 1:00 a.m.; is that a possibility?

MR. GABREE: That's possible.

MR. SCALI: Sometimes we start out slow, Mr. Rafferty, and we add these things later on and perhaps we could grant it. SO if we said 11:00 or 12:00, would that be something you could live with temporarily?

MR. GABREE: 12:00 would be great, sir.

MR. RAFFERTY: Only because that means if someone comes in at 10:30 on a Friday night and wants to have dinner, and he intends to keep the kitchen open, if he has to be closed at 11:00, he

has to send that -- from 10:00 on, he's sending business away. A 10:00 diner, particularly if it's doing well, is not a late late diner by certain demographic standards, younger people.

MR. TURNER: Maybe the Turkish community might want to eat a little later in the evening.

MR. TURNER: Depends on the age group.

MR. SCALI: Any other questions from the Commissioners?

MR. HAAS: No other questions.

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

MR. BATISTA: Thank you Mr. Chairman.

MR. SCALI: Tell us your name.

MR. BATISTA: My name is Libral Batista, I'm the next door owner, resident, and business operator. I want to thank the gentleman sitting to the right of counsel that stopped by and introduced himself and informed me what was his plans, and at which time I had the opportunity to voice my opinions and tell him that I would be

against it, as I was against the previous applicant, Muquaka.

In addition to the concerns that have been brought to your attention, I would like to bring to your attention what it is well-known in Cambridge is number one, the parking issue, which is going to be affecting my business directly. It will be affecting me as a resident, because as it is, to park as a resident in and around Prospect Street, Tremont Street, Columbia Street, Norfolk Street, it's very hard to get parking. To get a space on those streets you have to stand in line practically.

Also, the direct effect that it will have on our way of life: the noise, pollution, the air pollution, and all the other problems that this kind of business will bring to the neighborhood.

Also, I would like to remind you, maybe I don't have to, but we have two liquor stores that are apart from each other maybe 200 yards or maybe less. We have bars, we have restaurants and clubs around, and our neighborhood

I think is overpopulated with that kind of business.

So I would like that the committee would take that into consideration because specifically our way of life will be affected. Because I live next door to this building, and as much rosy that Counsel presented the application, in practice things don't look like they seem to be. So that's what I have to say, sir. Thank you.

MR. SCALI: Does anybody else want to be heard? Questions, Commissioners?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: I'm going to suggest, Mr. Rafferty, perhaps -- obviously we'll take this under advisement. We're not prepared at all to vote this evening. I would suggest that perhaps you might look into the bar and your hours, and maybe come back with a counterproposal that may be considered. I'm not saying that we will consider it but I'm saying that perhaps maybe we will look at it in terms of some of the things that the

neighbors suggested as alternatives if we did perhaps grant the license.

Their suggestion that perhaps a lower capacity might be in order and suggesting that it be 10:00 p.m. on a weekday and 11:00 p.m. on the weekends, if in fact we even grant the license, assuming we overcome the hurdle of overwhelming neighborhood support on the cap issue. I'd be willing to entertain those suggestions or alternates, amendments to the application.

MR. RAFFERTY: I think there are some legitimate points in there and I appreciate the opportunity to revisit these issues with the applicant. We'd certainly share any changes with the abutters prior to the Decision hearing and file them here as well.

MR. SCALI: You may not overcome the hurdles but I guess it's worth taking a look at. I don't know what the landlord would put in there other than some other commercial retail space.

MR. TURNER: Mr. Chair, did we do a history of the building? I'm just curious, who was

there first, the apartment buildings or the Santo Christo Club? What was before that?

MR. RAFFERTY: Santo Christo, the COs go back a long long way.

MR. BATISTA: If I may --

MR. TURNER: It's unusual in that that's such a long building extending into what would have been backyards then.

MR. BATISTA: The Santo Christo Club goes back to the early 1900s, 1920s, early 30s. I've been here since 1972. I was a member of that club.

MR. RAFFERTY: You were a director, weren't you?

MR. BATISTA: I was not a director, I was a member, sir. Before I became a resident, I had complaints about that until I got a taste of it myself. The residents were there first before the club because my building is considered a historic building. I wanted to do some frontage remodeling and the Historic Commission did not allow me to.

MR. TURNER: Not so much the Santo

Christo but the structure itself, it wasn't built for Santo Christo?

MR. RAFFERTY: It definitely was built for some industrial --

MR. TURNER: Some auto dealership or something.

MS. BROWN: In searching the deeds to find our egress, it used to be the Puritan Cake Company. I'm not sure of the date.

MR. TURNER: So that's why the back alley -- that's where all their deliveries and supply trucks --

MS. BROWN: It's hard to say. I know that our building which abutts that back alley sits about 20 feet from the building. Our building was built around 1895.

MR. TURNER: Thank you. I was just curious.

MR. SCALI: Some industrial baking use.

Motion then to take the matter under advisement.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: So June 3. So before that if you have any suggestions or alternates, we'd be happy to look at those and then we'll vote on that day. Thank you all.

MS. LINT: Application: John Fraser IV, d/b/a Rain or Shine Catering, has applied for a Peddler's license to operate a mobile food truck in the City of Cambridge. Stops will be made at Cambridge DPW, 10:30; A-Z Autobody, 10:50; and construction site on Raymond Street, 12:15 p.m.

MR. SCALI: Mr. Fraser, just tell us your name for the record.

MR. FRASER: John G. Fraser, IV.

MR. SCALI: So is this a new venture for you?

MR. FRASER: My family has been doing it for 35 years, I've been doing it about 15. One of the previous owners that used to do it was Dennis O'Connell for Okie's Canteen, and he happened to retire about two months ago. So I'm trying to put these stops onto my route, which is in Boston. Now I'm going to try to get into Cambridge.

MR. SCALI: So you're not in Cambridge at all now?

MR. FRASER: No.

MS. LINT: Well, if I may, Mr. Chair, I have a note here from Ms. Boyer. Mary Cheevers from Inspectional Services stated on April 28, Rain or Shine was at the Richdale Avenue location at 10:25 a.m. He was told not to vend in the City before his application is heard and approved, which there's no guarantee that it would be.

MR. FRASER: Correct.

MR. SCALI: Have you been out there operating?

MR. FRASER: I was at the site and that's one of the reasons I did have a letter sent to show up at the Board. So I went and paid the fees and I'm trying to go through the process like I had done in Boston. I guess each municipality is a little different.

MR. SCALI: We do have a cap on peddlers right now. There's 23 in the City, or something like that.

MS. LINT: Something like that.

MR. SCALI: So are you taking over someone's route?

MR. FRASER: The stops that I'm presently doing were on another route that happened to retire two months ago.

MR. SCALI: Mr. O'Connell, did he turn his license into us?

MR. FRASER: I don't know if he physically turned it in.

MS. LINT: Not that I'm aware of.

MR. FRASER: I know he is no longer.

MR. SCALI: What are you serving for food?

MR. FRASER: Cold sandwiches, and drinks, and Hostess and pastries, and stuff like that.

MR. SCALI: So just regular vending? Nothing in particular that's any different than anybody else?

MR. FRASER: No, not at all.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Based on the context of the conversation, should this then be a request for a transfer of license?

MR. SCALI: We don't allow transfers of peddlers licenses.

MR. TURNER: Thank you.

MR. SCALI: Have you been inspected by the Fire Department and by the Health Department?

MR. FRASER: No. I have dates for Tuesday, which is the 18th or the 25th for the Fire, and then the inspection was Ms. Cheevers that I was supposed to contact, which I have her business card.

MR. SCALI: So you still need to do that?

MR. FRASER: Correct, but she said obviously not until I knew what the process was, if I was going to approved.

MR. SCALI: Questions, Commissioners?

MR. HAAS: So as far as you know there's no other catering or vendors at those sites that you just mentioned?

MR. FRASER: I actually -- my brother-in-law had a license previously in the City and we had done the City yards, which is the DPW, and I

have done them in the past.

MR. HAAS: So who's doing them now?

MR. FRASER: Nobody. I'm trying to get in there and see if I can do them.

MR. HAAS: I'm surprised there's nobody in there.

MR. SCALI: Doesn't Jimmy do that?

MR. FRASER: James Bennett?

MR. SCALI: Yes.

MR. FRASER: No. He doesn't have the time. He has no time to do it. I think he does City Hall.

MR. SCALI: He does City Hall. I thought he was at the other buildings too. I could have sworn he was but I don't know, I could be wrong.

MR. FRASER: I'm not sure if he does City Hall still.

MR. HAAS: There's a vendor truck that goes to City Hall every day.

MR. SCALI: That's Jimmy Bennett.

Questions?

MR. TURNER: No questions.

MR. SCALI: Pleasure of the
Commissioners?

MR. HAAS: I think to the Deputy
Chief's point, I'd be curious as to what the status
of the other license is, and in fact, if he's no
longer operating then -- I think we're going to
start to have a problem if we've already imposed a
cap on the vendors and we start to break our own
cap. So if it's a one for one exchange then I
think I would be inclined to consider it. But I
need to be sure that the other license is no longer
operating.

MR. SCALI: Everyone agree?

MR. TURNER: Yes.

MR. SCALI: Motion then to take the
matter under advisement subject to checking if the
other license is no longer operating.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: June 3. You can't operate until then.

MR. FRASER: Do I wait for a letter?

MR. SCALI: What you do is you should go ahead with your inspections, Fire and Health, and then if you want to get a hold of Mrs. Lint in the next couple of days to find out if we can research Mr. O'Connell's license to see if he renewed.

MS. LINT: I can find that out tomorrow.

MR. SCALI: Just give her a call and then we'll vote here June 3.

MR. FRASER: The reason why I know he retired is he hit the MegaBucks.

MR. SCALI: Some people have a lot of luck.

MS. LINT: Application: Hersha Hospitality Management, d/b/a Holiday Inn Express and Suites, Barbara Komins, Manager, holder of an Innholder's license at 250 Monsignor O'Brien Highway has applied for a change of manager from Barbara Komins to Thomas Lehnen.

MR. SCALI: Mr. Lehnen, just tell us your experience in the business and why they're changing you to Manager.

MR. LEHNEN: Sure. I graduated high school in '84 with four years of experience in the restaurant business prior to graduating high school. I went onto college and graduated with a four-year degree at the University of Wisconsin, Stout in Wisconsin. It's a Hospitality Administration school.

I went on to join Marriott Hotels and worked with them, their corporate managed properties for four years in California. Then I moved to Wyndham International and worked for them for 12 years in various roles: catering, food and beverage, rooms management roles. I rejoined

Wyndham after a short stint in an associated business within hospitality. Rejoined Wyndham for another couple of years.

Most recently, prior to this assignment, I was the general manager of the Holiday Inn, the full-service Holiday Inn in Dedham, Massachusetts, which is a 202 room hotel, full-service, six-and-a-half-million dollar operation with full liquor license.

MR. SCALI: Was the license in your name at that point?

MR. LEHNEN: Yes, sir. Since then, this was -- I left them in 2009, and I have now recently joined on with Hersha Hotels and they manage 70 hotels. They assigned me to this location here in Cambridge on February 1.

MR. SCALI: Your experience is very extensive then at this point.

So we've got an issue coming up with regards to the sign that we'll probably have in June.

MR. LEHNEN: May 25.

MS. LINT: May 25. The Dedham Holiday Inn has that same new sign.

MR. SCALI: That's on the agenda next time but I was wondering how you're doing with the negotiations, not that we right now need to resolve it but I was just wondering whether it's continuing.

MR. LEHNEN: Yes, absolutely. We have engaged a -- I'll answer the question although I'm not prepared to answer a whole lot of other questions because I'm not physically involved with those. We have hired a contracted lighting professional who has come out to the property and engaged in different types of lighting testing and things like that. We spoke of that regarding the lumens that we're giving off from the building as well as maybe some adjacent lighting on the street.

Additionally, I believe someone from our corporate office from Hersha, which is in Philadelphia, has resurfaced the issue with IHG, which is the parent company of Holiday Inn, and are in communication to see what steps perhaps we can

take to try to move forward and get this thing behind us.

MR. SCALI: So there is some movement and negotiating and consideration going on? It's not a stalemate?

MR. LEHNEN: We are very interested in continuing operating dually with the neighbors as well as the Commission, and we are anxious to get to that next step. I'm anxious to hear what we have to come up with prior to and on the date of May 25 for the hearing.

MR. SCALI: I will tell you that I was in Texas during the April school vacation and boy, did I notice every Holiday Inn from Austin all the way to San Antonio. they all have the very same sign you have throughout Texas when I was there.

MS. LINT: Philadelphia, too.

MR. LEHNEN: That sign is non-negotiable. They will not permit us to make modifications such as are being asked from our neighbor. I did explain that once before and it doesn't mean we're walking away from it because we

understand we want to be good neighbors and we want to satisfy everyone's needs. So hopefully something can be done with that, and fairly soon, because the 25th is upon us.

MR. SCALI: At least a plan, anyway.

MR. LEHNEN: Absolutely.

MR. SCALI: SO I want to make sure as manager that you understand there were a number of issues that were in that --

MR. LEHNEN: Yes.

MR. SCALI: Number one being the parking lot, the dumpster noises and trash disposal were a problem, the use of the street, people parking on the street. Is that Gore Street behind there?

MR. LEHNEN: Schiarappa.

MR. SCALI: And of course, the last issue we had with regards to kids checking in and that kind of thing. I want to make sure you're aware of all of those issues and are on top of those issues, and of course, the sign issue is an old issue as well, which we'll get to on the 25th.

Is there any other thing that the Commissioners want to mention with regards to that location?

MR. HAAS: I think the greatest concern quite honestly is making sure that you're taking sufficient steps so that your establishment doesn't become or have a reputation of drawing kids from around because they think they can get in there and party and stuff like that. Our experience is if you have one group in there, then somebody is talking to other groups.

MR. LEHNEN: I understand and agree with that summary, that analogy that you become an easy target, and I think we've eliminated a lot of that by imposing this 21-and-over registration policy, which was the result of seeing the letter. The policy was such that someone had to be 18 or older; now it's 21. I'm not interested in taking any business and I'll lose as much business as I have to in order to avoid any unsafe manner. I've just seen a lot of issues in the past with other licenses and people driving down the streets the wrong way and people getting killed. We don't

really want to be involved in that. And underage kids, number one, it's against the law. Number two, they don't make wise judgments and I don't want to be part of that.

MR. HAAS: I guess to the Chair's concerns about the parking lot, the dumpster, and the parking, what have you done to resolve those issues?

MR. LEHNEN: I have notified the dumpster company, the snow removal company, the vendors. US Food Service provides about \$20,000 worth of food product a month. I advised those individuals that this street is one-way; it's clearly marked. Some of them agree that they were driving down the wrong way. I explain to them that this is against the law. Please be under advisement that you're breaking the law and we can't do business with vendors who break the law.

I physically actually -- my office is right next to the dumpster so I know exactly when the dumpster companies are coming out. I've talked to the drivers, I've established a relationship,

and they fully agree with my requests.

The parking lot itself is -- you know, it is what it is, 38 spots. Customers are advised that they can't double-park, and that they're not to park on the streets because this is where residents live. It is a subject of -- we've improved the website and the advertisements as such that we provide very limited parking, hence, we don't charge ant fees like a lot of other properties do because of our limited capacity with this.

We have communicated differently to the guests as well on check-in and checkout. We believe we're taking a much different approach. The past leadership there was a little lackadaisical and sometimes asleep at the wheel it seems.

MR. SCALI: Any other concerns?

MR. TURNER: No.

MR. SCALI: Pleasure of the Commissioners on change of manager?

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: We'll see you on May 25, I guess, which is in two weeks. If you have any updates or information beforehand, before the 25th that you could get to Mrs. Lint that would be very helpful, so we could look at that ahead of time.

MR. LEHNEN: I believe we do plan on getting something probably either this week or next.

I do have question about the other hearing notice. I had submitted an application for -- well, this says "Application for Lodging House." What I saw on the application for change of manager was that the prior manager had listed four occupants per room. I noticed that and filled out a paper that said five occupants per room.

So there was a hearing -- excuse me, there was an ad I guess that was put in the paper

regarding this. I talked to Ms. Lint about this and my intention was not necessarily to increase the occupancy of 424 guests, which is 112 units times 4, but simply to clean up the records and be clear on -- what I understand is if a family, for example, checks into the hotel and they prefer to have one room or can only afford one room and have say two people sleeping in a queen and the other two people in a queen and a crib, I just want to make sure we're operating within the License Commission correctly.

I didn't realize -- you know, I wasn't setting off a chain reaction per se, but I just want to -- you know, it says four, so shall we conduct business requiring the guests to stay in two rooms for families and so forth?

MR. SCALI: Isn't there an occupancy that's set for each room by the Inspectional Services Department by square footage?

MR. LEHNEN: Not what I see there. The only thing I've ever seen is this document.

MR. SCALI: There has got to be a

limitation by the ISD; right?

MS. LINT: There has to be by ISD and it's square footage. The way that that would come to us then would set off the chain reaction that it would be an increase in occupancy because then you're allowing X-number of people per room. So I don't think when we do these hotel licenses that we're really looking at the number they put in the room, we're looking at the total number.

MR. SCALI: That generally is the case.

MR. LEHNEN: If we had 112 rooms, which we frequently run during season, I wouldn't check five people into each room.

MR. SCALI: You're not going to be over the number.

MR. LEHNEN: It wouldn't happen by a law of average, and number two I wouldn't do it for safety. The building can't hold that number.

MR. HAAS: It sounds to me that you're also cognizant of the composition of what's going in the room. So in other words, you wouldn't take

five adults and put them in a room.

MR. LEHNEN: No. It wouldn't fit.

MR. SCALI: It's more like a family with a child or something maybe.

MS. LINT: It's that party thing all over again.

MR. LEHNEN: Yeah, right, a party. Yeah, no more of that. I just want to make sure that we understand that we are operating within the confines of our license to check guests in who are not -- four or five guests, but in the event that a family wants a room.

MR. SCALI: That's the issue with the kids where there's 10 kids checking into one room. That's not going to happen.

MS. LINT: Those kids were resourceful.

MR. HAAS: There's a reason why they came all the way down here thought.

MS. LINT: But they are resourceful. They know how to figure it out.

MR. HAAS: I understand that.

MR. LEHNEN: Frankly it's that issue that could have been handled differently, and I think the leadership change is in order. Our staff is well aware. We have right and it's within the confines of the law for us to turn away business. If we choose to turn away business, we can do that.

MR. SCALI: Just document it.

MR. LEHNEN: Exactly. We have a log book up front that's bound.

MR. SCALI: Thank you very much.

MR. LEHNEN: So we're all set then?

MR. SCALI: You're all set. See you next time. Sorry you have to come in twice in one month.

MS. LINT: The Garage licenses that failed to renew, there were just three and I don't see anybody here.

MR. SCALI: Were there letters sent out to them?

MS. LINT: I'm not sure.

MR. SCALI: Do you know who they are?

MS. LINT: Yes.

MR. SCALI: Yes.

MR. LEHNEN: There is one important thing, I'm sorry. The Innholder's license, we don't have one right now. We're waiting for I believe the Building Commissioner. We have been in contact and had several voice mails back and forth. We paid the bill prior to the April 30 deadline.

MS. LINT: The renewal.

MR. LEHNEN: Right, the renewal of the existing Innkeeper's license. I just want --

MR. SCALI: Does it renew in April?

MR. LEHNEN: May 1.

MR. SCALI: Because you have no alcohol.

MR. LEHNEN: Correct.

MR. SCALI: So you are awaiting the Building Department inspection before we can give that to you.

MR. LEHNEN: Right.

MR. SCALI: You're okay.

MR. LEHNEN: So we're mid-month. I just wanted --

MR. SCALI: As long as you've given the money to us and you're waiting for your CI to be done.

MR. LEHNEN: Thank you.

MS. LINT: So the failure to renew was Joseph Ciccorelli, George Hyde, and Fresh Pond Gulf. So I will check tomorrow and make sure the letters went out. If they did not, I will make sure that it's done.

MR. SCALI: And if letters did go out and they were notified and they have not renewed, we just have to send Ms. Boyer out there to make sure they're closed.

MR. HAAS: Do we have to make a motion

on that?

MR. SCALI: If you want other action you can make a motion.

MR. HAAS: You're going to report back?

MS. LINT: I can do it.

MR. SCALI: If you find that sufficient that's fine with me.

MR. HAAS: You're just getting too formal for me.

MR. SCALI: I just want to make sure you all have a say in the matter.

MS. LINT: Ratifications: Medallion
8, 38, 135, 225, 99, 67, 219, 102 and 88.

MR. SCALI: Is all the paperwork in
order, Mrs. Lint?

MS. LINT: Yes.

MR. SCALI: Motion to accept.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Any other business before
us? Motion to adjourn.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

(Whereupon, the proceeding was
concluded at 8:29 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 19th day of May, 2010.





ANNE OUELLETTE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 16, 2012

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