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COMMONWEALTH OF MASSACHUSETTS
CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

Michael Gardner, Chairman
Robert C. Haas, Police Commissioner
Lester Bokuniewicz, Deputy Chief

STAFF:

Ellen Watson, License Commission Staff

-- held at --

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts

Tuesday, June 14, 2011

6:00 p.m.

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1 P R O C E E D I N G S

2 ELLEN WATSON: Good evening. This
3 is the meeting of the License Commission.
4 Today is Tuesday evening, June 14, 2011. It
5 is 6:07 p.m. We're in the Michael J.
6 Lombardi Municipal Building, 831 Mass. Ave.,
7 basement conference room.

8 Sitting tonight is Chairman Michael
9 Gardner. To his right is Commissioner Robert
10 Haas, and to his left is Deputy Fire Chief
11 Bokuniewicz.

12 Please silent any electronic devices.

13 The Idenix has been continued to June
14 28th. If you're here for Idenix, it's all
15 set. You don't have to wait.

16 * * * * *

17 DISCIPLINARY MATTER: WHITNEY'S CAFE, INC.

18 ELLEN WATSON: And the first item
19 we're going to have is the disciplinary
20 continued from March 29th and May 31st,
21 Whitney's Cafe, Inc., John Henaghan, manager,

1 holder of an all alcoholic beverages as a
2 restaurant license at 37 JFK Street. Due to
3 a police report alleging that patrons were
4 inside the restaurant after allowable hours.

5 MICHAEL GARDNER: Good evening. If
6 you could please state your name for the
7 record and spell it for the stenographer.

8 ATTORNEY MICHAEL DAY: Sure. Good
9 evening. Michael Day, representing -- D-a-y
10 representing Whitney's Cafe.

11 JOHN HENAGHAN: John Henaghan, owner
12 operator, manager. H-e-n-a-g-h-a-n.

13 SERGEANT EDWARD FRAMMARTINO: Edward
14 Frammartino, Cambridge Police Department,
15 Sergeant.

16 DEPUTY SUPT. CHRISTINE ELLOW: Deputy
17 Superintendent Christine Elow with the
18 Cambridge Police Department.

19 MICHAEL GARDNER: Okay. And if I
20 recall, Commissioner, have you recused
21 yourself on this matter?

1 ROBERT HAAS: I have.

2 MICHAEL GARDNER: And so, for the
3 record, what we will be doing this evening is
4 taking additional evidence, either testimony
5 or documents, which we won't take any, make
6 any decisions tonight, but the matter will be
7 deferred at least until the decision hearing
8 which is scheduled for July the 7th; is that
9 right?

10 ELLEN WATSON: Yes, that's right.

11 MICHAEL GARDNER: At which point --
12 by which time fire chief Gerald Reardon will
13 have the opportunity to review any additional
14 evidence this evening based on transcripts
15 and documents.

16 Is that acceptable to you, sir?

17 ATTORNEY MICHAEL DAY: Yes, it is.
18 I'd like to thank the Commission as well. I
19 had a death in the family at the last hearing
20 so I appreciate the courtesies of extending
21 that from the May 31st hearing.

1 MICHAEL GARDNER: Well, we wish you
2 well.

3 So, do you have more to add, Mr. Day?

4 ATTORNEY MICHAEL DAY: We do not.

5 MICHAEL GARDNER: Okay.

6 ATTORNEY MICHAEL DAY: No,
7 Commissioner.

8 MICHAEL GARDNER: All right. As I
9 recall, what you advised us was -- your
10 understanding what happened was the two
11 individuals who ended up being involved in
12 the automobile incident had left the premises
13 to go get something to eat and then returned
14 to give the bartender a ride home? Is that
15 your understanding?

16 ATTORNEY MICHAEL DAY: Yeah.
17 Wherever they were going, Commissioner -- or
18 Chairman, sorry. That they left the
19 premises. He began his clean-up duties,
20 closing up duties, allowed them back in so
21 that they can then leave together.

1 MICHAEL GARDNER: What from the
2 records is your understanding of when the
3 automobile incident took place?

4 ATTORNEY MICHAEL DAY: Approximatel y
5 between 2:00 and 2:15 is our understandi ng
6 based on the calls to 9-1-1 and the
7 respondi ng times.

8 MICHAEL GARDNER: Okay.

9 ATTORNEY MICHAEL DAY: Our
10 understandi ng is that Mr. Klein, who was the
11 bartender at the time on duty, had locked the
12 door, witnessed the incident or the acci dent,
13 ran out to see what happened and then called
14 9-1-1 and went back in.

15 MICHAEL GARDNER: Okay. And what's
16 your schedul ed closi ng time?

17 ATTORNEY MICHAEL DAY: It's a one
18 o'clock last call. 1:30 vacati ng the
19 premi ses.

20 MICHAEL GARDNER: And please remi nd
21 me had we ei ther asked you or given you the

1 opportunity to have the bartender, Mr. Klein,
2 is it, present this evening? I have a memory
3 that we'd asked you about that.

4 ATTORNEY MICHAEL DAY: He had been
5 terminated, and there's been no communication
6 from him or ability to contact him.

7 MICHAEL GARDNER: All right.

8 And your understanding of the fact that
9 they left at some time prior to the accident
10 to get food comes from him, is that the
11 source of that information?

12 ATTORNEY MICHAEL DAY: That's
13 correct.

14 MICHAEL GARDNER: Do you have any
15 other independent verification of that
16 information besides him?

17 ATTORNEY MICHAEL DAY: No. From our
18 understanding there's nobody else around.

19 MICHAEL GARDNER: Let me start with
20 Deputy Elow I think. Could you just explain
21 what your position is with the police

1 department and what role, if any, you had in
2 this matter?

3 DEPUTY SUPT. CHRISTINE ELOW: Sure.
4 I work in the professional standards unit,
5 and I was charged with investigating the --
6 my unit was charged with investigating the
7 accident that occurred on February 3rd.

8 MICHAEL GARDNER: And would you
9 summarize some of the information you have
10 from that investigation?

11 DEPUTY SUPT. CHRISTINE ELOW: Yes.
12 On February 9th, myself and Detective Sarah
13 Jurowitz (phonetic) interviewed Miss Jeanne
14 Caldwell at her home and asked her about the
15 events that happened that evening. And what
16 she told me is that she arrived at Whitney's
17 at approximately nine p.m. that evening, had
18 several drinks. Later on in the night,
19 Officer Carl Pilgrim came, they stayed for a
20 while, had some drinks, had conversation.
21 Ms. Caldwell said at about -- it was one

1 o'clock when the bar closed, that Jessie had
2 locked the doors, let everybody out, and
3 herself and Officer Pilgrim stayed in the bar
4 and helped Mr. Klein clean the bar.

5 She said she stayed for
6 approximately -- she wasn't sure what time
7 after they locked the door, maybe 45 minutes
8 or so until Jessie had completed his cleaning
9 duties. And at that point Carl Pilgrim was
10 outside in his motor vehicle, he was her ride
11 home. So she left and got in his motor --
12 well, and that's when the accident occurred.
13 But from what she told me, from the time that
14 the bar -- that Mr. Klein locked the bar
15 until Carl Pilgrim left -- well, she stayed
16 through the whole time as he cleaned
17 according to her transcript.

18 MICHAEL GARDNER: So from what she
19 said in your investigation, she and
20 Mr. Pilgrim never left to get food?

21 DEPUTY SUPT. CHRISTINE ELLOW: That's

1 correct. She said that she stayed at the bar
2 after Mr. Klein closed it.

3 MICHAEL GARDNER: And did she say
4 Mr. Pilgrim stayed as well?

5 DEPUTY SUPT. CHRISTINE ELOW: Yes.

6 MICHAEL GARDNER: And approximately
7 what time were the 9-1-1 calls?

8 DEPUTY SUPT. CHRISTINE ELOW: Oh,
9 I'd have to --

10 MICHAEL GARDNER: If Sergeant
11 Frammartino --

12 SERGEANT EDWARD FRAMMARTINO: 2:31.

13 MICHAEL GARDNER: That would be
14 approximately an hour and a half after last
15 call?

16 SERGEANT EDWARD FRAMMARTINO: Yes.

17 MICHAEL GARDNER: And after the bar
18 was supposed to close. Is that your
19 understanding?

20 SERGEANT EDWARD FRAMMARTINO: The
21 bar closed at one o'clock. Everybody's

1 supposed to be off premises by, I would say
2 by 1:15 I believe it is.

3 MICHAEL GARDNER: Okay.

4 Mr. Day, I'll just hear from you.

5 ATTORNEY MICHAEL DAY: Yes,
6 according to the rules, the Cambridge
7 Licensing rules, one o'clock last call.
8 Drinks must be down and people off the
9 premises by 1:30.

10 MICHAEL GARDNER: Okay.

11 Did you develop any more information,
12 Deputy Elow particularly concerning the
13 medical condition of Ms. Caldwell?

14 DEPUTY SUPT. CHRISTINE ELOW: Yes,
15 we did. We got her blood alcohol content
16 taken at three a.m. at the Beth Israel
17 Hospital was 0.31.

18 MICHAEL GARDNER: If you know, how
19 does that relate in terms of the blood
20 alcohol reading to what we would know as a
21 breathalyzer?

1 DEPUTY SUPT. CHRISTINE ELOW: What
2 they characterized it as in the reports that
3 I read is extreme intoxication, almost to
4 comatose. Not sure exactly what....

5 MICHAEL GARDNER: Do you have any
6 other information?

7 DEPUTY SUPT. CHRISTINE ELOW: No, I
8 don't.

9 MICHAEL GARDNER: Did you interview
10 the bartender, Mr. Klein?

11 DEPUTY SUPT. CHRISTINE ELOW: No, I
12 did not. He refused.

13 MICHAEL GARDNER: Mr. Klein refused
14 to be interviewed?

15 DEPUTY SUPT. CHRISTINE ELOW: That's
16 correct.

17 MICHAEL GARDNER: Was he still in
18 the employ of the bar at that time, if you
19 know?

20 DEPUTY SUPT. CHRISTINE ELOW: I
21 don't know.

1 MICHAEL GARDNER: When was he
2 terminated, Mr. Day?

3 ATTORNEY MICHAEL DAY: You could ask
4 the owner.

5 JOHN HENAGHAN: Prior to the -- I
6 suspended him to the first meeting, which I
7 don't recall the first hearing we had. After
8 the first hearing I told him that he was no
9 longer employed. I wanted to find out again,
10 you know, apparently he's been lying to me as
11 well, but I -- he was suspended until the
12 first hearing, and after that first hearing
13 that's when he was terminated. I told him I
14 no longer needed him.

15 ATTORNEY MICHAEL DAY: He provided a
16 written report, I believe it was at the
17 request of Lieutenant Sargent -- I apologize,
18 I forget the name of the Chief.

19 DEPUTY SUPT. CHRISTINE ELW:
20 Lieutenant Sabbey.

21 ATTORNEY MICHAEL DAY: Lieutenant

1 Sabbey. While he was still employed at the
2 instruction of Mr. Henaghan. And that was
3 the information that we were given as well.

4 MICHAEL GARDNER: So, if he was
5 still your employee under suspension by the
6 time of the first hearing, that would have
7 meant he was still your employee at the time
8 Deputy Elow was requesting his cooperation in
9 testifying. Did you do anything to either
10 encourage or impede or discourage him in
11 cooperating with the police?

12 JOHN HENAGHAN: Of course not. I
13 was unaware that Lieutenant Sabbey had tried
14 to reach Jessie Klein. Had he come to me, I
15 certainly would have asked him to do so. I
16 had not heard from Lieutenant Sabbey with
17 regards to his or her inability to reach
18 Jessie Klein. I've never met Lieutenant
19 Sabbey so that's why I say his or her, I
20 don't know.

21 MICHAEL GARDNER: Were you aware

1 that the police department attempted to
2 interview him?

3 JOHN HENAGHAN: I was not.

4 MICHAEL GARDNER: I'm sorry, I just
5 don't remember. Did the police department
6 interview you?

7 JOHN HENAGHAN: They did not. Just
8 Andrea Boyer through phone conversations.

9 ATTORNEY MICHAEL DAY: I believe
10 Ms. Boyer last time provided an requested
11 from Mr. Henaghan and he provided a written
12 report based on his events as well. Which I
13 think either attached to the Jessie Klein
14 report or that was provided to Ms. Boyer
15 directly. I'm not sure how that was
16 included.

17 If I may, I just would note we were
18 told at the last hearing if there was going
19 to be any sort of toxicology report, we would
20 be provided with a copy of it. We were
21 provided with a copy of Ms. Boyer's report,

1 whi ch i ncl uded Sergeant Frammarti no' s report
2 and I bel i eve Sergeant Brown?

3 SERGEANT EDWARD FRAMMARTINO: Yes.

4 ATTORNEY MICHAEL DAY: Hi s
5 suppl ementary report as well .

6 None of the testi mony from
7 Superi ntendent El ow was provi ded to us ahead
8 of ti me. Just to note that for the record.
9 No bl ood al coh ol content or i ntervi ew reports
10 were provi ded to us.

11 MICHAEL GARDNER: I' m actual ly not
12 sure I have the authori ty to rel ease any
13 medi cal records to you. I mean the
14 transcri pt wi ll show what the transcri pt
15 shows.

16 DEPUTY SUPT. CHRISTINE EL OW: I j ust
17 wanted to add that I do bel i eve Li eutenant
18 Sabbey had some conversati ons wi th the owner
19 of Whi tney' s and was referred to hi s l awyer.
20 I thi nk that Li eutenant Sabbey di d reach out
21 and tri ed to get some cooperati on from the

1 owner and that was not provided. And I know
2 Lieutenant Sabbey is on duty right now. I
3 think we can actually get him if we needed
4 to. I'm pretty confident that that was the
5 conversation that we had.

6 ATTORNEY MICHAEL DAY: Sure. I can
7 relay my information.

8 Lieutenant Sabbey had called
9 Mr. Henaghan at the bar when you were not
10 there. And I think requested information,
11 time cards and that sort, alarm records which
12 are not kept by the ADT service as far what
13 time the code is keyed in and that sort of
14 thing. And that was related to Lieutenant
15 Sabbey.

16 And there was a supplemental request
17 for another report, either the one that he
18 provided or follow-up questions, and I
19 invited Lieutenant Sabbey to call me, and I'd
20 be happy to work out whatever information. I
21 never heard from Lieutenant Sabbey other than

1 apparently to Mr. Henaghan that would see you
2 at the Commission is the way it was left.
3 But I certainly would -- we provided my
4 information and invited him to contact me.

5 MICHAEL GARDNER: Sir, you've, I
6 take it, taken the required city training is
7 -- I'm sorry, is it Tips? Cambridge
8 21-Proof.

9 ELLEN WATSON: 21-Proof.

10 MICHAEL GARDNER: At some point I'll
11 learn which is Cambridge and which is
12 statewide. I forget which.

13 JOHN HENAGHAN: I have, yes.

14 MICHAEL GARDNER: What conclusion
15 would you draw if two hours after last call a
16 person who had been on your premises most of
17 the evening and had not left to go anywhere
18 else, I mean what conclusion would you draw
19 with respect to that person's level of
20 intoxication a half an hour or 45 minutes
21 after she left your premises?

1 JOHN HENAGHAN: Sir, I've been
2 bartending over 20 years. I would not stand
3 for that. It would not happen on my shift.
4 I'm astonished, really embarrassed and more
5 so that I thought I trained my staff better
6 than that. I was under the assumption, and
7 all I can know is what information was
8 provided to me, that Jeanne was not driving.
9 She was -- this is, again, provided to me
10 from my bartender, that again, now it
11 contradicts his statement now that she went
12 to eat because she was intoxicated. I didn't
13 know about the toxicology report as well, but
14 it certainly would not happen when I was
15 there.

16 MICHAEL GARDNER: What do you
17 believe happened?

18 JOHN HENAGHAN: I really don't know,
19 sir. I don't know. From what I understand,
20 the information again provided to me from
21 Jessie, and obviously by his termination --

1 he knows the rules. My staff knows my rules
2 and my regulations of the bar. I can't be
3 there -- like I said, I can't be there every
4 night. I have a family. I'm home. This
5 information provided to me reinforces the
6 fact that I terminated him properly. I don't
7 know what else to say.

8 MICHAEL GARDNER: Do you know Carl
9 Pilgrim?

10 JOHN HENAGHAN: I do know Carl
11 Pilgrim only from coming in the bar.

12 MICHAEL GARDNER: Do you know
13 Jeanne?

14 JOHN HENAGHAN: I know Jeanne
15 vaguely.

16 MICHAEL GARDNER: And do you know
17 Carl Pilgrim to be a friend of Jessie's?

18 JOHN HENAGHAN: I believe so, yes.

19 MICHAEL GARDNER: Do you know Carl
20 Pilgrim to have previously stayed after
21 closing?

1 JOHN HENAGHAN: I do not know that,
2 si r, no.

3 MI CHAEL GARDNER: Di d you ever have
4 any conversati ons wi th Mr. Kl ei n about maki ng
5 sure that he kept a professi onal rel ati onshi p
6 wi th respect to servi ng fri ends?

7 JOHN HENAGHAN: I 've had that
8 di scussi on wi th al l my staff, yes.
9 Apparentl y, you know, l ike I sai d, I wi sh I
10 coul d be there every ni ght.

11 MI CHAEL GARDNER: You understand
12 that i t' s onl y by the most fortui tous
13 ci rcumstances that we don' t have a vehi cul ar
14 homi ci de here?

15 JOHN HENAGHAN: I understand that,
16 si r.

17 MI CHAEL GARDNER: Deputy El ow, any
18 questi ons you thi nk I shoul d ask of the owner
19 or counsel that I haven' t asked?

20 DEPUTY SUPT. CHRI STI NE ELOW: I
21 can' t thi nk of any, si r, no.

1 MI CHAEL GARDNER: Deputy?

2 LESTER BOKUNI EWICZ: No.

3 MI CHAEL GARDNER: Al though recusin g
4 yoursel f on voti ng, do you have any i nqui ry
5 you' d l ike to make?

6 ROBERT HAAS: No other questi ons.

7 MI CHAEL GARDNER: Any further
8 statements or i nformati on that you woul d l ike
9 to provi de?

10 ATTORNEY MI CHAEL DAY: Just bri ef, I
11 guess i n summary, Mr. Chai r, i s that agai n,
12 thi s i nformati on i s brand new to us toni ght,
13 that there' s a di screpancy i n the report from
14 Jeanne Cal dwel l. I woul d remi nd the
15 Commi ssi on that when the poli ce arri ved on
16 the scene, fi el d sobri ety tests were
17 admi ni stered. The i ndi vi dual off duty
18 offi cer was rel eased wi thout any fi ndi ng of
19 i ntoxi cati on or bei ng under the i nfl uence of
20 i ntoxi cati on. Was rel eased on hi s own
21 recogni zance after passi ng a fi el d sobri ety

1 test.

2 That Mr. Henaghan, as the owner of
3 Whi tney' s, the sole owner of Whi tney' s, he' s
4 owned it for more 18 years, working there for
5 more than 20.

6 He runs one of the few i ndependent
7 operations i n Harvard Square.

8 He hasn' t been before thi s Commi ssi on
9 i n more than a decade, 12 years I bel i eve i s
10 the one i nfracti on that I bel i eve he' s had.

11 Has worked openl y wi th thi s Commi ssi on
12 as wel l as wi th the Cambri dge Pol i ce i n
13 i nvesti gati ng thi s.

14 Has taken remedial tests that he can,
15 whi ch i ncl udes termi nati ng the bartender,
16 i nstructi ng and retraini ng hi s other
17 bartenders, and keepi ng a l og and a j ournal
18 goi ng forward as suggested by Ms. Boyer.

19 Wrote a report as requested. Compl i ed
20 wi th al l requests of thi s i nqui ry, and i sn' t
21 real l y hi di ng anythi ng here. So, that i s

1 basically what happened.

2 We've got a discrepancy as to whether
3 or not these individuals stayed in the bar
4 after hours or were let back into the bar.
5 Based on the report that we were given and
6 the report that we've heard tonight, we still
7 have no evidence of after hours service of
8 anyone. Nor do we have any evidence of,
9 again, allowing an individual who's operating
10 the vehicle, to leave the premises or to be
11 served at the premises too much.

12 MICHAEL GARDNER: You don't think
13 it's a fair inference for us to draw given
14 the level of intoxication found at the
15 hospital two hours after last call that there
16 was not after hours drinking?

17 ATTORNEY MICHAEL DAY: No.

18 MICHAEL GARDNER: You don't think
19 that's a fair inference?

20 ATTORNEY MICHAEL DAY: I don't,
21 Mr. Chair.

1 MICHAEL GARDNER: Do you think it's
2 a fair inference that there was service of a
3 clearly grossly intoxicated person before one
4 o'clock?

5 ATTORNEY MICHAEL DAY: Again, I
6 can't opine unto that. We weren't provided
7 with the toxicology report. We were provided
8 with a third-hand version of what the report
9 was. I haven't seen it, nor do I have any
10 sort of training to opine on what time that
11 individual was last served. Nor her
12 truthfulness as far as how long she was
13 there.

14 MICHAEL GARDNER: Mr. Henaghan, you
15 have some training in that.

16 JOHN HENAGHAN: I do.

17 MICHAEL GARDNER: What do you say?

18 JOHN HENAGHAN: Again, sir, without
19 being there, I --

20 MICHAEL GARDNER: I'm just asking
21 for a fair -- what do you think is a fair

1 inference for us to draw?

2 JOHN HENAGHAN: If you saw
3 Ms. Caldwell, she says about 85 pounds, no
4 lie. I don't know how much she drank, over
5 what period of time or how fast she consumed.
6 I wasn't there. When I'm on premise, and
7 I've been doing this 25 years, I know when
8 someone has been over-served. From that
9 blood alcohol content, it sounds like she was
10 over-served.

11 I don't know if she had a flask in her
12 pocketbook. I don't know if she was nipping
13 outside the bar. I can't speak to that. And
14 that is not uncommon in my bar. When I close
15 the doors at night and I go in the bathroom,
16 I find bottles in the bathroom. I wish it
17 wasn't the case. I can't stop that. I can't
18 follow women into the restroom to see if
19 they're nipping. I don't know, sir. But
20 that's all the information that I can provide
21 because I was not working that evening.

1 MICHAEL GARDNER: Okay.

2 Are there any members of the public who
3 would like to be heard on this matter?

4 (No Response.)

5 MICHAEL GARDNER: And the
6 disciplinary history, Ms. Watson, do you
7 happen to have it?

8 ELLEN WATSON: There doesn't appear
9 to be any in here. There's no disciplinary
10 history listed.

11 MICHAEL GARDNER: Okay.

12 As I understand it, you've been before
13 the Commission about 12 years ago on a
14 complaint?

15 JOHN HENAGHAN: I was here, and the
16 date is foggy, it was an underage sting
17 provided by Cambridge, twelve o'clock in the
18 afternoon apparently, yes. I'm going to say
19 15, 16 years ago, and that was the one and
20 only infraction I've had with the Cambridge
21 Licensing Commission since I've owned the

1 bar.

2 MICHAEL GARDNER: Thank you.

3 JOHN HENAGHAN: Yes, sir.

4 MICHAEL GARDNER: I guess what I
5 would suggest is that we defer any action on
6 this matter until the decision hearing on
7 July the 7th. And I would entertain a motion
8 from the Deputy Chief to that effect.

9 LESTER BOKUNIEWICZ: I would make a
10 motion that we suspend the decision until the
11 decision hearing on 7/7.

12 MICHAEL GARDNER: Well --

13 ATTORNEY MICHAEL DAY: May I ask a
14 procedural question.

15 MICHAEL GARDNER: Yes, go ahead.

16 ATTORNEY MICHAEL DAY: The decision
17 hearing, what -- that's a -- I haven't had
18 notice of that.

19 MICHAEL GARDNER: It's an open
20 meeting.

21 ATTORNEY MICHAEL DAY: Okay.

1 MICHAEL GARDNER: We generally don't
2 take testimony or additional evidence, but we
3 deliberate in public.

4 Did I say that right?

5 ELLEN WATSON: Yes.

6 MICHAEL GARDNER: Indication from
7 Commissioner Haas that he nodded his head
8 yes.

9 ATTORNEY MICHAEL DAY: And that's
10 July 7th at ten a.m.?

11 MICHAEL GARDNER: Yes, it is.

12 ATTORNEY MICHAEL DAY: Could I ask
13 that, Ms. Watson, I've given you a card, I
14 can give it to you again, that we get
15 notified of any change?

16 ELLEN WATSON: Yes.

17 MICHAEL GARDNER: Yes.

18 Okay. Motion having been made, I'll
19 second the motion, I guess. And all those in
20 favor of deferring the matter until the July
21 7th decision hearing, say "Aye."

1 LESTER BOKUNI EWICZ: Aye.

2 MICHAEL GARDNER: Aye. The ayes
3 have it. None opposed so the motion carries
4 and we'll see you on July 7th.

5 * * * * *

6 DISCIPLINARY MATTER: EL COLOSO MARKET

7 ELLEN WATSON: We're going to go
8 back to the first item.

9 Disciplinary continued from March 29th,
10 May 17th, May 31st and June 9th. El Coloso
11 Market, Hung Pham, property owner at 102
12 Columbia Street. Due to complaints received
13 by the Licensing Commission alleging that the
14 machinery on property is in violation of the
15 Cambridge City Noise Ordinance.

16 MICHAEL GARDNER: Thank you for
17 coming back. I would appreciate it if
18 everybody could just state your name and
19 spell it for the record.

20 HUNG PHAM: My name is Hung Pham and
21 I'm the owner of 102 Columbia Street.

1 MICHAEL GARDNER: If you could spell
2 your name for her?

3 HUNG PHAM: H-u-n-g. And last name
4 is P-h-a-m.

5 MICHAEL GARDNER: And if we could
6 just have your name and spelling for the
7 record, sir?

8 MOHAMMED AKADAR: Mohammed, last
9 name Akadar.

10 SITARA NAHEED: Because he called me
11 to translate because he doesn't --

12 MICHAEL GARDNER: So, are you acting
13 to help translate and facilitate the
14 conversation, Ma'am?

15 SITARA NAHEED: Yes.

16 MOHAMMED AKADAR: Yes.

17 MICHAEL GARDNER: So, could you
18 state your name and spell it for the record
19 and then assist with getting his name correct
20 for the stenographer?

21 SITARA NAHEED: Sitara S-i-t-a-r-a.

1 Last name Naheed N-a-h-e-e-d. I work for
2 Cathol i c Chari ty organi zati on al so as
3 i nterpreter.

4 MOHAMMED AKADAR: My name i s
5 Mohammed M-o-h-a-m-m-e-d. Last name Akadar
6 A-k-a-d-a-r.

7 MI CHAEL GARDNER: Do I understand,
8 Ma' am, that you sai d you work for Cathol i c
9 Chari ti es as a transl ator?

10 SI TARA NAHEED: Yes.

11 MI CHAEL GARDNER: Wel l , thank you
12 for offeri ng your servi ces thi s eveni ng.

13 SI TARA NAHEED: Thank you.

14 MI CHAEL GARDNER: And, Ms. Boyer, i f
15 you coul d i denti fy yoursel f, pl ease.

16 ANDREA BOYER: I 'm Andrea Boyer.
17 I 'm an i nvesti gator for the Cambri dge Li cense
18 Commi ssi on. B-o-y-e-r.

19 ROBERT HAAS: Let' s j ust have thi s
20 gentl eman i denti fy hi s rol e here.

21 MI CHAEL GARDNER: And coul d you tel l

1 us again your connection to the business
2 here. We understand we have the owner of the
3 property. And your role is as the owner of
4 the business?

5 MOHAMMED AKADAR: Yes, sir.

6 (Inaudible). This is the owner.

7 SITARA NAHEED: He just said he
8 bought the store from him, and there is a
9 noise on the roof which he didn't know. So
10 that is happening now. He got a complaint
11 from the neighbors next-door, and he already
12 fixed it and he spent \$800 on that.

13 There is a notice, also, he got from
14 City that he needs to do some cover up to
15 stop the noise and he did it. It was very
16 hard for him to manage the money, but still
17 he did it from his own money, but still there
18 is a complaint that noise is still there.

19 MICHAEL GARDNER: Right. So let me
20 summarize what I understand where we are now,
21 and anyone who's got any information can

1 correct anything that I left out.

2 There have been a number of complaints
3 from neighbors about excessive noise at this
4 location going back to September of 2010.

5 Ms. Boyer has taken readings on more than one
6 occasion and found the noise from the roof
7 compressor or air conditioning --
8 refrigeration unit, excuse me, to be louder
9 than the allowable limits under our Noise
10 Ordinance. We understand that there was an
11 attempt to comply or reduce the noise by
12 having a box built that partially enclosed
13 the mechanical equipment.

14 There was a time when the business
15 appeared to have been closed for an extended
16 vacation period or at least a period away,
17 but the compressors still ran and the noise
18 was still made. We learned that at one of
19 our hearings.

20 We subsequently had a question as to
21 who was the responsible party? Was it the

1 owner or the business operator? At our last
2 hearing you came in as the owner, sir,
3 indicated that from your point of view you
4 weren't responsible for the mechanicals, that
5 they were owned by the business. But our
6 reading of the lease indicated that you were
7 in fact responsible for mechanical repairs,
8 and we said absent your providing us
9 additional documentation under the either
10 purchase and sale or the deed to show that in
11 fact the mechanicals belonged to the business
12 and not you. We felt we had enough
13 information to hold you responsible.

14 HUNG PHAM: Yes, sir, I brought in
15 my purchase and sale agreement here.

16 MICHAEL GARDNER: Okay.

17 So there's a purchase and sale. Have
18 you provided that previously?

19 HUNG PHAM: No.

20 MICHAEL GARDNER: Okay.

21 We'll take that tonight and we'll take

1 that under advisement. Okay?

2 HUNG PHAM: But also --

3 ANDREA BOYER: One second.

4 MICHAEL GARDNER: Give it to her.

5 So, then I'm -- I'm trying to -- we
6 spent a long time on this and I'm trying to
7 short circuit it a little bit if we can in
8 order to simplify the matter.

9 It has been reported to us since the
10 last hearing that a plan has apparently been
11 made to change the way in which the
12 refrigeration is done, and to handle the
13 refrigeration by an internal -- a new
14 internal unit as opposed to exporting the
15 noise and mechanicals out to the roof; is
16 that correct?

17 HUNG PHAM: Can I say something? I
18 get a professional to come in to check the
19 compressor on June the 3rd. Already he said
20 the unit looking fine, but he cannot do
21 anything about the noise. And then at that

1 time I say if the noise keepi ng goi ng on to
2 the order. So I told Mohammed that I would
3 try to generate some money so I can get him a
4 unit, internal unit to put in his store. So
5 that's why the neighbors fine wi th
6 everythi ng, and we don' t have any compl ai nt.
7 That's why I go out and get a letter and send
8 it to her.

9 ANDREA BOYER: That's the letter
10 that was submi tted to you gentlemen.

11 MICHAEL GARDNER: Okay. And coul d
12 we just have a copy of that read into the
13 record because I don' t have it in front of
14 me.

15 ELLEN WATSON: The June 7th letter?

16 ANDREA BOYER: Yes, Ellen, it is.

17 ELLEN WATSON: It's from Hung Pham,
18 102 Col umbi a Street, Cambri dge, to the
19 Cambri dge Li cense Commi ssi on.

20 "Dear Andrea Boyer: Mr. Mohammed had
21 and I come to the final deci si on that we are

1 going to shut down the big freezer compressor
2 on the roof and replace it with a built-in
3 unit. Right now we try to raise enough money
4 to bring in the built-in unit. I would like
5 to ask the License Commission Board to give
6 us more time until June 29, 2011 to shut down
7 the unit. I hope this letter will satisfy
8 the issue on the compressor. If you have any
9 question, please feel free to contact me at
10 my office number 617-818-4199. Sincerely,
11 Hung Pham. "

12 MICHAEL GARDNER: So I just wanted
13 to say to you, sir, we had at our last
14 meeting scheduled a hearing for this evening.
15 I did not want to cancel that hearing based
16 on the letter because I wanted to -- the
17 Commission to hear from you about the plan
18 and understand how firm your commitment is
19 that that compressor is going to be shut off
20 and when it is going to be shut off.

21 HUNG PHAM: Yes.

1 MICHAEL GARDNER: So when is it
2 going to be shut off for certain?

3 HUNG PHAM: June 29th. Because I
4 got the -- I'm looking for a new unit
5 already. And then I have to hire some people
6 to come in and cut out the old unit before we
7 can put in the new one, yes. And that's why
8 I have --

9 MICHAEL GARDNER: And do you have
10 the necessary permits that you need to do
11 that? I take it they're probably
12 Inspectional Services permits?

13 ANDREA BOYER: I can inquire from
14 Inspectional Services if they need an
15 electrical sign off or anything like that.

16 MICHAEL GARDNER: Are you aware of
17 what you need, sir, in terms of permissions
18 from the City to get this done?

19 HUNG PHAM: Yes.

20 MICHAEL GARDNER: Mr. Mohammed, is
21 there anything more you want to add?

1 MOHAMMED AKADAR: No, thank you,
2 si r. Thank you, si r.

3 I thi nk the busi ness i s very slow. I
4 borrow somebody money. I pay that for thi s
5 ai r condi ti oni ng and the carpenter for the
6 cover. And I spent the money. No busi ness
7 ri ght now.

8 MI CHAEL GARDNER: My understandi ng
9 of what you sai d i s that you spent about \$800
10 on the cover whi ch di dn' t work.

11 MOHAMMED AKADAR: Yes, si r.

12 MI CHAEL GARDNER: And busi ness i s
13 very slow so i t' s hard.

14 MOHAMMED AKADAR: Because he say you
15 make a cabi net, and I no wai t for him to make
16 the cabi net. But I gi ve the Ci ty l e t t e r. I
17 gi ve him and he see, he only see i t, but he
18 don' t gi ve me anythi ng. I sai d I put the
19 cover, and that' s i t.

20 MI CHAEL GARDNER: And do you have
21 adequate fi nanci ng i n order to make thi s

1 conversi on?

2 HUNG PHAM: Right now he' s back up
3 on the rent, too. He back up on the rent and
4 the water, so I have to pay the mortgage.
5 So, I have to pay the mortgage, so that' s why
6 I have to raise some money from my fami ly and
7 other money to get the uni t for hi m so we can
8 set i t for hi m.

9 But usual ly from the previ ous tenant,
10 if anythi ng wrong wi th the compressor, they
11 fix i t up because that' s the way that' s
12 supposed to be. Because they use the uni t
13 and they fix i t up to maintai n the uni t
14 worki ng proper ly to run the busi ness. I am
15 the owner. I just rent out the bui lding for
16 them. And whatever they get, they have to
17 get the thi ng for deli . So that' s why I try
18 to hel p hi m out. Because I -- she tel l me
19 that we have to do somethi ng wi th the
20 compressor because of the nei ghbors keep
21 compl ai ni ng. So that' s why I come to

1 decisi on to get some money and help hi m. But
2 like for me P&S of -- I know that I don' t own
3 the uni t because I just say I buy the
4 buil ding, that' s personal property, that' s
5 it, what they say on the P&S. They di dn' t
6 say I own the uni t and other stuff so that' s
7 why.

8 MICHAEL GARDNER: Al though the lease
9 says you' re responsi ble for mai ntai ni ng the
10 mechani cal s, whi ch cl early, I thi nk, i nvol ves
11 that compressor, ri ght?

12 HUNG PHAM: Because I take the list
13 from the templa te, it' s al ready got the thi ng
14 in there al ready. So I just put in the
15 rental stuff, and I leave everythi ng the same
16 because I' m not the one who wri te the whol e
17 document out. I just take the templa te in
18 and put in the rent and al l thi s stuff, fi ll
19 in the bl ank.

20 MICHAEL GARDNER: Ri ght, okay.
21 Questi ons from others?

1 ROBERT HAAS: So, I guess what I
2 think what I want to try to establish tonight
3 is who is ultimately responsible for the
4 mechanics? Because at some point in time if
5 the compressor doesn't get shut down on the
6 29th, I think the Commission's going to be
7 compelled to take some kind of action. And I
8 just want to make sure before we leave
9 tonight who that responsible party is going
10 to be.

11 HUNG PHAM: I am.

12 ROBERT HAAS: So, Mr. Pham, you
13 understand by what you just said that if in
14 fact for some reason that the unit can't get
15 shut down on the 29th, that the License
16 Commission is going to be looking to you to
17 impose a fine for any noise violations that
18 take place after the 29th if the Commission
19 feels so inclined to do, will be imposing the
20 fines to you, not your tenant.

21 HUNG PHAM: Yes.

1 ROBERT HAAS: You understand that?

2 HUNG PHAM: Yes, I got no choice.

3 He don't have the money to bring in the new
4 units.

5 ROBERT HAAS: No, I just want to be
6 clear, though, if something should happen
7 that unforeseen, and the noise persists
8 beyond June 29th, the Commission is going to
9 be looking to see who is responsible. And
10 based on what you're telling us, my
11 understanding is that you feel you're
12 responsible at this point in time?

13 HUNG PHAM: Yes.

14 MICHAEL GARDNER: So is there any
15 reason you can't have the unit shut down one
16 day earlier, the 28th?

17 HUNG PHAM: No, because -- I can
18 shut down earlier, but I they have time for
19 people to move the old unit out and put in
20 the new unit, so that's why I need some time
21 in between there for the guy to bring it

1 because it's pretty heavy. So I need a
2 couple of people, and to bring the cooler in
3 and out. So that's why I need more time back
4 and forth.

5 MICHAEL GARDNER: Ms. Boyer --

6 HUNG PHAM: But if I can shut it
7 down before that, I will let you know.

8 MICHAEL GARDNER: All right,
9 Ms. Boyer, were you going to say something?

10 ANDREA BOYER: I just want to make
11 sure that -- there's a few units on that
12 roof. I want to make sure that it's
13 replacing more than just one of the
14 compressors.

15 MICHAEL GARDNER: So there are
16 several compressors that are operational on
17 that roof?

18 HUNG PHAM: There were three
19 compressor.

20 MICHAEL GARDNER: Three?

21 And are they all responsible for the

1 refrigeration or do they have separate
2 purposes?

3 HUNG PHAM: One for the freezer, and
4 the other one for the cooler. And I think
5 one for the small freezer.

6 MICHAEL GARDNER: Okay. So there
7 are three coolers and freezers as part of the
8 business?

9 HUNG PHAM: Yes.

10 MICHAEL GARDNER: Each of them has
11 its own rooftop compressor?

12 HUNG PHAM: Yes.

13 MICHAEL GARDNER: Is that right?

14 HUNG PHAM: Yes.

15 MICHAEL GARDNER: And what is your
16 plan with respect to that? Are you only
17 replacing one and keeping -- and planning to
18 keep two or are you replacing all three?

19 HUNG PHAM: I replace one, the big
20 one that make a lot of noise. The other one
21 I don't know because right now I probably

1 raise enough money to get one unit in. But
2 the other one I cannot do because it cost a
3 lot of money to bring in a unit.

4 ROBERT HAAS: So, I mean one of the
5 things I don't want you to find yourself in a
6 situation is, you go ahead and make this
7 purchase, you shut down the big unit, and
8 then you still have violations from the other
9 two units. So, are we certain that the two
10 units will fall below the decibel levels or
11 we don't know at this point?

12 ANDREA BOYER: I don't know at this
13 point which one of the units he's replacing.

14 MICHAEL GARDNER: Well, he says he's
15 replacing the big one.

16 ANDREA BOYER: Oh, the big one? The
17 big one is closest to the home. That's the
18 complaint that I've been taking the noise
19 readings from. So, obviously that will take
20 away -- because this is the dominant source
21 of noise, I'm not sure how loud the other two

1 are at this point. So we wouldn't know that
2 until this one's replaced.

3 ROBERT HAAS: So, I want to be
4 careful because I think what we have now is a
5 noise complaint. Regardless of what the
6 source of the noise is, if in fact you shut
7 down the big compressor, and the other two
8 compressors still exceed the noise complaint,
9 you're still in violation. So, I don't want
10 you to find yourself in a situation where you
11 do this incremental change or this part
12 change and then you still find yourself in
13 violation, it's not going to help you at all.
14 Because you're still going to be in violation
15 at that point in time. So you need to factor
16 that in terms of your decision making in
17 terms of what you're going to do with those
18 units. And I'm not sure if you can shut off
19 one unit, do a test and see what the other
20 two units do in terms of noise and then be
21 guided by that prior to the 29th.

1 ANDREA BOYER: I mean I could if we
2 could all work together and do it, yes.

3 MICHAEL GARDNER: Do you understand
4 the problem that Commissioner Haas is laying
5 out for you?

6 HUNG PHAM: Yes.

7 MICHAEL GARDNER: And do you
8 understand the problem that Commissioner Haas
9 has laid out?

10 MOHAMMED AKADAR: Yes.

11 MICHAEL GARDNER: There are three
12 units. If you only shut down one right now,
13 we don't know whether the other two units are
14 still going to be too loud.

15 (Translation by Ms. Naheed.)

16 MOHAMMED AKADAR: Okay, sir.

17 MICHAEL GARDNER: Do you understand
18 that?

19 MOHAMMED AKADAR: Yes.

20 MICHAEL GARDNER: So do you
21 understand that problem, sir?

1 MOHAMMED AKADAR: Yes, sir.

2 MICHAEL GARDNER: Ms. Boyer?

3 ANDREA BOYER: I think the neighbors
4 next door, they may have some input about if
5 this big compressor isn't on if there's still
6 some noise, but they may be able to give some
7 insight of whether or not they're bothered at
8 all by those other two.

9 ROBERT HAAS: My only reservation is
10 that if it does in fact reach the levels,
11 whether it's a daytime level or nighttime
12 level, he's still in violation. So I'm just
13 wondering if it makes sense to, you know,
14 based on the fact that everyone's
15 cooperating, whether you can temporary shut
16 down that large unit, take a reading and see
17 what the decibel levels are as a result of
18 those two other units? This way they can be
19 guided in terms of what they need to do in
20 terms of whether or not they can just get by
21 just replacing that one unit or if there's

1 other units that are complicated as well.

2 ANDREA BOYER: True.

3 I know that when I was doing the other
4 readings, I had to wait for that one to come
5 on so I didn't hear the other ones.

6 ROBERT HAAS: Oh, you didn't hear
7 them?

8 ANDREA BOYER: Of course now that
9 I'm looking at the whole big picture, I'm not
10 sure if those were on. So I definitely can
11 test -- I think we can test and see if you're
12 right.

13 MICHAEL GARDNER: So Commissioner
14 Haas has suggested and Ms. Boyer has offered
15 her willingness to do at least a test run,
16 which might not be determinative, it still
17 might not solve the -- we can't know for
18 sure, but she'd be willing to do a test with
19 the big compressor temporarily turned off to
20 get what the noise level is from the other
21 two compressors, see how close that is to the

1 vi ol ati on --

2 HUNG PHAM: Yes.

3 MI CHAEL GARDNER: -- gi ve you that
4 i nformati on to hel p you reach a concl usi on as
5 to wheth er in fact it is worth the i nvestment
6 to repl ace the one bi g uni t wi th an i nternal
7 refri gerati on uni t.

8 HUNG PHAM: Yes.

9 MI CHAEL GARDNER: Mr. Mohammed, do
10 you understand that?

11 (Transl ati on by Interpreter.)

12 SI TARA NAHEED: Yes, he understands.

13 MI CHAEL GARDNER: You understand
14 that?

15 SI TARA NAHEED: Yes.

16 MI CHAEL GARDNER: Wel l , we woul d
17 encourage -- I mean, you don' t have to agree
18 ri ght here wi thout consul ti ng wi th each
19 other, but we woul d encourage you to
20 cooperate and work wi th Ms. Boyer to al low
21 that test wi th the l arge uni t turned off to

1 see what the noise levels are.

2 HUNG PHAM: Yes.

3 MICHAEL GARDNER: And we have a
4 hearing scheduled for June the 28th?

5 ELLEN WATSON: Correct.

6 MICHAEL GARDNER: Do we have the
7 capacity to have this matter deferred over to
8 that hearing date?

9 ELLEN WATSON: We do, yes.

10 MICHAEL GARDNER: I know you wanted
11 until the 29th. What we'd like from you on
12 the 28th is a status report. What we would
13 love to hear on the 28th is that the big unit
14 is turned off permanently and replaced by the
15 internal refrigeration unit, and that with a
16 test reading, that is in compliance with the
17 Ordinance. That's what we would most like to
18 have happen so this matter is resolved before
19 the beginning of July, ten months after the
20 initial complaints first came in. So, we'd
21 ask you to come back on the 28th. Is that

1 all right with you?

2 HUNG PHAM: Yes.

3 MICHAEL GARDNER: So a motion --
4 well, let me just -- before we actually
5 decide are there any members of the public
6 who'd like to be heard on this matter?

7 (No Response.)

8 MICHAEL GARDNER: Seeing none, a
9 motion would be in order.

10 ROBERT HAAS: I make a motion to
11 continue the matter until the hearing of June
12 28th to re-evaluate the noise violation.

13 LESTER BOKUNIEWICZ: I second the
14 motion.

15 MICHAEL GARDNER: The motion being
16 made and seconded to defer this matter until
17 June the 28th for hopefully a comprehensive
18 status report from the owner and the business
19 operator, all those in favor signify by
20 saying "Aye."

21 LESTER BOKUNIEWICZ: Aye.

1 ROBERT HAAS: Aye.

2 MI CHAEL GARDNER: Aye. None

3 opposed.

4 So, you have a couple of weeks. We
5 wish you well in getting it done. Perhaps
6 the first order of business you might want to
7 do is to schedule your test reading with
8 Ms. Boyer.

9 HUNG PHAM: Okay.

10 MI CHAEL GARDNER: Thank you.

11 ANDREA BOYER: Thank you very much.

12 Thank you.

13 MOHAMMED AKADAR: Thank you. Thank

14 you sir.

15 MI CHAEL GARDNER: Thank you. Good

16 luck.

17 * * * * *

18 APPLI CATION: PANJA SASI RAT 2008, I NC.

19 ELLEN WATSON: The next item is
20 appli cation conti nued from May 31, 2011 due
21 to a change of manager, Panj a Sasi rat 2008,

1 Inc., Sasi rat Wyckoff, manager, holder of an
2 all alcoholic beverages as a restaurant
3 license at 104 Mount Auburn has applied to
4 transfer said license to CDM International
5 Enterprises, LLC, d/b/a Ki tchen Sushi and
6 Lounge, Derek Brady, manager at 104 Mount
7 Auburn Street. CDM International
8 Enterprises, LLC is also applying for a
9 common victualer license with 111 seats
10 inside, 10 standing, and 46 seasonal patio
11 seats on public and private property with
12 entertainment license to include music
13 playing below conversational level; iPod and
14 four TV's, video or film projection screens.

15 Also the pledge is being -- there's a
16 pledge in here, and it's going to be
17 continued to a later date to give us a chance
18 to review the pledge documents because we
19 haven't received those yet.

20 Do you have those?

21 ATTORNEY SEAN HOPE: I do.

1 ELLEN WATSON: Can I get those?

2 MICHAEL GARDNER: So, if you all
3 could, please, state and spell your names for
4 the record for the stenographer.

5 ATTORNEY SEAN HOPE: For the record,
6 attorney Sean Hope. That's S-e-a-n H-o-p-e,
7 130 Bishop Allen Drive in Cambridge.

8 DEREK BRADY: Derek Brady, D-e-r-e-k
9 B-r-a-d-y.

10 PETER AHN: Peter Ahn, P-e-t-e-r
11 A-h-n.

12 ATTORNEY SEAN HOPE: Good evening,
13 Mr. Chair, Members of the Commission. We are
14 here as part of a change in manager
15 application. The previous hearing we went
16 through the full hearing regarding the common
17 victualer application and the transfer of the
18 all alcohol license from Panja Sasi rat 2008.
19 We come again before the Commission to change
20 the manager to Derek Brady. This is part of
21 an internal decision by the restaurant group.

1 Derek, as the Commission may remember, has
2 over 20 years experience in the food and
3 beverage and specifically managing alcohol
4 and bars and restaurants. He currently owns
5 The Draft in Allston Brighton and is the
6 manager of record there.

7 Peter Ahn, his experience is more
8 tailored to actually the running of
9 restaurants. He helped us acquire the chef
10 for Kitchen Sushi and Lounge which is the
11 proposed name of the sushi restaurant, and
12 has worked handling staff as well as doing
13 orders. So, we wanted to before the
14 application was sent up, we wanted to change
15 as manager, and this was part of the
16 application, so we were able to submit this
17 change of manager before the Commission.

18 ROBERT HAAS: So if I recall
19 correctly, the initial named manager was
20 being selected as the manager because they
21 had experience in that type of food business

1 where Mr. Brady doesn't have the experience.

2 DEREK BRADY: I don't have the food
3 experience, but I do have the liquor and
4 bar --

5 ROBERT HAAS: Right, but this is a
6 sushi concept which is different than what
7 you're accustomed to.

8 DEREK BRADY: I'm not accustomed to
9 the sushi side of things, but the bar --

10 ATTORNEY SEAN HOPE: And let me add
11 that part of the -- Mr. Ahn is here as well.
12 Part of this is not to -- Mr. Ahn is going to
13 be part of the group. He's going to be the
14 operations manager. So, in terms of handling
15 the wait staff, the day-to-day and handling
16 the food, and Mr. Ahn, and that's his
17 expertise. But in terms of the manager of
18 the alcohol license specifically, we were
19 going to have Mr. Brady do that. So this is
20 -- Mr. Brady is going to be the manager of
21 record.

1 DEREK BRADY: This is what I've done
2 for 20 years. I've been the manager on
3 record of more than one establishment before
4 without incident. I manage --

5 ROBERT HAAS: No, I'm just trying to
6 reconcile because I know you had an
7 elaborate --

8 DEREK BRADY: We're not trying to
9 pull the wool over your eyes here.

10 ROBERT HAAS: Okay.

11 DEREK BRADY: What we're showing you
12 is he knows more about the restaurant than I
13 do.

14 ROBERT HAAS: Right.

15 DEREK BRADY: I'm by no means a
16 sushi expert.

17 ROBERT HAAS: Right.

18 DEREK BRADY: But I do know more
19 than he does as far as the bar and liquor
20 industry goes. I would like to be the
21 manager on record of this establishment. I

1 do a great job at the place that I have now.
2 It's time for me to move on to my new
3 venture. And by all means, I'm meant to be
4 there as much as I would if I was the manager
5 of record anyway regardless if you had me as
6 the manager on record.

7 MICHAEL GARDNER: So, one of the
8 items that Ms. Lint flagged to us at the last
9 hearing was the matter of background checks.
10 I've never done this before in a public
11 hearing, so I'm actually not sure how to
12 proceed, but there are some -- at least by my
13 reading, quite recent and troubling events in
14 the record which at least give me some pause.
15 And I'm not sure how we've dealt with that
16 before, and to the extent which we feel
17 comfortable and freely talking about it here.

18 ATTORNEY SEAN HOPE: First, we do
19 appreciate the discretion with the background
20 checks. But part of -- after the last
21 hearing and some conversation internally

1 w i t h i n t h e g r o u p , w e h a d d e c i d e d t o s e l e c t
2 D e r e k a s t h e m a n a g e r o f t h e a l c o h o l l i c e n s e .
3 P a r t o f t h e r e a s o n w a s t h e r e a s o n w e s t a t e d ,
4 b u t s p e c i f i c a l l y w i t h M r . A h n , a l t h o u g h i t
5 w a s g r e a t e r t h a n f i v e y e a r s a g o , t h e r e w a s a n
6 i n c i d e n t i n v o l v i n g a l c o h o l , a n d w e t h o u g h t i t
7 b e p r u d e n t , b e c a u s e o f h i s s k i l l s e t a n d
8 b e c a u s e a l s o o f h i s r e c o r d , t o a c t u a l l y h a v e
9 h i m f o c u s o n w h e r e h i s e x p e r t i s e i s .

10 D e r e k , a s w e s a i d b e f o r e h a s , y o u k n o w ,
11 o v e r 20 y e a r s ' e x p e r i e n c e . A n d a l t h o u g h i n
12 o u r d i s c u s s i o n s h e d o e s h a v e a r e c e n t r e c o r d ,
13 I d o t h i n k h i s l e t t e r o f e x p l a n a t i o n , w h i c h
14 w e s u b m i t t e d t o t h e C o m m i s s i o n a s w e l l a s --
15 a n d I t h i n k D e r e k f e e l s f r e e t o t a l k a b o u t
16 t h a t .

17 D E R E K B R A D Y : A n y q u e s t i o n s y o u
18 m i g h t h a v e a b o u t t h e i n c i d e n t , I ' m m o r e t h a n
19 w i l l i n g --

20 M I C H A E L G A R D N E R : W h e n I r e a d t h e
21 r e c o r d , I s a w t h e n e x t p r o c e e d i n g l i s t e d a s

1 June 20th. So that seems to me like it's not
2 resolved yet.

3 Do you have that material, Ms. Watson?
4 This is the information that we'll see
5 through the criminal disciplinary systems
6 board.

7 ELLEN WATSON: Yes.

8 ATTORNEY SEAN HOPE: And so Derek
9 can probably fill in more of the details, but
10 I think it's worth it to explain the
11 situation.

12 DEREK BRADY: It's tough to recant
13 this, but I had incident where I was crossing
14 the street with my wife. I got struck by a
15 car. An altercation occurred after I got
16 struck by the car. There was an arrest, we
17 were both arrested for the incident.

18 ROBERT HAAS: Both you and the
19 driver?

20 DEREK BRADY: Yeah. And we both
21 came to terms with prosecution that we would

1 take an anger management class and revisi t
2 it. If we completed the anger management
3 class, then the case would be di smi ssed.
4 I've completed the anger management class. I
5 guess I'm j ust wai ting, June 20th. I had no
6 idea that I had to go back in, but the
7 attorney said I have to go back in June 20th
8 and present my certi fi cate of compl eti on of
9 anger management class.

10 ATTORNEY SEAN HOPE: And I have a
11 letter from the attorney representing
12 Mr. Brady saying that there -- and I'll
13 submit this into the record, but I'll just
14 read this part. "This matter is scheduled
15 for a hearing Monday, June 20th at which time
16 it is arranged that the case-in-chief and
17 countercl ai m will be di smi ssed per agreement
18 of the parti es, provided that Mr. Brady
19 del i ver a certi fi cate for compl eti on on
20 agreed upon program and payment of \$40 in
21 resti tuti on." And so they have the enclosed

1 agreement as Mr. Brady has said.

2 So I had contacted her subsequent to
3 our discussion to just verify the situation.
4 There was no reason to not believe Mr. Brady,
5 but wanted the Commission to have as much
6 information as possible. As Mr. Brady said,
7 this is an unfortunate incident, but I think
8 it reflects on the fact that he has followed
9 through. If you look at his record, there is
10 no other infractions on his record. And I
11 know that this is something that Mr. Brady
12 wants to go away. And, you know, he was
13 struck --

14 DEREK BRADY: It's an unfortunate
15 thing. I don't say that I was right in this
16 situation. I know that I should have acted
17 in a different manner, but when you're struck
18 by a car, sometimes you tend to lose your
19 composure. And I was with my wife at the
20 time. And I don't agree that it was the
21 right thing, but I do -- I would like to let

1 you know that this whole matter will be
2 resolved as of next week.

3 MICHAEL GARDNER: Was the anger
4 management class any good?

5 DEREK BRADY: No. It was, it was a
6 silly class. But it was, but I don't know as
7 if it solves anything in this matter, but it
8 was something that following through with it
9 I guess is a good thing.

10 MICHAEL GARDNER: All right. Well,
11 I appreciate your candor.

12 DEREK BRADY: I honestly didn't know
13 it was going to appear on any of this. I
14 thought it was dismissed when I went in the
15 first time for this.

16 MICHAEL GARDNER: I guess I would
17 ask the question generally or to Ms. Watson
18 or the other Commissioners and to counsel,
19 given that we have to deal with the pledge
20 matter subsequently anyway, is there a reason
21 we need to act on the manager piece of this

1 this evening or can we defer it all to the
2 28th? I'm just trying to understand what
3 your needs are and what makes sense for us.

4 ATTORNEY SEAN HOPE: I appreciate
5 that. So, we would like to act on the
6 manager this evening. Part of the situation,
7 because of the location and the fact that we
8 want, we want to present to the landlord, to
9 be honest, that the application is complete
10 and at least has moved on to the next piece.
11 The pledge, which the reason why the pledge
12 hasn't been submitted, there's some ongoing
13 negotiations. We do have an initial
14 agreement, but we cannot proceed until we
15 actually know that we at least have knowledge
16 of local approval. We are trying to stage
17 this, you know, that they actually end up in
18 a good situation and not like the previous
19 tenant. So the longer this piece, and it's
20 unfortunate, we had to achieve a manager but
21 that's why we didn't wait to see until it was

1 up at the ABCC. We'd rather put the best
2 package together here and then proceed. So,
3 if we did have the change of manager voted
4 on, then that would give us and the landlord
5 some confidence that then the pledge can be
6 negotiated, submitted and then be part.

7 Because from my understanding the pledge also
8 can be a separate piece from the application.

9 We have an application improved, and then you

10 can subsequently then go if the negotiations

11 are that we need to do a pledge instead of

12 just an outright rental that we can actually

13 apply for that pledge. So I would like, if

14 we could, the management application voted on

15 which would allow this to proceed up the next

16 level at the ABCC, and then if we need to

17 submit a pledge, we would have to then come

18 back before the Commission I believe.

19 MICHAEL GARDNER: With respect to

20 the pledge, does this Commission have or has

21 it had issues in the past with a pledge to

1 the landlord?

2 ELLEN WATSON: It depends on the
3 wording. I spoke with Elizabeth late this
4 afternoon. It depends on the wording of the
5 pledge. So that's why we would need to see
6 it and review it.

7 MICHAEL GARDNER: And are you, sir,
8 aware of the wording requirements that the
9 Cambridge License Commission has?

10 ATTORNEY SEAN HOPE: Yes, we are.
11 And we actually have a draft pledge. It's
12 just the dollar amount that is in flux, but
13 we have a draft pledge and we just need to
14 figure out if we need to do a pledge or if
15 we're going to do a direct tenancy. Part of
16 this was there was an agreement to see if we
17 had local approval. And then, you know,
18 that's the first step in this process. So
19 because of the change of manager and the
20 subject to the background checks, we didn't
21 have at least that initial approval. So if

1 we could get that tonight, that would help us
2 move along.

3 MICHAEL GARDNER: So I will wonder
4 out loud to the other Commissioners and to
5 you, sir, the facility or utility of our
6 making a decision to approve the change in
7 manager contingent upon the dismissal of the
8 case on June the 20th.

9 DEREK BRADY: Yes, that would work
10 great.

11 MICHAEL GARDNER: Would that give
12 pause to either of you? Or Ms. Watson?

13 ROBERT HAAS: I have a reservation
14 about having an open court matter that hasn't
15 been resolved yet. I mean, if that's going
16 to be a signal to the landlord that it's our
17 intent to go ahead and approve the change of
18 management providing that the charges get
19 dismissed, which I'm guessing that's what
20 you're hoping for on June 20th, right?

21 DEREK BRADY: Yes.

1 ATTORNEY SEAN HOPE: And just to the
2 Commi ssi oner, the one condi ti on on di smi ssal
3 and said in the agreement has been met. So
4 we' re not anti ci pa ti ng any other --

5 DEREK BRADY: There' s no reason why
6 that it shoul dn' t be di smi ssed. I thought it
7 al ready was.

8 ROBERT HAAS: On the remote chance
9 that it doesn' t.

10 ELLEN WATSON: May I ask a questi on?
11 Sean, what di d you submi t, a l e t t e r o f i n t e n t
12 from the l a n d l o r d?

13 ATTORNEY SEAN HOPE: Yes.

14 ELLEN WATSON: Wi l l t h e y t a k e t h a t
15 at ABCC?

16 ATTORNEY SEAN HOPE: Yes.

17 ELLEN WATSON: I n s t e a d o f a l e a s e?

18 ATTORNEY SEAN HOPE: Yes.

19 ELLEN WATSON: I j u s t w a n t t o m a k e
20 sure.

21 MI CHAEL GARDNER: We l l , t h e

1 alternative is to wait until the 28th.

2 ROBERT HAAS: Yes, I know.

3 MICHAEL GARDNER: While the
4 Commission ponders, is there either anything
5 more you'd like to say before I give a chance
6 for the public to comment?

7 ATTORNEY SEAN HOPE: Well, in part,
8 and the reason that we had selected Derek
9 when we, I guess, we could find other -- this
10 is a restaurant group, there are other people
11 who don't have an infraction on there. But
12 this is less about just finding a body who
13 has a clean record to hold a license. Derek
14 is --

15 DEREK BRADY: I'm going to be the
16 one that's there.

17 ATTORNEY SEAN HOPE: He's the
18 appropriate person that's going to be -- he's
19 going to be there day-to-day managing this
20 license. And I do think this infraction, if
21 you look at the details, could have happened

1 to other persons. It wasn't related to
2 alcohol. It wasn't related to him managing
3 any restaurant. It didn't happen while he
4 was in his employ. I really would like the
5 Commission to hopefully view this as --

6 ROBERT HAAS: I'm just wondering why
7 you just didn't stick with your plan and then
8 come back and then as for a transfer of
9 manager after --

10 MICHAEL GARDNER: Well, there was a
11 reason for that.

12 ROBERT HAAS: Oh, okay.

13 ATTORNEY SEAN HOPE: Yes.

14 MICHAEL GARDNER: Which --

15 DEREK BRADY: Just to just clarify a
16 little bit more.

17 ROBERT HAAS: Yes.

18 DEREK BRADY: It did come up where
19 we had said, because there are two other
20 partners involved in this group that have no
21 incident and nothing that comes up on any

1 reports, and what I had stated to them was,
2 we would rather have me there because I'm
3 gonna be there. I'm the one that's going to
4 be looking after the place. So we did this
5 with good intent. We're not trying to --

6 ROBERT HAAS: No, no, I understand
7 that. It's just that you've got this
8 wrinkle, and I'm just trying to figure out
9 why you did this --

10 DEREK BRADY: It's timing for any of
11 this --

12 ATTORNEY SEAN HOPE: Right. And I
13 mean, we really didn't want to have in
14 discussions to have a straw man holding the
15 manager --

16 ROBERT HAAS: I get that.

17 ATTORNEY SEAN HOPE: And the wrinkle
18 is there, but I think 20 years does speaks
19 volumes to what he's actually going to be
20 doing at the restaurant.

21 DEREK BRADY: This isn't an incident

1 that has anything to do with my experience or
2 my expertise in the business.

3 ROBERT HAAS: Well, you know, I just
4 want to make sure. I mean, the judge, and
5 again, I can appreciate the fact that this
6 could have been a one-time incident, but, you
7 know, the last thing I want to see is you
8 have a problem with your anger with a client,
9 you know.

10 DEREK BRADY: I understand where
11 you're coming from.

12 ATTORNEY SEAN HOPE: And I would
13 think that the conditional approval would
14 actually take care of that. If there was
15 something that did happen on the 20th, that
16 and, you know, the ABCC process is not more
17 rigorous, but it's lengthy so that if there
18 was an incident or something that happened in
19 that process, you know, this would --

20 DEREK BRADY: This is another thing
21 that would come up with the ABCC as well.

1 ATTORNEY SEAN HOPE: So this is not
2 -- this is only the first step of many under
3 scrutiny as well.

4 ROBERT HAAS: Mr. Chairman, I'll
5 make a motion for transfer of management
6 contingent upon the dismissal of the case on
7 June 20th.

8 LESTER BOKUNIEWICZ: I second it.

9 MICHAEL GARDNER: So the motion has
10 been made and seconded to approve the change
11 in manager contingent upon dismissal of the
12 currently outstanding charge on June the
13 20th.

14 ROBERT HAAS: You're not going to
15 get a quaff for anything?

16 DEREK BRADY: No, it's a dismissal.
17 100 percent dismissal.

18 MICHAEL GARDNER: Before the
19 Commission takes a vote on this pending
20 motion, are there any members of the public
21 who would like to be heard on this matter?

1 (No Response.)

2 MICHAEL GARDNER: Seeing none, I
3 guess what I would suggest is if we vote
4 this, it should be your obligation to, as
5 soon as possible afterwards, get the
6 information either from the court officers
7 preferably or your counsel to the License
8 Commission that in fact the matter has been
9 dismissed.

10 DEREK BRADY: Absolutely.

11 MICHAEL GARDNER: You ought to be able
12 to do that.

13 DEREK BRADY: Yes.

14 ROBERT HAAS: And you're aware
15 you're subject to 21-Proof training?

16 DEREK BRADY: Yes.

17 MICHAEL GARDNER: Motion having been
18 made and seconded to approve the transfer of
19 manager contingent upon the dismissal of the
20 pending charges on June the 20th, all those
21 in favor signify by saying "Aye".

1 LESTER BOKUNI EWICZ: Aye.

2 ROBERT HAAS: Aye.

3 MICHAEL GARDNER: Aye. None
4 opposed. Motion carries. Good luck. Tough
5 spot as I understand it. We wish you well
6 with your concept.

7 And you'll be dealing with the pledge
8 matter separately?

9 ATTORNEY SEAN HOPE: Yes.

10 DEREK BRADY: Thank you.

11 PETER AHN: Thank you.

12 * * * * *

13 APPLICATION: IDENIX PHARMACEUTICALS

14 APPLICATION: WAGAMAMA BOSTON ONE, LLC

15 ELLEN WATSON: The next two items,
16 Idenix and Wagamama were continued.

17 * * * * *

18 APPLICATION: LEAMIL CORPORATION.

19 ELLEN WATSON: The next item is an
20 application Leami I Corporation d/b/a First
21 Printer, Jessica Leahy, manager, holder of an

1 all alcoholic beverages as a restaurant
2 license not yet issued at 13 to 15 Dunster
3 Street has applied for an alteration of
4 premises of the bar and rearrange the seating
5 area.

6 MICHAEL GARDNER: Good evening.
7 State your names and spell them for the
8 record and the stenographer, we'd appreciate
9 that.

10 ANDREW UPTON: Good morning -- good
11 afternoon, Mr. Chairman. Andrew Upton
12 U-p-t-o-n representing Leami Corporation.
13 With me is Jeffrey Stanett.

14 JEFFREY STANETT: Jeffrey Stanett
15 S-t-a-n-e-t-t.

16 ANDREW UPTON: President and sole
17 director.

18 MICHAEL GARDNER: Good evening. So,
19 if you could tell us briefly tell us about
20 your plans.

21 ANDREW UPTON: Okay. As you may

1 know, this restaurant successfully applied
2 for a transfer of license over a year ago and
3 has been in construction ever since. Because
4 of a structural issue, we're now coming to
5 alter the premises. Because the ABCC has
6 recently taken a stricter analysis of
7 alterations to premises, we found an
8 incomplete application. If this had been,
9 say, two years ago according to Commission
10 rules 14 and 46, we would have submitted a
11 letter to let you know that there would be a
12 change in the internal structure, but no
13 change in the floor envelope or the
14 occupancy. Because the ABCC has now
15 determined that the movement of the point of
16 service, meaning the bar, for some reason
17 requires that a full change of premises
18 application be filed. We have gone ahead and
19 filed it. And what we are doing is floor
20 plan No. 1 is --

21 MICHAEL GARDNER: We are getting it.

1 ELLEN WATSON: Is that exhibit A?

2 ANDREW UPTON: On mine it's No. 4 in
3 the table of contents.

4 So the reason we're moving the bar from
5 one side to the other, as you'll see in the
6 plan, is because there are two structural
7 beams that originally we thought we would be
8 able to move. But because the engineers
9 determined that they were not movable, we had
10 to move the bar to the other side of the
11 room, otherwise the bar in the original
12 position would have left the beams out in
13 front of it blocking people from walking back
14 and forth, and being aesthetically
15 unappealing as well as a potential hazard.
16 So, the new floor plan has been incorporated
17 into the bar where they don't cause as much
18 problems. That's the tiny h at the front
19 middle of the bar. And then there's the tiny
20 little box behind the bar. Does that make
21 sense? I'm on floor plan No. 1.

1 MICHAEL GARDNER: Yes, sorry. What
2 we got I think basically unlabelled. So I'm
3 going to show -- or if it is, I don't see the
4 labels. So I've got this, this, and this.

5 ELLEN WATSON: Oh, wait a minute.
6 Here we go, two more in the front. Here you
7 go. These are the two that you're looking
8 for. I'll take those back. I think those
9 are the old ones.

10 ANDREW UPTON: It should say floor
11 plan No. 1 on the top.

12 MICHAEL GARDNER: Okay.

13 ANDREW UPTON: And if you look down,
14 right about where it says bar height, where
15 it says height, you can see an I-beam. And
16 right behind that you can see a tiny little
17 square which is a smaller beam. So in order
18 to incorporate those into the structure and
19 not have them out when the public is walking
20 by and creating problems, we move the bar to
21 where it is now.

1 MI CHAEL GARDNER: To the other side
2 of the room closer to the kitchen?

3 ANDREW UPTON: Actually further from
4 the kitchen.

5 MI CHAEL GARDNER: Oh, all right.

6 ANDREW UPTON: If you look at No. 2,
7 the bar backs up against the kitchen.

8 MI CHAEL GARDNER: Right.

9 ANDREW UPTON: So we sort of flipped
10 it around to the other side.

11 MI CHAEL GARDNER: Okay.

12 ANDREW UPTON: That is why we're
13 doing it. There's no change in manager,
14 menu, building envelope, hours of operation,
15 occupancy numbers.

16 MI CHAEL GARDNER: So floor plan 1
17 was the original and you're changing it to 2
18 or do I have it the opposite?

19 JEFFREY STANETT: Reverse.

20 ANDREW UPTON: Floor plan 1 is the
21 current, and floor plan 2 was the previous.

1 MICHAEL GARDNER: Okay. So 2 when
2 it was over -- I'm sorry, 2 was when it was
3 close to the kitchen, and now you're moving
4 it away from the kitchen?

5 ANDREW UPTON: Yes.

6 MICHAEL GARDNER: Are there any
7 implications for handicap access to this
8 change?

9 ANDREW UPTON: There are not. It
10 will remain code compliant.

11 ROBERT HAAS: So is that a window or
12 doorway that's behind the bar?

13 ANDREW UPTON: With the circle here?

14 JEFFREY STANETT: Let me explain it
15 to the Chief -- the Commissioner. You see
16 the vestibule, the entrance?

17 ROBERT HAAS: Yes.

18 JEFFREY STANETT: Okay. As you walk
19 into the entrance, there was a window in the
20 entrance which looks into the bar. To the
21 right there is a window which looks into the

1 bar because the vestibule in the original
2 plan was modified and we have -- you can look
3 to the right and look across the bar and you
4 can look directly into the vestibule and look
5 across the bar. The original design of the
6 vestibule was the ice cream store was larger.
7 We made the vestibule smaller in order to
8 accommodate the full seating package. The
9 vestibule is originally deeper when the ice
10 cream store was connected to it.

11 ROBERT HAAS: All right. So I'm
12 just looking at the Deputy Fire Chief to make
13 sure there's no egress issues that he can
14 see.

15 LESTER BOKUNIEWICZ: Did that change
16 at all, the handicap --

17 JEFFREY STANETT: No. Michael
18 Grover was informed of this decision before I
19 made it. Michael Grover reviewed it. And
20 Michael Grover, when I said to him how do we
21 proceed forward? He said, it doesn't make a

1 di fference. That' s Mi chael Grover' s
2 deci si on. Mi chael Grover' s been on thi s
3 project wi th me si nce i t was concei ved of,
4 and he i s total ly i n tune wi th thi s. He
5 understands thi s and i t makes no di fference
6 to hi m. I t' s actual ly a better plan.

7 MI CHAEL GARDNER: There' s been an
8 i nspecti on.

9 LESTER BOKUNI EWICZ: He' s very
10 competent.

11 MI CHAEL GARDNER: Okay.

12 LESTER BOKUNI EWICZ: I f that i s
13 hi s --

14 MI CHAEL GARDNER: And do you see,
15 Deputy, any access or egress fi re safety
16 i ssues here?

17 LESTER BOKUNI EWICZ: No, not from
18 j ust thi s change.

19 MI CHAEL GARDNER: Anythi ng el se you
20 thi nk you' d l i ke to tel l us?

21 ANDREW UPTON: I can tel l you that I

1 mailed approximately 48 abutter
2 notifications, and I got one phone call from
3 the proprietor of the Andover Shop saying he
4 was excited about the concept and in favor of
5 us.

6 MICHAEL GARDNER: Okay.

7 Any other questions from the
8 Commissioners?

9 ROBERT HAAS: So if this gets
10 approved, what would be your anticipated
11 opening time?

12 JEFFREY STANETT: Probably we're
13 going to have a CO within two to four weeks,
14 depending on some small issues that have come
15 up. And after that it's a matter of
16 training. The opening will occur after the
17 culinary team has trained everybody to the --
18 where we can do a super job. So the opening
19 is at worst case scenario eight weeks away.
20 Probably six weeks away.

21 ROBERT HAAS: No further questions.

1 MICHAEL GARDNER: Are there any
2 members of the public who would like to be
3 heard on this matter?

4 (No Response.)

5 MICHAEL GARDNER: A motion would be
6 in order.

7 ROBERT HAAS: I make a motion to
8 approve the proposed remodeling of the
9 establishment as presented to the Commission.

10 LESTER BOKUNI EWICZ: I second it.

11 MICHAEL GARDNER: The motion having
12 been made and seconded to approve the change
13 in the floor plan as presented to Commission
14 this evening, all those in favor signify by
15 saying "Aye".

16 ROBERT HAAS: Aye.

17 LESTER BOKUNI EWICZ: Aye.

18 MICHAEL GARDNER: Aye. None
19 opposed. We appreciate your diligence in
20 doing the work here.

21 ANDREW UPTON: Thank you.

1 JEFFREY STANETT: Thank you.

2 * * * * *

3 APPEAL: ADI L BOURI CH

4 ELLEN WATSON: The next is a hackney
5 appeal Adi l Bouri ch is appeal ing the deci si on
6 of El i zabeth Li nt, Execu ti ve Offi cer to not
7 renew hi s hackney li cense. Adi l ?

8 (No Response.)

9 ROBERT HAAS: Not here.

10 ELLEN WATSON: He was noti fi ed.

11 OFFI CER BENNY SZETO: I guess not.

12 MI CHAEL GARDNER: Is your typi cal
13 practi ce to gi ve the appel lant an addi ti onal
14 opportuni ty to come i n or expl ai n why he
15 di dn' t arri ve?

16 ELLEN WATSON: Or do you know?

17 MI CHAEL GARDNER: Or do we di smi ss?

18 OFFI CER BENNY SZETO: I woul dn' t
19 thi nk so.

20 ELLEN WATSON: I woul dn' t say
21 di smi ss because he di dn' t cal l our offi ce to

1 Let us know and he was notified. He was the
2 one who appealed and he was notified.

3 OFFICER BENNY SZETO: Nothing got
4 returned by mail?

5 ELLEN WATSON: No.

6 ROBERT HAAS: You notified him in
7 writing?

8 ELLEN WATSON: We did. It was
9 mailed on April 29th.

10 MICHAEL GARDNER: April 29th?

11 ELLEN WATSON: Yes.

12 ROBERT HAAS: So do we want to
13 listen to the facts of the case?

14 MICHAEL GARDNER: Okay.

15 ELLEN WATSON: And it went to the
16 last address that he gave us in March.

17 MICHAEL GARDNER: So, Officer, could
18 you just identify yourself for the record,
19 spell your name, and then give us a brief
20 summary of the matter.

21 OFFICER BENNY SZETO: Benny Szeto,

1 B-e-n-n-y S-z-e-t-o. I'm the Cambridge
2 hackney officer. Adi I?

3 Yes, Adi I was denied renewal based on
4 his driving history. Under the background
5 check he had 15 motor vehicle violations
6 within the past seven years, and under our
7 rules and regs we don't -- I believe it's
8 four or more to the past seven years, that's
9 the reason he was denied.

10 ROBERT HAAS: So he held a license
11 up until this renewal period?

12 OFFICER BENNY SZETO: Yes, he had.

13 ROBERT HAAS: Were the bulk of the
14 violations in the last year? Because he
15 didn't have a pre-existing record, right?

16 OFFICER BENNY SZETO: So, the year
17 before I denied it again because of the same
18 reasons. And we gave him a year, you know,
19 don't get any more violations. And again, he
20 just -- he had one in February of 2011 for
21 speeding.

1 ROBERT HAAS: Is that the only
2 violation in the last year?

3 OFFICER BENNY SZETO: 2010 there was
4 failure to stop. And 2008 there was three.
5 2005 there was one, two, three, four, five,
6 six, seven, eight, nine, ten. Yeah, most of
7 them were 2005.

8 MICHAEL GARDNER: And is this,
9 Ms. Watson, denial consistent with the
10 standards of the Commission?

11 ELLEN WATSON: It is.

12 OFFICER BENNY SZETO: And I'd also
13 like to add he was driving with an expired
14 license this past March of this year.

15 MICHAEL GARDNER: Expired because it
16 wasn't renewable?

17 OFFICER BENNY SZETO: No, because he
18 didn't renew it.

19 MICHAEL GARDNER: Because he didn't
20 renew it?

21 OFFICER BENNY SZETO: Yes.

1 ROBERT HAAS: Hi s regul ar dri ver' s
2 Li cense?

3 OFFICER BENNY SZETO: No, hi s
4 hackney Li cense. He was operati ng a cab wi th
5 an expi red hackney Li cense, yes.

6 MI CHAEL GARDNER: I guess woul d the
7 appropri ate thi ng be a moti on to uphol d or
8 approve the acti on of Ms. Li nt?

9 ROBERT HAAS: I make a moti on to
10 uphol d the deci si on of Ms. Li nt.

11 LESTER BOKUNI EWICZ: I' ll second i t.

12 MI CHAEL GARDNER: Any members of the
13 publ ic who woul d l i ke to be heard on thi s
14 matter before we take a vote?

15 (No Response.)

16 MI CHAEL GARDNER: Seei ng none. A
17 moti on havi ng been made and seconded to
18 approve the acti on of Ms. Li nt i n denyi ng the
19 renewal of the Li cense, all those i n favor
20 si gni fy by sayi ng "Aye".

21 LESTER BOKUNI EWICZ: Aye.

1 ROBERT HAAS: Aye.

2 MI CHAEL GARDNER: Aye. None opposed
3 so the motion carries.

4 Thank you very much.

5 * * * * *

6 APPEAL: RICARDO BOUSALAH

7 ELLEN WATSON: The next matter is an
8 appeal of Ricardo Bousalah is appealing the
9 decision of Elizabeth Lint, Executive
10 Officer, to not renew his hackney license.

11 MI CHAEL GARDNER: Good evening. If
12 you could please just state your name and
13 spell it for the stenographer.

14 RICARDO BOUSALAH: Ricardo Bousalah
15 B-o-u-s-a-l-a-h.

16 MI CHAEL GARDNER: Please be seated.

17 RICARDO BOUSALAH: Thank you.

18 MI CHAEL GARDNER: So, Officer, would
19 you summarize the matter for us?

20 OFFICER BENNY SZETO: Yes. Ricardo
21 Bousalah was denied his hackney license

1 renewal because during his background check
2 there was an OUI in 2009. And under our
3 rules and regs that is a liquor offense
4 within the past seven years and that's the
5 reason why it was denied.

6 ROBERT HAAS: Is it a guilty
7 finding?

8
9 RICARDO BOUSALAH: Continued without
10 a finding.

11 OFFICER BENNY SZETO: You want the
12 paper?

13 ROBERT HAAS: Yes.

14 Is that your first offense?

15 RICARDO BOUSALAH: Yes, sir.

16 ROBERT HAAS: Were you driving your
17 own personal vehicle?

18 RICARDO BOUSALAH: Yes, sir.

19 Actually, I was in the parking lot.

20 ROBERT HAAS: You weren't driving a
21 taxi cab?

1 RI CARDO BOUSALAH: No.

2 MI CHAEL GARDNER: Would you tell us
3 what happened, please?

4 RI CARDO BOUSALAH: In the incident?

5 MI CHAEL GARDNER: You had an
6 accident?

7 RI CARDO BOUSALAH: No, no. I was in
8 a parking lot.

9 MI CHAEL GARDNER: Yes.

10 RI CARDO BOUSALAH: Going to my car.
11 The cops were there and somebody told them I
12 was drinking. And I said yes, I had two
13 drink. I was outside my car and they said
14 you have to take a breathalyzer. And I said
15 why don't you take it. And they arrest me,
16 and took me to court the next day and, you
17 know, the lawyer say we have to deal with
18 this. You have to do what you can do. We
19 can do a deal, continued without a finding.
20 And then I went to classes in Mount Auburn.
21 I paid like \$800, and they put me on

1 probation for a year and I've been driving
2 and I have no problem at all.

3 MICHAEL GARDNER: So, you were
4 arrested outside your vehicle before you got
5 in the vehicle --

6 RICARDO BOUSALAH: Yes, sir.

7 MICHAEL GARDNER: -- to operate it?

8 RICARDO BOUSALAH: Yes, sir.

9 MICHAEL GARDNER: You were walking
10 to your vehicle from --

11 RICARDO BOUSALAH: From the store.

12 ROBERT HAAS: I think he indicated
13 that he placed the key in the ignition. You
14 put the car -- the key in the ignition?

15 RICARDO BOUSALAH: I put the key in
16 the door. As soon as I put the key in the
17 door.

18 ROBERT HAAS: You didn't get a copy
19 of the report?

20 OFFICER BENNY SZETO: No.

21 RICARDO BOUSALAH: I open the door

1 and put the key in.

2 OFFICER BENNY SZETO: I don't have a
3 copy with me.

4 MICHAEL GARDNER: Is that something
5 we can obtain?

6 ROBERT HAAS: Yes. Is it Wal tham?

7 OFFICER BENNY SZETO: I think.

8 ROBERT HAAS: Wal tham.

9 MICHAEL GARDNER: Any additional
10 questi ons?

11 ROBERT HAAS: No additional
12 questi ons.

13 LESTER BOKUNI EWICZ: No questi ons.

14 MICHAEL GARDNER: Anythi ng el se
15 you'd like to say, si r?

16 RICARDO BOUSALAH: I have hackney
17 for 18 years. If I can't keep it in
18 Cambri dge.

19 MICHAEL GARDNER: So you've had a
20 hackney li cense in Cambri dge for 18 years?

21 RICARDO BOUSALAH: Yes, si r.

1 MI CHAEL GARDNER: Do we have a
2 dri vi ng hi story or record?

3 ELLEN WATSON: It says first license
4 5/25/2004.

5 RI CARDO BOUSALAH: I have that two
6 years. I have it because I work in the
7 offi ce of Checker Cab and I came back and I
8 have my hackney.

9 ELLEN WATSON: We can check for a
10 previ ous vi o.

11 RI CARDO BOUSALAH: I had it since
12 1992.

13 ELLEN WATSON: We usual ly have
14 reassi gn the same number. Assi gn the same
15 number.

16 MI CHAEL GARDNER: Any pri or
17 al coh ol -rel ated i nci dents?

18 RI CARDO BOUSALAH: No, si r.

19 MI CHAEL GARDNER: Present hi story of
20 sobri ety?

21 RI CARDO BOUSALAH: I 'm sorry?

1 MI CHAEL GARDNER: Present hi story of
2 sobri ety?

3 RI CARDO BOUSALAH: No.

4 MI CHAEL GARDNER: That i s, are
5 you -- do you dri nk to excess now?

6 RI CARDO BOUSALAH: No, sir. I don' t
7 dri nk now. After I went to the cl ass, I
8 don' t.

9 MI CHAEL GARDNER: All ri ght. Have
10 you been sober, that i s not dri nk at all
11 si nce the cl ass?

12 RI CARDO BOUSALAH: Yes, si r, I
13 haven' t drank.

14 MI CHAEL GARDNER: And when was the
15 cl ass, do you remember?

16 RI CARDO BOUSALAH: Last year I
17 fi ni sh i n i t was 12 weeks program, I thi nk,
18 16 weeks program. I fi ni sh i n -- I' m sorry.
19 I thi nk I fi ni sh i n Apri l .

20 MI CHAEL GARDNER: Apri l of 2010?

21 RI CARDO BOUSALAH: Yes. Wi th my

1 probati on.

2 MICHAEL GARDNER: So, is this an
3 appropriate matter to defer until the 7th?

4 ROBERT HAAS: I make a motion to
5 continue the matter until our next hearing to
6 have an opportunity to review the Wal tham
7 Police Report.

8 MICHAEL GARDNER: Would this be to
9 our next decision hearing on the 7th or are
10 you suggesting June 28th?

11 ROBERT HAAS: Probably the decision
12 hearing.

13 MICHAEL GARDNER: To the decision
14 hearing on July the 7th.

15 ROBERT HAAS: What's the status of
16 your license now, do you have it?

17 RICARDO BOUSALAH: My hackney and
18 extend it for me to July 31st.

19 OFFICER BENNY SZETO: The hackney
20 license? Yes, I extended it until the
21 hearing.

1 ROBERT HAAS: All right. So he has
2 it until July 31st. That will give us enough
3 time to review the report and make a
4 determination.

5 LESTER BOKUNIEWICZ: I second.

6 MICHAEL GARDNER: So a motion has
7 been made and seconded to defer this matter
8 until July the 7th which will give us a
9 chance to review the police report and the
10 matter.

11 Are there any members of the public who
12 would like to be heard before we vote?

13 (No Response.)

14 MICHAEL GARDNER: Seeing none. All
15 those in favor of signify by saying "Aye".

16 ROBERT HAAS: Aye.

17 LESTER BOKUNIEWICZ: Aye.

18 MICHAEL GARDNER: Aye. None
19 opposed.

20 So the matter will be deferred until
21 July the 7th at ten a.m. We will hopefully

1 have the report. We'll make a decision at
2 that point.

3 RICARDO BOUSALAH: Thank you.

4 OFFICER BENNY SZETO: Thank you.

5 MICHAEL GARDNER: Thank you, sir.

6 * * * * *

7 APPLICATION: CAMBRIDGE TOWER CORPORATION

8 ELLEN WATSON: Application Cambridge
9 tower Corp., Margaret Mishara, President at
10 872 Massachusetts Ave. has applied for a
11 garage license for 42 (sic) parking spaces
12 and 440 gals of gasoline in the tanks of
13 autos only.

14 JOHN MOORE: John Moore. Owner's
15 rep and tenant at 872 Mass. Ave.

16 MICHAEL GARDNER: And could we ask
17 you to spell your name, sir?

18 JOHN MOORE: M-o-o-r-e. Two O's.

19 MICHAEL GARDNER: Thank you.

20 JOHN MOORE: I think it's 44 spaces.

21 Did you say 42? I thought you said 42.

1 MI CHAEL GARDNER: The agenda says
2 44.

3 ELLEN WATSON: Sorry.

4 MI CHAEL GARDNER: So could you just
5 tell us about the nature of the garage? Is
6 this new? There's not been a garage there
7 before? What was there? Just spend a few
8 minutes to give us a little history.

9 JOHN MOORE: This is a co-op of 88
10 units and two floors of commercial space that
11 was built in 1964 as a HUD project with a
12 garage that is -- it's on the lowest level,
13 but it's on street level on Green Street but
14 it's -- as we enter the building from Mass.
15 Ave., there's a big drop at Mass. Ave. to
16 Green Street. It's level on Green Street and
17 the garage, it's been in existence since
18 1964. The owners, it's a cooperative, as I
19 said. It was transferred from a HUD project
20 to a cooperative. I'm not sure of the year
21 of that, the seventies I think. No, it would

1 have been 25 years after it, because the HUD
2 mortgage runs 25 years. The cooperative is
3 managed by a family group that owns most of
4 the units in the cooperative. This is the
5 Mishara part, Margaret Mishara. Her father
6 ran the building forever. He died last year.
7 Margaret's taken over. She's been
8 overwhelmed with a lot of stuff. The
9 building's aging and she wasn't aware that
10 she needed a garage license. And this
11 actually came up because we had an oil spill
12 and the fire department came and checked it
13 out. Things like this got brought up.

14 MICHAEL GARDNER: So this is not a
15 new garage?

16 JOHN MOORE: No. 25 years.

17 MICHAEL GARDNER: It's been a garage
18 around for a long time storing gasoline in
19 vehicles but without a permit?

20 JOHN MOORE: Yes.

21 MICHAEL GARDNER: And now you're

1 trying to correct the record?

2 JOHN MOORE: Correct.

3 MICHAEL GARDNER: Any incidents,
4 problems, difficulties at this location if
5 you know, Deputy?

6 LESTER BOKUNIEWICZ: Not that I know
7 of.

8 MICHAEL GARDNER: Or Ms. Watson?

9 So I am not -- I'm a temporary chair,
10 so I've got a --

11 JOHN MOORE: Well, I'm temporary,
12 too.

13 MICHAEL GARDNER: What are the down
14 sides that things wrong about operating,
15 having a garage that's unlicensed? There are
16 the fees. Are there safety issues with
17 respect to inspections?

18 LESTER BOKUNIEWICZ: Well, I think
19 -- is it sprinklered?

20 JOHN MOORE: It is.

21 LESTER BOKUNIEWICZ: The garage is

1 sprinklered as well?

2 JOHN MOORE: Yeah.

3 LESTER BOKUNIEWICZ: Does it have
4 openings? I'm not familiar with it.

5 JOHN MOORE: It's an open air
6 garage. It's long and narrow. The two long
7 sides are open with large openings with no,
8 just open air. The two short sides, one of
9 them has the elevators and means of egress,
10 and the other one has two garage doors in and
11 out.

12 LESTER BOKUNIEWICZ: It's a dry
13 sprinkler system?

14 JOHN MOORE: Yeah, dry sprinkler
15 system.

16 LESTER BOKUNIEWICZ: And what does
17 -- the structure of the ceiling of the
18 garage?

19 JOHN MOORE: It's waffle slab. It's
20 all concrete frame. The whole building is
21 concrete.

1 ROBERT HAAS: So would the fire
2 department had inspected this garage prior to
3 this application or no?

4 LESTER BOKUNIEWICZ: No, we can
5 defer it and we can do that.

6 JOHN MOORE: We got a permit, but I
7 don't know if you guys came out and looked at
8 it or not. But we got a permit. We couldn't
9 come here to this hearing without getting a
10 fire department permit first.

11 LESTER BOKUNIEWICZ: For fuel
12 storage?

13 JOHN MOORE: For fuel storage,
14 correct, in the cars.

15 LESTER BOKUNIEWICZ: That doesn't
16 require inspection. But I can -- we can
17 arrange for an inspection if you want to
18 defer. It sounds to me like it's fully
19 sprinkled and it's open on the two sides.

20 ROBERT HAAS: What was the cause of
21 the oil spill, do you know?

1 JOHN MOORE: Overfill.

2 ROBERT HAAS: Overfill of what?

3 JOHN MOORE: In the oil tanks which
4 have been removed.

5 ROBERT HAAS: Of the building, the
6 furnace?

7 JOHN MOORE: The building. That's
8 outside of the garage actually.

9 ELLEN WATSON: So in addition to the
10 storage of the gasoline in the tanks --

11 JOHN MOORE: In the cars.

12 ELLEN WATSON: -- in the cars,
13 there's additional oil storage?

14 JOHN MOORE: There isn't anymore.
15 Those tanks have been removed.

16 ELLEN WATSON: Okay, so the tanks
17 have been removed. I was going to say that's
18 not on this application.

19 JOHN MOORE: Right. Those have been
20 removed.

21 ELLEN WATSON: Do the tenants pay

1 for parking there?

2 JOHN MOORE: The co-op -- certain of
3 the units have parking associated with
4 individual units so the owner of the unit
5 will own the space.

6 ELLEN WATSON: Okay. So it's
7 deeded?

8 JOHN MOORE: And a lot of them are
9 -- yeah. But a lot of them rent, rent their
10 spaces because there are some investor owners
11 that own multiple units, so they rent out
12 spaces to tenants in the building.

13 ROBERT HAAS: Would there be
14 anything to inspect in an open air garage?

15 LESTER BOKUNIEWICZ: Not an open air
16 garage, it's fully sprinkled. And the only
17 thing would be verification.

18 ROBERT HAAS: And would sprinkles
19 have to be serviced within a certain period
20 of time, the sprinkler system?

21 LESTER BOKUNIEWICZ: Annual service,

1 yes.

2 MICHAEL GARDNER: As far as you
3 know --

4 JOHN MOORE: It's the whole system.
5 It serves the whole building. There's a
6 regular account keeping that updated.

7 MICHAEL GARDNER: Does the fire
8 department do inspections of the internal
9 sprinkler system?

10 LESTER BOKUNIEWICZ: Not us, we
11 don't. That's done by another department.

12 JOHN MOORE: I'm not sure.

13 LESTER BOKUNIEWICZ: We would have
14 done it in '64.

15 JOHN MOORE: I know they're in there
16 maintaining it all the time the contractor.

17 MICHAEL GARDNER: Sure. I guess I'm
18 a little perplexed that we could have a
19 garage in existence since perhaps the middle
20 sixties and not know that it was unlicensed.

21 JOHN MOORE: I don't even know, was

1 there a license required when it was built?

2 ELLEN WATSON: I don't know. I was
3 three that year.

4 MICHAEL GARDNER: I was
5 substantially older than that, but I don't
6 remember.

7 I'm wondering whether or not to
8 simplify matters if the other Commissioners
9 were so inclined we approve the license and
10 just make note or encourage the fire
11 department to do a verification inspection at
12 some point. And if we find out there are
13 misrepresentations, then we can take action.

14 LESTER BOKUNIEWICZ: We can do that
15 during the week.

16 ROBERT HAAS: So, Mr. Chair, I make
17 a motion to approve the application
18 contingent upon passing the fire inspection.

19 LESTER BOKUNIEWICZ: I second the
20 motion.

21 MICHAEL GARDNER: Any members of the

1 public who would like to be heard on this
2 matter?

3 Please come forward and state your
4 names and spell them for the record.

5 DAPHNE NOYIS: Yes, thank you. My
6 name is Daphne D-a-p-h-n-e. Middle initial
7 B. Last name N-o-y-i-s. I'm an abutter. I
8 live at 489 Green Street.

9 EMINIE FETZACR: I also an abutter
10 in 489 Green Street. My name Emi nie
11 E-m-i -n-i -e. Last name Fetzacr
12 F-e-t-z-a-c-r.

13 DAPHNE NOYIS: I want to thank you
14 for the opportunity to speak this evening. I
15 was very -- I'm very appreciative having been
16 sent the abutters' notice. I have lived on
17 Green Street at the same address since 1995,
18 and in all those years the garage has been
19 nothing but a nuisance. I think if Ms. Boyer
20 were here and could measure the sound that
21 the doors make, the big overhead doors,

1 opening and closing, she would most likely
2 find a violation. To describe the garage as
3 open on both sides is completely inaccurate.
4 The side that faces our building, which is a
5 triple decker, has fiberglass panels and wire
6 mesh covering what were at one point the
7 openings.

8 EMINIE FETZACR: And the space
9 between our building and the garage is only
10 like a foot and a half. So there's -- I
11 think even just that makes it not open air on
12 one side.

13 DAPHNE NOYIS: Uh-huh.

14 JOHN MOORE: Their building abuts
15 about, what would you say, one quarter of
16 that side, one third of that side of the
17 garage?

18 DAPHNE NOYIS: No, it's actually
19 more. Because we actually have some land out
20 back.

21 JOHN MOORE: Right, but the

1 bui l di ng.

2 DAPHNE NOYIS: The house is 40 feet
3 long and the garden is another 20. So we
4 have about 60 feet.

5 JOHN MOORE: Right. But I mean the
6 part where you're saying that's blocked.

7 EMINIE FETZACR: That's 40 feet.

8 JOHN MOORE: So it's kind of like
9 this configuration and the garage and they
10 have the house. And the scale is wrong, but
11 that's the --

12 DAPHNE NOYIS: The scale is wrong.
13 I think it warrants an inspection. I mean,
14 he can draw pictures, I can draw verbal
15 pictures.

16 JOHN MOORE: We submitted floor
17 plans if you have them.

18 DAPHNE NOYIS: I don't know what the
19 regulations are regarding garages. If it's
20 simply a matter of safety and sprinklers and
21 oil spills or if there are other regulations

1 that pertain to them in terms of upkeep,
2 maintenance, graffiti, I'm kind of curious
3 about that.

4 LESTER BOKUNIEWICZ: Not that I am
5 aware of that.

6 MICHAEL GARDNER: I defer to
7 Ms. Watson on matters of the Commission's
8 interest beyond the general safety questions
9 with respect to the storage of flammables and
10 egress.

11 ELLEN WATSON: We have had garage
12 issues come up with pedestrians crossing in
13 front of -- on the sidewalk. So we've had
14 that public safety issue come up with
15 garages, which is obviously beyond the public
16 safety issue of flammable storage. I'm
17 trying to think if there are any other issues
18 with garages that we have had beyond
19 flammables. I don't think -- where One
20 Kendall Square was built, there was the issue
21 of all the cars going in that area with the

1 neighbors, but --

2 MICHAEL GARDNER: Traffic overload?

3 ELLEN WATSON: Yes, traffic overload
4 because it was 1500 spaces going in where
5 there had previously been none. But those
6 are the only two issues that I can think of
7 beyond the chemical issues with the fire
8 department.

9 MICHAEL GARDNER: Okay. And with
10 respect to what potentially could be called
11 intermittent noise of the garage doors
12 opening, is that something which is covered
13 by the Noise Ordinance for which noise
14 inspections in fact appropriate or not?

15 ELLEN WATSON: I would have to
16 check. Andrea would be the one. I don't
17 have the answer to that.

18 MICHAEL GARDNER: That's fair.

19 So completely separate from the issue
20 of whether or not this garage which has been
21 in existence since the sixties should get a

1 permit is whether or not there may be some
2 other ancillary concerns which might include
3 the Noise Ordinance.

4 DAPHNE NOYIS: Yes.

5 MICHAEL GARDNER: And if you do have
6 those concerns, you certainly -- we would
7 encourage you to speak to one of our
8 investigators. Andrea Boyer who was here
9 earlier this evening while I believe you were
10 here, is a person experienced in enforcing
11 the Noise Ordinance and doing testing and she
12 can talk to you about whether or not she
13 feels she has jurisdiction and you can decide
14 whether or not you wanted to pursue that
15 matter.

16 With respect to the mesh and
17 fiberglass, I guess I'm -- would ask anyone
18 I'm not sure if that is issue relates to
19 safety and air venting or its an aesthetics
20 matter.

21 LESTER BOKUNIEWICZ: It's in a

1 garage that has 25 percent opening, you're
2 really not required to sprinkle it. And this
3 one I'm assuming that that doesn't have 25
4 percent opening and it doesn't come into
5 play. You know, it's an existing building so
6 there's -- we're limited as to what we can
7 expect when we're going in to do an
8 inspection.

9 MICHAEL GARDNER: Your requirements
10 for existing building are more restrictive
11 than new construction in terms of what you
12 can require?

13 LESTER BOKUNIEWICZ: Actually, less
14 constrictive. It's whatever was in effect in
15 '64.

16 MICHAEL GARDNER: Right. You have
17 less power to change it?

18 LESTER BOKUNIEWICZ: That's correct.

19 MICHAEL GARDNER: So you understand
20 that issue?

21 DAPHNE NOYIS: Yes, I do.

1 Grandfathering, isn't it?

2 LESTER BOKUNIEWICZ: Yes. Unless
3 there's a safety issue.

4 DAPHNE NOYIS: Right, right.

5 LESTER BOKUNIEWICZ: And, you know,
6 on the inspection, we would check out the
7 entire garage area.

8 JOHN MOORE: I have a thought on the
9 garage, on the garage door opening, because
10 the doors are huge, very, very tall because
11 from Mass. Ave. to Green Street it slopes
12 down. So by the time you get down there, the
13 -- it's probably almost a three-story
14 opening. And the doors are three-story, and
15 they don't need -- I pull in and out of there
16 and I wonder why does that door -- it only
17 needs to open nine feet for me.

18 DAPHNE NOYIS: For the garbage truck
19 that comes every Tuesday and Thursday
20 mornings.

21 JOHN MOORE: But it wouldn't have to

1 for every car somehow. I don't know if we
2 could do something, some kind of, you know,
3 light or laser that you knew how big the car
4 was coming in so it would only do -- because
5 I definitely feel sympathy for them living
6 next-door. And it's a long run. It's slow
7 and it takes a long time to get up there and
8 it takes a long time to get back. So
9 certainly hoping to talk to the owner about
10 that.

11 MICHAEL GARDNER: And Ms. Boyer is
12 quite experienced and skilled with respect to
13 trying to find solutions as opposed to simply
14 doing a fine enforcement.

15 JOHN MOORE: Right.

16 DAPHNE NOYIS: Solutions are good.

17 MICHAEL GARDNER: Is there anyone
18 else who would like to speak on this matter?

19 (No Response.)

20 MICHAEL GARDNER: Are there any
21 other questions from the Commissioners?

1 ROBERT HAAS: No other questions.

2 LESTER BOKUNI EWICZ: No.

3 MICHAEL GARDNER: Anything else that
4 any of you would like to say?

5 DAPHNE NOYIS: I'm just curious, I
6 think as to what the next steps are.

7 MICHAEL GARDNER: Well, the next
8 step is I'm going to call for a vote on the
9 motion which was to approve the license
10 pending inspection by the fire department.
11 Assuming that passes and the fire department
12 inspects and it finds that there are not
13 safety issues, then a permit will be issued
14 and you are free to pursue any other concerns
15 you had which really aren't before us this
16 evening like the noise matter.

17 DAPHNE NOYIS: Yes.

18 MICHAEL GARDNER: Did I describe
19 that fairly?

20 ROBERT HAAS: Yes, you did.

21 LESTER BOKUNI EWICZ: Yes.

1 MICHAEL GARDNER: Motion having been
2 made and seconded, all those in favor of
3 granting the permits subject to an inspection
4 by the fire department for safety concerns
5 signify by saying "Aye".

6 LESTER BOKUNIEWICZ: Aye.

7 ROBERT HAAS: Aye.

8 MICHAEL GARDNER: Aye. None opposed
9 so the permit is granted subject to though
10 conditions.

11 Thank you for coming forward and
12 explaining this.

13 JOHN MOORE: Sure.

14 MICHAEL GARDNER: We're sorry that
15 you were as tardy as you were.

16 JOHN MOORE: We knew it wasn't the
17 most important item on the docket.

18 LESTER BOKUNIEWICZ: Excuse me, can
19 I get some contact information?

20 JOHN MOORE: Yes.

21 ELLEN WATSON: Can I have the cards?

1 MICHAEL GARDNER: Thank you for
2 coming in.

3 DAPHNE NOYIS: Thank you.

4 * * * * *

5 APPLICATION: GIRMA FELEKE

6 ELLEN WATSON: Appli cati on Gi rma
7 Fel eke d/b/a NEK Li mo Servi ce at 101
8 Washi ngton Street has appl ied for a l ivery
9 l i cense.

10 MICHAEL GARDNER: Good evening, si r.
11 Pl ease state your name and spell i t for the
12 record and the stenographer i f you woul d.

13 GIRMA FELEKE: My name i s Gi rma
14 Fel eke. F-e-l -e-k-e. And fi rst name i s
15 Gi rma G-i -r-m-a.

16 MICHAEL GARDNER: And woul d you tel l
17 us about your pl ans, pl ease.

18 GIRMA FELEKE: Thank you for gi vi ng
19 me thi s opportuni ty. I want to have the
20 transportati on servi ce for a company because
21 of two reasons:

1 I'm now employed as security officer at
2 airport security Enterprise, I'm working
3 there. I have three kids and my family's
4 here. And then recently that my rent house
5 was raised by 130 persons. I used to pay
6 \$560, now it's 1,121. Because of that I have
7 a problem of just raising my kids. I have
8 three kids. So, the only means I have is
9 with spare time. I have three days off.

10 The second reason that when I just
11 observe, I didn't survey that much, but
12 according to my observation, there is a
13 shortage of transportation for people where
14 -- place where residential areas when I see
15 that people are just demanding (inaudible).
16 And because of that if I just give that
17 service, I can just make a commission for
18 those who need that transportation. That's
19 the reason why I need a limo. And I'm a
20 professional in a professional job. But I
21 couldn't get a job because 2006 I'm here in

1 Ameri ca wi th my ki ds. So the only soluti on
2 that j ust to start wi th thi s and then promote
3 mysel f to another busi ness to work as a
4 busi ness. My professi on i s management
5 graduate wi th Master' s degree, but I' m j ust
6 worki ng so far unprofessi onal , but I' m j ust
7 doi ng my best. I' m j ust gi vi ng servi ce for
8 my company. And that' s i t.

9 MI CHAEL GARDNER: What experi ence,
10 if any, do you have i n operati ng a l i very
11 servi ce or anythi ng i n connecti on wi th
12 transportati on?

13 GI RMA FELEKE: At such I don' t have
14 commerci al transportati on, but I drive for
15 more than 20 years, my pri vate car, and then
16 whi le I was i n my country, I own my busi ness,
17 my own busi ness. I have a consul ti ng fi rm
18 whi le I' m j ust i n my country. So that we
19 have vans and smal l cars and we drive that i n
20 countrysi de. When you say you make servi ce
21 out of the ci ty, we used to drive wi th --

1 around four or five people together. So
2 that's the only experience I have. But my
3 driving history is good you can reference
4 here in America or in my country. So far I
5 don't have any problem with making accident
6 or anything else.

7 MICHAEL GARDNER: Could you just
8 explain to us what you understand the
9 differences to be between operating a livery
10 service or having a limo service and having a
11 hackney license or a taxi license, do you
12 understand the differences?

13 GIRMA FELEKE: Yes, I know the
14 difference.

15 MICHAEL GARDNER: Could you explain
16 what it is?

17 GIRMA FELEKE: Taxi is license in
18 Massachusetts, they only have to carry from
19 Massachusetts to anywhere. And then they can
20 just take people or service anywhere. But
21 meaning that -- sorry for my English. They

1 can just pick passengers from any place. On
2 the roadside or by curb or whatever. But
3 limo is only just restricted by on-call,
4 that's what I understand. I read something,
5 some brochures. Whenever you have -- I'm
6 going to advertise by website and my business
7 card, so I can just promote myself. I'm not
8 that much optimistic of being a rich man, but
9 I can just finance my family. That's the
10 main objective.

11 MICHAEL GARDNER: And what are the
12 operators licenses you need? You currently
13 have a Massachusetts license?

14 GIRMA FELEKE: Yes, I have.

15 MICHAEL GARDNER: Class D?

16 GIRMA FELEKE: Class D, yeah.

17 MICHAEL GARDNER: And what
18 additional licenses, is it only one granted
19 by us or is there a Registry license as well?

20 ELLEN WATSON: No, there's no
21 Registry license required.

1 MICHAEL GARDNER: And what is the
2 vehicle or vehicles that you'll be using?

3 GIRMA FELEKE: Yeah, that is what
4 also -- I just bought in 2010 the Highlander
5 truck, new, almost 8,000 mileage. It's
6 black. It's neat. So I can just give
7 service with my good condition car. It's
8 2010 model Land Cruiser -- I mean Highlander,
9 it's black. And then only I just drive 8,000
10 miles so far.

11 MICHAEL GARDNER: So you would be
12 using your Highlander Cruiser?

13 GIRMA FELEKE: Yes.

14 MICHAEL GARDNER: Which is currently
15 your personal vehicle, do I understand that
16 right?

17 GIRMA FELEKE: Right.

18 MICHAEL GARDNER: So you would need
19 a different registration and license for
20 that?

21 GIRMA FELEKE: Yeah, I would change

1 the registration.

2 ELLEN WATSON: And you also need --
3 if you rented it, it would also need an
4 inspection by the city.

5 MICHAEL GARDNER: And have you
6 explored your insurance obligations, what the
7 new insurance requirements would be?

8 GIRMA FELEKE: I order insurance,
9 but if the Commission require any different
10 insurance company, I would insure my car.
11 But I have now comprehensive insurance.

12 MICHAEL GARDNER: Well, I assume you
13 don't have insurance to cover commercial use
14 for the vehicle.

15 GIRMA FELEKE: Yeah, I don't have
16 now for commercial.

17 MICHAEL GARDNER: And I assume that
18 would be required?

19 ELLEN WATSON: Yes.

20 GIRMA FELEKE: If I get the
21 permission here, I can fulfill all the

1 requirements both changing registration,
2 changing the plate and the insurance. If I
3 get now go ahead, I can just proceed.

4 MICHAEL GARDNER: Ms. Watson, could
5 you give us a summary of what the Commission
6 has done with livery services over the past
7 decade or so and if you have any information
8 about the number that used to be in operation
9 and currently?

10 ELLEN WATSON: I do. In 1998 the
11 institute of -- the Commission instituted a
12 moratorium on livery licenses indicating that
13 there were enough at the time, and they were
14 going to perform a study. At that time we
15 had approximately nine licenses. I'm not
16 sure how many vehicles were under those
17 licenses. The moratorium to my understanding
18 and my research has not been lifted. We do
19 currently have three licensed liveries in the
20 city. We just lost Planet Transit this past
21 renewal period. They were -- they moved out

1 to Everett. So we just lost one. So we're
2 now down to three from nine.

3 MICHAEL GARDNER: And do you happen
4 to know how many vehicles operate under those
5 three licenses?

6 ELLEN WATSON: No, I didn't get a
7 chance to check on those. I didn't have
8 enough time. One question we do need to find
9 out is who -- we don't have a property owner
10 for this particular delivery service, and we
11 don't have a letter from the owner of the
12 property indicating that they have permission
13 to operate.

14 MICHAEL GARDNER: Are you a tenant
15 in your location, sir? You are a tenant,
16 right?

17 GIRMA FELEKE: I'm a tenant here in
18 Cambridge. I rent a house from the city.

19 ELLEN WATSON: From the Cambridge
20 Housing Authority?

21 GIRMA FELEKE: Cambridge.

1 ELLEN WATSON: We would require a
2 letter because in the past they have not
3 allowed it.

4 MICHAEL GARDNER: Right. Have you
5 talked to the housing authority about whether
6 or not they would allow to you do this
7 business out of your home?

8 GIRMA FELEKE: Yes, I just talk to
9 them. I am only allowed if my license is
10 private car to park in the parking lot. But
11 my intention is just to park in the Cambridge
12 and anywhere on the street. But if I just
13 request them to park on my parking lot, that
14 parking lot is only allowed for private cars
15 with the existing license. If it's
16 commercial, then not allowed from me.

17 MICHAEL GARDNER: So you don't have
18 permission to park off street to use for the
19 delivery service, you would have to use on
20 street parking?

21 GIRMA FELEKE: Yeah.

1 MICHAEL GARDNER: For the livery
2 vehicle.

3 GIRMA FELEKE: Yeah.

4 MICHAEL GARDNER: And that would be
5 all the time? I mean, I'm not sure how
6 you're going to define up whether or not this
7 is -- now's the time you're using the vehicle
8 for your own purpose or now the time it's
9 available for hire.

10 GIRMA FELEKE: Yeah, you know, one
11 thing that my intention is that if I make
12 good business or make money, I can just
13 arrange to with parking lot for every month,
14 I can just pay. But for the time being, I
15 have an option to park just on the street
16 with the City of Cambridge. Still, I have a
17 sticker on the car, but it is different for
18 the existing license, a plate. But if I get
19 a permission, I would just have sticker from
20 the city to park on the street.

21 ELLEN WATSON: Check on that if

1 they'll issue it. I'm not sure Traffic and
2 Parking will issue for a commercial vehicle.
3 You might want to check on that if they'll
4 issue it for -- once you switch over your
5 plates to a commercial vehicle, I'm not sure
6 they'll give you a sticker for the new plate.
7 You might want to check with Traffic and
8 Parking on that.

9 GIRMA FELEKE: I didn't check.
10 but --

11 MICHAEL GARDNER: So you have a
12 resident sticker now?

13 GIRMA FELEKE: Yeah, of course.

14 MICHAEL GARDNER: If you've got a
15 commercial vehicle, you need a different
16 permission.

17 GIRMA FELEKE: I know.

18 MICHAEL GARDNER: And there's a very
19 real possibility that the Traffic and Parking
20 Department's not going to let you do what
21 you'd like to do which is just park a

1 commercial vehicle on the street. Do you
2 understand that problem?

3 GIRMA FELEKE: I understand. But,
4 you know, from my experience that a friend --
5 not really a friend, a person whom -- I know
6 him is usually parking on the street. That's
7 why just I get some information. But one
8 thing that I tried to just to, I don't know
9 you know that, that they issue for me that,
10 the sticker or not, so far I didn't ask them.

11 ROBERT HAAS: Just remind me,
12 Ms. Watson, but my understanding, too, if
13 you're going to pick up at hotels, you have
14 to get permission from the hotels to pick up.
15 Isn't it the practice of the License
16 Commission to have a letter to be able to
17 pick up?

18 ELLEN WATSON: That's if you're on a
19 fixed route. The four to six hours, the call
20 has to be made in advance. We're still
21 trying to research how many hours in advance.

1 If you're doing a shuttle service, then you
2 would need to have --

3 ROBERT HAAS: All right.

4 ELLEN WATSON: But they can be ban
5 -- they can ban you for bad behavior like
6 some of our cabs have been banned.

7 MICHAEL GARDNER: So you understand
8 one of the problems we have had with livery
9 services in the past is in fact trying to
10 operate more like a taxi or a hackney and
11 going to hotels and scooping fares or getting
12 people for rides without the requisite four
13 to six hours notification, and you understand
14 that?

15 GIRMA FELEKE: I understand.

16 MICHAEL GARDNER: And you understand
17 that's something you're not supposed to do.

18 GIRMA FELEKE: Yeah, I know one time
19 I just have some experience while I'm as a
20 security officer when working at the hotels
21 and the concierge -- I used to work at the

1 conci erge al so. I gi ve a call to the taxi .
2 I have a list of the livery limo and taxi
3 when I just gi ve them a call , they show up
4 immedi ately. And the limos, but peopl e,
5 mostl y they need limo for thei r pri vacy. For
6 exampl e, just to transport from here to
7 ai rport or long di stance or, for exampl e,
8 they mi ght travel some student, forei gn
9 student they need pri vacy. So that' s what I
10 i ntended to do. I don' t know.

11 ROBERT HAAS: Part of the probl em
12 has been some of conci erges have been taki ng
13 fees to call limos and tryi ng to ci rcumvent
14 the taxi hackney busi ness and I get ongoi ng
15 compl ai nts from the i ndustry all the ti me.
16 As a limo operator, you have an arrangement
17 with the conci erge that someone wanted a taxi
18 or limo, they' d call a limo and that' s been
19 an ongoi ng compl ai nt wi th the taxi dri vers
20 that ci rcumvents thei r abi lity to do busi ness
21 at the hotel s. They' re not parti cul arl y fond

1 of limos.

2 GIRMA FELEKE: To tell you frankly,
3 the only option I have to finance my kids and
4 just for everything, I left with my car to
5 change the plates. I cannot just run and
6 open another business, it may require a bit
7 -- I'm not knowledgeable, I don't have the
8 experience. I have the knowledge and I have
9 the experience, no problem with that, but it
10 requires, you know, finance or cash in hand.
11 Or just take a bank loan. So that rather
12 than doing this, why don't I just start with
13 this and then promote myself to another
14 business?

15 MICHAEL GARDNER: I think we
16 understand your plan.

17 GIRMA FELEKE: Thank you.

18 MICHAEL GARDNER: And I think we're
19 a little concerned about the level of
20 experience that you have, and the
21 under-financing with respect to having a

1 place to park the vehicle that's fits within
2 our regulations. That's, I think, a concern
3 for us.

4 Any other questions?

5 LESTER BOKUNIEWICZ: No.

6 ROBERT HAAS: No other questions.

7 MICHAEL GARDNER: Any members of the
8 audience who would like to be heard on this?

9 (No Response.)

10 MICHAEL GARDNER: I'm wondering on
11 this matter whether the appropriate thing to
12 do would be to take it under advisement for
13 the decision hearing with the primary purpose
14 of giving you the opportunity to explore with
15 Traffic and Parking whether you can get a
16 permit from them, a commercial permit to park
17 on the street. And if you can't, whether you
18 can apprise the License Commission through
19 Ms. Watson or the staff if you have an
20 alternative arrangement that is, if you can
21 afford to do a lease or rental of some

1 parking space that would work for you. I
2 mean, to operate the business out of the
3 housing that you have and to have the vehicle
4 on the street, it appears to present some
5 reasonably substantial problems. Much as we
6 would like to encourage your admirable
7 entrepreneurial spirit.

8 GIRMA FELEKE: Okay.

9 MICHAEL GARDNER: So, do you
10 understand what our concerns are --

11 GIRMA FELEKE: Yeah, I understand.

12 MICHAEL GARDNER: -- and what we'd
13 be asking you to do?

14 GIRMA FELEKE: Yeah, what I
15 understand that if I get the permission from
16 the city to park on the street, I would just
17 bring that permit to the office. That's one
18 thing. If I couldn't just get that, I have
19 to arrange to lease some parking lot in
20 Cambridge or somewhere. And then I just
21 bring my document with that company so that

1 the only thing that --

2 MICHAEL GARDNER: Well, and then we
3 still have to decide whether or not we think
4 it's in the best interest of the city to
5 grant the license.

6 GIRMA FELEKE: I have a question.
7 What if I just arrange a lease parking and
8 then if you deny me, so I have just committed
9 to pay for that?

10 ROBERT HAAS: That's why we're
11 cautioning you not to do that. Don't make
12 any financial commitments yet. I think you
13 have to explore as the Chairman's indicating,
14 you have to find out can get a permit? It
15 would be helpful if you can indicate to us
16 whether you can get a permit to park on the
17 street. And if you can't do that, then you
18 need to indicate to us where you think you
19 would want to park the vehicle legally
20 without making any financial commitments,
21 right?

1 GIRMA FELEKE: Yeah.

2 ROBERT HAAS: And then come back to
3 us and then still we have to consider whether
4 or not it's in the best interest of the
5 communi ty.

6 MICHAEL GARDNER: So the way you
7 might want to think about it is assuming the
8 street parking is out --

9 GIRMA FELEKE: Yeah.

10 MICHAEL GARDNER: -- you can't do
11 that.

12 GIRMA FELEKE: Yeah.

13 MICHAEL GARDNER: You explore where
14 you could find the opportunity to rent space
15 for the vehicle to be at, report back on what
16 your tentative plan would be if the license
17 were approved. Okay? And then we'll know
18 what your plan is. And if in the overall
19 process we think that it's in the best
20 interest of the city to grant the license, we
21 would be granting it conditional on your in

1 fact finalizing your lease or rental
2 arrangement for the space. Okay?

3 So don't go, don't go rent it now and
4 then tell us, because we can't be sure we're
5 going to say yes anyway.

6 GIRMA FELEKE: Okay.

7 MICHAEL GARDNER: Have I been clear?

8 GIRMA FELEKE: Yes, clear.

9 So a motion summarizing that would be
10 in order.

11 ROBERT HAAS: I make a motion to
12 take the matter under advisement.

13 MICHAEL GARDNER: To July 7th?

14 ROBERT HAAS: Yes, move it to the
15 next decision hearing.

16 MICHAEL GARDNER: Yes, July 7th?

17 ROBERT HAAS: Yes.

18 LESTER BOKUNIEWICZ: I second.

19 MICHAEL GARDNER: Okay. The
20 motion's been made and seconded to take the
21 matter under advisement until the July 7th

1 heari ng. The conversati on we have had has
2 i ndi cated to you the next steps we woul d be
3 l ooki ng for you to take so you coul d report
4 that back to the Li cense Commi ssi on pri or to
5 J ul y 7th, so we woul d have that i nformati on
6 before us when we make a deci si on.

7 GIRMA FELEKE: Okay.

8 MICHAEL GARDNER: Is that clear?

9 GIRMA FELEKE: That' s clear.

10 MICHAEL GARDNER: All right. The
11 moti on havi ng been made and seconded, all
12 those i n favor si gni fy by sayi ng "Aye".

13 ROBERT HAAS: Aye.

14 LESTER BOKUNI EWICZ: Aye.

15 MICHAEL GARDNER: Aye. None
16 opposed.

17 We wi ll hold the matter unti l J ul y 7th,
18 and we wi ll be l ooki ng to you to report back
19 to us for what your plans woul d be for where
20 you woul d store the vehi cl e.

21 GIRMA FELEKE: Yes.

1 MI CHAEL GARDNER: Thank you very
2 much.

3 * * * * *

4 DISCIPLINARY: AFKOR, INC.

5 ELLEN WATSON: Thank you. The next
6 is a disciplinary continued from May 17, 2011
7 Afkor, Inc. d/b/a Cafe Anatolia, Alp Hocagi I,
8 manager, holder of a common victualer license
9 at 251 Cambridge Street due to a report from
10 Traffic, Parking and Transportation
11 Department regarding outstanding parking
12 tickets and Afkor Inc.'s failure to adhere to
13 the payment plan with the Traffic, Parking
14 and Transportation Department.

15 We received an e-mail from Traffic and
16 Parking yesterday indicating that he just
17 made a payment of \$1100 and said he would pay
18 the balance of \$140 later this week.

19 MI CHAEL GARDNER: So, he's not being
20 here, I wonder whether what the Commissioners
21 would think of our requesting authorizing or

1 i nstructi ng Ms. Watson to send hi m a noti ce
2 to appear at our hearing on the 28th of June
3 wi th proof of payment of the remai ni ng
4 bal ance, fai lure to do so, subj ecti ng hi m to
5 di sci pl i nary acti on to be consi dered at that
6 heari ng.

7 ROBERT HAAS: To June 28th?

8 MI CHAEL GARDNER: 28th, ri ght.

9 ROBERT HAAS: I make a moti on to
10 have the Li cense Commi ssi on di rect the
11 gentl eman to appear on June 28th hearing to
12 report back on the status of unpai d parki ng
13 fi nes.

14 LESTER BOKUNI EWICZ: Second.

15 MI CHAEL GARDNER: I was actual ly
16 l ooki ng for a l i ttle more expl i ci tly to say
17 that we woul d expect hi m to report back that
18 they were al l pai d or we woul d be consi deri ng
19 di sci pl i nary acti on that eveni ng. I don' t
20 know i f that' s a --

21 ROBERT HAAS: I mean, the onl y

1 trouble I have is he's now switching
2 vehicles. So I'm not sure -- right now he's
3 not driving his own vehicle. He's driving a
4 brother's vehicle or something like that.
5 His brother is now responsible for paying
6 these parking fines.

7 ELLEN WATSON: Nice brother.

8 ROBERT HAAS: It's fine. I would
9 stipulate that we expect him to report back
10 that he's taken care of all outstanding
11 parking fines associated with his business
12 otherwise we'll take disciplinary action at
13 that time.

14 MICHAEL GARDNER: Is there a second
15 to that amendment?

16 LESTER BOKUNIEWICZ: Second.

17 MICHAEL GARDNER: The motion having
18 been made and seconded and amended and
19 seconded, all those in favor signify by
20 saying "Aye."

21 ROBERT HAAS: Aye.

1 LESTER BOKUNI EWICZ: Aye.

2 MICHAEL GARDNER: Aye. None opposed
3 and the motion carries.

4 Ms. Watson, are you clear on what --

5 ELLEN WATSON: Yes, to bring a
6 receipt of final payment on June 28th or
7 disciplinary action will be taken at that
8 time.

9 MICHAEL GARDNER: Yes.

10 ROBERT HAAS: I would stipulate in
11 the letter with respect to all vehicles he
12 uses in connection with his business.

13 MICHAEL GARDNER: Very important
14 point.

15 ELLEN WATSON: I'll send that out
16 tomorrow.

17 * * * * *

18 APPLICATION: WESTPORT RIVERS

19 ELLEN WATSON: And the last one,
20 application Westport Rivers, Rob Russell,
21 manager has applied for a Farmer's Winery

1 license for Central Square Farmer's Market.

2 MICHAEL GARDNER: Someone always has
3 to be last.

4 ROBERT RUSSELL: I know.

5 MICHAEL GARDNER: And you're not
6 yet. We have business after that. State
7 your name for the record.

8 ROBERT RUSSELL: Robert Russell
9 R-u-s-s-e-l-l.

10 MICHAEL GARDNER: Describe your
11 connection with the Farmer's Market and the
12 winery and the purpose of the application.

13 ROBERT RUSSELL: Okay. The winery
14 is owned by my parents. It's a family
15 business. My brother and I run it. And
16 Massachusetts recently in 2010 made a
17 provision with MGL for a Farmer Wineries to
18 sample and sell wines at farmer's -- at
19 agricultural events provided that they're
20 certified as an agricultural event. And we
21 requested and received a letter of invitation

1 from the Federation of Massachusetts Farmer's
2 Markets for the Central Square Market in
3 Cambridge. And so we've -- we applied for
4 the certification from MDAR which is the
5 Department of Food and Ag, and then we
6 requested and received an application for a
7 permit from the City of Cambridge from the
8 Board of Licenses, and so I received a
9 message -- not a message, a letter in the
10 mail to appear at the hearing and so here I
11 am.

12 MICHAEL GARDNER: So, do you or your
13 family or the winery operate at any other
14 Farmer's Markets presently?

15 ROBERT RUSSELL: We do. We're just
16 getting going. We're at Belmont and two in
17 Fal mouth.

18 MICHAEL GARDNER: And have you in
19 fact had events where you've gone and done
20 the sampling and the selling?

21 ROBERT RUSSELL: Yes.

1 MICHAEL GARDNER: And could you tell
2 us a little bit about your experience? How
3 many of those essentially you've done and
4 what you've learned so far?

5 ROBERT RUSSELL: Okay. It's an
6 credible opportunity for us as a business.
7 We've done tastings at different events for
8 years that they've been allowed -- tastings
9 have been allowed through Farmer Winery
10 licenses, I don't know, through our Farmer
11 Winery license for years, but it's only
12 recently that we've been able to sell a
13 product. So, basically what we do is set up
14 a ten-by-ten tent just like other pop-ups you
15 would see at the Farmer's Market. We set up
16 a table and have cases of wine available.
17 Bottles of wine out of cases available for
18 sale. And people are allowed to taste up to
19 one ounce samples of up to five different
20 wines, and they have an opportunity to
21 purchase a bottle of wine there which we

1 would then take and put into a bag or a box.
2 And our reception has been good so far at the
3 market. We've only done one market so far
4 and we've done well.

5 MICHAEL GARDNER: I'm curious about
6 the volume of the alcohol and whether or not
7 five ounces or up to five ounces presents any
8 issues to you or problems for us?

9 ROBERT RUSSELL: I would think it
10 would not unless perhaps someone had been
11 drinking prior to that. And I'm TIPS
12 trained. Our staff is TIPS trained. And so
13 we will take -- make all reasonable efforts
14 to make sure that we are not serving anyone
15 who comes to us previously intoxicated.

16 MICHAEL GARDNER: And what
17 arrangements, if any, have you made with --
18 this is the Central Square Market. And I
19 understand it's Mondays noon to six, do I
20 have that right?

21 ROBERT RUSSELL: Uh-huh.

1 MI CHAEL GARDNER: And just, this
2 market operates on city property?

3 ROBERT RUSSELL: It does.

4 MI CHAEL GARDNER: So we have some
5 concerns about the liability of the city with
6 respect to any untoward events there. Do you
7 know anything about insurance arrangements
8 either that you have or the market has?

9 ROBERT RUSSELL: I do not know what
10 the market's arrangements are. I don't want
11 to assume for them either. We do have a
12 liquor liability policy as our company. And
13 our -- I think we are a one million dollar
14 insured.

15 MI CHAEL GARDNER: And are the terms
16 such that it would cover an event like this?

17 ROBERT RUSSELL: Yes, absolutely.
18 And I have a -- I may not have it with me,
19 but I do have it naming the Federation of
20 Farmer's Markets as additional insured. I
21 could get another copy of one naming the City

1 of Cambridge as an additional insured as
2 well. That wouldn't be a problem. A
3 certificate.

4 MICHAEL GARDNER: Yes. When do you
5 want to start or how soon would you be ready?

6 ROBERT RUSSELL: I believe the law
7 says that we can't start within a week of an
8 approval. So, the earliest would be not this
9 coming Monday but the Monday after that.

10 ELLEN WATSON: 22nd?

11 ROBERT RUSSELL: 22nd.

12 MICHAEL GARDNER: We have heard from
13 some people with experience in this that they
14 routinely do not serve a full ounce.

15 ROBERT RUSSELL: Yes. We're stingy.

16 MICHAEL GARDNER: Tell us about
17 that.

18 ROBERT RUSSELL: About a half an
19 ounce. And when we did Belmont, we weren't
20 doing five wines, we sampled four. So people
21 were getting probably somewhere between two

1 or three ounces.

2 MICHAEL GARDNER: And this is not
3 school property in any way, right? This is a
4 parking lot?

5 ELLEN WATSON: Correct. And I
6 checked with Sergeant Crowley and we have
7 issued one for this location and he signed
8 off on it.

9 MICHAEL GARDNER: Was this a one
10 day?

11 ELLEN WATSON: No, a Farmer's
12 Market.

13 MICHAEL GARDNER: And we have
14 approved Central Square?

15 ELLEN WATSON: Yes.

16 MICHAEL GARDNER: I don't remember
17 that.

18 ROBERT HAAS: No, I think it's just
19 the Farmer's Market. I think we've only
20 given one day licenses, though, right?

21 MICHAEL GARDNER: I don't think

1 we' ve got -- we have another Farmer' s Market
2 i n Central Square.

3 ELLEN WATSON: We do.

4 ROBERT RUSSELL: Is i t Turtle Creek?

5 ELLEN WATSON: It might be Turtle
6 Creek. I checked, and I checked Sergeant
7 Crowley had approved i t. And then I e-mailed
8 him and he said that i t' s only school
9 property i mpacts at this time.

10 MI CHAEL GARDNER: He approved i t but
11 di d we approve i t?

12 ELLEN WATSON: Yes.

13 MI CHAEL GARDNER: I don' t remember
14 deal i ng wi th i t.

15 ROBERT HAAS: It says one day wi th
16 open ai r venues, but he denied i t for public
17 school parki ng l ots due to the fact that
18 there' s sti ll l anguage banni ng al coh ol and
19 tobacco products from al l grounds, school
20 grounds. So thi s i s not on school property
21 at al l , ri ght?

1 ROBERT RUSSELL: I don't know the
2 locati on.

3 ELLEN WATSON: No. It's Norfolk and
4 Bi shop Al len. Muni ci pal parki ng lot No. 5
5 Norfol k and Bi shop Al len. Is that the one
6 behi nd the enormous house?

7 ROBERT HAAS: Yes.

8 MI CHAEL GARDNER: So in terms of the
9 sort of general ci ty admi ni strati on, not that
10 they're controlli ng here, but I think that
11 there is an interest in sort of encouragi ng
12 sort of local produce and local economi c
13 acti vi ty and vi ta li ty. We di dn' t ask you
14 where your wi nery or your farm is.

15 ROBERT RUSSELL: It's not in
16 Cambri dge.

17 MI CHAEL GARDNER: I di d not expect
18 so.

19 ROBERT HAAS: I've been there.

20 ROBERT RUSSELL: It's in Westport.

21 ROBERT HAAS: It's in Westport.

1 MICHAEL GARDNER: Westport.

2 So you own land that grows grapes and
3 you turn the grapes into wines right on the
4 property?

5 ROBERT RUSSELL: We do. The farm is
6 about 50 acres. The vineyard is at 80 acres
7 of vines, so we have 90,000 vines in the
8 ground. Largest vineyard in New England and
9 it keeps us pretty busy. We export juice and
10 make wine.

11 MICHAEL GARDNER: Export juice
12 meaning grape juice?

13 ROBERT RUSSELL: Meaning grape juice
14 to other wineries.

15 MICHAEL GARDNER: I see.

16 ROBERT RUSSELL: You know, it's not
17 a toy farm with a winery attached. It's a
18 real farm with a winery attached.

19 MICHAEL GARDNER: I'm not sure what
20 the right question is to ask in terms of
21 volume. Is it barrels or bottles or what is

1 it that you would -- can you give us some
2 sense about your scale?

3 ROBERT RUSSELL: We harvest 200,
4 about 200 tons per year of fruit. And we
5 only produce about 6,000 cases of wine from
6 that. The remainder we sell as juice. And
7 that's basically just economics of business
8 supply and demand. Wine's not like milk
9 where it perishes in weeks, but we do
10 predominantly white wines and sparkling
11 wines. And the white wines have a shelf life
12 that's not long. So if we overproduce,
13 that's not a good thing. So that's why we're
14 selling the juice in the fall. It gives us
15 quick turn around cash flow and it limits our
16 liability of bottled product.

17 MICHAEL GARDNER: In general I'd say
18 there's not a city objection to doing this at
19 least on a this season basis to try it out.

20 ROBERT HAAS: It might be prudent to
21 make Mr. Russell up on his offer to have the

1 city named insured on the insurance policy.

2 ELLEN WATSON: That's right.

3 MICHAEL GARDNER: Yes, I was
4 thinking that a motion might be in order to
5 approve the license subject to submission of
6 the appropriate paperwork to attach the city
7 as covered under the policy and submission of
8 the proof of the policy. And also with a
9 relatively short review period. And I don't
10 know, you would be selling into when,
11 November or October? September?

12 ROBERT RUSSELL: The market goes
13 until November.

14 ELLEN WATSON: Is it the 22nd?

15 ROBERT RUSSELL: I can, yes, 21st.

16 MICHAEL GARDNER: Would it be
17 appropriate to have a review sometime prior
18 to the end of the season, either September or
19 October?

20 ROBERT HAAS: We've ask other
21 applicants just to come back, because this

1 all new for us, you know, just to give us
2 some reflection in terms of how it went, how
3 things can be done better and lessons learned
4 and things like that as part of the review.

5 ROBERT RUSSELL: Okay.

6 ELLEN WATSON: Commissioner, can I
7 ask you a question? Do you think there's any
8 problem in Central Square with free alcohol?

9 ROBERT HAAS: You're going to have
10 some folks that are going to try to see if
11 they can get more than their fair share of
12 wine samplings. You're going to deal with
13 that issue.

14 MICHAEL GARDNER: You will need to
15 have a way to deal with indigent persons
16 interested in free alcohol.

17 ROBERT RUSSELL: Say no?

18 ROBERT HAAS: You have to be, again,
19 I think for the most part, they're very
20 compliant, but you can find that some are a
21 little more combative.

1 MICHAEL GARDNER: You have to say no
2 in a way which it doesn't escalate it into a
3 police incident.

4 ROBERT RUSSELL: Sure. I'll have to
5 practice on that.

6 MICHAEL GARDNER: Will it be you?

7 ROBERT RUSSELL: I am going to
8 start, but I don't necessarily -- I won't
9 necessarily be the person who's there every
10 week. But it will be a staff -- a trusted
11 staff person. It won't be a new hire. It
12 will be two people.

13 MICHAEL GARDNER: Okay.

14 ROBERT HAAS: So I make a motion to
15 approve the application with the condition
16 that the City be named on the liability
17 policy. And that paperwork be produced prior
18 to operation.

19 MICHAEL GARDNER: With a review
20 period?

21 ROBERT HAAS: With a review period

1 in the fall.

2 LESTER BOKUNIEWICZ: I second the
3 motion.

4 MICHAEL GARDNER: The motion having
5 been made and seconded to approve the
6 application subject to submission of the
7 appropriate paperwork and insurance
8 documentation showing the City is covered,
9 and subject to a review to be scheduled in
10 the fall having been made and seconded.
11 There appearing to be no members of the
12 public in the audience to whom we could
13 solicit public comment, all those in favor
14 signify by saying "Aye".

15 ROBERT HAAS: Aye.

16 LESTER BOKUNIEWICZ: Aye.

17 MICHAEL GARDNER: Aye. None
18 opposed.

19 So the permit's approved subject to
20 those conditions.

21 ROBERT RUSSELL: Okay, thank you.

1 MI CHAEL GARDNER: And we wish you
2 well.

3 ROBERT RUSSELL: Do I fax that to
4 Mr. O'Neil?

5 ELLEN WATSON: Yes. If you can fax
6 that to me that would be great.

7 ROBERT RUSSELL: Is that 6148?

8 ELLEN WATSON: Yes.

9 ROBERT RUSSELL: Good night. Thank
10 you.

11 MI CHAEL GARDNER: Good luck.

12 * * * * *

13 RATI F I C A T I O N S:

14 ELLEN WATSON: And the last were
15 rati f i c a t i o n s that were reviewed and approved
16 by our Executive Officer, Elizabeth Lint.

17 Medal I i o n No. 185, refi nance, Josi e' s
18 Cab, I n c. , debtor Mercanti l e Bank and Trust,
19 credi tor.

20 Medal I i o n 35, refi nance, Ri cardo and
21 Joanne Cab, debtor, Mercanti l e Bank and

1 Trust, credi tor.

2 Medal I i on 186, refi nance, Radha Soami ,
3 Inc. , debtor Progressi ve Credi t Uni on,
4 credi tor.

5 Medal I i on 217, refi nance, Vi si on Aquin
6 Cab, debtor, Mercanti le Bank and Trust,
7 credi tor.

8 Medal I i on 102, sal e/transfer, Mi ri
9 Transportati on, sel l er, Yamuna, Inc, buyer.

10 And Medal I i on No. 102, fi nance, Yamuna,
11 Inc. , debtor, Progressi ve Credi t Uni on,
12 credi tor. And they' re al l i n order.

13 ROBERT HAAS: I make a moti on to
14 accept.

15 LESTER BOKUNI EWICZ: Second.

16 MI CHAEL GARDNER: Moti on havi ng been
17 made and seconded to approve the refi nanci ng
18 and sales and transfers. Bei ng no members of
19 the publ ic here for comments, al l those i n
20 favor si gni fy by sayi ng "Aye".

21 ROBERT HAAS: Aye.

1 LESTER BOKUNI EWI CZ: Aye.

2 MI CHAEL GARDNER: Aye. None

3 opposed.

4 So the transfers and refinances are
5 approved.

6 A motion to adjourn would be in order.

7 ROBERT HAAS: I make a motion to
8 adjourn.

9 LESTER BOKUNI EWI CZ: Second.

10 MI CHAEL GARDNER: Motion having been
11 made and seconded to adjourn, all those in
12 favor signify by saying "Aye".

13 ROBERT HAAS: Aye.

14 LESTER BOKUNI EWI CZ: Aye.

15 MI CHAEL GARDNER: The ayes have it,
16 and we are adjourned at approximately 8:30
17 p.m.

18 (Whereupon, at 8:30 p.m., the
19 License Commission Hearing was
20 adjourned.)

21

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.

I, Catherine Lawson Zelinski, a
Certified Shorthand 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
this matter.

I further certify that the testimony
hereinbefore set forth is a true and accurate
transcription of my stenographic notes to the
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set
my hand this 20th day of June 2011.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 23, 2015

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