

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARING

Michael Gardner, Chairman
Robert C. Haas, Police Commissioner
Gerald R. Reardon, Fire Chief

STAFF:

Elizabeth Lint, Executive Officer

-- Held At --

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

Tuesday, September 6, 2011

6:08 p.m.

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P R O C E E D I N G S

ELIZABETH LINT: Okay. We are going to begin.

This is the License Commission general hearing on Tuesday, September 6, 2011, at 6:08 p.m., at the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Cambridge, Massachusetts, Basement Conference Room.

The Commissioners are Chairman Michael Gardner, Commissioner Robert Haas, and Chief Gerald Reardon.

Is anyone here for the application of Kafofo Industries? That's been continued to September 20th, as has Clover Fast Food, and to amend their hours on both applications. Those are continued to September 20th.

* * * * *

ELIZABETH LINT: Discipline matter continued from July 19th and August 9th,

Yardworks Limited due to complaints received on April 21, 2010, July 9, 2010, June 21, 2011, and July 1, 2011, July 29, 2011, regarding alleged leaf blower usage without being properly permitted, as well as usage outside of the allowable months.

(Audience Member)

MICHAEL GARDNER: If you would please state your name for the record and spell it for the stenographer.

ANDREA BOYER: My name is Andrea Boyer, licensed investigator for the City of Cambridge License Commission. B-O-Y-E-R.

MICHAEL GARDNER: This matter has been before us a number of times. Would you summarize any developments that you know of that have happened since the August 9th hearing.

ANDREA BOYER: Yes. Would you like me to recap the previous violation quickly?

This case has been open, I've been

working on it since July 13, 2009. At that time I notified Yardworks to discontinue use during the prohibitive time of June 16 through September 14 and to apply for a permit.

On April 21, 2010, I was told that they were utilizing leaf blowers on Chauncy Street again. I contacted them through e-mail to apply for a permit or the company could be fined.

I received no response, so I actually called and spoke with Tom at Yardworks. He called on April 23, 2010, and stated that he would apply. I sent an application to the business, but the permit was never applied for.

I received a call on July 9, 2010, that a leaf blower is being used on Chauncy Street again. And I left another message to cease operation and to apply for a permit or that a hearing would be held.

Another complaint on June 21, 2011,

Yardworks had utilized two blowers on Chauncy Street again, on July 1, 2011, and that at that time the complainant had come forward at one of the hearings and spoke about his issues.

I believe that the gentleman did show up at the hearing, late, at the last hearing, and we sent a letter on August 16th that this would be continued to this hearing. And I received a call that allegedly on the 18th of August, which was after that hearing, at 2:11 p.m., a leaf blower was used at Chauncy Street.

MICHAEL GARDNER: Are there any representatives from Yardworks here this evening?

No response.

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

No response.

Ms. Lint, have we gotten the application for a permit from the company?

ELIZABETH LINT: We have not.

MICHAEL GARDNER: What, if any, is our authority with respect to the issue of the failure to apply for a permit?

ELIZABETH LINT: The noise ordinance allows us to implement a fine of \$300 per incident per day.

MICHAEL GARDNER: I'm really asking about the issue of just the fact that they don't have a permit to do business in the city.

ELIZABETH LINT: It would be the same thing.

MICHAEL GARDNER: And, as I recall, at the last hearing we had some video evidence of a leaf blower actually being used?

ANDREA BOYER: Correct.

MICHAEL GARDNER: And what date was that violation?

ANDREA BOYER: It was --

MICHAEL GARDNER: Was that the July 29th -- I think it was.

ANDREA BOYER: July 29, yes, it was.

GERALD REARDON: Ms. Boyer, what dates did you physically witness any of these?

ANDREA BOYER: I did not witness them physically. I saw the video, sir.

ROBERT HAAS: So with respect to the other dates, what other evidence do you have with respect to establishing a violation?

ANDREA BOYER: Excuse me?

ROBERT HAAS: What other evidence do we have with respect to establishing a violation for these dates other than the complaints we've received?

ANDREA BOYER: The complaints that we've received, that is what we do have, except for the video.

ROBERT HAAS: Including testimony here at the public hearing?

ANDREA BOYER: Correct.

I apologize. We actually do have a call that went in to -- I believe the CAD system at one time, so that would be the second one. But I think that's from last year. So an officer went to the location.

MICHAEL GARDNER: Well, I think my inclination would be to deal with the matters that have occurred since I've been on the Commission, which would mean the 2011 offenses.

When we had the representative from the company here at the last hearing, I understood some of the information he supplied to indicate that he said he had told his workers not to use the leaf blowers. But I believe I had the -- at least if not an explicit, a tacit admission that, in fact, they had been doing it.

Are you saying there was a new complaint as of August 18?

ANDREA BOYER: Yes. The complainant called and left me a message. He said at that time he didn't go outside to speak with them because there had been -- whereas, in the previous times, there had been maybe one or two, this time there had been four people, and he didn't feel like he should go and speak with them.

ROBERT HAAS: So we already levied a fine for July 29; is that right?

MICHAEL GARDNER: I think we did. I take that vote, however, there were some notice issues with respect to that because he had not been noticed on that matter, so that had not been implemented or issued.

ELIZABETH LINT: Correct. But now he has been noticed.

ROBERT HAAS: So, Mr. Chair, you are indicating that you're going forward on June 21, July 1, and July 29 at this point?

MICHAEL GARDNER: Based on the

testimony that I've heard here, yes.

And I'm still not clear, Ms. Lint, just on the issue of not having applied for the permit as required, is it your view that each day that a company is in operation without that permit it is also subject to a separate \$300 fine?

ELIZABETH LINT: Correct.

MICHAEL GARDNER: So I would make a motion that we implement the fines for the violation of the noise ordinance on June 21, 2011, July 1, 2011, July 29, 2011, and the further fine for operating the business without a permit on July 29, 2011, for a total of four separate offenses.

ROBERT HAAS: June 21, July 1st, July 29 and what was the fourth date?

MICHAEL GARDNER: The fourth date is July 29 for operating a business without the permit.

ROBERT HAAS: So consider the fact

that there is at least four violations plus operating without a permit?

MICHAEL GARDNER: That's right.

ROBERT HAAS: Can we do that --

MICHAEL GARDNER: Well, I guess either we can or we can't. What's the enforcement mechanism for operating without a permit?

We do know on the 29th because of the video that, in fact, the business operated. I guess I don't know that there are any other days we know of for certain that the business was operating besides the days of the complaints.

ELIZABETH LINT: I think it is duplicative.

GERALD REARDON: I guess the question is the noise ordinance, what would be the fine if there was no violation of noise ordinance and simply operating --

ANDREA BOYER: I thing the

brochure -- the brochure, I can probably grab one. But the permit is, I think, could be separated out based on what you are stating, sir.

And also it's one of the few companies out of all of our 50 that fail to get permitted, so --

MICHAEL GARDNER: I regard it as a separate violation for which that seems to me to be a separate fine.

ANDREA BOYER: And for not being permitted to use leaf blowers and then the violation of the noise ordinance.

ROBERT HAAS: Mr. Chair, can I ask that we actually take two votes on this issue, one for the noise violation --

THE COURT REPORTER: Excuse me. I cannot hear you. Can you please speak a little louder.

ROBERT HAAS: What I'd like to do is take two votes, one for the noise violation

and the second one to vote on whether or not to assess an additional fine for not being licensed.

MICHAEL GARDNER: Fine with me. I'll amend my motion to provide for noise ordinance violations on June 21, 2011, July 1st, 2011, and July 29, 2011.

ROBERT HAAS: Seconded the motion.

MICHAEL GARDNER: Any further discussion?

I'll just say this is frustrating to find sort of a continuing pattern of a regulation which is clear on its face with respect to the time limits for the use of this machinery, and that it is important for the Commission to enforce its regulations.

ROBERT HAAS: I agree in the sense that it is clear to us also that the owner of this business has not followed through in terms of getting the proper permits despite his representations that he would; and this is

the second time now that we have had a hearing and he has not been present in a timely fashion.

MICHAEL GARDNER: All those in favor please signify by saying "aye."

MR. REARDON: Aye.

MR. HAAS: Aye.

MICHAEL GARDNER: None opposed.

With respect to the matter of not having a permit, again, I'm frustrated with respect to the enforcement mechanism we have. If permits are required, and with clear knowledge that a permit is required and the statement of agreement that, in fact, the permit will be applied for, is simply ignoring of the regulation.

And I'm open on the issue of what date or dates such a violation for operating a business without a permit should be acted on, but it seems to me that it's appropriate and important to make it clear that, in fact, a

permit is required if you're going to do business of this nature in the city.

And I would suggest that on a day in which we are clear that the business is operating, is an appropriate day for which to he levy such fine.

I don't think necessarily we should be levying that fine for each and every day that we know the business was in operation without a permit. But in terms of trying to take some action to encourage the appropriate behavior on the part of the business, I think a fine is, on at least one instance, is appropriate; and with clear the indication that if there are additional violations in the future, that is the tool that we have available to us. Unless someone has an idea about any other tools we have?

ANDREA BOYER: Not that I have an idea, but not necessarily even that specific date, but basically he has not been licensed

since January on. So this is almost for the year or the season for 2011 he has not. So it wouldn't necessarily have to be that specific date, but just for not being permitted at all for the whole year. So it could be just one violation for that; just label it as something that hasn't been applied for for the entire season.

ROBERT HAAS: When was he put on notice that he had to apply for a permit?

ANDREA BOYER: Since 2009. And I've been trying to get him yearly to come in.

ROBERT HAAS: For this year, I mean.

ANDREA BOYER: Since June 2011.

ROBERT HAAS: So he has been noticed since June 2011?

ANDREA BOYER: Yes. We have been trying to get in touch with him since June of 2011.

ROBERT HAAS: When was he actually noticed that he needed to get a permit?

ANDREA BOYER: This year?

ROBERT HAAS: Yes.

ANDREA BOYER: I would have to ask him.

ROBERT HAAS: We made it clear at the last hearing that he needed to be permitted.

MICHAEL GARDNER: Well, the August 16 letter that's in the file makes that clear, doesn't it, Ms. Lint?

ELIZABETH LINT: Sure does. Yes.

MICHAEL GARDNER: Pleasure of the Commission?

ELIZABETH LINT: August 3rd he was noticed again. And the letter said, "We've attempted to have you apply for a permit to use leaf blowers, but you've continued to do so" --

MICHAEL GARDNER: There were some issues of that, appropriate addresses and whether delivery was confirmed, I think.

ROBERT HAAS: Right.

MICHAEL GARDNER: There is no question that the August 16th letter had the address he supplied?

ANDREA BOYER: That's a correct address.

MICHAEL GARDNER: And you had some e-mail correspondence going back and forth?

ANDREA BOYER: Yes, I did.

ROBERT HAAS: The only difficulty with the August 3rd violation is that we just didn't verify -- the complainant didn't go outside, he just assumed it was Yardworks that was doing the work, right?

ANDREA BOYER: Yes, it was. From what I've heard Yardworks was doing it.

ROBERT HAAS: Did he verify that it was Yardworks doing the work or did he just say, "they're back again and I didn't want to go outside because there was at least four people outside"?

ANDREA BOYER: No. He said

Yardworks. He saw the truck.

ROBERT HAAS: I feel more comfortable, Mr. Chair, to assess -- I just have some difficulty in terms of duplicity of issues and fines for the same violations. I don't think the ordinance is clear enough to establish that authority. So I mean, if it was in season, regardless of whether or not -- you know, again, it was the violation of the fact that he didn't have a permit. But double fines -- (Inaudible. Multiple voices speaking.)

MICHAEL GARDNER: So are you questioning our authority to issue a fine for being un-permitted, period? Or is it simply a matter of not wishing to pile it on on the same day?

ROBERT HAAS: The latter. I think clearly if it was in season and he was operating in the city, he would be in violation for each and every time he was

operating in the city without a permit. I think that was what was contemplated in the ordinance. I don't think it's clear enough in the ordinance if you can, in fact, have a double assessment both for the noise violation and operating without a permit. I don't think it specified that in the ordinance itself.

MICHAEL GARDNER: And the season for operating leaf blowers is?

ANDREA BOYER: It starts September 15th to January 1st.

MICHAEL GARDNER: So would you be supportive of a motion to put him on notice that with the beginning of the September 15, 2011 season, as you call it, he is noticed of the requirement that he needs to operate with a permit from the city, and that the failure to do so puts him in jeopardy of a violation and fine of \$300 for each and every day which he operates without such a permit?

ROBERT HAAS: Yes.

MICHAEL GARDNER: Would you like to make that in the form of a motion?

ROBERT HAAS: I make a motion that we -- we now have his correct address, right?

ELIZABETH LINT: Correct.

ROBERT HAAS: So I would make a motion to notice him that any future violations, particularly within season, where he does not have a permit is subject to a fine of \$300 for each and every violation he commits thereafter.

MICHAEL GARDNER: I think for purposes of clarification, when you speak, sir, of "violation," are you talking being un-permitted?

ROBERT HAAS: Being un-permitted, right.

GERALD REARDON: Seconded.

MICHAEL GARDNER: Any further discussion?

GERALD REARDON: No. It's unfair to

all the operators that come in and get their permits on time and comply by the rules as well, it is sort of a fly in the face of the regulations that they can just work and operate in the city without getting the proper permits. So we need to send a clear message to the individuals that it's not going to be tolerated.

MICHAEL GARDNER: All those in favor signify by saying "aye."

MR. HAAS: Aye.

MR. REARDON: Aye.

MICHAEL GARDNER: None opposed.

Ms. Lint, would you see that such a notice goes out.

ELIZABETH LINT: I don't think you voted on the first motion?

MICHAEL GARDNER: Yes, we did.

ELIZABETH LINT: Okay.

Clarification: Veggie Galaxy, LLC, Adam Penn, Manager, holder of a wine and malt

beverages as a restaurant license and entertainment license at 450 Mass. Avenue for clarification of the common victualer hours. Applicant applied for 7:00 a.m. to 1:00 a.m. seven days per week and the hours were amended at original hearing to 11:00 a.m. until 11:00 p.m. seven days per week.

MICHAEL GARDNER: Any representative from Veggie Galaxy here to speak on this matter?

No response.

Any members of the public here?

No response.

Ms. Lint, if I recall, this was a new application and we provided cautions to the individual. He made some statements, is he wasn't sure he was going to be actually open for the stated hours and we gave him the advice to amend his application for the hours he was comfortable and he puts down.

ELIZABETH LINT: I actually pulled

the transcript on this one because I could not remember if that was the discussion, and that discussion did not take place on this particular application and he actually does want to be open for breakfast.

So that was what he had applied for and what had been advertised. And for whatever reason, that didn't happen.

ROBERT HAAS: What did the minutes reflect?

ELIZABETH LINT: It didn't really say.

MICHAEL GARDNER: Did we vote 11:00 a.m.?

ELIZABETH LINT: Yes. It was curious.

MICHAEL GARDNER: Can we notice him to come for September 20th?

ELIZABETH LINT: Yes.

ROBERT HAAS: When was the last hearing? When did we last hear this matter?

April?

ELIZABETH LINT: I want to say March or April.

Mr. Chair, if I may, we have a policy of taking active CAD members prior to getting into heavy matters, and we do have an active CAD matter here and I do think it would be more appropriate to move him up one.

MICHAEL GARDNER: Okay.

ELIZABETH LINT: Application for SLW&P Hong Kong Restaurant, Inc., Paul Lee, manager, holder of an all alcoholic beverages as a restaurant license (2 a.m. to closing) at 1234-1238 Massachusetts Avenue has applied to extend the closing hour of their common victualer license from 2 a.m. to 3 a.m. seven days per week. Applicant is also applying to amend their Sunday opening hour from 12 p.m. to 11 a.m.

MICHAEL GARDNER: If you could just please state and spell your names for the

record.

Attorney Crane: My name is Attorney Kevin P. Crane, C-R-A-N-E, 104 Mt. Auburn Street, Cambridge, and I represent the petitioner.

PAUL LEE: Paul Lee, P-A-U-L, L-E-E.

ATTORNEY CRANE: Mr. Chairman and members of the Board, first of all, I'd like to introduce my green cards.

The present common victualer license calls for 8:00 a.m. to 1:00 a.m. on Monday through Wednesday and 8:00 a.m. to 2:00 a.m. on Thursday through Saturday, and Sunday from noontime to 1:00 a.m. And our proposal is to --

ROBERT HAAS: That's 1:00 a.m. not 11:00 a.m.?

ATTORNEY CRANE: On Sunday. No, it's 1:00 a.m.

Our proposal is to extend the closing hours for all seven nights, as a common

victualer license, which just deals with the food, not the alcohol, until about 3 a.m.; and also move the Sunday opening hour from noontime to 11:00 a.m.

I noted ironically today that the alcohol license on Sunday allows you to open at 11:00 in the morning. So technically someone could be there from 11:00 to noontime being served alcohol without food service.

I reviewed the file when my client came to me and was made aware of an issue possibly with the hours and we wanted to clarify that.

At that time we discussed really what he was looking for. And the 3:00 a.m. closing hour really seems to be what would suit his business.

There had been some confusion over the years on the common victualer license as far as I went back to 1970. Some years it would list specifically what time they would

be closing and other years it would just list the liquor hours. In any event, our petition is requesting a 3:00 a.m. closing.

On the substance of it, I would suggest that, first of all, given the proliferation of 2:00 a.m. closings for alcohol service, particularly in Harvard Square, that the Board, in the interests of the public, who seem to be out later at night, that you would want to be providing food service to people that would be leaving any liquor establishment that would be serving liquor to a 2:00 with a 2:30 exit time.

I emphasize again that our petition just has to do with the food service and not the liquor.

There is precedent in Harvard Square for common victualers to be open after regular liquor hours. The IHOP on Elliot Street actually is licensed from 7:00 a.m. to 4 a.m., and the Falafel Restaurant just up the street

is licensed until 3:00 a.m.

I believe there have been some letters of support submitted to the License Commission from various individuals including, I believe, Counsel Reeves and former Mayor Sullivan.

ELIZABETH LINT: I do have a letter from Mr. Sullivan, former Mayor Sullivan.

MICHAEL GARDNER: There was an e-mail letter from Counsel Reeves.

I wonder, Attorney Crane, if you could indicate how far back, if at all, in your investigation you found that a 3:00 a.m. period for the victualer's license had been approved?

ATTORNEY CRANE: It had never been approved for Hong Kong at 3:00 a.m., the common victualer license. It was 2:30 for a number of years, and other years it just said "liquor hours." And now the license says a specific time. The year before it said

"liquor hours." And I think --

MICHAEL GARDNER: And this year it says -- what are the hours that it lists?

ATTORNEY CRANE: The closing for Monday through Wednesday 1:00 a.m., and the closing for Thursday through Saturday is 2:00 a.m.

MICHAEL GARDNER: As you stated.

ATTORNEY CRANE: Yes. And I think, quite frankly, this is a better way to do it. Liquor hours, someone could argue, last calls is quarter of 2:00 and everyone out by 2:30. If it says "liquor hours" on the common victualer, arguably could you serve someone food until 2:30? So I think it is better that we have a specific time. Our petition that the time should be 3:00 a.m.

MICHAEL GARDNER: And what's been the practice over the years, until how late food is served?

ATTORNEY CRANE: It's been pretty

much 2:30, Mr. Chairman. It pretty much followed the liquor hours. Although some years the license said actually "2:30" and other years it said "liquor hours."

MICHAEL GARDNER: So if it's 2:30, does that mean food is served until 2:30 and people have until 3:00 to leave?

ATTORNEY CRANE: The practice is if it's 2:30, everyone is out at 2:30

MICHAEL GARDNER: And so when would the kitchen close, typically?

PAUL LEE: People can get take out right up until 2:30. So if they come in at 2:25, it takes only five minutes maybe to get some food, we can get them out the door. And we'll take delivery orders late as well.

MICHAEL GARDNER: And what's wrong with the 2:30 close as opposed to 3:00?

PAUL LEE: I think that the extra time, people coming down, it may take them -- if you are coming down from the second floor

of the lounge, it may take you five or ten minutes to get downstairs and then have a meal within 15 minutes, sit down --

MICHAEL GARDNER: You have your last call now at what point?

PAUL LEE: Last called is quarter of, ten of 2:00 -- on the 2:00 license?

MICHAEL GARDNER: Yes. Just to focus on 2:00 now.

And so now, what's been happening is the people who are there, who can stay on the 2:00 closing until 2:30, in fact, have been able to get food up until 2:30?

PAUL LEE: Yes.

GERALD REARDON: How much delivery do you do on the weekend?

PAUL LEE: Delivery is quite a bit as well, delivery and take out.

GERALD REARDON: And take out?

PAUL LEE: Yes.

MICHAEL GARDNER: And what are your

closings for food on the non-2:00 a.m. nights when you are open until 1:00? Typically, what are you doing with respect to the foods on those nights?

PAUL LEE: I think that's where the confusion comes in. In years past, there was a 2:00 a.m. during the weekday common victualer. And then it's a 1:00 and then it went back to 2:00. So we were sort of observing a 2:00.

MICHAEL GARDNER: Is that your understanding as well, Mr. Crane? The license in the past has said for the victualer license to be 2:00 -- on the 1:00 liquor closing, 2:00 victualer?

ATTORNEY CRANE: Yes, it has.

MICHAEL GARDNER: The IHOP and -- what did you say?

ATTORNEY CRANE: Falafel.

MICHAEL GARDNER: Do those have liquor licenses as well?

ATTORNEY CRANE: No, they don't. They don't, Mr. Chairman.

But on that issue, I think it's a difference without a substantive distinction because it still comes down to whether the operator is going to be able to hand whoever they are serving at that time.

And the Lee's have been operating for 57 years and there have been some discipline issues years ago, but there hasn't been anything in the past 10 to 12 years, I would say. And if any operator can handle this type of extension, I would assure you that it would be the Lees.

And they have it over on that side of the Square. And I don't know what IHOP looks like at 3:30 in the morning, but I would think that the same issues that you would be concerned about as far as unruly crowd, let's say, would apply to the IHOP as would apply to the Hong Kong. So again I'd say it's

a difference without a substantive distinction.

MICHAEL GARDNER: I guess I was trying to think about the enforcement issues on the licensing. If the close is 2:30 for all purposes, the close is 2:30. Otherwise, if people who are drinking are supposed to be out at 2:30 but, you know, if you are eating, you can stay until 3:00, it seems like it's a pretty slippery slope in terms of either they are not finishing the alcohol by 2:30 or -- and I assume not, that there would not be inappropriate service after 10 of 2:00 -- but it strikes me as a little harder for enforcement personnel to cite and for us to enforce, in fact, anybody who is there for the purposes of imbibing alcohol is out by 2:30. And I'm troubled by that.

ATTORNEY CRANE: It would be subject to any sort of enforcement just like we are right now. If someone was being served there

at 2 past 2:00 and a policeman came in and cited them, we'd be up here. If a policeman walks in at 20 minutes of 3:00 and the person has a drink in front of them, they are going to be up here. It's the same.

It's not like a new license where you don't have experience with the operator. It's the same enforcement issues that you would have regardless of what the closing hours were on the alcohol.

GERALD REARDON: I guess some people might worry about the encroachment of the extra leeway to go further in terms of stopping the alcohol because you have the close time so much further that you can encroach one last call.

So when would your last call be if you had the 3:00?

ATTORNEY CRANE: The last call on the alcohol would be the same, Chief. You know, I understand the rule, 15 minutes before closing

and a half-hour after closing, everybody is out as far as having a drink in front of them.

GERALD REARDON: So on the liquor portion, if you were to get a 3:00 a.m. license for food only, you would be looking at a 1:45 last call for liquor license stops at 2:00, right?

ATTORNEY CRANE: Correct.

GERALD REARDON: So you would be looking at 1:45 on alcohol, right?

PAUL LEE: Right. So what we generally do in the dining room is we'll let people know probably at about quarter past 2:00 that all the alcohol has to be off the table by 2:30. So we'll do a sweep of the room and tell people that they have to finish up their drinks. And then we'll give them periodic reminders at 20 past or 25 past. And then at 2:30 we pull everything off the table.

MICHAEL GARDNER: Do you pull everybody out at 2:30, too? Everybody is

supposed to have left by 2:30 under what I understood the way you've been operating?

PAUL LEE: Yes.

MICHAEL GARDNER: And what does this do in terms of changing both the character of the business and the street life if you are serving until 3:00 a.m. on evenings during the week now when, in essence, you are closed at 1:30 now? Doesn't this have some impact on Monday and Tuesday and Wednesday nights?

PAUL LEE: I think the only impact is that people can't get food then.

MICHAEL GARDNER: Well, right now it closes at 1:30?

PAUL LEE: Yes. We have people that call up, our phones ring after we are closed, asking for food.

MICHAEL GARDNER: And what do you say?

PAUL LEE: Our cooks are gone. People call up after we close and then we have

to tell them that we are closed.

GERALD REARDON: So other than what's transpiring right now with the 2:00 a.m. license, the last call is 1:45, everyone is out by 2:30, you're looking to extend an extra half hour just for the food service so you still end by 2:30, the people's drinks would have to be gone off the table by 2:30, but they would still have until 3:00 for the food service?

PAUL LEE: Yes. They could still stay and have something to eat. Or we would be open for take-out for later.

GERALD REARDON: And for delivery as well?

PAUL LEE: Yes.

GERALD REARDON: When would your cut-off be for the delivery?

PAUL LEE: Maybe something like 2:30, 2:45. And what they might do is just take it and head home with the drivers.

ROBERT HAAS: So the way you described this in the beginning, it's my understanding that at the designated time for discontinuing service and alcohol, you would have people come out of the lounge and come downstairs to the dining room and then continue to serve food beyond that period of time or you continue to serve food in the lounge as well?

PAUL LEE: No. We would close the lounge at 2:00, and then just keep the dining room open.

ROBERT HAAS: I feel more comfortable with that arrangement. I'm just afraid if you continued to operate the lounge, then I think it will get a little tricky in trying to enforce the drinking. I think it is very clear if you're going to shut down the 1:00 closing at 1:30 and then the 2:00 closing at 2:30, then force people to come down to the dining room to take-out or to eat. I think

that's a lot more management for you and the staff to make sure by 2:30 or 1:30, depending on the day of the week.

I agree with Mr. Crane, I think you've been in business for a long period of time. I think if you were a new entrepreneur, I would really have some reservation about your effectiveness to be able to stop that bleed-off. I think it becomes very difficult, especially when you are trying to operate a business, to make sure you have a definite cutoff with respect to the service and consumption of alcohol.

GERALD REARDON: So then your capacity would be just that of the dining room area as well also?

PAUL LEE: Yes.

GERALD REARDON: What is downstairs capacity?

PAUL LEE: The dining room is 90.

GERALD REARDON: So you've been

thinning the herd, so to speak. A lot of people will have left, but you still have up to 90 seats for food service?

PAUL LEE: Correct.

GERALD REARDON: All right.

ATTORNEY CRANE: I also have a number of petitions in favor, there is about 800-odd petitions.

MICHAEL GARDNER: The disciplinary history here, Ms. Lint?

ELIZABETH LINT: Nothing in recent history.

MICHAEL GARDNER: And any other entities in the city that serve alcohol that have the capacity to serve food beyond 2:00 or 2:30?

ELIZABETH LINT: I think Hi-Fi Pizza, they are open until 3:00 or 4:00

ROBERT HAAS: 3:00

MICHAEL GARDNER: Is that seven days a week?

ROBERT HAAS: I think so. There was a petition open to 4:00 and I think we objected to that.

MICHAEL GARDNER: This generated, if I might ask, typically by customers?

PAUL LEE: Yes, all customers.

ATTORNEY CRANE: Yes.

MICHAEL GARDNER: Any other questions?

No.

Any members of the public who would like to be heard on this matter please come forward.

(AUDIENCE MEMBER)

MICHAEL GARDNER: If you would be so kind as to state and spell your name for the record and identify yourself.

DENISE JILLSON: Sure. Denise Jillson, D-E-N-I-S-E, J-I-L-L-S-O-N. I'm the executive director for the Harvard Square Business Association. And I thank you for

your thoughtful conversation. You know, this is a little bit of an unusual request but we are absolutely in favor of it for the same reasons these have been stated.

The Lees have been members of the business association and in the Square for 57 years.

And, you know, one of things that we really like are late night options just for food. There were some concerns several years ago when we did it for the first time with IHOP, and there were some concerns about the noise level and that sort of thing at 4:00 in the morning. And as far as I know there have been no complaints at all.

So we have IHOP and then Falafel came on no long ago, and no problems there. I think Market in the Square is also open 24 hours for food service and there were no issues there. So we think that just having another late night food-only option in the

Square, where you have the others, you know, that are all on one side of the Square. So if people are getting out, not only out of Hong Kong but maybe Tommy Doyle's or whatever, we love the idea that they can find a food option before getting in their car and driving off.

So we are absolutely in favor of this and know that Paul will be monitoring things as closely as he always does. Thank you.

MICHAEL GARDNER: We didn't talk at all about moving from noon to 11:00 a.m. on Sunday. Is there anything you want to add about that?

PAUL LEE: Well, just, we generally have an 11:30 open time and the liquor hours are 12:00, I believe.

ATTORNEY CRANE: Liquor is 11:00. You can have a Mimosa but you couldn't have anything to eat with it. That's the problem.

MICHAEL GARDNER: And you open at what, 11:30 typically on Sundays?

PAUL LEE: Yes.

MICHAEL GARDNER: I guess it strikes me as a big change to move from 1:00 to 3:00 or 1:30 to 3:00 for the days when the bar closes at 1:00.

GERALD REARDON: Just for clarification, we're still keeping the liquor hours for the same thing, Monday through Thursday is the 1:00 a.m. closing on the liquor?

PAUL LEE: Yes, sir.

GERALD REARDON: Just the weekend.

Attorney Crane: Yes. Thursday, Friday and Saturday, that is staying the same.

GERALD REARDON: And you feel they'll have enough business in there to generate take-out matters on the earlier part of the week to support the dining room, I assume?

PAUL LEE: Yes.

GERALD REARDON: I guess for me the issue is that you have to treat this as an

extension of a location that doesn't have alcohol for those particular hours, assuming that they are being held to the present standard, and this is just a food-only venue, and assuming that they've been doing good business, they've been in there for a long period of time, and that closing the lounge area and it's simply the restaurant, I would be amended to support it.

MICHAEL GARDNER: Commissioner, any enforcement issues? Complications that you can see?

ROBERT HAAS: I'd be concerned if the lounge remained open I think it would be a little more complicated to enforce. If they are filed down to the dining area it makes sense to serve food to the designated time.

As I said before, our experience with the Hong Kong Palace has been relatively one that has been well managed.

MICHAEL GARDNER: So would you be

amending the application in any way to make it clear that you would be restricting it to the 90 seats in the lounge? Or are the minutes sufficient for that?

ELIZABETH LINT: Yes, it's sufficient. It's 90 seats in the dining room.

MICHAEL GARDNER: Yes, I'm sorry. I misspoke. Yes.

ELIZABETH LINT: Yes, it is sufficient.

MR. GARDNER: Any other members of the public who would like to be heard?

Pleasure of the Commission?

ROBERT HAAS: Make a motion to approve the application to amend until 3:00 to serve food with the stipulation that the lounge close at the designated hour for liquor service, and also make a motion to allow the food service at 11:00 a.m. on Sundays.

GERALD REARDON: I'd also like to have a stipulation that the capacity would be

90 seats at that point also in terms of our capacity issues, which is the capacity of the dining room area.

MICHAEL GARDNER: You are speaking about the 3:00 --

GERALD REARDON: No.

MICHAEL GARDNER: -- not the 11:00 on Sunday?

GERALD REARDON: No. That's clear we are talking about the 90 seats in the dining room and that is the capacity. I think also cutting down the amount of volume of the people in the place, it will be strictly be the people who are there for food service.

MICHAEL GARDNER: Motion having been made and seconded, all those in favor signify by saying "aye."

ROBERT HASS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: I think I will vote no because I believe it more appropriate to go

to 2:30 at least to start and see what the experience is. So I will simply go on record with that. And I wish you well.

ATTORNEY CRANE: Thank you.

ELIZABETH LINT: Are you interested in a six-month review?

MICHAEL GARDNER: Ms. Lint makes an excellent point. A six-month review seems entirely appropriate to me.

ROBERT HAAS: I support a six-month review.

MICHAEL GARDNER: Do we need a separate motion?

ROBERT HAAS: I make a motion that the matter be brought up in six months for review.

GERALD REARDON: Seconded.

MICHAEL GARDNER: Motion having been seconded, all those in favor signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: Opposed, none.

ATTORNEY CRANE: Thank you, again.

MICHAEL GARDNER: Wish you well.

* * * * *

ELIZABETH LINT: Disciplinary matter continued March 29, May 31, and July 19, 2011. J.H. Restaurant Cambridge, LLC, doing business as John Harvard's Brew House, Steen Sawyer, manager, holder of an all alcoholic beverages as a restaurant/brewery at 33 Dunster license due to a police report received by the License Commission alleging that John Harvard's restaurant was serving alcoholic beverages to a group of underage students.

MICHAEL GARDNER: If you could, please state and spell your names for the record.

ATTORNEY MILLER: Good evening, Mr. Chairman. Stephen Miller of McDermott, Susie & Miller. S-T-E-P-H-E-N, M-I-L-L-E-R.

KAREN SIMAO: Karen Simao, McDermott, Susie and Miller, K-A-R-E-N, S-I-M-A-O.

MICHAEL GARDNER: Well, since last we met, as I recall, you offered to provide us with some of your records of receipts for that evening. You have done so.

ATTORNEY MILLER: Yes.

MICHAEL GARDNER: And I've had the opportunity to review them as best I can understand them. And I would say that I'll give you a chance to characterize them or any other developments or further inquiry that you've made since last we met.

ATTORNEY MILLER: In the records, as you'll note, there was a question of reconciliation that totally reconciled. There was one check that we particularly were -- or stood out to us. We inquired about it and it was a void for a double order.

MICHAEL GARDNER: On a pitcher, right?

ATTORNEY MILLER: Yes. And that was at 12:20 -- 12:32 -- corrected.

MICHAEL GARDNER: That's a.m.

ATTORNEY MILLER: Yes. No where near the time of this incident. So our review of the records show nothing that was out of the ordinary for that time as the Deputy Commissioner was asking about.

MICHAEL GARDNER: I did note a couple of pitchers -- my sense of it was not that many pitchers, in fact, were ordered or sold that evening.

ATTORNEY MILLER: I think at different times we sell more or less --

MICHAEL GARDNER: At least one instance where two pitchers were sold to a party of six, a fair amount of food also was purchased by them.

Assuming that the person writing e-mails indicated that there were empty pitchers in front of the students that he

reported were in the lounge, assuming his termination of pitcher and your termination of pitcher are common understandings and are reasonably the same, it didn't seem to me that there was much documentary evidence to show any sales around that time.

I must say I was a bit confused by some of the terminology, but we can leave that for another day.

Do you have anything else that you want to add?

ATTORNEY MILLER: As you heard at the last hearing, we brought in the entire staff who was there that night. And while we certainly don't know who "Greg" is, his account significantly differs from the police report; it's at best hearsay. The statute is clear, the sale and delivery, the case law is clear, the sale and delivery.

You heard from the bartender who saw this one person come up to the bar and he

described her as manic, which is why he didn't serve her. And when he was in the process of notifying the manager to make sure she was escorted from the premises, she tried again and he didn't serve her, at which point the debate guide was there and saw her not being served.

So there was no evidence anywhere that there was sale and delivery to any of these kids; there is no evidence that any of these kids were able to consume alcohol on the premises in any way, shape or form. So at best case we have hearsay upon hearsay upon hearsay. And the fact that the eye witnesses that we brought in told you that they were not served alcohol.

MICHAEL GARDNER: Is there anything else, Ms. Lint?

ELIZABETH LINT: Well, as a result of the last hearing, I contacted the principal and, again, take it for what it is, it's the

conversation that I had with him. And I asked him if he had any information and whether discipline was imposed or not, and he said one student had been transported to the hospital, five others were in John Harvard's drinking beer, is what he was told by them. There was no suggestion that they had fake IDs, but rather that they were served.

It was during vacation week. Some of the students were brought back to the town, others were flying out of state to meet their families. He said that their code of conduct calls for a one-day suspension; this was imposed on all the students.

And in addition, three, since they were first offenders, had to attend a six-hour alcohol awareness session with their parents, two others were athletes and they had to miss 10 percent of their season.

ATTORNEY MILLER: So, naturally, I would object to any of that being considered.

It is at best hearsay and it certainly wouldn't be any substantial evidence.

Further, we have had no opportunity to cross-examine the principal or any of the students.

MICHAEL GARDNER: Okay. So this is my principal concern about your approach to this case, is this sort of Bart Simpson defense: I didn't do it, you didn't see me do it, you can't prove a thing.

We have the principal of a high school in New Jersey telling us that five students received significant discipline as a result of an incident recorded by a school representative who observed the students in the establishment you represent with empty beer pitchers in front of them.

Yes, you are not going to be able to prove that you served them. But the idea that in representing this institution you're telling us, "Well, that is hearsay, so you

can't prove it," on top of the assertions from the management that you have a "100 percent foolproof system and so it couldn't have happened." Well, Mr. Miller, something happened in the John Harvard's Brew House, which resulted -- even if you don't believe the principal, I believe the principal that he didn't lie to us and tell us that students were disciplined for what happened in your establishment when they weren't disciplined.

And so I'm really troubled about, you know, "It couldn't have happened there, we have a foolproof system." And, you know, Greg is in New Jersey and we can't get Greg here, and, you know, the principal told us what happened but that is hearsay, so we walk away with no implications or no consequences.

ATTORNEY MILLER: What you heard, Mr. Chairman, was from every member of the staff; what they go through for training, what they did that night, and how that night was

handled. And what you heard and what you read in the police report that that girl was not served in our establishment. We take this very seriously.

If there is a thought that seven kids were in our establishment being served, heads would role. We have a General Counsel in from California; we have the regional manager here. This is a big deal to us.

And this isn't a Bart Simpson defense, this is based on the statutes and the case law. This is the way the law is.

If you read the Tiki Hut case, it is based on sales and delivery, that is what the statute says. We take it very seriously. We've retrained everybody. We have gone through a very serious extent on this. So to think we are taking it lightly, is wrong.

But the law is the law. And the fact is, we don't know if those kids drank outside and walked in. We don't know what the

principal asked them. We don't know any of that. We are entitled to a procedural due process, which is not being held up in this case if you're going to take any of that information into account.

MICHAEL GARDNER: Questions from other Commissioners?

GERALD REARDON: Was there any video evidence?

ATTORNEY MILLER: No, Chief.

GERALD REARDON: No cameras there at all?

ATTORNEY MILLER: No.

GERALD REARDON: I thought they did.

ATTORNEY MILLER: No.

GERALD REARDON: Thank you.

ROBERT HAAS: I have to agree with the Chair. I have some difficulties in terms of reconciling this myself.

My disadvantage here is I wasn't here when you had your staff here at the last

hearing. I don't know -- was it Lieutenant Burke or Williams that was here for that -- Williams, I believe. So I missed that entire piece.

But, you know, there was something that occurred in or about the John Harvard's Brew House and I'm having a hard time reconciling.

I understand your argument about due process and having the ability to clarify the statements and what actions took place.

Now, when you talked to the principal, did they say the students admitted to drinking at the John Harvard's Brew House, or they all admitted to drinking?

ELIZABETH LINT: Yes, that's what he was told.

ROBERT HAAS: Told by the students?

ATTORNEY MILLER: Did they add to purchasing alcohol there? Did they admit to being served there?

ELIZABETH LINT: I didn't speak to them.

ATTORNEY MILLER: To even go to this level, this "Greg" sends an e-mail that says she was "slumped over the bar." Greg was the person who reported, but it was the debate guide that was in there. We heard eyewitness testimony from the bartender that says she was so short she couldn't even reach over the bar and he didn't serve her because she was manic. So there are more holes in this.

And, you know, we would like to get to the bottom of this. We asked for a continuance so we could go to New Jersey if we were given the information and find out.

I mean, as I said, this is very serious to us. If there were kids in our premises, we want to know how they got there and how they were served. This is very serious. We were ready to spend the money to go to New Jersey and talk to these kids and

depose them if we had to. We are not taking this lightly at all.

And as a matter of fact, as I said, we have the General Counsels here from California, that's very concerned about this.

So the only thing we know is this girl was served and the debate guide, Greg -- the only place Greg shows up is saying he called the police. He didn't talk to the police.

Commissioner, wouldn't you think that these people that are responsible, that maybe the one person, the debate guide goes, but that Greg goes and talks to the staff and the police and says, "What the heck happened here? What are you doing here?" Nothing. Nothing.

MICHAEL GARDNER: Well, in terms of standard of proof, Mr. Miller, that is a complete hypothetical subjecture.

ATTORNEY MILLER: If we are taking hearsay, I might as well get into it.

MICHAEL GARDNER: Well, you might as well. But in terms of the chaperoning or the educational staff, I would at least assume that they believe their first responsibility is to the students, and they dealt with the students. They are not enforcement personnel; they are not people who are responsible for seeing how you conduct your business.

They were responsible for the kids, against their self-interest. They reported that the kids were in your premises with empty beer pitchers in front of them.

ATTORNEY MILLER: One of them.

MICHAEL GARDNER: That's got to be against his self-interest in terms of demonstrating how poorly he handled his chaperoning duties, but that's the report we have.

And we have a report from the principal, which you can say is hearsay and so we shouldn't believe it.

ATTORNEY MILLER: We don't have a report from the principal. We don't have the principal's name. We don't have the girl's name. We don't have any of the kids' names. We don't have Greg's name. We don't have due process.

MICHAEL GARDNER: And I got to believe students who were in your premises were disciplined. You can chose to believe that or not, and you can chose to evaluate your operation in light of that.

But for your staff to say that you have a 100 percent foolproof system, as the father of former teenagers, I have to regard that as a gross under-appreciation of the ingenuity and capacity of underage drinkers to get drinks.

And it is really troubling and shocking to me that you present a position of such arrogance that "it absolutely can't happen in our place because we are too good."

Well, that doesn't comport with any understanding of reality that I have.

ATTORNEY MILLER: Well, we certainly believe that we are happy that our staff believes that we have a good system.

MICHAEL GARDNER: That was not the testimony.

ATTORNEY MILLER: And they were trained and they were retrained again and they went through the whole incident.

But, once again, there is no evidence of sale and delivery in those premises that you have, none whatsoever.

MICHAEL GARDNER: The pleasure of the Commission?

Well, any members of the public who would like to be heard on this matter?

Seeing none. The pleasure of the Commission?

ROBERT HAAS: As I said, Mr. Miller, I really have a hard time reconciling this

myself. But I do have some trouble making sure that we reach the threshold in this administrative hearing with respect to having sufficient evidence to support a finding against the John Harvard's Brew House. So I still have some reservations on that.

MICHAEL GARDNER: Anything else?

GERALD REARDON: I pretty much mirror the Commissioner's -- I have looked at the record, and I have access to some of the medical records as we did some of this. It really doesn't add up in terms of the chaperone and some of the others who would admit to this because the culpability on their end.

However, I don't see it rising to the level of evidence that we can say that it definitely -- it doesn't make any sense to me, in many respects. But I've looked and looked and I just don't see that threshold being cleared to state that that definitively

happened, although it doesn't make a lot of sense logically.

MICHAEL GARDNER: Well, I would in general, I agree, and would make the motion that this matter be placed on file, with the specific indication that five students from the high school were disciplined based on the belief of the high school and that they consumed alcohol in the John Harvard's Brew House.

ROBERT HAAS: I support that motion and second it.

MICHAEL GARDNER: Any further discussion?

GERALD REARDON: No.

MICHAEL GARDNER: All those in favor signify by saying "aye."

GERALD REARDON: Aye.

ROBERT HAAS: Aye.

ATTORNEY MILLER: Thank you for your time and consideration on this.

MICHAEL GARDNER: I wish you well. And I appreciate the effort and time and expense that you went to here in attempting to try to get to the bottom of it, and I accept it as a good faith effort on your part. And I hope that out of this there will be no debate team members having anything like this kind of problem in your place again.

ATTORNEY MILLER: The most bizarre thing about it, Mr. Chairman, as you know, is that the pre-meeting meal or whatever they talked about, this high school UN conference or whatever that was in town so all staff was fully aware of, so there are so many holes in there it is incredible. Maybe some day we'll catch them in town again.

MICHAEL GARDNER: Thank you.

* * * * *

ELIZABETH LINT: Application for Ataturk, Incorporated, doing business as Bosphorus Mediterranean Restaurant, Ramazan

Gagree, manager, holder of a wine and malt beverages as a restaurant license at 1164 Cambridge Street has applied for a change of license from wine and malt to all alcohol.

MICHAEL GARDNER: If you would, sir, please come up and state and spell your name for the record.

BERNARD GOLDBERG: My name is Bernard Goldberg, 620 Massachusetts Avenue, Cambridge.

RAMAZAN GABREE: Ramazan Gabree, R-A-M-A-Z-A-N, G-A-B-R-E-E, 1164 Cambridge Street, Cambridge.

MICHAEL GARDNER: Go ahead, if you would, sir.

ATTORNEY GOLDBERG: Mr. Chairman, members of the License Commission, I'm here representing Ataturk Restaurant known as Bosphorus Mediterranean Restaurant, 1164 Cambridge Street in Cambridge.

On my right is the principal and manager of the corporation. And we are here

asking the Board to make a change with regard to the beer and wine license that was granted to Ataturk about a year ago, and ask that they obtain from your Board a change to an all alcoholic license.

This has been not an easy thing for them to present to you in the sense of the fact that most recently he was the recipient of a beer and wine license which was granted by the Board. And at that time he had presented to the Board sufficient facts in which the Board itself granted the beer and wine license.

Since that time he has noticed that many people who visited the restaurant, more especially of Turkish nationality, are requesting a cordial, if you will. But, nonetheless, according to the standards of this License Commission, all alcoholic, in the sense of they are asking for Raki, which is the national aperitif, if you will, of Turkey

in itself.

Raki is known famously as being the lion's milk. And if you recall, and I do recall in my long years of imbibing, never having had Raki but, nonetheless, seeing customers in which water is poured into Raki in which it turns into a milky substance, and that is why it is called lion's milk.

Mr. Gabree has known throughout the activity and operation of his business that many people come there looking for Raki, and they have to be turned away because of the fact that beer and wine is not satisfactory to them, and as a result of which he has noticed a decline in his business. In a sense, that the people who are looking for Raki know that it's a complement to Turkish food, and it is a Turkish restaurant and all the of the foods are cooked in a Turkish fashion.

And we have Mr. Gabree's new chef, who is here and can answer any questions with

regard to the operation of the restaurant for you.

Since the operation of the restaurant, he has not suffered from any violation of the rules and regulations of the City of Cambridge with regard to noise or with regard to inebriation or anything like that.

I yield to Ms. Lint, who can suggest that there has not been any violations that I'm aware of in connection with the operation of the business.

ELIZABETH LINT: I'm not aware of any violations.

ATTORNEY GOLDBERG: So that he has been operating successfully in the sense of serving Turkish food, but he feels necessarily that Raki, in his opinion, necessary to have a full Turkish type of restaurant. And I think that so far as the restaurant is concerned, it satisfies what a Turkish restaurant is all about.

I have here, if I can put my hands-on it, a list of neighborhood residents and also business owners in the area who have signed these documents here. And I'll present that to Ms. Lint and have you take a look at them.

Note that on the first page there is some names of the various restaurants in the area, Atwood's Tavern, Tupelo, Prospect Liquors, Midwest, Inman Square where his business is operating, Olay Restaurant, Top Cleaners. So that there is a list of neighbors and business owners who have endorsed this change.

I know that some would say, "Why have you gone from beer and wine to a request for all alcoholic?" And basically it is to obtain the operation and consisting of Raki, which is, as I indicated to you, the national wine of Turkey.

So far as the liquor is concerned, I've asked Mr. Gabree if he would like to have

all alcoholic with just Raki. If that's a possibility, we would agree to that.

However, because the City of Cambridge does not endorse aperitifs or cordials, it is necessary for us to take that one step to an all alcoholic license and see if we can then satisfy the Turkish nature of the restaurant itself.

The endorsements there indicate that the business community and the local neighborhoods are in favor of this request to up-change and endorse the all alcoholic license. And I think that it satisfies the requirement of the Board so far as satisfying the public need and the public good.

They've operated properly. The noise emanating from the restaurant is insufficient, and he controls that.

And so as far as the operation hours are concerned, Monday, Tuesday and Wednesday he opens up at 8:00 and closing is at 11:00

until Wednesday, and 12:00 on Thursdays and Fridays and Saturdays, and 11:00 on Sundays.

MICHAEL GARDNER: Do you know what the proof, what the typical proof rating for Raki is?

ATTORNEY GOLDBERG: Well, I do know because I had to look it up. It consists of 45 percent of alcohol and it is made from grapes, and it's an anise type of a liquor, aperitif.

MICHAEL GARDNER: What is that?

ATTORNEY GOLDBERG: Anise, it's like licorice.

MICHAEL GARDNER: Licorice. Anise. Did you say it's a licorice flavor, so it's anise?

ATTORNEY GOLDBERG: Yes, excuse me. Licorice.

MICHAEL GARDNER: Yes. But it doesn't qualify as a wine, that's clear?

ATTORNEY GOLDBERG: It doesn't

qualify as a beer or wine, yes.

MICHAEL GARDNER: And it's 90 proof? 45 percent alcohol is 90 proof. Yes, I think it is.

ATTORNEY GOLDBERG: Yes. I'd like to have Mr. Gabree talk to you about his restaurant and the nature of it and the reason for his request at this time.

RAMAZAN GABREE: First of all, I was I have two competitions in the Greater Boston area, one is Arlington and the other one is in Brookline, which is called Brookline Family Restaurant.

MICHAEL GARDNER: So these are competitors to you?

RAMAZAN GABREE: Yes. A Turkish Restaurant.

MICHAEL GARDNER: A Turkish theme, the same idea that you regard your as business.

RAMAZAN GABREE: That's correct.

GERALD REARDON: What's is the name of the one in Arlington?

RAMAZAN GABREE: The Barsha Restaurant in Arlington. (Phonetically spelled.)

GERALD REARDON: And they have a full liquor license?

RAMAZAN GABREE: No, they do not. They have a cordial license. And another one is in Brookline called the Brookline Family Restaurant, which they have a cordial license as well.

So I have no chance to get a cordial license in the Cambridge area. So most of the people, which you are able to see on those signs, they are really not Turkish people, they are not coming because they are not coming to my restaurant. They are calling me and asking me if I have Raki and I say no.

But I have all the appetizers that belong to the Raki drink, but they are not

really coming to my restaurant.

But most of the signers in there are the residents around there and others come from other towns as well.

From the time when I came here for the first meeting, it was seven months ago -- no, actually, that was last year, a year ago. I had some -- not supporters from the neighborhood. Now, I became their fan. So the fans are all there, none of them are here -- only one actually, one person is here. But the rest of them, I'm really good with them.

There is Brandon, which lives right behind my restaurant, so he is the closest neighbor. And the next door is the travel agency. And I have been really good with them.

But they asked me the last time, they ask me to take off the cameras, take the security camera off the back door. And I took

that off. And I called the camera guy there and take it off and paid the \$500 for that camera because my neighbors feel like they are in kind of jail because of the camera and they were uncomfortable and I took that off.

Now, they are asking me to put it back on because of the homeless people. So I'm going to put that back again, those cameras. So I've been pretty good so far. So if I can put the Raki on my menu, it would help a lot for my business.

And Cambridge City is going to get their own benefit as well because I'm going to have many more guests.

GERALD REARDON: We don't have a cordial? Have we ever had a license with a restriction on it?

ELIZABETH LINT: Not that I'm aware of.

MICHAEL GARDNER: Would you mind spelling the name of the liquor for us,

please.

RAMAZAN GABREE: R-A-K-I.

MICHAEL GARDNER: R-A-K-I. Okay.

And it is a grape-based aperitif?

RAMAZAN GABREE: Yes, that's correct.

ATTORNEY GOLDBERG: And I
mispronounced it, it is like licorice.

MICHAEL GARDNER: Yes, that's what I
thought it was.

Well, Mr. Goldberg, you may or may
not know that there has been some neighborhood
opposition or letters in opposition.

ATTORNEY GOLDBERG: Not that I'm
aware of.

MICHAEL GARDNER: The Commission has
received some. And I think we are just a
little troubled for you to be essentially
coming back so soon after getting the beer and
wine license, presumably with the expectation
or understanding that the business model could
be successful with beer and wine, and as far

as I know, our not having heard about the Raki issue at the last presentation, and for you to be coming back so soon for such a substantial upgrade in the license.

Is there, in fact, any plan, if the license were to be granted to use it to its fullest and to have a full alcohol supply?

ATTORNEY GOLDBERG: Well, I suppose like you are not being able to grant a cordial license, if you were to grant an all alcoholic license that would include what ever alcohol that they have on the premises.

I do know I talked to Mr. Gabree with regard to it and he indicated that if he were able to get a cordial type of license -- which is not available, I do believe, from the board, because I haven't heard of anybody in my experience requesting a cordial type license -- if we were able to get Raki as a cordial license, and I don't know how that could be accomplished, then that would be

satisfactory to him and it would not include an all alcoholic license but rather being a complement to the beer and wine.

MICHAEL GARDNER: Well, I'll just think out loud and in a purely hypothetical way and not knowing whether it is possible or not, but what would you think of the Commission granting the license which currently our regulations provide, which is an all alcohol license, but with the understanding or commitment from the license holder that, in fact, the only spirits that would be served would be either Raki or Raki and whatever appropriate complements there were to that.

ATTORNEY GOLDBERG: Mr. Chairman, I would like for Mr. Gabree to answer that question, and he more is inclined to do so.

RAMAZAN GABREE: I think my business will be much better with the Raki license again. It is only what I'm really asking, and

that's really what I need that liquor to be in my restaurant.

GERALD REARDON: What the Commissioner was saying is that you would be limited to Raki and only the Raki --

RAMAZAN GABREE: I would be more than happy.

GERALD REARDON: And no other part of the all alcoholic license.

MR. GABREE: Yes, sir. I would be more than happy with that.

ATTORNEY GOLDBERG: I think that would be a total 100 percent complement of the Turkish food as well as the Raki.

MICHAEL GARDNER: I would like the opportunity to research this more and think about it. But I wonder if we have a decision hearing scheduled for the 27th?

ELIZABETH LINT: Yes, at 1:00.

MICHAEL GARDNER: Do the other Commissioner's have any questions for

Mr. Goldberg?

ROBERT HAAS: No questions.

MICHAEL GARDNER: Any members of the public here who would like to be heard. Please come forward and state and spell your name for the record.

STEPHEN HALPERN: My name is Stephen Halpern, S-T-E-P-H-E-N, H-A-L-P-E-R-N. I've submitted a letter to you, which has been submitted by a number of people who have written letters. I also represent others in the neighborhood. This is the neighborhood of 73 Tremont Street. I live at 73 Tremont Street and own 73 Tremont Street and I've lived there since 1980.

Inman Square has many alcohol establishments and I think there is something like five bars within four or five blocks that serve food and focus on the serving of alcohol.

There are two package stores within a

hundred yards of the restaurant. And alcohol is being a problem in the neighborhood and continues to be a problem in the neighborhood in a general sort of way. It used to be a bigger problem, it is less of a problem than before.

The restaurant is in a CAP area, which means that, according to the regulations of the Commission, that it has to pass a very high hurdle in order to get any sort of liquor license. And when we were here approximately a year ago, we discussed that issue, and the community and myself were concerned about the addition to the supply of alcohol in the neighborhood. We are concerned about the size of the bar. And we generally opposed the beer and wine license.

The Commission passed and allowed that license pursuant to a number of changes in the establishment, such as making the bar somewhat smaller but still quiet extensive,

making a partition between the bar and the food service area, and also by indicating that -- and I quoted this in my letter -- that there was a very strong difference between giving somebody a wine and beer license and an all alcohol license.

Another thing that was agreed to was that no one would be served alcohol who wasn't also served food. The idea being, all right, I think on the Commission's part -- all right, people like to drink a little wine or a little beer with their dinner, but it is with their dinner; they are not getting it at the bar.

The community, and myself included, have a very strong concern that if an all alcohol license will be moving towards a much more alcohol centric establishment.

We are also, as much as I would like to believe what was said just now about Raki, concerned that here it is, eight months since the establishment opened, and they are back

here asking for something that was specifically agreed to by them and by the Commission to be outside the purview of what was being discussed when they came here initially. So I'm concerned about giving them an all alcohol license.

And even if you give it with some sort of prescription against serving it with anything but Raki, which is a 90 proof, a pretty-stiff drink. Whether that will be adhered to, or six months from now, again, at the end of the summer when people generally are not available, they would be back here saying, "Well, you know, people come in, they would like to have a brandy after the meal, some scotch. Some people like to just sit at the bar and have a few mezzi with some alcohol, these will really help our business." Those are our concerns. We don't think this thing fits. We didn't think the original license fit within the purview of the CAP regulations.

There are plenty of alcohol establishments; six right there on that street. Like I say, you can go buy nips and people do that all the time. A hundred yards away. You have a restaurant right next door with a much smaller bar that serves hard liquor. You have, as I said before, five regular bars, which all do landslide businesses based on the alcohol.

The alcohol liquor stores do landslide businesses based on the nips. I could bring you a collection of nips from my front stair stoop each week.

So we oppose this and we ask you not to grant an all alcohol license. And I think if this hearing had been held in October or November when people weren't just back from vacation, and a more educational community, you would have more mail and more individuals here opposing this.

Also, I suggest, just from the list

of what is read from supporters, those were commercial establishments that have no relationship to this business and upon whom this business would have no impact. Not the hardware store, it closes at 6:00, 5:30. You know, the active bar across the street from it, it's not going to make any difference.

I have to agree that, and I'm pleased to agree, that we have not had any trouble as a result of the introduction of this restaurant, and that is something we would like to continue.

Thank you very much for your time and consideration.

MICHAEL GARDNER: Any questions?

GERALD REARDON: Mr. Halpern, how many units are at 73 Tremont?

STEPHEN HALPERN: Three. And you have a letter from Mr. Stein, I believe, who is our next-door neighbor and also the minister of the Lutheran Church on Broadway.

And I think you have a letter from another or an e-mail or fax from another couple on the street in the apartments that abut the back of the restaurant.

Any other questions?

MICHAEL GARDNER: Any other members of the public who would like to be heard?

No.

Did you indicate, sir, that your chef was here? Did I hear that right? Does he have anything you would like him to add?

(AUDIENCE MEMBER)

MICHAEL GARDNER: Please come up here and state and spell your name.

REDHA PETROUNI: My name is Redha Petrouni, R-E-D-H-A, P-E-T-R-O-U-N-I.

MICHAEL GARDNER: Have a seat.

REDHA PETROUNI: Thank you.

MICHAEL GARDNER: Tell us a little bit about what it is like in the restaurant.

REDHA PETROUNI: I just recently got

involved with him. I'm a chef. I've been a chef at the place the Cu-Chi Cu-Chi for the last six years on Main Street, Cambridge. I was behind all this good food that made that place successful.

And I was recently looking for a new venture, where to go. And I am from the Mediterranean, like he is, and we cook pretty much the same kind of food. But I wanted to help him out and get that place into a better, truly Mediterranean cuisine with all the Turkish influence, you know, that Southeast Asian influence. Bosphorus is the name of the river that crosses southeast Asia and Turkey. So there is all that good that I wanted to help him with.

And to my 25 years in the restaurant business, I always feel like -- when I saw the it has beer and wine, yes, that is good for now, but it is better to have something else. They are asking for their own really

addiction for that drink.

But overall what I know about the industry, we always get more crowd, you make people much happier to stay a little bit longer and have dessert and everything.

And I think Inman Square, in general, there is all the restaurants pretty much most of them they have beer and wine. Portuguese restaurants, around there, I haven't visited them all, but the other restaurants they have liquor licenses.

And I think it would be good. It would create more jobs, more bartenders. And the neighborhood is expanding a little more, you know, there is a couple new more places that open up down the street. And that's what -- you know, I believe in business, I believe in evolution and expansion, just like how Inman Square used to be and how it is now -- Union Square I meant.

I was a resident in the Square for 12

years. I used to live at 33 Springfield, now I am living up on Prospect Hill.

But, once again, he put a lot of effort in and that place really looks nice. I've been in there for a week and I see everything is organized.

MICHAEL GARDNER: Thank you very much.

REDHA PETROUNI: You are welcome.

MICHAEL GARDNER: How many seats are at the bar?

RAMAZAN GABREE: There are 14 seats at the bar.

MICHAEL GARDNER: And are you following the restriction of no alcohol sales without food?

RAMAZAN GABREE: Yes, sir.

MICHAEL GARDNER: Has that worked out all right?

RAMAZAN GABREE: Yes. Plus, there are -- I am surrounded with the restaurants

which has -- most of them like 95 percent of them have the full liquor license.

So, as I say, there are two other Turkish licenses which has a cordial license. And I'm surrounded by all of those restaurants which I have only beer and wine license. Which wine I have 10 types of Turkish wine and two types of Turkish beer. We have only two types of Turkish beer, even in Turkey, and I have both of them.

But it's not even enough, it is not enough to bring all of the people into my restaurant because of the other restaurants I'm surrounded with. Like around in Inman Square, all of them has the full liquor license.

MICHAEL GARDNER: Are there other Turkish restaurants in Cambridge?

RAMAZAN GABREE: No, sir. Not 100 percent traditional Turkish restaurants. There is Oleana, I believe. They are

pretending to be Turkish restaurant, but not even close.

MICHAEL GARDNER: This is on Hampshire?

RAMAZAN GABREE: Yes. They are not even close. Their menu is like totally Eastern Arabic. Not even close, not a Turkish restaurant.

MICHAEL GARDNER: Any other members of the public that would like to be heard?

No? Any other questions.

ROBERT HAAS: No questions.

GERALD REARDON: No questions.

MICHAEL GARDNER: I make a motion that we defer this matter to the decision hearing of September 27th?

ROBERT HAAS: Seconded.

MICHAEL GARDNER: All those in favor signify by saying "aye."

GERALD REARDON: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: So we'll deal with this matter again on September 27th. At that time we don't actually take public testimony, but it is a public hearing.

ATTORNEY GOLDBERG: Thank you.

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ELIZABETH LINT: Application for The Upper Crust Harvard Square, LLC, doing business as The Upper Crust, Jordan Tobins, manager, holder of a wine and malt beverages as a restaurant license at 49B Brattle Street, has applied for a change of manager to from Jordan Tobins to Joshua Huggard.

MICHAEL GARDNER: Could you please state and spell your name.

JOSHUA HUGGARD: Joshua Huggard,
J-O-S-H-U-A, H-U-G-G-A-R-D.

MICHAEL GARDNER: And could you tell us about how long you have been or when you'll start being manager.

JOSHUA HUGGARD: I've been with the

company since 2004. I've managed both The Lexington store and the Newbury Street store. And I've been part of many of the other openings of all the other stores.

I've taken on Harvard Square full-time, for about 30, 40 hours a week right now. And I live very close to it so I go there all the time and check in on them and make sure everything is good. I'm also in charge of the training, I'm tip certified, serve-safe certified.

When I'm not there, my assistant manager, Greg Welch, is there, and he is also serve-safe, tip certified, and very capable of running the restaurant.

MICHAEL GARDNER: And you've been functioning in this capacity now for how long?

JOSHUA HUGGARD: It's been about three months now.

MICHAEL GARDNER: I understand we had you scheduled for an earlier --

JOSHUA HUGGARD: Yes. That was my complete mistake and I apologize for that. I just literally put it in for the day after. Completely my fault. I'm sorry.

ROBERT HAAS: So why the frequent turnover in managers in this establishment?

JOSHUA HUGGARD: Just the nature of the beast in the restaurant industry. We had some good people but we hired some really young people; not underage but -- I mean, it's one thing to hope that pizza is going to be someone's future career goal, but that's not always the case.

I love the industry. Like I said, I've been with the company a long time. You get great managers in there and other interests come up or they finish college or whatever it may be. But we've never had any really bad incidents as far as why they left; it was just moving on in their own career paths.

I'm there right now and I'm hopefully going to be training someone and finding someone for a change of manager within the next year.

MICHAEL GARDNER: In this establishment?

JOSHUA HUGGARD: Possibly in this establishment, we'll see.

ROBERT HAAS: You mention that you are spending roughly 30 hours a week. Would that change at all with this --

JOSHUA HUGGARD: Yes. I'll probably get up to about 40 hours a week. Because I still overlook the Newbury Street store.

But, like I said, I live very close so I'm constantly going back and forth and checking in there a lot.

MICHAEL GARDNER: And you've been in the business since 2004?

JOSHUA HUGGARD: Yes. With Upper Crust since 2004. Prior to that I was in the

restaurant industry for a while.

MICHAEL GARDNER: And the Newbury address has the same beer and wine license?

JOSHUA HUGGARD: Yes. Beer and wine license in all of our stores. The only one that has a full liquor license are in Lexington and in our Waltham stores; however we run them as beer and wine, we don't utilize the full liquor license.

It is really not a very big portion of our business, but we like to offer it with pizza if someone wants a beer while they're waiting or red wine or something like that just to fulfill the whole experience, I guess.

MICHAEL GARDNER: Any members of the public who would like to be heard on this matter?

No.

Pleasure of the Commission?

GERALD REARDON: Motion to approve, assuming all the paperwork is in order.

ELIZABETH LINT: I need the background check. I think it's upstairs, though.

ROBERT HAAS: I make a seconded. Contingent upon the background check.

ELIZABETH LINT: And 21 Proof training.

ROBERT HAAS: And 21 Proof training.

MICHAEL GARDNER: So we have our own training separate from tips.

JOSHUA HUGGARD: What is that called?

ROBERT HAAS: 21 Proof training.

ELIZABETH LINT: We'll send you the information.

MICHAEL GARDNER: So motion having been made and seconded to approve the change in manager and contingent on 21 Proof training and the background check. All those in favor signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: Good luck. We wish you well.

JOSHUA HUGGARD: Thank you very much.

* * * * *

ELIZABETH LINT: Application for Alewife Cafe, LLC, doing business as Casbah Restaurant, Sari Abuljubein, manager, has applied for a new all alcoholic beverages as a restaurant license at 26 Newbury Street with a seating capacity of 150 (90 seats inside and 50 patio seats on private property). The proposed hours of operation 11:00 a.m. to 1:00 a.m. Sundays through Wednesdays and 11 a.m. to 2 a.m. Thursdays through Saturdays and the night before a legal holiday. Applicant is also applying for an entertainment license to have live entertainment and/or vocalists with amplification and an audio tape/CD machine that may play music below, at, or above conversation level.

MICHAEL GARDNER: Sir, please state

and spell your name for the record.

SARI ABULJUBEIN: Sari ABULJUBEIN.
S-A-R-I, is the first name, Abuljubein,
A-B-U-L-J-U-B-E-I-N, is the last name.

MICHAEL GARDNER: A-B-U-L-J-U-B-E-I-N
is the last name?

SARI ABULJUBEIN: Yes.

MICHAEL GARDNER: If you could, sir,
state a little bit about your plans and also
your background in the industry.

SARI ABULJUBEIN: With your
permission, let me go just reverse it. My
background in the industry, I've been
owner/manager and involved with Casablanca
Restaurant at 40 Brattle Street since 1972. I
became manager on record in 1974 and bought it
in '76 and I've continued to operate it.

The Alewife Cafe actually is going to
be called Casbah, formerly Barsha Cafe.
(Phonetically spelled.) I purchased it from
its previous owner, and my intention is to

turn it more into a restaurant rather just a nightspot, so to speak, at least that's the way it's been in the last few months. Serving lunch and dinner, looking for to expand lunch to do take-out, to do delivery, utilize the patio, you know, whenever is the good weather.

And the Barsha Cafe had a tradition of entertainment. I think in their case, it was really a major part of their business. I'm scaling that way down. There are some minor renovations right now taking place inside and the entertainment area is really being shrunk to just one small corner. We did not want the entertainment to be the primary attraction of this new restaurant.

I will be operating it. My son, who is not here this evening will be helping me. He is 32 years old. And that's kind of briefly what we are looking forward to doing.

MICHAEL GARDNER: And the type of food?

A. The type of food is going to be -- their tradition has been Middle Eastern. My ethnic background is Middle Eastern. It is going to be Middle Eastern but it is going to kind of touch a little more on Casablanca, which is all Mediterranean. And because I have some interest in harvest and barbecue, so I want to have a little barbecue segment in that location. That's the food.

Incidentally, the place currently had been -- their current license is for nine seats inside and there are only about eight bar stools, we can't even fit more than eight bar stools at the bar. So it's primarily a seating area and not a major bar area.

MICHAEL GARDNER: And you would be adding the patio seats?

SARI ABULJUBEIN: They are also part of the existing license for the Barsha Cafe, or whatever the corporate name is.

So my application is based on what

the occupancy of the current licensee is.

MICHAEL GARDNER: As I recall, we reduced the operating hours from 2:00 to 1:00 at the Barsha recently after having increased them to 2:00 not too long before that.

To what extent does your business model require a 2:00 a.m. closing?

SARI ABULJUBEIN: I was at that hearing and I'm aware of what transpired at that hearing. And I was beginning to kind of operate the Cafe for Jack as we were in the process of getting this transaction underway. I don't really know. It's not going to be major, at all.

At Casablanca, for instance, we have had the 2:00 license since Harvard Square used to close at midnight at Casablanca on those days. Thursday night and Friday night, we would be open until 2:00, and everybody thought it was an after-hour joint.

Nowadays, with so many other

establishments having a 2:00 license in Harvard Square, we hardly ever make use of it. It doesn't increase our business. We don't want anybody coming in at the last hour for just to take last call at Casablanca.

In that location, if entertainment is successful and there is food being served with entertainment, it would certainly be helpful to have that license.

Is it a major component as I see things right now? I can't say that it is at all. In all honesty and fairness. I'm more of a day than an evening person, than a late night person.

GERALD REARDON: So you've been assisting now in the past month or so.

SARI ABULJUBEIN: In the past month or so. Actually, in the past couple of weeks, the place has been closed because we are cleaning and changing some equipment.

GERALD REARDON: So do you feel as

though there was a large trend for the 2:00 portion of this?

SARI ABULJUBEIN: Well, there was -- from what I saw in July, where I was just kind of frequenting the place. August was Ramadan and late summer. So between Ramadan and the late summer vacation schedule, business -- that late night business dwindled.

And it also really heavily depended on the entertainment that was there. Those bands or singers or artists, kind of have their own following. They kind of publicize who is there and that following would come in.

And they do an awful lot of business that started after 9:00. And, amazingly, there was an incredible amount of food as well. It wasn't all drinking business. I was quite happy to see that.

GERALD REARDON: I'm asking, in your experience, do you feel as though the difference between a 1:00 and 2:00 is

something that you thought was very advantageous?

SARI ABULJUBEIN: It is a added value without question.

MICHAEL GARDNER: I'm not sure I understand either the nature of what Barsha's license was or the license you are applying for. This is not a transfer or sale --

SARI ABULJUBEIN: Well, their license is one of those no-value licenses. So it will disappear.

MICHAEL GARDNER: And you're applying for the same type of license?

SARI ABULJUBEIN: For the same type of license, yes.

ROBERT HAAS: Have you looked to see if there is any market for having the license on the market right now?

SARI ABULJUBEIN: I have not.

ROBERT HAAS: What is your plans with Casablanca?

SARI ABULJUBEIN: My lease is up for renewal at the end of April. What will happen between now and the end of April, I'm really not in a position to even guess or to talk about. I haven't even had any formal discussions with the landlord. But I've been there for a very, very long time, and I'm looking to kind of wind down a little bit.

ROBERT HAAS: Are you suggesting you are thinking of selling Casablanca at that point?

SARI ABULJUBEIN: Well, you're saying that. I don't want to say that. This is public record. Yes, I would actually consider selling.

MICHAEL GARDNER: And that is a value license?

SARI ABULJUBEIN: No. That is one of the old fashioned ones.

MICHAEL GARDNER: It's for value?

SARI ABULJUBEIN: Yes, it's for

value.

This is all new, the no value. It used to be, for 40 years we just dealt with liquor licenses, full value.

GERALD REARDON: I guess what the Commissioner is alluding to is that if you get a no value license for this place and then potentially within six months try to sell the value license, that some people may think that that is kind of unfair.

SARI ABULJUBEIN: I hear you. I understand what you're saying, sir.

MICHAEL GARDNER: Is there anything else you'd like to add at this point?

SARI ABULJUBEIN: No, sir.

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

ROBERT HAAS: Just to go back on the Chairman's question earlier, are you hard and fast on the 2:00 opening or are you willing to

consider a 1:00 closing?

SARI ABULJUBEIN: I'm not hard and fast on it, no.

MICHAEL GARDNER: Any disciplinary history at the Casablanca?

ELIZABETH LINT: None.

MICHAEL GARDNER: How do you manage that, no discipline?

SARI ABULJUBEIN: We, fortunately, do not break the rules. But I underline the word "fortunately" because it is easy sometimes.

MICHAEL GARDNER: You haven't had any problem with the debate club, the students coming in?

SARI ABULJUBEIN: No. We got real lawyers.

GERALD REARDON: I guess for the record, I don't go with the philosophy of what happened to a previous owner has to translate to this particular owner in terms of a 1:00 to 2:00. I'd like to take it on the merits.

I think the merits of Casablanca have been extremely well over a number of years.

ROBERT HAAS: I agree. I'm concerned about the fact -- I just want to get an sense of where the market is in terms quality restaurants, similar cuisine.

And I think you are right, depending upon what entertainment you bring or groups or crowds you bring in to the restaurant, how well you regulate that.

SARI ABULJUBEIN: As I said, we are really -- forgive me for interrupting you. We are downscaling that aspect of the previous business. I do not want the entertainment to take over. I have very low tolerance for noise because I'm getting older, I can't really take it.

MICHAEL GARDNER: Well, I think to me the issue is, I feel very uncomfortable about granting a 2:00 license based on the experience we had at this location recently.

If anything the mistake was in granting the 2:00 originally.

Is there any sense from the Commissioners as a need to study this and put it over to the 27th or are you prepared to vote this evening?

ROBERT HAAS: I have reservations, I agree. I would prefer to see a track record before I even entertain a request for 2:00 at this point in time.

Again, I think if entertainment is not going to be your primary focus of your business, I think the 2:00 becomes a little less important in terms of, as you say, it really becoming more of an eatery as opposed to a nightspot.

So what I'm looking for you to say to me is --

SARI ABULJUBEIN: I'm quite comfortable with what you're saying and I think it is fair enough. I can wait four or

six months and can come back and revisit that. I'm not saying that that's what I will do but --

MICHAEL GARDNER: Well, in the interest of moving things along, I'll make a motion to approve the new all alcohol, no value, no transfer license for the Alewife Cafe as stated in the application with the provision, however, that the Thursday through Saturday and night before a legal holiday closing time be 1:00 a.m.; And also to approve the entertainment license as stated.

ROBERT HAAS: Seconded.

MICHAEL GARDNER: Any discussion?

No.

Motion having been made and seconded to approve the application with the amendment on the closings Thursday through Saturday, all those in favor signify by saying "aye."

ROBERT HAAS: I just have one question. So the 21 Proof would that hold

because he has an establishment already in Cambridge?

ELIZABETH LINT: Any employees would have to do it.

ROBERT HAAS: So the stipulation for the 21 Proof --

SARI ABULJUBEIN: Not a problem. I had to do it for Casablanca, too.

MICHAEL GARDNER: With the amendment as provided to by the Commissioners, subject to 21 Proof, and any other required regulations and approval of all the paperwork, all those in favor signify by saying "aye."

ROBERT HAAS: Aye.

GERALD REARDON: Aye.

MICHAEL GARDNER: None opposed. Good luck with your venture and with your son's continued efforts.

SARI ABULJUBEIN: Thank you very much.

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ELIZABETH LINT: Application for CPC Alewife, LLP, has applied for a garage license at 233 Concord Turnpike for 220 vehicles and 2200 gallons of gasoline in the tanks of autos only.

MICHAEL GARDNER: Will you please state and spell your name for the record.

HEATHER BOUJOULIAN: Heather Boujoulian, B-O-U-J-O-U-L-I-A-N.

MICHAEL GARDNER: And could you please describe you're affiliation and your plans.

HEATHER BOUJOULIAN: Certainly. I'm an employee at Criterion Development Partners representing CPC Alewife, the applicant for the license. This is a former Faces nightclub. The redevelopment is a 227 unit apartment complex. We've received approvals from the Planning Board and the Conservation Commission and the demolition permit is ready to be picked up as soon as we close on the

property. So this is one of our last stops.

MICHAEL GARDNER: Can you tell us a little bit about the garage.

HEATHER BOUJOULIAN: I have a lovely picture for you (indicating).

GERALD REARDON: Is this going to involve the Gateway at all or strictly just the Faces' property?

HEATHER BOUJOULIAN: Just the Faces' property.

GERALD REARDON: It's gone back and forth over the years --

HEATHER BOUJOULIAN: It has. I brought a couple of small images for you of the proposed development just in case you wanted to see them. It's a four-story apartment building over the one level garage. This is in a flood plane, so the garage is actually at grade with some management offices and leasing facilities on the first floor.

So this is maybe a little difficult

to see in black and white --

GERALD REARDON: Is there only one garage in one building, or is there one in every one of the buildings?

HEATHER BOUJOULIAN: Actually, it is one large building separated with fire walls. It is technically four separate buildings, but it's one large building overall.

ROBERT HAAS: How many units?

HEATHER BOUJOULIAN: 227 in total. There are 227 parking spaces but only 220 that are in the garage.

So this frontage at the north side is Route 2 (indicating).

GERALD REARDON: Excuse me. And you are all set with your curb-cuts with the state, too?

HEATHER BOUJOULIAN: Yes.

The existing hotel is right here on this side (indicating). The approved curb-cut from the MASS DOT is a one way access

obviously, because we are on the eastbound side of Route 2.

As you enter, you pull in here (indicating). There is visitor parking spaces in front and a bypass lane for residents to enter the garage and then to go to their designated numbered parking space. That will be assigned at the time of the lease.

And then exiting, the same location as the entrance and coming out back onto Route 2.

GERALD REARDON: So the garage will be at grade level.

HEATHER BOUJOULIAN: Yes.

GERALD REARDON: Is there a generator that is associated with this.

HEATHER BOUJOULIAN: There is not.

MICHAEL GARDNER: What are some of the safety provisions that you have to have for a garage like this, for the storage of that much gasoline?

HEATHER BOUJOULIAN: Well, we have met several times with Lieutenant Powski (phonetically spelled), who has given us parameters for some rolling fire extinguishers to be put in place. It's an enclosed garage so it has a full dry sprinkler system as well as a carbon monoxide detection system that will immediately evacuate gasses if the detection levels are escalated.

GERALD REARDON: Is it a normal ventilation or power ventilators all the time?

HEATHER BOUJOULIAN: There is a continuous ventilation at a low level and then it gets triggered if there is higher grades.

MICHAEL GARDNER: And then are there additional inspections upon the completion of the construction.

HEATHER BOUJOULIAN: Yes. There will be a separate permit issued from the fire department.

GERALD REARDON: There will probably

be about 16 inspections from the fire department.

HEATHER BOUJOULIAN: Yes, sure.

GERALD REARDON: I'd like to make a motion --

MICHAEL GARDNER: Well, first, I would like to ask are there any members of the public that would like to be heard on this?

Seeing none, I guess there are none.

GERALD REARDON: I'll make a motion to approve the garage application for 220 Concord Turnpike for 220 vehicles, which is the aggregate of 2200 gallons of gasoline.

ROBERT HAAS: 2200 gallons.

Seconded.

MICHAEL GARDNER: All those in favor signify by saying "aye".

GERALD REARDON: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: None opposed.

ELIZABETH LINT: Ratifications,

Medallion 88, 152, 72, 200, 89, 99, 82 and 193, all paperwork is in order.

GERALD REARDON: Motion approved.

ROBERT HAAS: Seconded.

MICHAEL GARDNER: All those in favor signify by saying "aye.

GERALD REARDON: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: Are there minutes that you think it's realistic to deal with?

ELIZABETH LINT: I think I'm going to go through all of them and make a list of who needs to do what and do it that way.

MICHAEL GARDNER: Motion to adjourn.

ROBERT HAAS: Seconded.

MICHAEL GARDNER: All those in favor signify by saying "aye."

GERALD REARDON: Aye.

ROBERT HAAS: Aye.

MICHAEL GARDNER: Hearing is adjourned at 8:15 p.m.

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