

CAMBRIDGE LICENSE COMMISSION HEARING

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION DECISION HEARING

LICENSE COMMISSION BOARD MEMBERS:

CHAIR ANDREA JACKSON

POLICE COMMISSIONER ROBERT C. HAAS

FIRE CHIEF GERALD REARDON

STAFF: EXECUTIVE DIRECTOR ELIZABETH LINT

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AT: Michael J. Lombardi Building  
Basement Conference Room  
831 Massachusetts Avenue  
Cambridge, Massachusetts 02139

DATE: June 11, 2014

TIME: 5:11 p.m.

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P R O C E E D I N G S

June 11, 2014

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EXECUTIVE DIRECTOR ELIZABETH LINT:

Before we get started, if anyone has a phone on we would appreciate it if you would turn it off.

Okay, good evening. This is the License Commission Decision-Making Hearing, Wednesday, June 11, 2014. It is 5:11 p.m. We are in the Michael J. Lombardi Building, 831 Mass. Ave, Basement Conference Room.

Before you are the Commissioners Chair Andrea Jackson, Chief Gerald Reardon, Commissioner Robert Haas.

And we would like to make you all aware that the proceedings tonight are being audio taped.

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**REVOCAATION: BERTUCCI'S RESTAURANT**

EXECUTIVE DIRECTOR ELIZABETH LINT: The first matter is revocation.

Bertucci's Restaurant Group d/b/a Bertucci's Brick Oven Ristorante, Diane LaMonica, Manager, holder of a wine and malt beverages restaurant license at 21 Brattle Street due to Mass. General Law Chapter 138, Section 77. The licensing authorities may, after hearing or reasonable opportunity therefore, cancel any license issued under this chapter if the licensee ceases to conduct the licensed business.

CHAIR ANDREA JACKSON: Good evening.

ATTY JOE DEVLIN: Good evening.

Joe Devlin, again, for the licensee.

And also with me this time is Sandra Woodin, who is the licensing and compliance person at Bertucci's.

CHAIR ANDREA JACKSON: Could you spell

the last name, please.

ATTY JOE DEVLIN: D-E-V, as in Victor,  
L-I-N. Woodin, W-O-O-D-I-N.

CHAIR ANDREA JACKSON: Thank you.

So we continued this matter to determine whether or not there was, in fact, if I remember correctly, a purchase and sale agreement for the license.

ATTY JOE DEVLIN: Yes. And we do have a signed P&S. The P&S, just as a reminder, without a lease contingency, we have a lease at -- I think it is in the same general vicinity that this license was operated at before.

It's 16-18 Eliot Street.

And we have the second deposit payment, so there's a total of \$25,000 being held.

And there's a 20-day deadline. The last time I was here, the offer said 14. The only change that the buyer had asked of us in the P&S

was an additional six days to prepare the license and submit the license application.

We had a discussion about it. I had expressed, when I was here, my doubts or suspicions that something could get done in 14 days. Anyway, I usually ask for 21 to 28 days. So we figured six days. I would have asked for it if I was a buyer's attorney, and we figured six days now that neither one of them were going to get an application before today, I think 14 days would've taken us to tomorrow at the time and 20 days takes us to some point next week. But we have 25 -- they have \$25,000 at stake.

I sent all this to Attorney Kevin Crane to keep him apprised. I gave him the buyer's information, the buyer's attorney information, and I'm going to let him know when the buyer is getting ready submit the application.

I got an update today that they are

working on the application. The buyer is traveling and will be back in the country on Friday.

So they will have another conversation about the application and Attorney Fogelman needs a little more information. But I expressed to him that we wanted him to do it within the 20 days.

CHAIR ANDREA JACKSON: And the 20 days expires when?

ATTY JOE DEVLIN: It is either --

CHAIR ANDREA JACKSON: Roughly.

ATTY JOE DEVLIN: We received -- it is either the 18th or the 23rd.

We received the P&S back on the 3rd. It was signed prior to that. That's overdue, I guess, in terms of a couple days.

CHAIR ANDREA JACKSON: Okay.

Any questions?

FIRE CHIEF GERALD REARDON: No questions.

CHAIR ANDREA JACKSON: Any questions?

Ms. Lint, when is our next

Decision-Making Hearing?

Regular hearing, I believe is July 8.

EXECUTIVE DIRECTOR ELIZABETH LINT:

Regular hearing is next Tuesday.

CHAIR ANDREA JACKSON: We have one the  
17th and one the 8th.

EXECUTIVE DIRECTOR ELIZABETH LINT: The  
26th.

CHAIR ANDREA JACKSON: Do you expect this  
to be completed by the 8th?

ATTY JOE DEVLIN: Of July?

CHAIR ANDREA JACKSON: Yes.

ATTY JOE DEVLIN: Yes. We were having --  
perhaps I don't want to say this on the record,  
for the benefit of the buyer but, you know, 20  
days is -- but all you can do after 20 days is



say, Fine, we defaulted you. We're gonna take your \$25,000. But that doesn't get us what we want either. But I feel they are going to file.

I have worked with this attorney before and he knows what he was doing, so, yes.

CHAIR ANDREA JACKSON: Ms. Lint, can we continue this matter to another hearing date that is not a Decision Hearing?

EXECUTIVE DIRECTOR ELIZABETH LINT: Of course.

CHAIR ANDREA JACKSON: I make a motion we continue this matter to July 8th. And if for some reason the deal is completed before then, that is wonderful, we don't need to see you again. But until then, I make a motion we continue this matter to July 8th.

Is there a second?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor

signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIR ANDREA JACKSON: July 8th. Nothing personal, hope we don't see you. Hope it's done. But thank you. Thank you for coming in.

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**APPLICATION: WASABI AT PORTER, LLC**

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Wasabi at Porter, LLC, Xi Li, manager, has applied for a new wine and malt beverages as a restaurant license at 2088 Massachusetts Avenue.

Applicant is seeking operating hours of 8 a.m. to 1 a.m. Monday through Saturday and 12 p.m. to 1 a.m. on Sunday. The proposed seating capacity of 38 inside and 11 non-alcohol outdoor seasonal patio seats.

CHAIR ANDREA JACKSON: Good evening.

ATTY LAUREN BOICE: Good evening.

CHAIR ANDREA JACKSON: Could you both please state your name for the record spelling your last names, please.

ATTY LAUREN BOICE: Sure. Lauren Boice, B-O-I-C-E.

CHAIR ANDREA JACKSON: And your client.

XI LI: Xi Li, X-I L-I.

CHAIR ANDREA JACKSON: Thank you. Can you tell me again your relationship to the applicant?

ATTY LAUREN BOICE: The attorney for Wasabi, LLC.

CHAIR ANDREA JACKSON: If I recall, we continued this matter because we were looking for, I believe, it was more abutter support.

ATTY LAUREN BOICE: Overwhelming support.

CHAIR ANDREA JACKSON: May I see, please.

ATTY LAUREN BOICE: Certainly.

I would be happy to summarize our success.

CHAIR ANDREA JACKSON: That would be great.

ATTY LAUREN BOICE: We have gotten 366 signatures in the span of 21 days.

I would like to note that when we arrived on May 29 for the Decision Hearing that was originally scheduled, we had almost 200 at that time, which was in an eight-day period and with that over a major holiday.

Since then, we continued to get more signatures and we got a personal unsolicited letter of support.

CHAIR ANDREA JACKSON: May I ask where the signatures came from?

ATTY LAUREN BOICE: They came from passers by in front of the restaurant and from individuals who work in and around Cambridge.

CHAIR ANDREA JACKSON: And I simply ask because I note that many of the addresses listed are not in the general vicinity of the restaurant.

ATTY LAUREN BOICE: I understand.

These were people who were walking by the restaurant in many cases and that was then how -- Mr. Li was out there soliciting signatures, and even though they weren't all from Cambridge, they were coming from Somerville or from Porter Square and walking literally by where his restaurant location would be.

Many others were coming from businesses in the area. And we were able to get a petition circulated around over at the Smithsonian Observatory and that's within walking distance of the restaurant itself and other people were from the general community working and/or passing through Cambridge and Porter Square area.

CHAIR ANDREA JACKSON: Not to belabor the point in terms of signatures, but can you tell me about the signatures that you have for 555 Technology Square?

ATTY LAUREN BOICE: That's Draper Labs.

CHAIR ANDREA JACKSON: And the ones for 780 Memorial Drive.

ATTY LAUREN BOICE: Sure. That was Draper Labs. Again, we had a petition and an individual who was willing to circulate that around the office there.

Again, it was done on short notice because of the anticipation of the May 29th hearing so we didn't get more done there, but they all came from there.

And the other location is from a law firm that was, again, willing to circulate the petition around their law firm that is located in Cambridge.

CHAIR ANDREA JACKSON: Any additional meeting been held with any of the direct abutters?

I remember the last hearing there was concern in terms of it related to really trash control and rats or any of that.

ATTY LAUREN BOICE: I thought we addressed -- I don't remember her last name, but I believe her first name was Nancy, who had issues about the trash and the potential for the rat issues with the garbage collection would definitely happen twice a week and she appeared to be satisfied with that. She didn't express anything further to us or to Mr. Li when he was out soliciting signatures. And I thought that was it.

Ms. Fung, when she came, she was only concerned about that hours of operation, which we also addressed at the last hearing.

POLICE COMMISSIONER ROBERT HAAS: You are still planning on closing at 11 p.m.?

ATTY LAUREN BOICE: That's what my client has indicated.

POLICE COMMISSIONER ROBERT HAAS: And the noise issue, the entertainment issue, what did you decide on that? I know they raised issues about noise.

ATTY LAUREN BOICE: I thought her only concern was about the late hours of operation which when my client had suggested 11:00, and I believe the committee told her about it before she left, she seemed to be satisfied with that.

CHAIR ANDREA JACKSON: So are the hours 8 a.m. to 11 p.m. or 1 a.m.?

ATTY LAUREN BOICE: 11 p.m.

EXECUTIVE DIRECTOR ELIZABETH LINT: That was amended at the original hearing. If I remember correctly, the entertainment was below



conversation level.

CHAIR ANDREA JACKSON: At or below?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

CHAIR ANDREA JACKSON: Is that just TVs  
or music or --

XI LI: TV and music.

CHAIR ANDREA JACKSON: TV and music?

XI LI: Yes.

POLICE COMMISSIONER ROBERT HAAS: Any  
issues with the Disabilities Commission?

ATTY LAUREN BOICE: I wanted to report  
that we have contacted two contractors to give  
bids to put in an automatic door, which is what  
Mr. Muehe had indicated would be an acceptable  
accommodation in his letter.

So we are just waiting to get that cost  
analysis on that, and Mr. Li has spoken with the  
landlord who has agreed to contribute, at least  
at this point, half of the money, but of course

if that gets to be a substantial amount of money, I'm sure the landlord will probably revisit that. But Mr. Li will make every effort to put in the automatic door.

For what it is worth, I did call Mr. Muehe, but he didn't return my call. And I figure if we put in the door, he should be happy.

FIRE CHIEF GERALD REARDON: And, again, so we're just making sure we cover it again, the interior renovation and cooking and stuff is just basically bringing it up to present code? As far as interior renovations, you are just gonna keep the format?

ATTY LAUREN BOICE: The back half being the restaurant. The front half being the seating area, there will be renovation putting in a sushi counter that was not in the old restaurant and then changing the table configuration to include booths.

FIRE CHIEF GERALD REARDON: But the kitchen and equipment and all is staying the same?

ATTY LAUREN BOICE: Yes.

CHAIR ANDREA JACKSON: And 21 Proof, you know that 21 Proof is required?

ATTY LAUREN BOICE: We had called Mr. Green before the hearing to get on his list for the classes.

CHAIR ANDREA JACKSON: And you were able to make contact?

ATTY LAUREN BOICE: No. But we know that we need to do it.

CHAIR ANDREA JACKSON: Okay. If you have difficulty making contact, please feel free to send me an email.

ATTY LAUREN BOICE: Very good.

Thank you.

FIRE CHIEF GERALD REARDON: Again, for

the record, the seating capacity is the same as the previous licensee?

ATTY LAUREN BOICE: No. Actually, it has gone down by a few seats because of the space being taken away for the sushi counter.

FIRE CHIEF GERALD REARDON: Sushi bar?

ATTY LAUREN BOICE: That's correct.

And the outside seating, I believe that the previous restaurant had 16. We are not requesting 16. I believe we are only requesting 11.

FIRE CHIEF GERALD REARDON: And all of those are non-alcohol?

ATTY LAUREN BOICE: Absolutely.

I've already spoken with Inspector Best about the sidewalk and he did the sidewalk inspection, and I've already talked with him about the issues outside.

EXECUTIVE DIRECTOR ELIZABETH LINT: We'll

need a copy of the sidewalk obstruction permit.

CHAIR ANDREA JACKSON: Okay. Do you have that?

ATTY LAUREN BOICE: (Forwarding.)

EXECUTIVE DIRECTOR ELIZABETH LINT:  
That's the application to the City Council.

We need the actual copy of the actual permit from Public Works.

ATTY LAUREN BOICE: Oh, sorry. I don't have that yet then.

FIRE CHIEF GERALD REARDON: All set.

CHAIR ANDREA JACKSON: Any additional questions?

POLICE COMMISSIONER ROBERT HAAS: All set.

CHAIR ANDREA JACKSON: I make a motion that we approve the application for Wasabi at Porter for the amended hours as stated with the proposed seating capacity as stated for both

inside and outside with a contingency that we need the outside sidewalk obstruction permit and completion of 21 Proof.

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All those in favor signify by saying aye.

FIRE CHIEF GERALD REARDON: Aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

CHAIR ANDREA JACKSON: You are all set.

Good luck to you.

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**REVOCATION: F&D RESTAURANT d/b/a CAMPUS MANRAY**

EXECUTIVE DIRECTOR ELIZABETH LINT:

Revocation matter continued from March 27, 2014, F&D Restaurant Corp., d/b/a as Campus/Manray, Donald Holland, manager, holder of an all alcoholic beverages restaurant license and 21 Brookline Street and pending a change of location address, 541-565 Massachusetts Avenue, pursuant

to Mass. General Laws Chapter 138, Section 77.

The licensing may, after hearing or reasonable opportunity therefore, cancel any license issued under this chapter if the licensee ceases to conduct the licensed business.

CHAIR ANDREA JACKSON: Good evening.

ATTY. JAMES RAFFERTY: Good evening,  
Madam Chair and Members of the Commission.

For the record, James Rafferty on behalf of the applicant F&D Restaurant Corp.

Seated to my right is Donald Holland,  
H-O-L-L-A-N-D. Mr. Holland is the president of the corporation and manager of record.

CHAIR ANDREA JACKSON: Do you have anything you need to report to us, counsel?

No sense in going through the long litany of history.

ATTY. JAMES RAFFERTY: No.

I recall that the Chair asked a very

pertinent question last time if the matter -- if additional time was provided what would be different, so a few relevant actions have taken place.

Mr. Holland has increased his efforts to try to find an opportunity here for this license. He spent a fair bit of time exploring a location at the Metropolitan Storage Building owned by MIT, I believe, and after some back and forth, that appeared not to be productive.

Within the past week, Mr. Holland submitted an offer to purchase an existing business in Central Square.

I've shared the details of the offer with the Executive Director, and Mr. Holland did sign a confidentiality agreement with the seller, but I can report that this is -- it is a license in Central Square that would -- the transaction would involve obviously acquiring that license



and Mr. Holland would make arrangements. He's already spoken to a broker to sell his license.

To be candid, I've received several phone calls since we were last here in March by prospective purchasers of the license.

And it has not been Mr. Holland's first preference to sell the license. But be very mindful of the fact that as time goes by, he may have no other alternative if he wishes to recoup some return on his investment.

So he has identified a broker that he would list this license with. He submitted a significant offer, close to, but not at the asking price. I shared the details with Ms. Lint so she could see that it's a good faith transaction and he's very eager to continue to do that.

I'm mindful of the fact that the Commission issued a decision last meeting

indicating an intention at this meeting, if we did not have a transfer, or a sale, in fact, I wasn't quiet sure whether that represented a final decision or not. So erring on the side of caution, as the Commission may be aware, I know Ms. Lint is, I did file an appeal of that decision.

The statutory appeal period is extremely limited, it is five days, so we did do that, if that was the Commission's intent.

I would once again ask the Commission to give consideration to some additional time that would allow Mr. Holland to pursue this new opportunity.

When we were here last, we asked if the Commission would consider the end of the calendar year or November 30 when the renewal affidavits come up. It's a relevant date I'm sure the Commission realizes.

As you saw in the transaction earlier with Mr. Devlin, it does take a little bit of time, and I think if it is likely that if he's not able to conclude this transaction, he probably will need to become an active seller of the license, which, as I noted candidly, is not his posture at the moment.

But he has explored nearly every location in Central Square repeatedly. He continues to believe strongly Central Square is the right location for his business and he's looking for some time to allow him to exhaust all possibilities.

And I say that fully mindful of the tolerances that have been provided in the past by the Commission, yourselves and your predecessors, and with a full understanding of the urgency of this matter. I think Mr. Holland knows, in perhaps ways that were not apparent in the past,

that the Commission's window here is narrowing. That's why I shared with Ms. Lint what had been going on since we were here two months ago.

CHAIR ANDREA JACKSON: So you are saying that he has, and I don't mean to speak as if you are not sitting here, that he has made an offer on a location that has an existing alcohol license?

ATTY. JAMES RAFFERTY: Yes.

CHAIR ANDREA JACKSON: So he's decided now then to list his license with a broker?

ATTY. JAMES RAFFERTY: If the offer were to be accepted.

I mean, you know, of course, he's been looking for locations for a long time and locations -- a lot of locations already have licenses, so their interest in selling the business involves the license. The last thing he needs is another license.

But because of the limited opportunities, he faced the realty and has made an offer to acquire a business that has a license.

And we discussed, and I discussed with him and the brokers, the fact that it would be, in my assessment, impractical for him to think he could then transfer this license to that location. He would have to wait for the existing licensee to transfer and we find ourselves in the same boat perhaps we're in now.

So I said I would advise him to make a full offer for the value of the business and the license, and immediately upon acceptance of the offer, market his license.

The broker assures him that he's dealing with, that there are buyers out there for his license. And so he would do that immediately upon the acceptance of an offer.

He has taken a step which he has not

previously done, which is submitted an offer and prepared to purchase an existing restaurant with a license.

As you probably can appreciate, that had not been part of his effort to date -- because he was looking for a location or a business without a license, because he didn't want to have to pay for a license while he owned a license.

And in this scenario he will be paying more because it involves a license, but hopefully at the time of the transfer, the application of that, he could ask the Commission for -- admittedly, we would be asking for a few more months to sell that license but he would be in a very different posture if he was filing an application to transfer an existing license to his name.

POLICE COMMISSIONER ROBERT HAAS: So my question is: Does Mr. Holland understand that

the clock is ticking and we are well past the eleventh hour there. Why wouldn't he sell his license currently with the offer he's put in with this broker for purchasing another establishment as opposed to doing it sequentially, which then obviously drags out this period probably closer to the date you originally were asking for.

ATTY. JAMES RAFFERTY: Well, I think because if this offer were not to be accepted, I think --

POLICE COMMISSIONER ROBERT HAAS: I understand that.

ATTY. JAMES RAFFERTY: But it's a valid way to look at it. I suppose he could list it and then -- because if this didn't happen, he would still think -- there are two, frankly, there are two other locations, if you walk through Central Square today, they have signs in the window, retail spaces available, he's been in

lengthy conversations, in one case directly with the owner and another with the broker.

Neither has been particularly interested in his operation, but the concern was that business terms could be agreed to. The thinking was, Well, that would be plan B.

But it was a significant shift about 30 days ago when Mr. Holland explored buying this restaurant that is -- that I think is being quietly marketed and I would say it came as news to me that it was even listed with a broker, but I was able to -- I have spoken, been in communications with the listing broker. I have spoken directly with Mr. Holland's broker and that's when this new opportunity presented itself.

POLICE COMMISSIONER ROBERT HAAS: My question still is: Why wouldn't he list his license now just to make sure that he safeguards



the value of his current license even though he's got this other prospect on the horizon?

ATTY. JAMES RAFFERTY: Well, I suppose that might make sense to do that.

The reason he hadn't is because up until about three or four weeks ago he was still pursuing a nonlicensed location and then this opportunity presented itself.

POLICE COMMISSIONER ROBERT HAAS: But it's changed a little bit, and like I said, I forget what the date was that we set for a final decision on this matter.

ATTY. JAMES RAFFERTY: It was at this --

EXECUTIVE DIRECTOR ELIZABETH LINT: May 29.

CHAIR ANDREA JACKSON: May 29.

POLICE COMMISSIONER ROBERT HAAS: So we are at that point. And I would think that to safeguard his investment that he would probably

want to take advantage of getting some value or return for his license that he's currently holding in an opportunity to pursue this other venture.

ATTY. JAMES RAFFERTY: I think that's a very sound piece of advice and I would pass it along to Mr. Holland.

CHAIR ANDREA JACKSON: So if this deal was to fall through, is he then going to find another place to possibly open using the same current license that he has that is not listing with a broker?

ATTY. JAMES RAFFERTY: Well, that's been his longstanding objective. As you well know, it has not proven to be --

FIRE CHIEF GERALD REARDON: It's been a longstanding flawed approach. It has not been successful for many, many months.

ATTY. JAMES RAFFERTY: Agreed.

So the point being that with the end of the road clearly in sight, whether it's this month or a few months from now, I think it calls for a shift in one's strategy if they wish to recover something.

FIRE CHIEF GERALD REARDON: I understand one hedging one's bets and so forth, but where you are looking at potentially losing the value of that license, that may not be most opportune approach at this particular stage of the game.

No one wants to see Mr. Holland lose any financial --

ATTY. JAMES RAFFERTY: I understand.

FIRE CHIEF GERALD REARDON: But this has been going on for some time and there has to be some finality to this.

ATTY. JAMES RAFFERTY: So I think this exchange alone would further emphasize the notion that the listing of the license for sale should

perhaps not be conditioned upon an acceptance of his offer.

POLICE COMMISSIONER ROBERT HAAS: I only thing I'd say is that you really run substantial risk that you can come back in a month or two and say, The deal fell through, now we're looking for more time to find another location for this license and the Commission will turn around and say, That's not going to happen.

Again, I don't think we want to see Mr. Holland lose his investment.

DONALD HOLLAND: I'm still talking to Mass and Vassar, except that they're just taking their time getting back to you. It is a beautiful location. They want to give me a million dollars for a build-out. They just --

FIRE CHIEF GERALD REARDON: And to be clear, that location has no license attached to it?

DONALD HOLLAND: No.

FIRE CHIEF GERALD REARDON: So if that was your option, just trying to be clear, then you would need to use the present license that you hold in order to use that opportunity?

ATTY. JAMES RAFFERTY: Correct. I would say if I were to apportion the efforts associated with the two steps, I would say after the March hearing, just by the volume of phone calls and visits I had Mr. Holland, I would say he's spent nearly the entire month of April trying to consummate the deal at Mass and Vassar.

And the reaction he got was not a no, but just very slow and it became apparent that his timeline and their timeline were different.

I first heard, I would say, at some point in mid-May, I was contacted by Mr. Holland who was informed by a broker that another location, which would easily accommodate the type of

enterprise he desires to operate, was available.

And that led to a shift in his focus.

And he has toured the facility and he has submitted an offer, a significant offer, without a financing contingency, I would note.

So it would be something that could proceed quickly. But that's probably why he has not -- he didn't leave the last hearing and go list the license with the broker.

But his interaction with this current broker in this transaction has led him to explore that possibility, if necessary.

He continues -- if this deal were accepted and he couldn't resurrect or consummate anything in very short order at the other location, I mean I don't know why he wouldn't do that because, you know, I had made the suggestion or request of the Commission that if the Commission saw fit to allow him to have through

the November date, that he would waive any rights on that. You would not see Mr. Holland back. He would have to -- you could make a determination that he would be the master of his own destiny at that point because he would not have an opportunity.

As it is now, we continue -- we continue to face the issue, which I'm sure we can deal with at the appeal, that there's an open space with a landlord who every once in an awhile holds out just -- whether he was being polite or not, but the pending transfer application to that location, that location continues to be vacant, and I know Mr. Holland continues to talk with him.

I personally believe that opportunity is never going to come to fruition because I think when a landlord is that reluctant, there's probably not a strong enough desire to make a

transaction. But every so often when he checks in with that landlord, he's given a little reason to think maybe.

POLICE COMMISSIONER ROBERT HAAS: So wouldn't the better response be to hedge his bets and put his license on the market, and if this other deal comes to fruition, he can always pull his license off the market.

I'm just afraid what will happen, and I don't want to be a naysayer, I'm afraid what will happen is if this venture falls through, that you will be back here saying, There's this other negotiation going on, and I'm not sure how long it's gonna go on for.

ATTY. JAMES RAFFERTY: No, no.

I wouldn't criticize that assessment as being that of a pessimist. I think there might be more realism in that than pessimism.

I think we are probably at that point



that if he doesn't have a clear direction in a few days -- his offer, like most offers, has a date which it needs to be accepted. It is not that far out from now.

Either that offer gets a counter or there has to be another offer.

If that can't be arrived at, I would think, Commissioner, your suggestion -- and we are not talking weeks either, we are talking literally about this time it next week, I think it would be -- put it this way, it seems to me that he would be an unlikely candidate to request consideration for time to sell if he did not avail himself of the present time to explore a buyer.

I would fully anticipate a reaction of that type if he lets whatever time might remain available to him without actively marketing the license.

He did get a very low-ball offer from an applicant who was here looking to get a license in Harvard Square.

It was not an offer of interest to him. It was significantly below market based on my experience in the sale of licenses.

CHAIR ANDREA JACKSON: Ms. Lint, if this board was to decide to revoke the license, and Mr. Holland three months from now, finds a new location, is there anything that precludes him from coming back to this board to ask for a free license?

EXECUTIVE DIRECTOR ELIZABETH LINT: No.

Anyone can always apply.

CHAIR ANDREA JACKSON: Right. It doesn't mean it would be granted, but there's nothing that precludes him?

EXECUTIVE DIRECTOR ELIZABETH LINT:

Exactly.

CHAIR ANDREA JACKSON: Counsel, you've made a great argument.

I'm not swayed though.

This license has been out there for close to nine years. I'm just not swayed tonight.

So I make a motion to revoke the license.

Is there a second?

POLICE COMMISSIONER ROBERT HAAS: I'm thinking.

CHAIR ANDREA JACKSON: You can think.

FIRE CHIEF GERALD REARDON: So let me ask this: Our next meeting is the 17th?

EXECUTIVE DIRECTOR ELIZABETH LINT: Next Tuesday.

CHAIR ANDREA JACKSON: Next Tuesday.

FIRE CHIEF GERALD REARDON: Do you think there's an answer on this by next Tuesday?

ATTY. JAMES RAFFERTY: No.

FIRE CHIEF GERALD REARDON: On the

purchase and sale?

ATTY. JAMES RAFFERTY: Not based on the dates in the offer, no.

Madam Chair, I understand the Commission's view on this and the length of time involved.

I think all we're talking about now is a state of execution. We recognize revocation is imminent here.

We're at this point looking -- candidly when I left the meeting in March, I got the sense that we might have a little more time.

You may recall, I was unable to attend the Decision-Making Hearing. I allowed my junior colleague to show up and it did not go as well as I had hoped, so I was able to bring -- it was an outcome that was different than what I anticipated.

CHAIR ANDREA JACKSON: I'm telling.

It's on the record.

ATTY. JAMES RAFFERTY: When I called him and said, How did it go, he gave me a different opinion. But I understood that. And Mr. Holland -- but you know, there's a certain logic to certain dates and he has paid the balance of his fee this month.

The Commission accepted his \$1,600, which he has dutifully paid in six-month increments for many years.

I think all we're asking at this point -- I mean, I don't believe that the stay, if we acknowledge that not a lot happens commercially in August, but if there was a date certain that would accompany your motion with a decision to make a decision and it was stayed because it's gonna be hard to sell the license, frankly, if it is known to be revoked.

So to go to a listing broker and say,

Here's a license and you've got 30 days to sell it, it become a fire sale quickly.

It is only a question of time and we're talking a period of months here.

POLICE COMMISSIONER ROBERT HAAS: The alternative is that we take action tonight and he has no value on that license. So I'm really -- it's been extraordinary. I never seen a license held in abeyance this along. It is extraordinary.

ATTY. JAMES RAFFERTY: I did explain -- it is extraordinary.

It continues to be the licensee's high, high priority to remain within Central Square and I think that strategy has had shortcomings as well because the opportunities and venues are limited. Larger landlords are controlling the spaces.

But I would only ask that a few

additional months be permitted with the understanding that revocation is down the road.

POLICE COMMISSIONER ROBERT HAAS: What are the dates in July?

EXECUTIVE DIRECTOR ELIZABETH LINT: The 8th and the 22nd.

CHAIR ANDREA JACKSON: I made a motion there's no second, so I'm going to assume that motion's failed.

I'll leave it to either one of you to make a motion.

FIRE CHIEF GERALD REARDON: I support your motion to revoke the license and with the stay of the 60 days and it would --

CHAIR ANDREA JACKSON: The last motion that we made at the last meeting is that if the license was not sold by May 29, that we were going to revoke the license.

ATTY. JAMES RAFFERTY: Madam Chair, I

think it's fair to say that the Commission, based on the notice I received of the Commission's decision, did make a vote in March which placed a contingency that said unless there's a transfer or a sale, the license will be revoked, and it is for that reason that we filed the appeal that we have scheduled next month.

We're asking tonight if the Commission -- that vote, I would agree, has relevance. We are asking the Commission in light of this most recent effort would continue a stay of its March 27 vote and to modify the May 29 date to September 30.

EXECUTIVE DIRECTOR ELIZABETH LINT: May?

ATTY. JAMES RAFFERTY: The date of the vote is May 29. I don't know what date is September 30 is. I, candidly, don't know how many meetings you have in August and --

EXECUTIVE DIRECTOR ELIZABETH LINT: It's



a Tuesday.

ATTY. JAMES RAFFERTY: It struck me as the end of the month of September.

EXECUTIVE DIRECTOR ELIZABETH LINT: It's a Tuesday.

POLICE COMMISSIONER ROBERT HAAS: We had this conversation the last hearing where we were afraid that this was going to happen, you come back and ask for more time. And I thought we got some assurances that a decision would be made and we'll move in one direction or the another so we wouldn't --

ATTY. JAMES RAFFERTY: We most certainly did.

POLICE COMMISSIONER ROBERT HAAS: We're doing it again.

ATTY. JAMES RAFFERTY: With all due respect, Commissioner, at that point we were discussing a November 30 date. That's the date I

have requested.

POLICE COMMISSIONER ROBERT HAAS: I know you requested it but I wasn't contemplating November 30.

ATTY. JAMES RAFFERTY: The representations were made about us not coming back, so at least on my part, the date -- and if you read Mr. Levy's account, who was present and posted a story on Cambridge Day, that certainly is what the story conveyed as well. That was my understanding where we were. That's why it did come as a surprise, May 27. All that is true and I stand by that.

I have now recognized that the Commission's thinking changed. You hadn't made a decision, but I had an opportunity to observe the dialogue and the discussion and deliberations.

That's why I found the May 27 date -- the May 27 vote with -- the March 27 vote with the

May 29 date to be somewhat inconsistent with the deliberations that took place at the public hearing.

So what I'm suggesting today is an even further window. That's why I offered out the September 30 date because November 30 seemed to not have been a date that the Commission was comfortable with.

But all of those characterizations of note, we will not find ourselves back here prior to November 30. And that date was because, I would assume, at that point the Commission would be within its authority not to accept the renewal affidavit.

POLICE COMMISSIONER ROBERT HAAS: I get all that.

ATTY. JAMES RAFFERTY: That's why I selected that date.

FIRE CHIEF GERALD REARDON: What would 30

days get you?

ATTY. JAMES RAFFERTY: It would get me time to do one of two things: Either try to quickly reach conclusion of this, or to realistically get a broker to get a buyer and to get something to you in September.

Trying to put the paperwork together in August, we're closer to July than we might care to admit, and then with vacations and schedules and all that, it just struck me -- so we don't find ourselves coming back here once again having to ask.

And I would also say at that point we could -- we would be willing to consider waiving or withdrawing our ABCC appeal.

There's a memo that I prepared for Ms. Lint that requires both parties to prepare, and we could -- if the Commission were so inclined, we could wrap that up into it. Because,

candidly, that proceeding is in place. And that will take effort on all of our parts.

And I only offer that as a way of saying that I think all we have left to provide you is a commitment and a written assurance that if we were able to get the September 30 date, we would withdraw the ABCC appeal.

POLICE COMMISSIONER ROBERT HAAS: So what are you proposing will happen by September 30?

ATTY. JAMES RAFFERTY: This decision, simply have the date that -- the decision that says that as of May 29, the license will be revoked unless a transfer of location is submitted with a signed lease or a completed application for transfer is submitted.

And I'm asking the Commission to consider merely modifying or staying that decision, your March 27 decision, until September 30. And the

applicant would waive rights of appeal around that determination.

CHAIR ANDREA JACKSON: And then what happens to your pending appeal at the ABCC?

ATTY. JAMES RAFFERTY: We would withdraw it.

CHAIR ANDREA JACKSON: When?

So if we make a decision this evening, in my opinion, if my colleagues opt to extend the deadline, you still have an ace in the pocket with your appeal pending.

ATTY. JAMES RAFFERTY: Not if I stipulate, Madam Chair, we withdraw the appeal.

The appeal was based on the date.

I mean, I don't think one could credibly fault the ultimate decision here, given the time that's involved, and the basis for the appeal was commercially reasonable to give him only 60 days to let him do what he was trying to do, so if the

date was -- if we were given the September 30 date, then I would say that we -- the issue that was primary of our concern is the time necessary to make the change.

So we could stipulate orally on the record; my representation; I can get a signed waiver and we can withdraw the appeal forthwith.

The appeal is from a decision of the 27th that says something is going to happen on May 29. I know this is May 29 for purposes of that letter, tonight is.

As I said, I think the Commission -- I think the Commission could stand by and reaffirm its prior vote and simply agree to a stay of the actions spelled out in this vote until September 30.

POLICE COMMISSIONER ROBERT HAAS: I don't know if Mr. Holland gets or appreciates that we are trying to -- we are struggling not to take

away his investment here.

And I just don't get a sense that he understands the urgency of this whole issue.

ATTY. JAMES RAFFERTY: Oh, I think we do. You know how dire this situation is?

DONALD HOLLAND: Yeah.

ATTY. JAMES RAFFERTY: He's -- I hear regularly from Mr. Holland. This is a source of great anxiety for him. I can assure you.

I asked him earlier how old he was, because he's been in Cambridge a long time. He's been in the business a long time. This is not a good situation for him to be in.

He's really at the end of the line here with this license and he knows that.

But he's in Cambridge every day exploring this trying to make something happen.

FIRE CHIEF GERALD REARDON: I'm not sure I can go to September 30 with this. Because as



the Commissioner said, we tried and tried and tried not to make this happen but it keeps moving. It's a moving target. And I might entertain 60 days that we revoke the license, and after 60 days, if you don't have something in here that's concrete, then it just dissolves.

I think the more time we get, the more time it slides. We bump every date all the time and it is a long, long time.

I make a motion that we revoke the license predicated on a stay of 60 days if the applicant provides concrete evidence that a good faith effort is in motion to (a) transfer a liquor license to a new location, or (b) to sell the present license that he holds.

POLICE COMMISSIONER ROBERT HAAS: So I'd amend that motion by saying I would rather see the language in that letter, the 60 days, as opposed to having a good faith effort.

Right now we have a good faith effort for all intents and purposes, but there's a potential prospect of establishing -- and we can find ourselves very much in the same position again with respect to saying, Well, jeez, I made this offer, now I'm waiting to hear back. I think the language in the letter is probably, in my mind, is probably more appropriate if you want to extend the 60-day period.

CHAIR ANDREA JACKSON: Do you accept the final amendment?

FIRE CHIEF GERALD REARDON: I do.

CHAIR ANDREA JACKSON: Motion's been made. Is there a second?

POLICE COMMISSIONER ROBERT HAAS: Based on my amendment.

CHAIR ANDREA JACKSON: Based on your amendment.

POLICE COMMISSIONER ROBERT HAAS: So do

you want to read the language from the letter into the record so we are clear about what the motion is.

ATTY. JAMES RAFFERTY: Just because there's a date in the letter, my math is not good, is 60 days July 30?

FIRE CHIEF GERALD REARDON: Longer.

EXECUTIVE DIRECTOR ELIZABETH LINT:  
Longer.

FIRE CHIEF GERALD REARDON: I think August 11 or August 9 or something like that.

CHAIR ANDREA JACKSON: You are saying 60 days from today?

FIRE CHIEF GERALD REARDON: Yes.

ATTY. JAMES RAFFERTY: Not 60 days from that date?

CHAIR ANDREA JACKSON: 60 days from today?

ATTY. JAMES RAFFERTY: From today?

CHAIR ANDREA JACKSON: So whatever applicable hearing would be held thereafter.

EXECUTIVE DIRECTOR ELIZABETH LINT:  
August 18.

ATTY. JAMES RAFFERTY: Is that a holy day of obligation?

FIRE CHIEF GERALD REARDON: No, it's not. You have to go back to your --

POLICE COMMISSIONER ROBERT HAAS: My anniversary.

ATTY. JAMES RAFFERTY: Wouldn't want to cancel licenses that day, Commissioner. Labor Day is a day that all of America acknowledges the hard work of people. It seems like such an appropriate time. I just worry about the month of August, and the lack of -- but I have been around long enough to know when I should just stop talking and that was probably two meetings ago.

CHAIR ANDREA JACKSON: Are you okay with the motion?

POLICE COMMISSIONER ROBERT HAAS: I want that language into the motion.

EXECUTIVE DIRECTOR ELIZABETH LINT: I have it.

CHAIR ANDREA JACKSON: Do you want it read?

POLICE COMMISSIONER ROBERT HAAS: I want that to be the motion with that date.

EXECUTIVE DIRECTOR ELIZABETH LINT: So it would be the all alcoholic beverages restaurant license held by F&D Restaurant Corp., doing business as Mayray, is revoked, and that would be stayed for 60 days, which is August 18, 2014.

POLICE COMMISSIONER ROBERT HAAS: Is that in your letter?

ATTY. JAMES RAFFERTY: It is slightly different. It says will be revoked on the date.

EXECUTIVE DIRECTOR ELIZABETH LINT: But I thought your motion was --

POLICE COMMISSIONER ROBERT HAAS: I want to make sure that by August 18th one of three things potentially are going to happen.

EXECUTIVE DIRECTOR ELIZABETH LINT: Okay. Let me -- that it's revoked. Stayed until August 18th unless a transfer of location application is submitted with a signed lease or a completed application with transfer submitted.

POLICE COMMISSIONER ROBERT HAAS: Yes.

ATTY. JAMES RAFFERTY: One could state that you could vote to modify your decision of March 27, as set forth in your decision letter of April 7, by modifying the date from May 29, 2014 to August 18, 2014, then it is really the same vote. All you have done is changed the date, but I may be semantic here.

POLICE COMMISSIONER ROBERT HAAS: All

about semantics, though, isn't it?

ATTY. JAMES RAFFERTY: In this business it often comes down to that, yes.

EXECUTIVE DIRECTOR ELIZABETH LINT: But in that letter, it says it will be revoked as opposed to your saying it is revoked unless.

POLICE COMMISSIONER ROBERT HAAS: That's what I said.

EXECUTIVE DIRECTOR ELIZABETH LINT: That's what I thought.

ATTY. JAMES RAFFERTY: The distinction is, as I said, when we call the broker tomorrow and we say, We have a revoked license, but you're not going to pull the plug, as opposed to, We have a license that will be revoked.

FIRE CHIEF GERALD REARDON: Counsel, with all due respect, anyone in the business brokering is fully aware of the situation this license is in.

ATTY. JAMES RAFFERTY: Understood.

CHAIR ANDREA JACKSON: So are you content with the motion as made and as read by Executive Director Lint?

POLICE COMMISSIONER ROBERT HAAS: Yes.

CHAIR ANDREA JACKSON: Is there a second?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All in favor significant by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIR ANDREA JACKSON: I oppose.

The ayes have it.

EXECUTIVE DIRECTOR ELIZABETH LINT: For those are you here for the 6:00 general License Commission meeting hearing, I'm sorry, we are just finishing up with the decisions from our last hearing, and hopefully will not take long.

Thank you for your patience.



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**APPLICATION: NEW AGE ASTROLOGY**

EXECUTIVE DIRECTOR ELIZABETH LINT:

Application: Samantha Mitchell doing business as New Age Astrology has applied for a fortune teller's license at 10 Pleasant Street.

SAMANTHA MITCHELL: Hello.

CHAIR ANDREA JACKSON: Good evening.

Please state your name for the record.

SAMANTHA MITCHELL: Yes. Samantha Mitchell.

CHAIR ANDREA JACKSON: I believe this matter was continued from our last hearing. We are waiting for a copy of the lease, I believe.

EXECUTIVE DIRECTOR ELIZABETH LINT: A copy of a lease, we needed a background check on the co-signer of the lease, and we don't have abutter notifications.

CHAIR ANDREA JACKSON: We are still

missing the abutter notifications?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

Did you notify your abutters?

SAMANTHA MITCHELL: I never received anything in the mail as far as abutters.

EXECUTIVE DIRECTOR ELIZABETH LINT:

That's because the letter came back to us. The address you provided us, it was sent to, and it came back.

SAMANTHA MITCHELL: Okay.

CHAIR ANDREA JACKSON: We can't act on this if there's no abutter notification, correct?

EXECUTIVE DIRECTOR ELIZABETH LINT:

That's correct.

CHAIR ANDREA JACKSON: Can we hand her the letter now?

EXECUTIVE DIRECTOR ELIZABETH LINT: I

surely can.

CHAIR ANDREA JACKSON: Note for the

record, she's received it.

POLICE COMMISSIONER ROBERT HAAS: Can you take a look at the address and explain why it would come back to us?

SAMANTHA MITCHELL: I believe my name wasn't on the mailbox at that time.

POLICE COMMISSIONER ROBERT HAAS: So that is the correct address?

SAMANTHA MITCHELL: Yes. 10 Pleasant Street. I believe that I spoke to the post office about my mail, and there was no name. It must've slipped off.

So what I would need to do with this is notify the abutters through the mail?

POLICE COMMISSIONER ROBERT HAAS: That's a process that you go through, abutter notification.

EXECUTIVE DIRECTOR ELIZABETH LINT: It explains in there what needs to be done.

SAMANTHA MITCHELL: Another question is:  
What happens if there's no abutters?

EXECUTIVE DIRECTOR ELIZABETH LINT: You  
would have to provide us with documentation that  
there are no abutters. But I know there are  
abutters at that location.

CHAIR ANDREA JACKSON: Yes, there are  
abutters.

SAMANTHA MITCHELL: Okay.

CHAIR ANDREA JACKSON: So I make a  
motion --

POLICE COMMISSIONER ROBERT HAAS: So the  
lease is correct to your satisfaction right?

EXECUTIVE DIRECTOR ELIZABETH LINT: Yes.

And you can obtain the abutters list from  
the Assessors Office.

SAMANTHA MITCHELL: Where is that  
located?

EXECUTIVE DIRECTOR ELIZABETH LINT: City

hall.

CHAIR ANDREA JACKSON: I make a motion that we continue this matter until we receive abutter notifications and then we'll reschedule.

Is there a second?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIR ANDREA JACKSON: You are all set.

Thank you.

- - -

**RATIFICATION: GRANGUSTO, LLC**

EXECUTIVE DIRECTOR ELIZABETH LINT:

Ratification: Grangusto, LLC, d/b/a Grangusto at the Brickyard. Marilena Locilento, manager, holder of an all alcohol beverages restaurant license at 90 Sherman Street. The board will

ratify the vote of May 6, 2014 which treated this license as a new applicant instead of an applicant for a change of manager, change of members, and transfer of stock.

I'm not sure if you recall the conversation.

CHAIR ANDREA JACKSON: I do, as my fellow Commissioners do.

Are you all set?

POLICE COMMISSIONER ROBERT HAAS: Uh-huh.

FIRE CHIEF GERALD REARDON: Uh-huh.

CHAIR ANDREA JACKSON: I make a motion that we ratify.

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

- - -

**RATIFICATION: ADOPTION OF ATTY GENERAL'S LETTER**

EXECUTIVE DIRECTOR ELIZABETH LINT:

Ratification: The Board of License Commissioners will ratify the adoption of a letter to be sent to the Attorney General's Office.

FIRE CHIEF GERALD REARDON: Motion to approve.

CHAIR ANDREA JACKSON: Second.

All in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

CHAIR ANDREA JACKSON: Do you want to bring this one to a close?

So I make a motion we adjourn from our Decision-Making Hearing.

Is there a second?

FIRE CHIEF GERALD REARDON: Second.

CHAIR ANDREA JACKSON: All in favor signify by saying aye.

POLICE COMMISSIONER ROBERT HAAS: Aye.

FIRE CHIEF GERALD REARDON: Aye.

(Meeting adjourned.)



CERTIFICATE

Commonwealth of Massachusetts  
Norfolk, ss.

I, Jill Kourafas, Certified Shorthand Reporter, in and for the Commonwealth of Massachusetts, do hereby certify that the hearing herein before set forth is a true and accurate record of the proceedings with the exception that some statements may not appear due to heavy accents, unclear speaking, rapid and overlapping speaking, those speaking too softly or incoherently, not identifying themselves and proper names/places will be spelled phonetically if not spelled while on the record.

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