



Licensing Board

October 19, 2015 – 7:00 PM – **Agenda**
City Hall, 133 William Street, Room 314

REQUIRED: Steven A. Beaugard, Chairman

Marcelino “Sonny” G. Almeida, Commissioner

A/O 10/14/15

Edmund F. Craig, Jr., Commissioner

Atty. John A. Markey, Jr., Asst. City Solicitor

Capt. Steven Vicente, Police Department Liaison to the Lic. Bd.

Nick Nanopoulos, Director

MOTION TO ACCEPT THE MEETING MINUTES OF September 21, 2015

APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Change of Officers, Directors, & Manager - Trans. # 029 – Plot # 99 - 132

Casa Do Benfica No. 27, Inc., Manuel S. Bernardo, (new) President, who is petitioning for a **Change of Officers, Directors, and Manager of the Club All Alcoholic Beverages license**. The petitioner is requesting that the resignations of the current slate of Officers and Directors currently on file with the Alcoholic Beverages Control Commission be accepted, and be updated as follows, per the Commission’s directive of 09/30/14 regarding “Club” licenses. Upon approval, Manuel S. Bernardo will be the President, Octavio Pereira will be the Vice-President, Edson Pereira will be the Treasurer, and Franco M. Vieira will be the Secretary; and Augusto Fernandes, Jose Fernandes, Roberto Amaral, Daniel Da Costa, and Francisco Vala will all be Co-Directors. The ‘club’ is also requesting the approval of **Daniel Da Costa**, who resides at **319 Query Street, N.B., MA. as their New Manager**. Premises will remain the same at **1484 Acushnet Avenue**.

Approved By ABCC – 09/29/15

Change of Officers & Directors - Trans. # 073 – Plot # 25--88

IBPOE, Elks d/b/a William H. Carney Lodge #200, Roosevelt Hunter, (new) President, who is petitioning for a **Change of Officers and Directors of the Club All Alcoholic Beverages license**. The petitioner is requesting that the resignations of the current slate of Officers and Directors currently on file with the Alcoholic Beverages Control Commission be accepted, and be updated as follows, per the Commission’s directive of 09/30/14 regarding “Club” licenses. Upon approval, Roosevelt Hunter will be the President, Donald Gomes will be the Treasurer, and Algie Wheatley will be the Secretary; and Billy R. Graham, Russell Ramos, and James Bargasse will all be Co-Directors. Premises will remain the same at **159 Mill Street**.

Approved By ABCC – 10/06/15

DISAPPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Change of Officers, Directors, & Manager - Trans. # 141 – Plot # 25-A-25

Young Cape Verdean Athletic Association, Inc., Donald S. Soares, New President, who is petitioning for a **Change of Officers, Directors, and Manager of the Club All Alcoholic Beverages license**. The petitioner is requesting that the resignations of the current slate of Officers and Directors currently on file with the Alcoholic Beverages Control Commission be accepted, and be updated as follows, per the Commission’s directive of 09/30/14 regarding “Club” licenses. Upon approval, Donald Soares will be the President and Vice President, Renee DePina will be the Treasurer, and Andrea Barrett will be the Clerk; and Bonaventura J. Barboza, III, Paul L. Massey, Jr., and Lasheene R. Shawders will all be Co-Directors. **Liberio R. DeMello** is the **Proposed New**

Manager. Premises will remain the same at **418 South Front Street.**

Disapproved By ABCC – 10/08/15 - Failure to Comply With Mass Tax Laws (DUA) – 2nd Attempt (4th Overall)

Application to be sent back to the ABCC “For Reconsideration”, only upon notification from the Applicant or the DUA, that all outstanding issues have been resolved.

Tabled at 09/21/15 Meeting

1. PETITION - Trans. # 194– Plot # 102--128

Ransan Rotisserie, Inc. d/b/a Braza Rotisserie, Randy R. Cardoso, President, license currently issued for use at **566 Pleasant Street,** who is petitioning to transfer a **Common Victualler (Restaurant) Wine and Malt Only Beverages (7 Day) License** to **Portugal Verde Soccer Academy, Inc.** The proposed transferee is also requesting a **Change of Location to 424 Nash Road;** as well as a **Change of License Type from a ‘Restaurant Wine & Malt Only’ license to a ‘General on Premise Wine & Malt Only’ license.** Upon approval, **Isaias M. Furtado** will be the President, Treasurer, Secretary, Sole Director, Sole Shareholder, and **Manager.**

The proposed new licensed premise consists of a 20,000 sq. ft. area within a one-story building, which will operate as an indoor soccer facility. The area will include a snack bar, office, storage room, two restrooms, and an indoor soccer area with bleacher seating for approximately 60 patrons.

Alcohol will be served from the snack bar area. The premises is situated on the south side of Nash Road between Church and Mt. Pleasant Streets, with the main entrance/exit located in the front of the building that leads into the parking lot; with four (4) emergency exits (one (1) each on the north and south side of the building and two (2) in the rear of the building), and is numbered **424 Nash Road.**

Final approval will require a **‘Certificate of Inspection’** from the Building Department, a **‘Food Permit’** from the Health Department, and a signed **‘Fire & Building Certificate’** as required under the Chapter 304 Fire Acts Compliance; along with a copy of **‘Proof of Liquor Liability’.**

Application has been advertised; Abutters have been notified

Minutes of the 09/21/15 Meeting

Present: Atty. Michael Medeiros along with Isaias M. Furtado, Buyer, and Randy R. Cardoso, Seller

Mr. Nanopoulos stated that a letter had been received from Mr. John M. Kalisz of which a copy was presented to Atty. Medeiros, as well as being received and placed on file unanimously by the Board; which stated in part the following:

Upon receipt of a Notice of Hearing by the Licensing Board concerning a transfer of liquor license to the Portugal Verde Soccer Academy, Inc. located at 424 Nash Road, of which I am a direct abutter. I am not in favor of this license transfer because I found beer cans, bottles, and broken bottles discarded on my property, and thrown in my shrubbery. Further, I have submitted a letter dated 08/27/13 along with a New Bedford police Report concerning an event Mr. Furtado conducted in the parking lot (Hot wheels property). This event, consisting of loud music and bad behavior disturbed many residents in the north end neighborhood, and resulted in one arrest by police. Mr. Furtado assured me he would provide security to protect my property, however none was provided. However, I do feel an indoor soccer facility would be beneficial for New Bedford, I don’t think liquor would enhance the sport. I respectfully request the Licensing Board disapprove the transfer of this license. When asked by Commissioner Almeida to explain as to how Mr. Furtado planned on using the beer and wine license, Atty. Medeiros stated the following in part on behalf of his client:

It’s going to be transferred to an indoor soccer academy ... it’s a large facility ... it’s one of which a large majority of it is actually occupied by the soccer field, which you can see on the plan that was submitted ... and is use by both adults and children ... he also plans on operating the facility with only beer and wine ... it would be poured at the snack bar area ... *and it would only be used by patrons who come in and use the soccer facility* ... it’s not going to be used for people who just come in to drink ... it would be for people who come in to play or watch soccer games ... he also has the facility used for children ... he also plans on having birthday parties ... if the kids want to a have party there in which the kids play for an hour or two ... they rent the facility for a birthday party ... they can play the game ... and there will be people there ... they can have cake and ice cream ... and there will also be beer and wine, which will obviously only be served to people of age ... the hours of operation will be Monday through Thursday from 10 a.m. until 11 p.m. ... and Friday and Saturday from 10 a.m.

until 12 a.m. ... and on Sunday from 11 a.m. until 11 a.m. ... he does have prior experience ... he was the president of the Sporting Soccer Club on Beetle Street ... they had an all alcohol beverage license ... he is not T.I.P.S. Certified ... but he understands if this were to be transferred, he would be required to be certified, as well as anyone else that would be pouring the alcohol.

Responding to Atty. Medeiros's comments, Commissioner Almeida stated, I have a problem with the alcohol with the soccer field, especially with kids being there; you put the two together it's another problem.

Atty. Medeiros responded, there will be kids there but it's not exclusively for kids; any restrictions that the Board would feel to be appropriate ... we're here to obviously embrace those that would be in the best interest of him from a liability standpoint ... and obviously it's best for the community.

With no further questions from the Board, Commissioner Almeida then asked if there was anyone present who wished to speak or be recorded in favor of the petition, upon hearing and seeing none; Commissioner Almeida then asked if there was anyone present who wanted to speak or be recorded in opposition of the petition.

Upon hearing and seeing none, Commissioner Almeida closed that portion of the hearing and called for a motion.

Responding to Commissioner Almeida's call for a motion, Commissioner Craig stated, I have some concerns as well, but I think a matter such as this really requires that the Chairman be here, so that we have three votes on this matter.

VOTED: Commissioner Craig made a motion to table the matter until the Board's October meeting with a full Board present. – **Unanimous**

2. PETITION - Trans. # 118 – Plot # 47-45-A

Zeiterion Theatre, Inc., Justin LaCroix, Manager, who is requesting permission to Change the Description of the General on Premises All Alcoholic Beverages licensed premises to include an additional room approximately 2,067 sq. ft., which will include a service bar. The additional room, which is contiguous to the currently licensed premise, is located on the first floor of the one story building, and is numbered 686 Purchase Street. The room, which will have a direct entrance/ exit into 684 Purchase Street, as well as an emergency exit onto Purchase Street, will be used as a pre/ post -event reception area. The licensed premise shall now be numbered **684-686 Purchase Street**.

Final approval will require a 'Certificate of Inspection' from the Building Department and a signed 'Fire & Building Certificate' as required under the Chapter 304 Fire Acts Compliance.

Application has been advertised; Abutters have been notified.

3. PETITION - Trans. # 079– Plot # 121-37-B

Johnson Turf & Golf Management, Inc. d/b/a Whaling City Golf Course, Kelly K. Laramee, Clerk, who is requesting a **Change of Officers, Director, Stockholder, Manager, and the Transfer of all the Corporate Stock** of the **Common Victualler (Restaurant) All Alcoholic Beverages License**; and a **Change of Corporate Name** to **Johnson Golf Management, Inc.** Upon approval, Kelley J. Laramee will be the President, Treasurer, Secretary, Sole Director, and Sole Shareholder (100) by virtue of devise by will of father, Douglas Johnson (Deceased); and **Brian K. Ramos** will be the **New Manager**. **Premises will remain the same at 581 Hathaway Road.**

Application has been advertised; Abutters notification not required.

4. PETITION - Trans. # 230– Plot # 116--7

Irmandade do Divino Espirito Santo do Pico, Inc., which is petitioning for a **New Club (Non-Profit) All Alcoholic Beverages** license, under a **Commonwealth of Massachusetts Special Legislation – Chapter 194 of**

the Acts of 2014. Upon approval, Manuel Sequeira will be the President and a Co-Director, Manuel G. Dafonte will be the Vice-President and a Co-Director, Lourdes Limos will be the Treasurer and a Co-Director, Joseph Xavier will be the 2nd Treasurer and Co-Director, Fatima T. Dafonte will be the Secretary and a Co-Director; and Margarida Sequeira, Norberto Evangel, and Amerindian Costa will all be Co-Directors. **Ernesto Oliveira** is the **Proposed Manager.** The new licensed premise consists of One (1) room approximately 5,522 sq. ft. on the first floor of a One (1) story building, which will be used as a Function Room and will include seating for approximately 224 patrons, a stage, a service bar, two storage rooms, and two handicapped accessible restrooms; and an additional room approximately 5,522 sq. ft in the basement, which will be used as a ‘Club’ area that will include seating for approximately 144 patrons, a kitchen area with a storage cooler, a service bar, two storage rooms, and three handicapped accessible restrooms. The main entrance/exit into club is located on the west side of the building onto Acushnet Avenue with an additional entrance/exit on the north side of the building that leads into the parking lot, and an additional emergency exit on the east side of the building. The basement area is accessible through the main entrance, as well as by way of a second stairway from the first floor on the south side of the building, which also includes two additional emergency exits. Premise is located on the east side of Acushnet Avenue between Wood and Sylvia Streets, and will be numbered **2056 Acushnet Avenue.** (**Note: Until such a time as the sprinkler installation project is complete, the applicant will hire details from the N.B. Fire Dept. when the occupancy will exceed 99 individuals, per order of the Commissioner of Buildings.**)

Final approval will require a ‘**Certificate of Inspection**’ from the Building Department, a ‘**Food Permit**’ from the Health Department, and a signed ‘**Fire & Building Certificate**’ as required under the Chapter 304 Fire Acts Compliance; along with a copy of ‘**Proof of Liquor Liability**’.

Application has been advertised; Abutters have been notified.

5. PETITION - Trans. # 019 - Plot # 53-68

Tane Corporation d/b/a Octane Sports Bar, Fernanda Carvalho, President, (license formerly exercised on premises located at **1430 Acushnet Avenue**), who is petitioning to **Transfer a Common Victualler (Restaurant) All Alcoholic Beverages License to Candleworks Ventures, LLC.** The proposed transferee is also requesting a **Change of Location to 72 North Water Street.** Upon approval, **Andrew F. Rockett** will be the Sole Manager/Member and Interest Holder (100%) of the LLC, and the **Proposed Manager of the liquor license.**

The “previously” licensed premise will consist of an area approx. 3,280 sq. ft., on the first floor of a four –story building, which will include a dining area and lounge area with a bar, and a kitchen; with two restrooms in the front foyer and additional area approx. 750 sq. ft. for the storage of alcohol in the sub-basement. There is also an outdoor patio area approx. 870 sq. ft. for dining that is contiguous to the main dining room on the north side of the building that is accessible from the dining room. There is one entrance/exit in the front of the building that leads onto North Water St., along with an additional entrance/exit on the east side of the building that leads into the parking lot; and an additional entrance/exit from the patio area into the parking lot. Premise is located on the east side of North Water Street between Elm and Rodman Streets, and is numbered **72 North Water Street.**

Final approval will require a ‘**Certificate of Inspection**’ from the Building Department, a ‘**Food Permit**’ from the Health Department, and a signed ‘**Fire & Building Certificate**’ as required under the Chapter 304 Fire Acts Compliance; along with a copy of ‘**Proof of Liquor Liability**’.

Application has been advertised; Abutters have been notified.

Tabled at 09/21/15 Meeting

6. Meeting: Candleworks Ventures, LLC

Mr. Andrew F. Rockett, Manager of LLC
72 North Water Street – 3rd Floor

Your presence is requested at a meeting to determine the status of your pending Purchase and Sale Agreement

with Tane Corporation d/b/a Octane Sports Bar for the purchase of their Common Victualler All Alcohol license, which was signed in June of 2014; as well as to update the Board as to what your plans are for the transfer of said license.

Issue Summary

- On August 6, 2015, I sent the following by e-mail to your legal counsel:
“Please be advised that your client has no legal rights to this license until such a time as an application for a transfer has been approved by the local licensing authority and the ABCC. The Board tabled the renewal hearing on this license until the Board’s November meeting; be advised, **if the Board chooses not to allow the renewal by the current license holder or if the current license holder chooses not to sign the renewal or pay the renewal fee, the license ceases to exist.** I would strongly urge your client to submit an application for a transfer to the Seafire space in his name for the September meeting, which must be submitted by Sept. 1st, if he has not found someone to use the license at that location, which would give him the legal rights to the license moving forward and would start the clock again on the license. This has been ongoing far too long, and it has put the license at risk of being lost to the city but the city cannot condone a license being inactive for so long, as it sets an unacceptable precedent going forward. The ABCC monitors the status of inactive licenses, and they have a policy against “pocket” licenses.”

- Upon being contacted by Atty. John Markey, Asst. City Solicitor, Atty. Peabody e-mailed the following response back to me, also on August 6, 2015:
“Nick – I will have my client call you directly. We had planned to transfer the license to the new restaurant tenant, but they decided to not pursue the Candleworks location.”

- On August 20, 2015, I followed-up with this e-mail to your legal counsel:
“Please be advised that I have not had any contact with anyone regarding this issue. I would like to give fair warning to those involved, if this matter is not resolved prior to November 1st, this license may not be renewed by the Board. This license has been inactive for far too long, at the very least, it should be transferred to the Seafire space in Mr. Rockett’s name. Allowing a license to be inactive this long sets a bad precedent, and one that we don’t want to go back to after getting it under control several years ago.”

- Atty. Peabody e-mailed the following response to me, also on August 20, 2015:
“Fair warning Nick, I have been advised that my client (Mr. Rockett) will be in direct communication with you.”

- This office has yet to be contacted nor has an application been submitted.
Your failure to file the appropriate paperwork has necessitated that you be called in for a hearing regarding this matter.

Minutes of 09/21/15 Meeting

Present: *No one appeared as requested.*

Mr. Nanopoulos informed the Board that Mr. Rockett and his Attorney were both properly notified, and recommended that the matter be tabled to the October meeting, and that Mr. Rockett be re-notified

Voted: On a motion by Commissioner Craig, the Board voted unanimously to table the matter to the October meeting.

NOTE: The current licensee, Mr. Claudio Cabral, was present and stated when asked by Mr. Nanopoulos, that he was prepared to sign the renewal in November and that either he or Mr. Rockett would pay the renewal fee in December.

7. Hearing: JAKIBRI, LLC d/b/a Kirby’s Irish Pub

Mr. Jason Kirby, Co-Owner/Manager

818 Kempton Street

Closed 09/21/15 - Estimated

Your presence is respectfully requested at a hearing to to determine the status of your annual liquor license for the year 2015. The hearing is also being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2015 prior to this Board considering approval of your 2016 renewal

application.

If warranted, the Board may cancel the license of any license holder who “ceases to conduct the licensed business” that is, *any license holder who closes the business or stops doing business*. Licensees should be conducting the licensed business on all days authorized by the license. Any licensee that does not comply with its obligation to conduct the licensed business and holds a so-called “pocket License” is subject to possible action by the Board.

Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77, which states that 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.

You **must submit** to the Board that evening, a letter stating your intentions regarding the license that has been issued to you detailing either an opening date, plans to transfer, or change of location, as it applies to your situation.

Violation: Licensing Board Regulation No.20

Any licensee intending to close his place of business for any period of time exceeding Seven (7) days must notify the Licensing Board in writing before closing and shall give reason and length of time. **On the first day of closing the licensee shall deliver his license to the Licensing Board.**

Therefore, **you are required to surrender your license to the Board that evening** until such a time you have initiated one of the following three options:

- 1.) To be open and operating at the approved location as stated on your license;
- 2.) Receive approval for a change of location and a date certain for the opening at the new location;
- 3.) Receive approval for the sale and transfer of the license to a new owner.

Please Be Advised that failure to appear before this Board as requested will result in “Automatic Revocation” of your Common Victualler All Alcoholic Beverages License.

8. Hearing: Vila Franca Do Campo, Inc. d/b/a Vila Franca Restaurant Cafe

Mr. Carlos A. Santos, President

601 Second Street

Your presence is requested at a hearing to determine whether you have violated certain provisions of Massachusetts General Laws and Licensing Board Rules and Regulations. Failure to comply with this notice may result in the Licensing Board taking action to suspend your license until this matter is resolved.

Issue Summary

It was brought to the attention of this office during its annual review of all our licensee’s corporate filings, that there has been a change of officers and directors within your corporation.

This issue also occurred in 2014, at which time the Director reviewed this issue with you and instructed you that paperwork needed to be filed with this office for any changes to your corporation, which must be approved by this Board and the Alcoholic Beverages Control Commission.

Your failure to file the appropriate paperwork has necessitated that you be called in for a hearing regarding this matter.

Please be advised that you have until October 1, 2015 to submit an application for a Change of Officers and Directors, as previously referenced. **Your failure to submit this application by this date will require you to attend the October 19th hearing,**

Please be advised that you are in violation of the following regulations that will require the board to take action:

MGL Chapter 138, sections 12 &15A-

An application must be filed to obtain approval from the local licensing authorities and the ABCC for a change of officers, directors, and stockholders.

9. Hearing: Pub 6 Social Corp. d/b/a Pub 6 at the Sixth Bristol

Mr. James F. Pettijean, Manager
736 Ashley Boulevard

Your presence is requested at a hearing to determine whether you have violated certain provisions of ABCC Regulations, Licensing Board Rules & Regulations, and City of New Bedford Ordinances. This hearing will focus on an incident that occurred on Sunday, September 20, 2015 at approximately 1:35 a.m., as a result of patron allegedly being assaulted within the premises; as well as the ongoing complaints that have been received from a neighbor regarding late night disturbances.

Based on their findings, the Licensing Board may take action to modify, suspend, revoke, or cancel your license. If warranted, a roll back of hours may also be considered

Please be advised, failure to appear at this meeting will result in immediate suspension of your liquor license

until this matter is resolved.

ABCC Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in, or on a licensed premises.

Licensing Board Regulation No. 11, 12, 38, 41--

Excessive Hilarity, Noise, Crowds, and Objectionable Persons shall not be permitted on or about the premises. It is the responsibility of the Licensee to enforce this rule; Premises must at all times be kept safe; all entertainment shall be so conducted that no noise shall be audible upon any abutting property; the type and hours of entertainment shall be subject to reasonable regulations by the Licensing Board.

New Bedford Code of Ordinances, Ch. 15, sec. 1.2

Any business operating under a Common Victualler license which abuts a residential property shall be subject to a restriction after hearing before the City of New Bedford Licensing Board, **which may restrict the overnight or late night operating hours between the hours of 10:00 p.m. and 7:00 a.m.**, so as not to menace the health or interrupt or disturb the sleep of residents, and said City of New Bedford Licensing Board may restrict or prohibit or otherwise regulate said establishment between said hours. Any residential abutter may request a hearing before said City of New Bedford Licensing Board to seek such a restriction.

Date and time of alleged violations: Sunday, September 20, 2015 @ approximately 1:35 a.m. - Police Report #15-12110-OF

10. Hearing: Pub 6 Social Corp. d/b/a Pub 6 at the Sixth Bristol

Mr. James F. Pettijean, Manager
736 Ashley Boulevard

Your presence is requested at a Public Hearing' to determine whether a roll back (decrease) of hours is warranted as a result of violations of certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations, as a result of an incident reported by the New Bedford Police Department; as well as concerns regarding the day to day management of the premises with regard to public safety and that of your employees, and the increase in incidents taking place at your establishment. This roll back (decrease) of hours could affect

the hours in which you will be allowed to be open. The local licensing authority, may after proper notice, hold a hearing to determine whether a roll back of hours is warranted, on the basis of frequency of arrests, disturbances, and incidents requiring police involvement inside or outside the licensed premises; this decision is one that is not appealable to the Alcoholic Beverages Control Commission or to the superior court. (As noted in Chapter 138, sec. 12 -)

11. Hearing: Barbosa and Raposo, Inc. d/b/a Tilia's Café & Restaurant

Mr. Jose Barbosa, Manager/Co-Owner
1615-1623 Acushnet Avenue

Your presence is requested for a hearing to determine whether you have violated various licensing rules & regulations. This hearing will focus on an incident that occurred on Saturday, August 29, 2015 resulting in an underage patron and her family allegedly being assaulted in and around your premises. Based on our findings, the Licensing Board may take action to modify, suspend, revoke, or cancel your license. If warranted, a roll back of hours may also be considered. Please be advised, failure to appear at this meeting will result in immediate suspension of your liquor license until this matter is resolved.

The potential violations are as follows:

ABCC Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in, or on a licensed premises.

Licensing Board Regulation No. 10, 11, 12-

Objectionable persons shall not be permitted on or about the premises, and it is the responsibility of the Licensee to enforce this rule; Premises must at all times be kept safe.

City Ordinances:

Section 15-96. Exclusion of minors from liquor establishments during entertainment

No person under the age provided in Massachusetts General Laws (21 yrs. old) shall be present or go upon premises licensed for the sale of alcoholic beverages, if the premises are, or should be, licensed for entertainment, while entertainment is being offered thereon.

Date and time of alleged violations: Saturday, August 29, 2015 @ approximately 2:00 a.m. - Police Report #15-11055-OF

12. Hearing: Barbosa and Raposo, Inc. d/b/a

Tilia's Café & Restaurant
Mr. Jose Barbosa, Manager/Co-Owner
1615-1623 Acushnet Avenue

Your presence is requested at a hearing to determine whether a roll back (decrease) of hours is warranted as a result of violations of certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations, as a result of an incident reported by the New Bedford Police Department; as well as concerns regarding the day to day management of the premises with regard to public safety and that of your employees, and the increase in incidents taking place at your establishment. This roll back (decrease) of hours could affect

the hours in which you will be allowed to be open.

The local licensing authority, may after proper notice, hold a hearing to determine whether a roll back of hours is warranted, on the basis of frequency of arrests, disturbances, and incidents requiring police involvement inside or outside the licensed premises; this decision is one that is not appealable to the Alcoholic Beverages Control Commission or to the superior court. (As noted in Chapter 138, sec. 12

Rec'd 09/18/15 – A request was submitted on behalf of Route Six Properties, Inc. withdrawing its application for a change of manager, as a result of the resignation of Paul Vasconcelos as the general manager effective 09/14/15.

13. PETITION - Trans. # 116 - Plot # 60--26

Route Six Properties, Inc. d/b/a Temptation, 161 Pope's Island, is requesting the approval of Paul Vasconcelos, who resides at 485 Whetstone Hill Road, Somerset, MA. as their new manager.

Present: Atty. Thomas Matthews along with Steven M. Camara, Current Manager/Owner, Paul Vasconcelos, Proposed New Manager

Responding to questions from Commissioner Almeida, Mr. Vasconcelos re-iterated as to what he stated in the earlier hearing, in which he informed the Board that he has 25 years experience in the business and that he would be on the premises about 60 to 70 hours a week. He also re-iterated that the security cameras have been updated and are now working, as of 05/3/15; and that he has set up a designated smoking area outside, and that his intention is to purchase a walk-thru style scanner, to replace the wand they're currently using; he also stated that he's not afraid to call the police for assistance if he needs to, and that his entire staff would be T.I.P.S. Certified.

Voted: Commissioner Craig made a motion to approve the petition as presented, and to forward the application to the Alcoholic Beverages Control Commission for their approval; along with the stipulation that Mr. Vasconcelos submits a copy of his T.I.P.S. Certification to the Licensing Board office within thirty (30) days of receiving final approval or prior; and that all her servers be 'certified' as well, with copies of their certifications to be kept on file for review, if needed. – **Unanimous**

14. Hearing: Route Six Properties, Inc. d/b/a Temptation

Mr. Steven M. Camara, Owner/Manager

161 Popes Island

Your presence is requested at a hearing to determine whether you have violated certain provisions of ABCC Regulations and Licensing Board Rules & Regulations. This hearing will focus on an incident that occurred on Saturday, September 19, 2015 which resulted in a patron being assaulted and stabbed as he left your premises. The Licensing Board is troubled about this event since it appears you failed to heed the Board's warnings in regards to serving patrons that are intoxicated and failing to keep the premises safe. The Board also has concerns that you may have ceded control of the premises to a person (s) not responsible and not directly subject to the Licensing Board.

Based on their findings, the Licensing Board may take action to modify, suspend, revoke, or cancel your license. If warranted, a roll back of hours may also be considered.

The potential violations are as follows:

Alcoholic Beverages Control Commission Regulation 204 CMR 2.05: (2)-

No licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulations No.1, 6, 11, 12, 36-

Licenses may not be transferred or surrendered without permission of the Board; Each Corporate Licensee shall

appoint a manager who shall have full authority and control of the premises and who shall be satisfactory to the Board, and who shall be a United States citizen; Objectionable persons shall not be permitted on or about the premises; Premises must at all times be kept safe; Licenses are subject to suspension, revocation or forfeiture after hearing for breach of any of the listed regulations or any other law of the Commonwealth.

Date and time of alleged violations: Saturday, September 19, 2015 @ approx. 2:00 a.m. - Police Report #15-12063-OF

Your failure to appear at this meeting will result in immediate suspension of your liquor license until this matter is resolved.

15. Hearing: Route Six Properties, Inc. d/b/a Temptation

Mr. Steven M. Camara, Owner/Manager
161 Pope's Island

Your presence is requested at a 'Public Hearing' is to determine whether a roll back (decrease) of hours is warranted as a result of violations of certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations, as a result of incidents reported by the New Bedford Police Department. This roll back (decrease) of hours could affect the hours in which you will be allowed to be open.

The local licensing authority, may after proper notice, hold a hearing to determine whether a roll back of hours is warranted, on the basis of frequency of arrests, disturbances, and incidents requiring police involvement inside or outside the licensed premises; this decision is one that is not appealable to the Alcoholic Beverages Control Commission or to the superior court. (As noted in Chapter 138, sec. 12 -)

Tabled at 09/21/15 Meeting

16. Hearing: Route Six Properties, Inc. d/b/a Temptation

Mr. Steven M. Camara, Manager/Owner
161 Pope's Island

Your presence and that of **Paul Vasconcelos** is requested at a hearing to determine whether you have violated certain provisions of Alcoholic Beverages Control Commission (ABCC) Regulations and Licensing Board Rules and Regulations. Based on their findings, the Licensing Board may take action to suspend your license until this matter is resolved.

ABCC Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

Licensing Board Regulation No. 6,

Each Corporate Licensee shall appoint a Manager who shall have full authority and control of the premises and who shall be satisfactory to the Board; immediate notice of the appointment must be made to the Board in writing.

This hearing will focus on the control and operations of the licensed premises, as well as your failure to comply

with Mass. Tax Laws; and your failure to submit certain documents to complete your application for a Change of Manager, which was returned by the ABCC on 05/27/15. The Board is deeply concerned that you have failed to address those issues in a timely manner.

Minutes of 09/21/15 Meeting

Present: Steven M Camara, Owner/Manager along with Steven Barreira, Proposed New Manager

Mr. Nanopoulos informed him that since the last meeting a couple of things have changed, the first being that Atty. Matthews notified him by fax that he was not retained by Mr. Camara to represent him on this; and the second being that Mr. Camara submitted a letter stating that Mr. Vasconcelos had resigned his position as General Manager of Temptations; and that Mr. Camara would be submitting the name of Steven Barreira as the new manager, who was present here tonight.

Mr. Nanopoulos also stated that he had submitted a Certificate of Good Standing from the DUA, which resolved one of the outstanding issues regarding the pending change of manager application that is currently on file with the ABCC, which now needs to be withdrawn upon receipt of a new application.

The Board unanimously received and placed on file the three letters stated above.

When asked by Mr. Nanopoulos if he was going to be the new manager and as to when he planned on submitting that application, Mr. Barreira stated that he would be applying to be the new manager and that he would be submitting an application within the next 30 days; adding that he still had a couple of things he had to work out with Mr. Camara before he put the application in.

When Mr. Nanopoulos suggested to the Board that they require an application to be submitted by October 1st, Mr. Barreira asked if the Board would give him until November 1st to get the application in, due to the fact that he was going in for surgery in the beginning of October, and he would probably be out of commission for a week or two.

Voted: On a motion by Commissioner Craig, the Board voted unanimously to table the matter to the November meeting.

NOTE: The following was discussed with Mr. Camara and Mr. Barreira following the Board's vote:

When asked by Mr. Nanopoulos as to the hours that he's on the premises, Mr. Camara responded, some days I work at night ... some days I'm there during the day.

When asked by Mr. Nanopoulos to give the Board specific hours, Mr. Camara responded, sometimes I'm there when we open at 12 p.m. until about 7p.m. ... sometimes I'm there from 6 p.m. until 2 in the morning ... it depends when my other managers are there.

Mr. Barreira also responded, we tend to overlap ... I usually come in the morning ... or he'll come in the morning ... if I work the night before ... we overlap the hours ... each of us will roughly do about 55-60 hours a week there.

Mr. Nanopoulos stated that the issues that he's raising are those that the Chairman has raised in the past when the discussion of whether or not there is proper management in place and on the premises; adding, you (Mr. Barreira) have not been approved as the manager, therefore the Board needs to know that there is an 'approved' manager on duty, especially late night.

Mr. Nanopoulos informed Mr. Camara and Mr. Barreira that the Board had received yet another Police Report, which stated that there was a disturbance at closing time, which resulted in a patron being stabbed in the parking lot; and that it indicated that Mr. Barreira was there once again but that Mr. Camara, the approved manager, was not.

Mr. Barreira stated that Mr. Camara was there until about 8 o'clock that evening but left.

Mr. Nanopoulos informed the Board that during the last three incidents that were reported to the Board, Mr. Barreira was there but not Mr. Camara; and that Chairman Beauregard has expressed his concern that proper management is not in place during the hours that it needs to be.

Mr. Nanopoulos concluded his remarks by stating; now you're asking the Board to give you till November to submit a change of manager application, this change of manager issue started in April; I'm just laying out the concerns previously stated by the Chairman at prior hearings.

Commissioner Almeida recommended that Mr. Barreira open up and Mr. Camara close, so that proper management is in place during those late night hours, especially at closing time, which is when these reports are coming in; adding, that's when you should be there until you get a new manager approved.

Mr. Camara assured the Board that the change would be made.

Mr. Nanopoulos once again instructed Mr. Camara to get the 'new' change of manager application in as soon as possible.

- **CORRESPONDENCE**

---NONE--

- **COMPLAINTS RECEIVED:**

---NONE--

- **REVIEW POLICE DEPARTMENT INCIDENT REPORTS/ COMPLAINTS**

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
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---NONE--

- **NEXT TWO MEETING DATES: Monday, November 16th & December 21, 2015, both in Room 314**

- **MEETING ADJOURNED:**