



City of Chelsea
LICENSING COMMISSION
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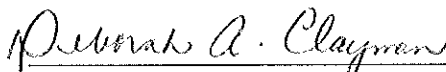
Deborah A. Clayman
City Clerk

NOTICE

There will be a meeting of the Chelsea Licensing Commission on Tuesday, January 28, 2014, at 6:00 p.m., at the Chelsea Public Library Auditorium, 569 Broadway, Chelsea, MA.

AGENDA

- 1) Minutes of Licensing Commission meeting of December 17, 2013
- 2) New Business (reading of new communications)
- 3) 190 Everett Ave. (public hearing re petroleum storage)
- 4) Reyes Avila, LLC
d/b/a The Zone Sports Bar
950 Broadway, Unit 3C (conference re alleged violations)
- 5) Chappy Pantry, Inc., d/b/a Heller's Liquor Mart
429 Broadway (public hearing re police report)
- 6) Fatima Washington Deli, Inc.
373 Washington Ave. (public hearing re police reports)



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January 28, 2014

Meeting of the Chelsea Licensing Commission commenced on this date at 6:00 p.m. at the Chelsea Public Library Auditorium, 569 Broadway, Chelsea, MA. Present: Chairman Jim Dwyer, Commissioners Silvia Guzman, Roy Avellaneda, and Ken Umemba. Absent: Commissioner Joe Cooney. Also present: City Clerk Deborah Clayman and Captain Keith Houghton of the Chelsea Police Department.

Minutes of Licensing Commission meeting of December 17, 2014 were tabled.

Conference commenced re Reyes Avila, LLC, d/b/a The Zone Sports Bar, 950 Broadway, Chelsea, in connection with police reports submitted by the Chelsea Police Department. Carol Reyes appeared on behalf of The Zone Sports Bar.

Captain Houghton read police reports #14-126-OF and 14-182-OF. Chairman Dwyer read 1/6/14 recommendation of ABCC Investigator Caroline Wilichoski noting resignation of proposed manager Sharon Reyes.

Guzman stated that she got a legal opinion regarding her absence from a previous meeting in connection with The Zone Sports Bar and has been informed that she is not required to recuse herself and will therefore not recuse herself this evening and/or going forward regarding this matter.

Dwyer stated that he wanted to remind the Commission that The Zone Sports Bar has not received ABCC approval for an alcoholic beverage license as of this date.

Carol Reyes stated that all alcoholic beverages have been removed from the restaurant.

Guzman made a motion to schedule a public hearing in connection with the alleged violations reported by the police department, with the stipulation that in the meantime, the establishment is operates solely as a restaurant with no alcoholic beverages, no advertising for free alcoholic beverages, and no allowance of patrons bringing in alcoholic beverages; seconded by Umemba. On the motion: Umemba – yes; Guzman – yes; Dwyer – yes.

Public hearing commenced re petroleum storage license application of Civitas Therapeutics, Inc., of 190 Everett Ave., Chelsea, MA. Greg Endicott, Peter Endicott, Kevin Kee, Ernest Penachio, Allan MacDonald, and Donald Normandin, appeared on behalf of Civitas Therapeutics. Greg Endicott stated that he is authorized to act on behalf of H & N Associates, the owner of the land. Peter Endicott stated that he is a consultant for Civitas, the sole tenant of the building. Peter stated that they are seeking a flammable storage license for above ground storage of 20,000 gallons of ethyl alcohol 200 proof, absolute and diesel fuel. Civitas has been a tenant in the building for approximately three years. Fire Prevention Dept. (Wayne Ulwich and Paul Giancola) has been through there and have been happy with the set up. Fire Prevention informed them that they must obtain a license from the licensing commission before obtaining a permit from the fire department.

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Dwyer stated he is reluctant to act on this application without application sign-off of the fire department or testimony from the chief. Dwyer suggested that the matter be continued pending response from the fire department regarding the application and suggested that the applicant provide the Commission with a written synopsis of the proposed plan prior to the continuation hearing.

Guzman made motion to continue public hearing; seconded by Umemba. On the motion: Umemba – yes; Guzman – yes; Avellaneda – yes; Dwyer – yes.

Public hearing commenced re Fatima Washington Deli of 373 Washington Ave. in connection with police reports received by the Chelsea Police Department. Attorney Ann Delyani appeared with Juan Ingles on behalf of Fatima Washington Deli.

Captain Houghton read police reports #13-2569-OF and 13-5244-OF.

Dwyer stated that the first violation was in June of 2013 and we previously had a conference regarding this matter. The next violation was in December of 2013 which is being addressed this evening.

Sgt. Brian Dunn of the Chelsea Police Department testified regarding report #13-5244-OF stating that he responded to Fatima on 12/18/13 to conduct an alcohol compliance check and verify that the establishment had an entertainment license. Upon entering the establishment he heard loud music coming from speakers inside the establishment. He observed three flat screen televisions mounted to the walls, and observed a jukebox attached to the wall with video features; a second speaker was located above dining booths, and a third speaker was located on the back wall behind a small bar. Dunn stated that while checking the establishment for alcoholic beverages he located a clear plastic bottle of Aguardiente located underneath a cabinet in the kitchen, which he believed to be an alcoholic beverage. There was no hard liquor in the bar area on this evening.

Sgt. Dunn further testified regarding police report #13-2569-OF, stating that during a compliance check on June 27, 2013 officers located several bottles of hard liquor displayed behind the bar that were opened and half consumed, which were Captain Morgans Long Island Iced Tea and Dekuper Peachtree Schnapps. There were multiple shot glasses stacked alongside the bottles.

Ingles stated that he never sold hard liquor and that the bottles were there for decoration. Atty. Delyani stated that the Iced Tea is a malt liquor and the Schnapps was there and should not have been there. The bottle under the kitchen cabinet was there for his own use only. Delyani stated that he was not aware that he was required to have an entertainment license at the time and has since submitted an application for amusement/entertainment.

Guzman stated he is a licensee and should be aware of what's required of him. He had already been told you cannot have hard liquor on the premises.

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Umemba stated that he is a little concerned; however, he doesn't recall seeing him before the Commission in the past. Delyani stated that there were no incidents reported prior to these two incidents in question this evening.

No one appeared to speak during the public speaking portion of the hearing. The public speaking portion of the hearing was closed.

Guzman stated that based on the smell of the bottle produced this evening by the police department, it appears to her that the clear bottle was Aguardiente.

- Guzman made a motion to suspend the license for three consecutive days on Friday, Saturday and Sunday, effective on the first day following the five day appeal period after the decision notice is submitted; and all entertainment devices, including tv, radio, dj equipment, jukebox and any other item of entertainment must be physically removed from the premises until an amusement/entertainment license has been acquired; seconded by Avellaneda. On the motion: Umemba – yes; Guzman – yes; Avellaneda – yes; Dwyer – yes.

Public hearing commenced re Chappy Pantry, Inc., d/b/a Heller's Liquor Mart, 429 Broadway, in connection with police report submitted by the Chelsea Police Department. Attorney Edward Fegreus of 21 Custom House St., Suite 480, Boston, MA 02110, appeared with Jimmy, Alan and Mrs. Chan, on behalf of Heller's Liquor Mart.

Captain Houghton read police report #13-3506-OF.

Attorney Fegreus stated that they have the utmost respect for the police department and they mean no disrespect to the police department; however, this is very important to his clients. Every employee is TIPS certified and have recently been recertified (certifications submitted to Commission). They have voluntarily at the request of the Commission removed NIPS from the establishment which was a large cost to them.

Attorney Fegreus questioned the police officers with respect to this incident in question whereby Sgt. Dunn testified that while driving down the street, conducting alcohol compliance checks, he, Officers Garcia and Vega observed an intoxicated male stumbling with a brown bag in his hand out of Heller's Liquor Mart. The male was barely able to walk up the rear stairs on his own, was red eyed, unsteady on his feet, and had alcohol emanating from his breath was placed in protective custody, and was driven home. Sgt. Dunn further testified that the intoxicated male told the officers that he had purchased a single 12 ounce Bush beer inside Heller's. Dunn stated they did not do a breath test, but realized he was intoxicated through training and experience. He was red eyed, unsteady on his feet, and had alcohol emanating from his breath. They had dealt with Mr. Garcia numerous times before because of his intoxication. He had been arrested approximately 19 times before since 1994 and most arrests were alcohol related. Upon questioning from Attorney Fegreus, Sgt. Dunn stated that he observed Mr. Garcia stumbling, unsteady on his feet and red eyed. Each of the officers observed him unsteady on his feet and stumble backward. The 12 ounce beer he had on him was not open. They did not have equipment to determine

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January 28, 2014 (cont'd)

whether he was .08 or .05; the equipment was at the police station and they did not bring him to the police station.

Attorney Fegreus stated that if this is an actual incident, this is the only incident that has occurred in the last five months and Sgt. Dunn testified that the police have conducted other compliance checks on other occasions and they have not been notified of any other incidents.

Guzman stated that they have had a problem with an uncle working at the establishment who was unable to determine whether or not someone is or is not intoxicated. It is a complicated relationship. Her concern is that each and every time they have been before the Commission, the issue of out to determine whether or not someone is intoxicated has always been discussed. This is not the first incident. Attorney Fegreus stated that they are improving. Guzman stated that this is something that the Commission expects. Attorney Fegreus stated this is not clear to him whether or not this is an incident. Guzman stated it is her opinion that this is an incident. It is repetitive that in this establishment his clients and/or staff have been unable to determine when they should or should not sell to someone. His clients' credibility with her has been shot. The issue that it is constantly a problem for them to determine whether or not someone is intoxicated or not is a problem.

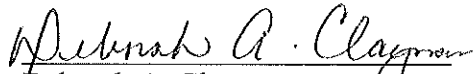
Umemba stated he is not too far away from what Guzman has stated.

No one appeared to speak during the public speaking portion of the hearing. The public speaking portion of the hearing was closed.

Attorney Fegreus requested that if there is an offense or penalty, the matter be stayed pending an appeal. Dwyer agreed and stated that is the practice of the Commission.

- Guzman made motion to suspend the retail package good store/all alcoholic beverages license of Chappy Pantry, Inc., d/b/a Heller's Liquor Mart, 429 Broadway, for three consecutive days on Friday, Saturday and Sunday, effective on the first day following the five day appeal period after the decision notice is submitted; seconded by Umemba. Guzman stated that she has tried to be considerate and realizes this is a family business and their livelihood, but the next time she will not be as lenient. On the motion: Umemba – yes; Guzman – yes; Dwyer – yes.

Meeting adjourned at 8:05 p.m.


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