



City of Chelsea
LICENSING COMMISSION
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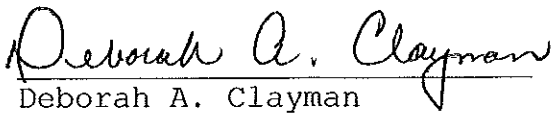
Deborah A. Clayman
City Clerk

NOTICE

There will be a meeting of the Chelsea Licensing Commission on Tuesday, February 18, 2014, at 6:00 p.m., at the Chelsea Public Library Auditorium, 569 Broadway, Chelsea, MA.

AGENDA

- 1) Minutes of Licensing Commission meetings of December 17, 2013 and January 28, 2014
- 2) New Business (reading of new communications)
- 3) 190 Everett Ave. (continuation of public hearing re petroleum storage)
- 4) Alba's Arco, Inc.
642 Washington Ave. (public hearing re Class II Used Car Dealer License application)
- 5) Mystic Brewery, LLC
174 Williams St. (public hearing re application for Farmers Series Pouring Permit for Malt Beverages)
- 6) Nancy Serna, d/b/a Rancho Las Pupusas
36 Second St. (public hearing re alleged violations)
- 7) Reyes Avila, LLC
d/b/a The Zone Sports Bar
950 Broadway, Unit 3C (public hearing re alleged violations)


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February 18, 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 Joe Cooney, Silvia Guzman, Ken Umemba. Absent: Commissioner Roy Avellaneda. Also present: City Clerk Deborah Clayman and Captain Keith Houghton of the Chelsea Police Department.

Minutes of December 17, 2013 were accepted and filed (Guzman abstained as she was not present on December 17, 2013).

Minutes of January 28, 2014 were accepted and filed.

Communication of 2/3/14 from Mohamed Nasra, President of MMN Corporation re Tedeschi Food Shops #380 of 8 Washington Ave. was accepted and filed.

Amusement/Entertainment License application of Fatima Washington Deli of 373 Washington Ave. was submitted. Public hearing will be scheduled.

Communication from Attorney Ann Delyani re Ventura Taxi in connection with livery business was accepted and filed.

Public hearing commenced re Class II Used Car Dealer License application of Alba's Arco, Inc., 642 Washington Ave. Attorney Joel Mazer appeared with Anthony Alba on behalf of Alba's Arco, Inc., and stated that Alba's has been at the location since 1973 as a machine shop with no problems. They are requesting approval for the sale of two vehicles to supplement their income because business is down. They feel that the sale of two vehicles will have no impact on the neighborhood. Mazer stated that he will file a duplicate application with the RMV upon approval of the Licensing Commission.

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

Guzman made motion to approve Class II license application; seconded by Cooney. On the motion: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes.

Continuation of public hearing re Petroleum Storage License application of Civitas Therapeutics, Inc., 190 Everett Ave. commenced.

Deputy Chief Wayne Ulwich of the Chelsea Fire Dept. stated that there are existing tanks which have been recommissioned. They were all inspected and are ready to go. He is satisfied with all safety conditions as of right now. A licensed engineer will determine it safe and he is required to be certain it is being done correctly. There is a water suppression system on the tank. The engineer must certify that it all works.

Peter Endicott stated this is the first step and step two is obtaining the permit from the fire department. The permit will be issued after the license from the Licensing Commission is obtained.

The fire department has the capacity of protecting the neighborhood re this application as of right now, stated Ulwich. Peter Endicott stated that they have an evacuation plan. Greg Endicott stated the first thing is to notify the fire department. They will develop an action plan in

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conjunction with the fire department and the engineer. During the permit process they will consult with the engineer.

Dick Driscoll of 148 Hawthorn Lane in Concord stated he owns property at 115 Carter St. in Chelsea, and he objects to this whole process. They have never put out one of these fires. It is different than a petroleum fire. It is ridiculous that only two abutters were required to be notified. It is very bad stuff in a very congested area. There was never a fire like this put out. He got his facts on the internet. This is a bad spot for this business.

Umemba stated that as long as they are working with a licensed chemical engineer, it should be safe.

Alan MacDonald of 190 Everett Ave. stated that if the tank ruptures, it empties out into the tank. Pressure makes it rupture. Small leaks are handled in house and the fire department doesn't get notified. Guzman stated that she would prefer that the fire department get notified of all leaks and that it be a stipulation of the permit.

Dick Driscoll stated that if there was ever an incident down there there'd be no way to bring a fire truck in there to fight this.

Carol Reyes Avila of 950 Broadway stated that she has worked with oil spills since 2000 and the first thing they ask is paying. She would be concerned with the insurance and who is paying. A safety drill should be planned which will cover the people. Accidents happen.

Kevin Kee of 190 Everett Ave. stated that they do emergency evacuation drills and all employees go through a safety plan.

Dick Driscoll stated that when they built this building he was not notified. You cannot fight fire that you cannot see.

Public speaking portion of the hearing was closed.

Umemba made motion to approve application pending satisfactory examination of the system by a licensed engineer and the Chelsea Fire Department; seconded by Guzman. Dwyer amended the motion that the petitioner develop with the fire department an action plan that would include the evacuation of the appropriate area to be determined by the fire department and also that the action plan include notification to the fire department of any leak over a certain amount to be determined by the fire department and to provide to this Commission and Fire Department prior to the issuance of the license by the Licensing Commission, any and all safety plans currently and in the future to be implemented; seconded by Guzman. On the amendment: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes. On the motion: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes.

Public hearing commenced re Mystic Brewery, LLC, 174 Williams St., Chelsea, MA, re Pouring Permit/Farmer Brewery (Malt Beverages Only) License application. Bryan Greenhagen appeared with Ryan McDougal on behalf of Mystic Brewery and stated that they have won five awards and employ six people right now. They want to have events on a daily basis to have people come in and enjoy a beer. This will enhance their business. They will have everyone TIPS trained and certified. Ryan is a Chelsea resident and will be overseeing the daily operation of the tasting room. They don't want to be a bar, they want to be a promotional establishment.

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They want to operate from 11:00 a.m. to 9:00 p.m. on Wednesday through Saturday. Guzman made motion to approve application; seconded by Umemba. On the motion: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes.

Public hearing commenced re Rancho Las Pupusas of 36 Second St. in connection with police report #13-2569-OF. Attorney Ann Delyani appeared with Gustavo and Nancy Serna on behalf of Rancho Las Pupusas.

Captain Keith Houghton appeared with Sgt. Brian Dunn and Captain Houghton read police report #13-2569-OF.

Upon questioning of Commissioner Guzman, Sgt. Brian Dunn stated that he didn't ask for identification. The bartender was asked if she carded everybody and he believes she said she didn't because she thought he looked 21 years old. The 18 year old was not arrested. They didn't fully search him and he didn't have any fake identification that he knows of.

Not posting the license was merely an oversight, stated Attorney Delyani. They clearly had a license which was in a folder in the bar area and was produced when requested. Delyani stated that the Commission previously requested proof of TIPS certification which she submitted and stated that the Commission previously requested an action plan from the licensee but as a result of Attorney Richard Clayman's medical situation, their former attorney, it did not happen. The person serving that night was Ms. Amaya who was TIPS certified but was fired right away. All employees are now TIPS certified.

Houghton has no recollection of any additional incidents and/or occurrences re this establishment.

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

Guzman made motion to take no action and close public hearing; seconded by Cooney. Guzman stated that she thinks the police report is a little deficient for the Commission to take action on this matter. There is not enough information re what happened that day re identification. There is no proof of any wrongdoing. On the motion: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes.

Captain Houghton stated that this is not a criminal matter and the reports are submitted as soon as something occurs. Chairman Dwyer stated that since he has been a member of the Commission the professionalism of the police department has been top notch.

Public hearing commenced re Reyes Avila, LLC., d/b/a The Zone Sports Bar, 950 Broadway, in connection with alleged violations reported by the police department.

Attorney Ann Delyani appeared with Carol Reyes Avila on behalf of The Zone Sports Bar.

Captain Houghton read police reports #14-126-OF and 14-182-OF.

Guzman stated that at the prior hearing when the license was originally requested by the petitioner, she recused herself because the proposed manager Sharon had requested her

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assistance. She doesn't have to recuse herself because she never gave them any legal advice. She will not be recusing herself from this public hearing.

Delyani stated that she spoke just today to Carol Reyes Avila and Carol knows the facts better than she does at this time. Guzman stated it is her understanding that we are here because the police went to the establishment that is not licensed for alcoholic beverages and found that the licensee was providing alcoholic beverages and entertainment publicly. An establishment that is not licensed was selling alcoholic beverages. Carol stated that the flyer was not approved by her. It was a private party planned by the DJ. The equipment was already established in the place. The police went there and it was a private party. She did not approve the flyer or make the flyer. Guzman stated the flyer was on her facebook page and on her letterhead. Guzman stated that Carol had admitted she had a DJ and she was not permitted for a DJ.

Cooney stated he specifically stated he did not want this to turn into a nightclub and did not want entertainment.

Dwyer stated she was present at the establishment when the DJ was there. Carol stated she was in the salon next door and then went into the establishment.

Sgt. Dunn stated that when the police arrived, Carol was in the bar.

Attorney Delyani stated she's now asking to modify the amusement/entertainment license. Unfortunately, the DJ did put the ad on her facebook.

Sgt. Dunn stated when they arrived at about 8:00 p.m. they spoke to the owner, Carol Reyes Avila, as the person in charge.

Attorney Delyani stated that paragraph four of the police report notes there was an open half consumed beer bottle in front of a male patron. Delyani stated that the person was actually an employee who is here tonight. He did not purchase a beer and there were no customers, only employees.

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Dwyer stated that with reference to the last paragraph on page one of the police report, Ms. Avila stated to Sgt. Dunn that those pictures can get me in trouble, and asked can't we get of them. She was well aware that having alcoholic beverages on the premises could create difficulty. Avila stated that the alcohol was there from a party she previously had.

Cooney referenced that in accordance with the police report Avila told the police that Debbie Clayman told her she could sell alcoholic beverages. Sgt. Dunn stated that he conducted alcoholic beverage compliance checks throughout the city. He believes that Carol Avila talked to Officer McCarthy and she mentioned Ms. Clayman and said that the license was being mailed to her and she could sell alcoholic beverages until she gets it in the mail. Detective Garcia stated that Avila told him that she sent her license out to be framed so it would look nice like all her other licenses.

Atty. Delyani stated there is no indication in the first police report re liquor license. Sgt. Dunn stated at the time they went there the Amusement/Entertainment License was the main focus. They actually believed her that she sent the alcoholic beverage license out for framing and they assumed she had been granted the license. They didn't know she didn't have a license at that

time. The testimony of Sgt. Dunn is that alcoholic beverages were displayed and served on 1/10/14 at about 8:00 p.m.

Guzman stated that the first time Avila appeared before the Commission, it was her understanding that she had already had alcoholic beverages in the establishment prior to her coming to apply for the license. According to her testimony, she stated that City Manager Jay Ash informed her that it was okay. Now she is saying that Debbie Clayman told her it was okay. There is a flyer and again she is saying it was some else's fault. It is her financial commitment, or maybe not, and it can't always be someone else's fault. When you apply for a license you should be familiar with the rules and regulations. She had a pre-opening party with alcoholic beverages at that time as well. We now have three incidents where alcoholic beverages have been present in the establishment without being licensed. If the applicant wants to have a party, she can hire a hall that has an alcoholic beverage license, have a party at her home, but may not use this establishment or another establishment that does not have an alcoholic beverage license to provide alcoholic beverages to guests, family or employees. At this point she is upset with this applicant. It is her opinion that the same excuse was used previously regarding alcoholic beverages brought from her house and she is not selling. You get to use that excuse maybe once before this Commission. If you are training a bartender, you don't actually have to use alcoholic beverages. If people are getting TIPS certified, you can have a company come in and they do everything to make sure the employees get properly trained. You don't get to bring alcoholic beverages to an unlicensed establishment and if you look at color-photograph, the alcoholic beverages don't even have covers on them. The only license she has is a Common Victualer License. Atty. Delyani stated that she also holds an Amusement/Entertainment License as well. Guzman stated that the Amusement/Entertainment License is for a TV and radio only. Guzman stated that she is not happy with this establishment as they have already been before this Commission three times with issues.

Janet Torres of 963 Broadway stated that she lives across the street and thinks it is a very nice location. It is very inviting and the food is excellent. She has taken her daughter there for dinner and it has a section for family. She likes the atmosphere and the location.

Jesse Filicano of 49 Prescott Ave. stated that she just starting working there about a month ago. It is nice to have a place in Chelsea that is also a family place. She is grateful that she doesn't have to travel to work in Boston. She is a bartender but now is waitressing there.

Richard Gall of 142 School St., Everett, stated that he had been a Chelsea resident for over 50 years. It seems to him that she has the opportunity to be a benefit to the City of Chelsea and communities around us. It is a top opportunity but she may need to iron out a few wrinkles.

Linda Gallo Fennelly of 2 Ocean Ave., Revere, stated that she just met Carol Avila about one month ago and used to work in her salon. She feels she has created a great atmosphere to work in the salon. It is pretty tough trying to open a business in Chelsea. Her family owned Gallo's Market in Chelsea for 50 years. She is hoping that everything works out for her. It is in God's hands.

Rafael Gutierrez of 2 Neptune Rd., E. Boston, stated that he is the current alcoholic beverage license manager of the establishment. He is helping her out to mediate this situation which got out of control. The prior manager was not responsible. He has been managing restaurants for over 10 years. He is here because he wants to help Carol with this dilemma and move it forward.

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He wants to help her create structure. He thinks that knowing the area of Chelsea he thinks it is a nice venue and attractive. He hopes that they can work with the city to get this going.

Chuck Delipidio of 28 Cornerstone Dr., N. Easton, MA, stated that Rafael Gutierrez had been one of his employees for years. It seems there have been some mistakes made here. With Raphael's help, Carol can improve this establishment. He knows this man and knows he is hard working. He believes he will get this place squared away properly.

Christopher Dolorierd of 51 Joy St., Boston, stated that on the weekends he comes to Chelsea to the restaurant because he enjoys the food and atmosphere. He never gets served alcoholic beverages because she told him she doesn't have a liquor license.

Public speaking portion of the hearing was closed.

Cooney stated that at the original hearing re her request for a liquor license and amusement/entertainment license they talked about radio and tv only; no bar; a right which given can be taken away. Nothing ever seems to be her fault. It's been reported that she's already had happy hour, a DJ, dancing, and open containers of alcoholic beverages and she doesn't even have a liquor license yet.

Umemba stated that he has heard from all present. He warned her when she was here before. A lot of people spoke on her behalf this evening. He doesn't see anyone here speaking against her. She doesn't acknowledge any responsibility. Umemba questioned whether or not Avila had a strategy in place to which Avila responded the incidents are due to her lack of experience in this business. She has done her best to find the right people to manage the business for her because she lacks experience in this area. She is trying to find solutions. Umemba stated that there are consequences.

Attorney Delyani stated that she was here at the last meeting when Avila was here and they established an attorney/client relationship this morning. Her understanding going forward is to work with them because it is always better to make the City happy. It's easier when things run smoothly.

Umemba stated that he wants to make sure we have a way to work together.

Guzman stated that she heard everyone speak and two of them are residents, one is an employee and everyone else came to support her because she is or was their employer. We have a gentleman here who employed Mr. Guttierrez for years. She also heard here from Mr. Guttierrez that all this is happening because the last person was not doing her job. This liquor was not brought in by the last manager; it was brought in by Ms. Avila. She should know how to run her business before she opens the door. This establishment only has two licenses. Had she already been issued an alcoholic beverage license, she would have taken action. She is forcing her to take action against the licenses she has which are a Common Victualer License and an Amusement/Entertainment License. She will be making a motion re both licenses.

Dwyer stated that the two things he finds most troubling are in report #14-182-OF. When it comes to the sale of alcoholic beverages you have to have integrity and character. He doesn't believe by the statements noted in the #14-182-OF police report that she has integrity and/or character to possess a license for the sale of alcoholic beverages. He thinks she knew full well that evening that she did not have a license. He thinks she was untruthful when she said to the

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police officers that Mrs. Clayman told her she could sell alcoholic beverages. She tried to blame Ms. Clayman and everybody else but herself. After she did that she turned to Sgt. Dunn knowing full well that she had an issue and asked him if he could get rid of evidence. He will be making an amendment to any motions made if he has to.

Guzman made motion to revoke Amusement/Entertainment License and revoke Common Victualer License, effective 10 days from today, and revoke the Licensing Commission's prior approval of the alcoholic beverage license application; seconded by Dwyer. Dwyer stated that he is shaking because she suggested to this man who he has known as a kid that he tamper with evidence. Umemba amended the motion that based on public comments and the fact that she tried to comply a little bit after police indicated to her what wrong she had done and based on the fact that he doesn't know whether or not she knows what she is getting into, he would like to amend Guzman's motion to revoke only the Amusement/Entertainment License. There was no second on Umemba's amendment. On Guzman's motion: Cooney -- yes; Umemba -- no; Guzman -- yes; Dwyer -- yes.

Meeting adjourned at 9:15 p.m.

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