



City of Chelsea
LICENSING COMMISSION
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Deborah A. Clayman
City Clerk

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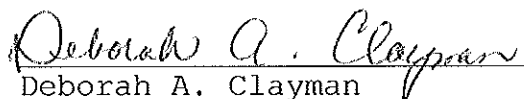
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NOTICE

There will be a meeting of the Chelsea Licensing Commission on Tuesday, June 17, at 6:00 p.m., at the Chelsea Public Library Auditorium, 569 Broadway, Chelsea, MA.

AGENDA

- 1) Minutes of Licensing Commission meeting of May 20, 2014
- 2) New Business (reading of new communications)
- 3) Shop N Go
354 Washington Ave. (conference re police report)
- 4) Las Pupusas del Chino
92 Washington Ave. (conference re police reports)
- 5) Colwen Management, Inc.
d/b/a Residence Inn by Marriott - Chelsea
200 Maple St. (public hearing re application for change of manager and change of officers/directors)
- 6) King Arthur's
200 Beacham St. (public hearing re police reports and non-payment of local taxes, fees and assessments)


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June 17, 2014

Licensing Commisison meeting of June 17, 2014 commenced on this date at 6:00 p.m. at the Chelsea Public Library, 569 Broadway, Chelsea, MA. Present: Chairman Jim Dwyer, Commissioners Joe Cooney, Silvia Guzman, and Ken Umemba. Absent: Commissioner Roy Avellaneda. Also present: City Clerk Deborah Clayman and Captain Keith Houghton of the Chelsea Police Department.

Minutes of Licensing Commission meeting of May 20, 2014 were accepted and filed.

New Business:

June 12, 2014 Memorandum from City Solicitor Cheryl Watson Fisher re Revocation of Liquor License for Failure to Pay Taxes was read by Chairman Dwyer and tabled pending public hearing scheduled for this evening.

Old Gold License application of Carlos Martinez Corporation d/b/a Colchas Primor y Mas of 385 Broadway was submitted. Public hearing will be scheduled.

Conference commenced re Shop N Go of 354 Washington Ave. in connection with police report #14-610-OF submitted by the Chelsea Police Department. Attorney Ann Delyani appeared with Muhammed Saleem on behalf of Shop N Go. Chairman Dwyer read conference notice dated May 28, 2014.

Captain Houghton read police report #14-610-OF.

Attorney Delyani stated that she talked to her client and questioned him about the individual. He has no recollection of this gentleman being his establishment. The licensee Mr. Saleem took Officer DiGaetano downstairs where the security video is but did not know how to operate the system; however, offered the officer to operate the system if possible. It is complicated here and he himself was working there and didn't recollect this individual coming in.

Guzman questioned Capt. Houghton whether the ambulance was stopped in front of the establishment on down the street. Houghton responded that he didn't know. There are a series of liquor stores in the area, stated Delyani.

Delyani stated that Saleem offered to allow the officer to review the security video. He told the officer that he did not sell alcohol to him.

Guzman questioned whether or not he preserved the video to which Saleem responded that he did not. Guzman stated this would be the one thing that could have helped him and she is concerned that he didn't preserve it.

Umemba questioned when Attorney Delyani was hired and why he wasn't informed to preserve the video. If you do not preserve the video within 24 hours, it is on a loop and gets taped over, stated Delyani. If he had called her that evening, she would have instructed him to save it. He

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JUN 17 2014

says he doesn't know this gentleman and she doesn't know how to resolve two conflicting stories. Umemba stated that he would make bias to the police officer. It looks to him that this is just an attempt to destroy the evidence.

Dwyer stated that he doesn't think there is any evidence that he tried to destroy evidence.

Cooney made motion to move matter to public hearing; seconded by Guzman. Guzman requested that Captain Houghton have Officer DiGaetano present at the public hearing. On the motion: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes.

Conference commenced re Las Pupusas del Chino of 92 Washington Ave., in connection with police reports submitted by Chelsea Police Department. Attorney Ann Delyani appeared with Lucia Lopez (manager of record), Romero Gueira (employee), Alison Sarmiento (employee who was the server re 1/15/14 incident) and Gustavo Serna (owner) on behalf of Las Pupusas del Chino. Chairman Dwyer read conference notice of 5/28/14.

Captain Houghton read police report #14-183-OF of Officer McCarthy and police report #14-447-AR of Officer Capistran.

Attorney Delyani stated that re report #14-183-OF, she cannot speak to the actions of the gentlemen who were in there. They have provided her with proof that they are both over 21 years of age. If you look at one of the individual's picture, to think he is under 21 is not surprising as he looks like a child.

Captain Houghton stated that under MGL, ch. 138, the only ID accepted should be a motor vehicle driver license and/or a Massachusetts ID. They were both booked, looked under age and had no identification on them when searched at the station.

Dwyer stated that the establishment has no control over what someone does.

Guzman stated it was not so much that they were under age, but more that they were over-served.

Alison contends that she received a passport from both of the individuals, stated Delyani. She doesn't know why they did not provide them to the police. She saw passports and knew they were old enough to be served. The contention is that they were under age.

Cooney and Dwyer stated that they were over-served.

In terms of the second report #14-447-AR, she does not know what the violation would be other than perhaps that Mr. Serna appeared to be intoxicated. Cooney and Guzman stated that it was the incident that occurred inside the establishment. Delyani stated that the incident was on the street. Capt. Houghton stated that they should have called the police per the Commission's regulations.

Dwyer stated he would like to know how the call was traced back to the bar.

2014 JUL 16 P 2:17
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Delyani stated that Mr. Serna does not drink and she would like it on the record that he has a medical condition, as per the 5/19/14 communication she submitted for the record from the Beth Israel Medical Center. Guzman stated that she is aware that Mr. Serna's speech is somewhat impaired and she knows that for a fact.

Guzman stated that she is concerned that he stated he did not want to file a report. Attorney Delyani stated that was a judgment call on his part as he didn't think it warranted a call to the police.

Dwyer stated that for clarification purposes, the ABCC regulations note that the following IDs are acceptable identification: Massachusetts Driver's License; Massachusetts Liquor Identification Card; Massachusetts Identification Card; Passport Issued by the United States or a government that is officially recognized by the United States; Passport Card for a Passport issued by the United States; and Military Identification Card.

Guzman made a motion to schedule a public hearing re both police reports; seconded by Cooney. Umemba asked Delyani whether or not the server was TIPS certified, to which Delyani responded yes and provided the Commission with the expiration date of the server's certification. Dwyer stated that he would like Captain Houghton to have all officers involved in both incidents to be present at the public hearing. On the motion: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes.

Public hearing re Colwen Management, Inc., d/b/a Residence Inn by Marriott – Chelsea, of 200 Maple St. commenced in connection with application for change of manager and change of officers/directors.

Chairman Dwyer read public hearing notice.

Julie Tropeano (proposed new manager) and John Mitchell (vice president of operations) appeared on behalf of Residence Inn. Mitchell stated that the former manager was Lou Warren and this is just a management staff changing, stated Tropeano. Lou Warren has left the company and Julia has taken over his duties, stated Mitchell. Change of directors is due to retirement of an officer. Wendell Butcher is being replaced by Mark Stebbins, who is now the president and was formerly the treasurer. Mark Schleicher previously was not an officer but was a director.

Guzman made motion to approve application for change of manager and change of officers/directors; seconded by Cooney. On the motion: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes.

Public hearing commenced re King Arthur's of 200 Beacham St., in connection with police reports submitted by the Chelsea Police Department and non-payment of local taxes, fees and assessments.

Chairman Dwyer read the public hearing notice, which was advertised on 5/29/14.

2014 JUL 16 P 2:17
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Chairman Dwyer referenced June 12, 2014 Memorandum from City Solicitor Cheryl Watson Fisher which was submitted as new business and tabled pending public hearing of this evening.

Attorney John Martino appeared with Beverly Guttadauro on behalf of King Arthur's. Attorney Martino submitted a Memorandum, dated June 17, 2014, re operational status and police reports relating to King Arthur's, along with attachment of June 16, 2014 communication from Attorney James Brett.

Captain Houghton read police reports #14-402-OF; 14-779-OF; 14-328-AR; 14-1389-OF; 14-1432-OF; and 14-1416-OF.

Attorney Martino stated that they have previously established that Beverly Guttadauro is the license holder due to the death of her husband Arthur. Due to declining revenues, medical issues, and a burglary, she let the business run for a time and then closed the business for an indefinite for safety reasons. She has negotiated the sale of the property and transfer of the existing licenses. Notwithstanding the fact that the building itself has little value and the motel sits on environmental materials, the buyers have agreed to purchase the property contingent on the license transfers going through. Within the next 30 days the sale of the property will occur with the proceeds going to the DOR, DUA, and Chelsea property taxes to be paid in full. The remaining money will be held in escrow and everybody else who is owed money will be paid and then the estate will be closed. The application has been completed and filled out and they await a certificate of good standing from the DOR at which time they will submit the application to the Licensing Commission for approval. They request that the Commission allow the licenses to remain in full force and effect for the next 60 days. Within 30 days the transfer application will be submitted. The safety of the public is preserved by the closing of the building in the meantime. When you look at the police reports, telephone calls were made by members of King Arthur's and their staff and the hazards had been escorted and removed from the establishment. In 30 years there had only been one incident that occurred in the 80s that brought them before the Commission. The statute allows the Commission to grant the 60 day request. His client is against the wall and left with no other option other than to proceed with bankruptcy. He requests that the Commission give her the chance to sell. Attorney Brett is present tonight and represents the buyers of the property.

Attorney Brett appeared and stated that he represents 200 Beacham St. who entered into a purchase and sale agreement. Part of the purchase and sale is contingent upon the liquor and amusement/entertainment licenses being transferred. They propose to close within the next 30 days and will pay \$300,000 that is owed to the City of Chelsea for outstanding taxes; \$26,000 will be paid to the DOR and everybody would be made whole and they would start operating as an upscale gentlemen's club. They have been talking to Lou Tasiopoulos, who was recently approved to operate as the manager of the premises.

Dwyer questioned who the new members of the application would be. Brett stated that Dustin DeNunzio is the managing member who is purchasing this establishment. There are no other members or silent members. DeNunzio is the only person purchasing this which is in the form of an LLC. Attorney Brett stated no one else is involved in this.

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City Solicitor Watson Fisher appeared and stated that she would like to alert them that this property owner has been in arrears for three years. As of 12/31/13, they should not have been renewed in 2012 or 2013. In 30 days it would be a lot more than \$300,000 owed. It is currently not a business in good standing and that is a concern to the City Council and the rules and regulations have not been followed. They received letters asking them to contact her office regarding entering into a payment plan and as of today she never received a call from them regarding the payment of outstanding taxes.

Dwyer asked if we were within the 14 day required notice to which City Solicitor Watson Fisher responded that the 14 day notice required has been satisfied.

Dwyer stated that he had received a 4/23/14 communication from the City Clerk regarding notices sent to licensees in connection with permission requirement to close establishment. Dwyer read said communication for the record.

Umemba stated that they made a strong argument but evidence shows that they have not responded in any way regarding outstanding taxes and there is a history of non-compliance.

Cooney noted that it's a violation of our City Ordinance for the Commission to issue licenses when outstanding monies are owed. The law department has reached out regarding payment plans and the treasurer has notified them regarding bills. He has no choice but to revoke the permit. They owe \$300,000 in taxes and he was informed that there is a 14% daily penalty.

Attorney Martino stated that there is a point of error regarding Cooney's statement made about the 14% per day. It is 14% per year. They are asking for 60 days which would avoid putting them in bankruptcy.

Watson Fisher stated that the property would be auctioned off. They don't necessarily have to wait until bankruptcy.

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 given the status of the delinquency of taxes, she thinks this Commission's hands are tied as we must abide by the regulations and ordinances. She understands how a stay of 60 days would make sense; however, this client came before the Commission about a year ago and they are now trying to present the same person as part of the new LLC. At the last conference held recently, she questioned Attorney Martino as to who the proposed new partners were and they assured her that they were completely new people. The way she understands the City's regulations is that they must revoke the license because taxes are outstanding. They can enter into some agreement with the City and then revisit this Commission.

Guzman made motion to revoke King Arthur's Innholder Alcoholic Beverages License; Amusement/Entertainment License, and Common Victualer License and any other licenses issued by the City that are held by the establishment; seconded by Cooney. Dwyer stated that it was a year and a half ago in November of 2012 when they were here to transfer the license. This

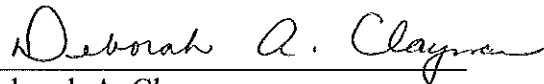
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is something new to the Commission. He works well under pressure but this is ignoring the City. Taxes are owed outside police part of it and everything that occurred inside and outside of the establishment, the fact that they closed down without notifying the Commission and the City has just been ignored. Now at the last minute, they think everything is going to be great and he has a problem with that. On the motion: Umemba – yes; Guzman – yes; Cooney – yes; Dwyer – yes.

Commissioner Guzman stated that she would like to state for the record that there seems to be a consensus that this Commission approves licenses when they are in default for monies owed the City. She wants it noted that she always asks at renewal time whether or not monies are owed. This is the first time that she learned that this was the case with King Arthur's. The Commission should receive direct communication from the tax collector and/or law department.

City Solicitor Watson Fisher stated that the error may have been due to the fact that the tax delinquency noted that A & G owed the outstanding monies at 200 Beacham St. and it may have been overlooked.

Meeting adjourned at 8:00 p.m.



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