

Saugus Board of Selectmen
December 15, 2009

The Saugus Board of Selectmen met on December 15, 2009 at 7:00 PM in the Town Hall 1st floor conference room, 298 Central Street. Present were: Selectmen Scott Crabtree, Stephen Horlick, Michael Serino and the Chairman Donald Wong.

1.) Interviews

Cemetery Commission

Paul Arinello, 16 Vermont Avenue, was present and stated his interests and background. Board Members asked questions.

Affordable Housing Trust Board of Trustees

Joia Cicolini, 383 Central Street, was present and stated her interests and background. Board Members asked questions.

Selectman Stephen Horlick

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The Saugus Board of Selectmen met on December 15, 2009 at 7:30 PM in the Town Hall Auditorium, 298 Central Street. Present were: Selectmen Scott Crabtree, Stephen Horlick, Michael Serino and the Chairman Donald Wong.

Invited guests: None this evening.

Approval of minutes: November 24, 2009: Mr. Serino offered several corrections. Mr. Horlick offered a couple of corrections.

Mr. Serino moved to accept the minutes with corrections. Chair seconds.

Vote: 4-0.

Continued hearings:

222 Central Storage, LLC, for used Goods License to be located at 222 Central St.

Janet Boccelli, owner was present and apologized her husband was not present because he had a prior commitment and submitted work estimate and said she respectfully requests the Board approve the request based on pending recommendation and inspection of the Fire Chief. Mr. Horlick said the Fire Chief submitted same letter that he will not endorse until alarm is installed and said it should have been done and wants to see it done before. Mrs. Boccelli said unfortunately they have been unable to install due to family commitments and understands the Board's position. Mr. Serino said he talked to the Building Inspector and they have parking required and asked about money owed the Town and if on a payment plan. Mrs. Boccelli said yes.

Any in favor or in opposition? Tom Sheehan, 217 Central Street said he lives across the street and said this is the second time he has approached the Board on this subject, 222 Central Street, and said they cleaned up the property and did more for the neighborhood he's seen in a long time and said they are good neighbors and are good for the neighborhood and good for Saugus.

Mr. Serino moved to close the hearing. Chair seconds. Vote: 4-0.

Mr. Serino moved to grant the Used Goods License with the following conditions: alarm system to be installed within sixty days; must meet Board of Health requirements; Building Inspector recommendations; goods to be sold inside the building three days a week, Thursday, Friday and Saturday only from 9:00 AM to 4:00 PM; and must be on a payment plan. Chair seconds. Mr. Horlick speaking on the motion said he can't support the motion with the alarm not in and said it's great they are a good neighbor, but they need to update the system to protect the neighborhood and said they don't know everything that's stored there and its going on 3 years and said he can't go against the Fire Chief. Mr. Crabtree speaking on the motion said he has similar concerns 1.) an auto body shop and the Fire Chief's recommendation. Ms. Boccelli said the auto body was in a rented space that was to be used to store parts and once they realized and said they are no longer there. Mr. Crabtree said safety to the public and residents in the area is 1st and foremost. Mr. Serino said granting the license would be an incentive to install the fire alarm system therefore unless it's installed they won't get the license.

Vote: 1-3 with Mr. Crabtree, Mr. Horlick and Mr. Wong voting in opposition.

Motion fails.

Continued hearing

- Show Cause on non-payment: Sauro, Inc., 2 Howard St.; Michael Accomando d/b/a Banana Splitz, 526 Lincoln Avenue; & Selliah Anapayan d/b/a Saugus Taxi and A & A Taxi, inc., 74 Hamilton St; to deny, revoke or suspend all licenses and permits held for

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failure to pay municipal taxes / fees owed. This hearing is being held under MGL c. 40, section 57 adopted by the Town of Saugus By-Laws, section 807.

Their clerk said all have paid or are on a payment plan except Sauro, Inc.

Mr. Horlick moved the Board vote to take no action. Chair seconds. Vote: 4-0.

Sauro, Inc. update was given. Mr. Serino said he has questions. Ed Brown, representing Sauro Inc. was present a submitted affidavit and plot plan and explained the location was mixed up with East Boston location and said he has a letter stating he may speak on James Sauro behalf and said he will put a building up in the spring. Mr. Serino asked if he had bond. Mr. Brown said yes. Mr. Serino said according to the RMV he has to have a building. Mr. Brown said they are discussing it. Mr. Serino asked if he could do it in 60 days. Mr. Brown said no. Mr. Serino asked 90 days. Mr. Brown said in April. Mr. Serino explained he has to comply. Mr. Brown said he sold 109 vehicles this year. Mr. Serino said he is required to a facility for repairs. Mr. Brown said he has one. Mr. Serino said he must submit a letter. Mr. Horlick asked what's going in the location. Mr. Brown said he didn't know. Mr. Horlick said he heard it may be a car lot. Mr. Brown said that won't happen. Mr. Crabtree said the Board is trying to work with him, but has concern of violating the statute and want time limits. Mr. Brown said it's the same and he plans on putting a building. Mr. Crabtree asked how it would affect him. Mr. Brown said he can't work without a license. Mr. Horlick asked about lease. Their clerk said he doesn't have a lease. Mr. Brown said he can still be there. Mr. Horlick said he needs a signed lease. Mr. Brown said he's a tenant at will and said they renewed it last year. Mr. Serino said it must be condition because it has to be straightened out. Mr. Crabtree said he spoke with the Collector / Treasurer and it's not the Town's job to straighten out the taxes.

Any in favor or in opposition? None.

Mr. Serino asked if application is filled out. Mr. Brown said yes. Mr. Serino said he must submit application with payment and pay past due money owed the Town within 48 hours.

Mr. Serino moved to continue the hearing. Chair seconds. Vote: 4-0.

2010 License Renewals

Mr. Wong excused himself from the table and Vice Chair Crabtree took the Chair.

Mr. Horlick moved the Board vote to renew the following All Alcoholic Common Victualer's License with the same conditions and restrictions:

La Vita Mia, 331 Main St. with Entertainment.

Vice Chair seconds. Vote: 3-0.

Mr. Serino moved the Board vote to renew the following Beer & Wine Common Victualer's License with the same conditions and restrictions:

Personal Chef, 124 Broadway.

Vice Chair seconds. Vote: 3-0.

Mr. Serino moved the Board vote to renew the following Club All Alcoholic Common Victualer's License with the same conditions and restrictions:

American Legion, 44 Taylor St. and

ITAM, 1 Beachview Ave. with Entertainment & 1 coin operated device.

Vice Chair seconds. Vote: 3-0.

Mr. Wong returned to the table and resumed the Chair.

Mr. Horlick moved the Board vote to renew the following Class I Auto Dealer's Licenses with same conditions and restrictions:

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York Ford, 1481 Broadway
York Ford, 1288-1294 Broadway

Chair seconds. Vote: 4-0.

Mr. Horlick moved the Board vote to renew the following Transient Vendor's License with same conditions and restrictions:

Mark's Flowers @ 259 Essex St.

Chair seconds. Vote: 4-0.

Mr. Crabtree moved the Board vote to renew the following Common Victualer's Licenses with same conditions and restrictions:

Bacci's, 4 Howard Street;

Charlie's, 304 Lincoln Ave. with Entertainment & 3 coin operated devices

Dunkin Donuts, 1539 Broadway- 2AM to 6AM Permit & 3AM deliveries (sweeping & dumpster)

Kelly's, 595 Broadway

Lena's, 496 Lincoln Avenue

Nico's, 43 Jackson Street

Ronnie's Deli, 1539 Broadway

Square One Mall Food Court, 1201 Broadway – Common Victualer's & Entertainment

Chair seconds. Vote: 4-0.

Mr. Serino moved the Board vote to renew the following Extended Hours of Operation Permit with same conditions and restrictions:

White Hen, 32 Hamilton Street 2 AM to 6 AM newspaper deliveries before 7AM

Chair seconds. Vote: 4-0.

Mr. Wong excused himself from the table and Vice Chair Crabtree took the Chair.

Mr. Serino moved the Board vote to renew Applebee's All Alcoholic Common Victualer's License and Entertainment License with same restrictions and conditions.

Vice Chair seconds. Vote: 3-0.

Mr. Serino moved the Board vote to renew Ballard's All Alcoholic Common Victualer's License and Entertainment License and renew the VFW Club All Alcoholic Common Victualer's License and Entertainment License with Juke Box and two coin operated devices with same restrictions and conditions. Vice Chair seconds. Vote: 3-0.

Mr. Serino moved the Board vote to not renew Pamela Avedisian, 60 Salem Turnpike All Alcoholic Common Victualer's License and Entertainment License. Vice Chair seconds. Mr. Serino speaking on the motion said he was not on the Board when this was issued and gave the following reasons: Construction date of April 2009 as submitted in original application was not met; No plans have been submitted as requested by the Board; The Licensee has not demonstrated they have filed application with any agencies they claim is required before work may begin; The Licensee did not adequately show they intend to use the License; and The Board does not want to renew a License considered a "pocket license". Mr. Crabtree speaking on the motion agreed and said plans have not been submitted to date and no one is present. Mr. Horlick said he has concern also with it being a pocket license. Mr. Crabtree said they had a fire with set backs, but they need to show intent and is disappointed no one is here to represent and nothing has been submitted and they may not have the ability to build or restore and is inclined to support the non renewal. Vote: 3-0.

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Mr. Serino moved to schedule a show cause hearing at the Board's first meeting in February on Pam Avedisian, 60 Salem Turnpike for non-use of licenses. Vice Chair seconds. Vote: 3-0.

Mr. Wong returned to the table and resumed the Chair.

Mr. Serino moved the Board vote to renew the following Extended Hours of Operation Permits with same conditions and restrictions:

Exxon Mobil, 1123 Broadway

CVS, 1075 Broadway

Chair seconds. Vote: 4-0.

Mr. Serino moved the Board vote to renew the following licenses with the same conditions and restrictions:

Banana Splitz, 526 Lincoln Avenue – Common Victualer's License

A&A Taxi & Saugus Taxi, 74 Hamilton Street – Taxi Cab Licenses

Chair seconds. Vote: 4-0.

Mr. Serino moved the Board vote to renew the following license with the same conditions and restrictions and on condition they submit a signed Workman's Compensation Affidavit:

Nick's Place, 308 Central Street – Common Victualer's & Entertainment

Chair seconds. Vote: 4-0.

The Chair called a recess at 8:43PM.

The Chair called the meeting back to order at 8:46PM.

Mr. Serino said regarding Sauro, Inc. Class II Auto Dealer's License renewal that if this was a new application it would be a different story, but is willing to renew the license, but a few conditions must be met quickly and suggested it be done within 7 days.

Mr. Serino moved the Board vote to renew Sauro, Inc. Class II Auto Dealer's License with same conditions and restrictions with the following conditions: that application for renewal be submitted tonight; maintain the \$25,000 security bond; a letter from the auto repair stating they do repairs service on the autos sold; a letter from the property owner stating he can use / lease the property; limit of 5 vehicles; building to be put up in 4 months. Mr. Crabtree said he is sympathetic to the issue and if he supports the motion it is up to him to comply or he will no longer have a license. Mr. Serino added that the \$200 license fee to be paid by tomorrow. Mr. Crabtree said to Mr. Brown that he needs to get these things complied with and said he should not fail on this. Chair seconds. Vote: 3-1 with Mr. Horlick voting in opposition.

7:45PM public hearing for the purpose of determining the percentage of local tax levy FY 2010 to be borne by each class of taxable property within the Town of Saugus

Dr. Frederick Wagner Chairman of the Board of assessors was present with Assessors Michael Murphy and Leon Valliere and Dept. Assessor Ronald Keohan. Dr. Wagner presented report and explained loss in evaluation and read recommendation. Mr. Crabtree asked for the benefit of the audience how rates compare to other communities. Dr. Wagner said Saugus is one of the lowest. The Dept. Assessor read some comparisons. Mr. Crabtree asked about property values. The Dept. Assessor explained the splits in other communities. Mr. Crabtree asked how much the average household increase. The Dept. Assessor said it went down an average of \$11.56. Mr. Crabtree asked percentage. The Dept. Assessor said the value of residential 78% of total value. Mr. Serino thanked

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them and said on past Boards he was on they always shifted the burden to help residential tax payers and if they didn't shift it would be \$12.14 per thousand valuation for both residential and commercial and said he would support the shift. Mr. Horlick thanked them and said the Board does always shift the burden. The Dept. Assessor thank the Board and said normally they select the minimum residential factor and hopefully will be set by December 31 and explained the DOR has 140 communities that will not set their tax rates yet and said a law was signed to allow, through January, to get tax bills out without penalties. Mr. Crabtree thanked them.

Mr. Serino moved the Board vote to shift to the maximum and set the residential tax rate at \$9.68 per thousand valuation and Commercial, Industrial & person property at \$21.25 per thousand valuation. Chair seconds. Vote: 4-0.

Mr. Crabtree moved a recess. Chair seconds. Vote: 4-0.

Board recessed at 9:12 PM.

The Chair called the meeting back to order at 9:17 PM.

7:55PM Karen Bentlage and Pamela Zerber, for Special Permit (S-2) to allow: at unit B700/ Suite M & 800/ Suite N a 10-12 room massage spa offering massage and facials; at unit B600/ Suite L a 6 room waxing facility; and at unit B500/Suite K a 8-10 room tanning salon, to be located at 358 Broadway, located at the Shops of Saugus, Assessor's Plan 1047, Lot 64.

Karen Bentlage and Pamela Zerber were present and explained they were before the Board for location at Walnut Plaza and said the owners couldn't agree to terms of the lease and they had to find another location. Mr. Horlick noted the property owner owes some money and fire dept. recommendations. Mr. Serino said the Board didn't receive anything from Inspectional Services and would like to continue to next meeting.

Mr. Serino moved to continue the hearing to January 5 and get recommendations from Inspectional Services. Chair seconds. Vote: 4-0.

Mr. Wong excused himself from the table and Vice Chair Crabtree took the Chair.
8:05PM Aung Myint Tun d/b/a Okasan Sushi, Aung Myint Tun, manager, for NEW Beer & Wine Common Victualer's License, AND for Entertainment License, to be located at 124 C Broadway.

Aung Tun was present. Mr. Crabtree asked his intent. Mr. Tun explained it would help his business. Mr. Crabtree asked time of operation. Mr. Tun said 11 AM to 9 PM. Mr. Crabtree asked days of the week. Mr. Tun said Monday through Saturday and closed on Sunday. Mr. Crabtree asked about entertainment. Mr. Tun said he wants one television. Mr. Crabtree asked location. Mr. Tun said behind sushi bar. Mr. Crabtree said during a site inspection there were some issues. Mr. Tun said he has taken care of those. Mr. Horlick asked his past experience serving alcohol. Mr. Tun gave his background. Mr. Horlick asked if he read and signed the Town Rules & Regulations and understands them. Mr. Tun said yes. Mr. Horlick said he will be manager and asked if he will be there 40 hours a week. Mr. Tun said yes. Mr. Horlick asked for entertainment if he only wants 1 television. Mr. Tun said yes. Mr. Serino said he has a 5 year lease with option and the CORI was ok and asked about capacity that Common Victualer's has 20 seats. Mr. Horlick asked if will be same hours. Mr. Tun said yes.

Any in favor or in opposition?

Mr. Horlick moved to close the hearing. Vice Chair seconds. Vote: 3-0.

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Mr. Horlick moved to grant a new Beer & Wine Common Victualer's License, AND for Entertainment License to Aung Myint Tun d/b/a Okasan Sushi, Aung Myint Tun, manager to be located at 124 C Broadway with the following conditions: Entertainment restricted to one television; same conditions of hours: Monday through Saturday 9 AM to 9 PM, Sunday 11 AM to 7 PM and no more than 20 seats. Mr. Crabtree added without objection the following conditions: recommendation of Fire Chief. Mr. Horlick added without objection: must sign that he received Liquor Rules & Regulations; must complete MASS TIP certification course within 4 months and update regularly. Vice Chair seconds. Vote: 3-0.

8:15PM Twitters Bar & Grille LLC, John Carlino, manager, for NEW All Alcoholic Common Victualer's License, AND for Entertainment License, to be located at 1201 Broadway, Space #E109, Square One Mall.

Attorney Glen Frank was present with applicant John Carlino and explained restaurant concept with 165 seats hours 11-2AM and said they expect a signed lease within a day or two and explained entertainment for televisions only. Mr. Crabtree asked hours. Mr. Carlino said 11 AM to 2 AM 7 days a week. Mr. Serino said the application states they stay open until 12:30 AM. Mr. Carlino said it's not a bar. Atty. Frank said he would like flexibility. Mr. Horlick asked previous experience. Mr. Carlino explained 30 years. Mr. Horlick asked about certification with regular staff meetings. Mr. Carlino said yes. Mr. Horlick asked the manager of the mall if any problem with application. Susan Yee, General Manager, Square One Mall was present and said it has been approved and are waiting for lease to be signed.

Any in favor or in opposition?

Chris Kiley, 5 Fiske Ave., said the mall is not a good neighbor and don't want to hear noise. Mr. Horlick asked Ms. Yee to respond. Ms. Yee said she tells the neighbors if there's a problem to come in and she will address it.

Bill Kramich, 12 Emory Street, said don't give any 2AM licenses and said maybe 12:00.

Janet Leuci, TMMP4, said she is opposed to the Board granting a 2AM license at this location because there is no need to be open until 2AM, and because of the proximity to neighbors, and because the mall closes at 9PM.

Sandra Casella, 362 Essex Street, said it is noisy and said it should close the same time as the mall. Mr. Crabtree asked if noise exists without the restaurant. Ms. Casella said yes, but it would be worse.

Bob Cox, TMMP4, is not in favor of alcohol served there, and don't see a need to be open after mall hours.

Mr. Crabtree said the Board is sensitive to the neighbors and said they need to focus on how it can work with neighbors, town and mall and asked past restaurant hours. Ms. Yee said 12-1AM. Mr. Crabtree asked mall hours. Ms. Yee said 10-9 PM and noted anchor stores have their own hours and said tenants are asking for this also and explained layout not a bar. Mr. Crabtree said televisions in food area. Mr. Carlino said it is a restaurant. Mr. Serino asked about entertainment. Mr. Carlino said 5 or 6 televisions. Atty. Frank said they should visit the Malden location. Mr. Serino said seating capacity limit 162 seats. Mr. Carlino said that is existing not changing layout. Ms. Yee said for any changes they would need to go back to Simon as well. Mr. Serino asked if in lease. Ms. Yee said a full service restaurant. Mr. Horlick said he understands the issues and he

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sure they don't want to lose license because of a bad tenant and any changes must come before the Board.

Janet Leuci questioned if they could have different times on Common Victualer's. Mr. Horlick said a number of places in Town with similar concept a lot are larger than 12 seats at the bar. Ms. Leuci expressed concern with access to restaurant. Mr. Serino asked when this came before Town Meeting for approval why the discussion wasn't then. Ms. Leuci said she doesn't recall other than the license to stay at the mall. Mr. Serino said its too bad they didn't request to restrict the hours then. Mr. Crabtree said the hours are under the Board's authority.

Mr. Serino moved to close the hearing. Vice Chair seconds. Vote: 3-0.

Mr. Serino moved to approve a new All Alcoholic Common Victualer's License, AND for Entertainment License to Twitters Bar & Grille LLC, John Carlino, manager to be located at 1201 Broadway, Space #E109, Square One Mall with the following conditions: recommendations of Board of Health and Fire Dept.; seating for 162 total capacity 180; Entertainment restricted to 5 televisions and piped in music; hours 12 midnight closing with 11:30PM last call; and said he will not support a 2AM license at the mall. Vice Chair seconds. Mr. Crabtree speaking on the motion said he is comfortable with 12 license. Mr. Horlick added detail money owed to be paid. Mr. Serino said to provide copy of lease within 7 days. Mr. Serino said Common Victualer's 11AM to 12 midnight, 7 days a week. Mr. Horlick added any changes to come back to the Board for approval. Vice Chair seconds. Vote: 3-0.

Correspondence

1.) Police Dept. re: request for new signs at Upper Main St. – “Left Lane Must Turn Left”

Mr. Horlick moved to approve the request. Chair seconds. Vote: 4-0.

2.) VFW, 190 Main Street re: request for change of manager to William Merrithew.

Attorney Richard Magnan, 320 Central Street was present with proposed manager William Merrithew. Mr. Horlick said the CORI came back fine and he has prior experience and said he has no problem with the request.

Mr. Horlick moved to approve the change of manager. Chair seconds. Vote: 4-0.

The Chair wished all a merry Christmas and happy New Year and said the Town Hall will be closed 12/25/09.

Member's motions

Mr. Crabtree: wished all happy holidays.

Mr. Serino: requested to schedule interviews for Cemetery Commission.

- wished all a merry Christmas and a very happy New Year.

Mr. Horlick: announced 12/31 blood drive at Town Hall.

- wished everyone a merry Christmas and happy New Year.

Mr. Serino moved the Board adopt the following and read:

FINDINGS AND ORDER

PROCEDURAL BACKGROUND

This matter came on for hearing before the Board of Selectmen (the “Board”) as a result of a notice of hearing issued on November 17, 2009 directed to JIN Restaurant Group, LLC, d/b/a JIN Asian Cuisine (“JIN”). The notice of hearing directed JIN to show cause, pursuant to G.L.c. 40, Section 57 and Section 807 of the By-Laws of the Town of Saugus why its licenses issued pursuant to G.L.c. 138, Section 12, G.L.c. 140, Section 2 and G.L.c. 140, Section 183A should not be revoked or suspended for non-payment of local charges required by law. A hearing was held before the Board on December 8, 2009, at 7:00 pm at the Saugus Town Hall.

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Notwithstanding notice to appear, neither the licensee nor its representatives appeared at the hearing to present its defense to the charges presented.

Based upon the evidence received at the hearing, the Board finds the following facts:

FINDINGS OF FACT:

1. On August 11, 2009, the Town of Saugus, as authorized by the Board, entered into a payment agreement with JIN for the payment of outstanding water/sewer charges for the restaurant located at 20 Frank Bennett Highway. The agreement provided that JIN would pay to the Town the sum of \$13,064.63 on the fifteenth day of each month, commencing on September 15, 2009.

2. JIN made the payment due on September 15, 2009. JIN failed to make the payment due on October 15, 2009 and thereafter.

3. As of the date of hearing, JIN owed to the Town the sum of \$257,183.83, plus interest.

Based upon the foregoing findings, the Board concludes as follows:

CONCLUSIONS

1. JIN has failed to pay the charges due to the Town and is delinquent in its payments.

2. JIN has failed to abide by a payment agreement that it voluntarily entered into with the Town.

3. JIN's actions are in violation of the provisions of G.L.c. 40, Section 57, and Section 807 of the By-Laws of the Town of Saugus.

ORDER

For its failure to pay all charges due to the Town as required by law, and for its failure to abide by the payment agreement duly entered into with the Town, the Board hereby revokes the licenses issued to JIN under G.L.c. 138, Section 12, G.L.c. 140, Section 2, and G.L.c. 140, Section 183A effective immediately.

Vice Chair seconds. Vote: 3-0.

Mr. Horlick moved the Board vote to adopt the following and read:

FINDINGS AND ORDER

PROCEDURAL BACKGROUND

This matter came on for hearing before the Board of Selectmen (the "Board") as a result of a notice of hearing issued on November 17, 2009 directed to JIN Restaurant Group, LLC, d/b/a JIN Asian Cuisine ("JIN"). The notice of hearing directed JIN to show cause, at a hearing to be held on December 8, 2009, why its licenses issued pursuant to G.L.c. 138, Section 12, G.L.c. 140, Section 2 and G.L.c. 140, Section 183A should not be revoked, suspended, modified, cancelled, or why additional conditions upon the exercise of the licenses ought not to be imposed. The hearing was also a continuation of a hearing noticed on September 25, 2009, directing the licensee to show cause as to why its licenses ought not to be subject to disciplinary action as a result of incidents of violence and disorder in or around the premises. In addition to the grounds set forth in the September 25, 2009 notice, the November 17, 2009 notice also directed the licensee to show cause that disciplinary action ought not to be taken as a result of the licensee committing the following prohibited acts:

1. Serving alcoholic beverages while its license was suspended;

2. Performing renovations to its premises while its license was suspended. See Section 1.13(c) of the Town of Saugus Liquor Rules and Regulations;

3. Performing renovations to its premises without the prior approval of the Board. See Section 1.07(c) of the Town of Saugus Liquor Rules and Regulations;

4. Transferring a beneficial interest in a license without the prior approval of the Board;

5. Transferring or pledging stock in a corporation holding a license to sell alcoholic beverages without the prior approval of the Board;

6. Submitting an application to the Board containing false or misleading statements; and

7. Transferring ownership, management or control of the licensed premises without the prior approval of the Board.

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A hearing was held before the Board on December 8, 2009, at 7:30 pm at the Saugus Town Hall. Notwithstanding notice to appear, neither the licensee nor its representatives appeared at the hearing to present any defense to the charges presented.

Based upon the evidence received at the hearing, the Board finds the following facts:
FINDINGS OF FACT:

1. Police reports concerning all of the incidents were introduced into evidence before the Board. The Board finds the reports to be credible and adopts the facts set forth in the report in these findings.

2. JIN provided entertainment to the public that attracted rival street gangs from Boston to attend. JIN provided this entertainment without taking any security precautions directed at preventing the violence that could have been reasonably anticipated as a result of rival street gangs attending the same event.

3. As a result of the attendance of the rival gangs, there was a shooting incident on Route 1 on September 12, 2009 that originated at JIN. There was also a shooting outside the front entrance of JIN on September 19, 2009 that injured three persons. The security plan implemented at JIN was inadequate to prevent these violent shooting incidents.

4. On October 21, 2009, the Alcoholic Beverages Control Commission entered an Order suspending the alcoholic beverages license of JIN indefinitely, effective as of October 29, 2009. In response to a motion from JIN for reconsideration, the ABCC changed the indefinite suspension to a 30 day suspension on October 30, 2009. The ABCC granted no further relief to JIN.

5. On November 6, 2009, JIN secured an Order from the Superior Court, Essex County, staying the Order of the ABCC suspending JIN's License for 30 days. Between October 29, and November 6, when the Superior Court issued its injunction, the ABCC suspension order was in effect and binding upon the licensee.

6. On November 24, 2009, the Alcoholic Beverages Control Commission issued another decision concerning JIN. The Board adopts the findings of the ABCC in its November 24, 2009 decision and incorporates them herein. In addition, the Board notes that Mr. Wei Lan submitted papers to the Board, purportedly on behalf of JIN, and the Secretary to the Board, Wendy Reed, had to return these papers because Mr. Wei Lan was not listed as having any ownership interest in, or management position with, the licensee.

7. No appeal was taken from the November 24 decision and order of the ABCC and the revocation order was valid and in full effect after November 24, 2009.

8. On October 29, 2009, police officers from Saugus went to JIN's premises where there was a function taking place. Notwithstanding the Order of the ABCC suspending the alcoholic beverages license, which Order was valid and in full force and effect, JIN served alcoholic beverages to the patrons at the function.

9. Police reports also show that JIN renovated its premises while under the suspension order and without the prior permission of the Board.

10. The actions of this licensee show that there is no public need for JIN to serve alcoholic beverages until 2:00 a.m. and the public interest would be served by a roll-back of the hours of operation of JIN to midnight.

Based upon the foregoing findings, the Board concludes as follows:
CONCLUSIONS

1. JIN permitted violence and disorder on its premises in violation of the laws, rules and regulations applicable to its licenses and failed to take adequate measures to protect the health, safety and welfare of its patrons and the public.

2. JIN served alcoholic beverages at its premises while its license was suspended;

3. JIN renovated its premises while its license was suspended. See Section 1.13(c) of the Town of Saugus Liquor Rules and Regulations;

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4. *JIN renovated its premises without the prior approval of the Board. See Section 1.07(c) of the Town of Saugus Liquor Rules and Regulations;*
5. *JIN transferred a beneficial interest in a license without the prior approval of the Board;*
6. *JIN transferred or pledged stock in a corporation holding a license to sell alcoholic beverages without the prior approval of the Board;*
7. *JIN submitted applications to the Board containing false or misleading statements;*
and
8. *JIN transferred ownership, management or control of the licensed premises without the prior approval of the Board.*
9. *There is no public need for JIN to remain open to 2:00 am, and the public interest would be served by a roll-back of the hours of operation to midnight.*

ORDER

Since the actions of the licensee demonstrate that there is no public need for JIN to remain open until 2:00 a.m., and because the public interest, health and safety would be served by an earlier closing hour, the Board hereby rolls back the hours of operation of JIN to midnight for all of its licenses. For its violations of the laws, rules and regulations applicable to its licenses, the Board hereby revokes the licenses issued to JIN under G.L.c. 138, Section 12, G.L.c. 140, Section 2, and G.L.c. 140, Section 183A effective immediately.

Vice Chair seconds. Vote: 3-0.

Mr. Serino moved to adjourn. Chair seconds. Vote: 4-0.

Meeting adjourned at 10:40PM.

Respectfully submitted,

Wendy Reed, Clerk