



CITY OF TAUNTON

LICENSE COMMISSION MEETING

MINUTES OF THE MEETING

August 28, 2013

7:00 p.m.

PRESENT:

Chairman Peter Lamb  
Commissioner Brendan Mullen  
Commissioner Bruce Thomas

For the Police Department  
Chief Edward Walsh  
Detective Lieutenant Daniel McCabe  
Detective Dennis Smith

Meeting was called to order at 7:01 p.m. by Chairman Lamb.

1. Minutes of the July 24, 2013 License Commission Meeting. Commissioner Mullen made a motion to accept the minutes and Commissioner Thomas seconded the motion. Motion passed unanimously.
2. **Downtown Taunton Foundation, Inc.** – Application for a special permit. Appearing on behalf of the Downtown Foundation was Teri Bernert, 8 Trescott Street, who is the Director of the Foundation. Ms. Bernert stated that the Downtown Foundation was putting on the Paint the Downtown event for the 2<sup>nd</sup> year. The event would be held at the Trescott Street parking lot with tents and the same kind of format as the previous year. Restaurants will serve food and the Baha Brothers will be performing. Ms. Bernert stated that about 120 people attended last year and they were anticipating about 150 people this year. This year's event included a fashion show. Ms. Bernert continued to explain that the building consisted of an art gallery and offices on the first floor. It was their intent to

use the offices and gallery space for an indoor bar set up. There is a window near the parking lot and the whole thing will be tented with flaps. Ms. Bernert has received permission for a street closing from the City and the only way to get into the tent area is through the check in areas. She indicated that bracelets will be worn even though she does not anticipate anyone under 21 years of age. She intends to have people at all three entrances so that it is a safe and secure environment. People will not leave the area. Chairman Lamb asked how many people would be in the building. Ms. Bernert replied that there would be no more than 50 people – more people outside listening to music and watching the fashion show. Detective Lt. McCabe expressed concerns with the sidewalk. Chairman Lamb agreed. Ms. Bernert confirmed that there would not be an issue as the tent would have flaps covering it. Ms. Bernert was asked about a fire and building inspection. She replied that Captain Bastis from the Fire Department was coming the first week in September to do his inspection and she would bring in the paperwork once it was completed. Commissioner Mullen made a motion to approve the special permit contingent on the fire and building inspection. Commissioner Thomas seconded the motion. Motion passed unanimously.

3. **Taunton Eagles Soccer Club, Inc.** – Application for a Change of Manager. Appearing on behalf of the Taunton Eagles Soccer Club was Michael Borges. Chairman Lamb asked Mr. Borges is he was currently employed by the Eagles Club. Mr. Borges replied no, that he was the President of the Club. Chairman Lamb asked how his work schedule allowed him to be the manager. Detective Lt. McCabe stated that Mr. Borges needed to be at the Club 50% of the time. Mr. Borges replied that he is not there 50% of the time. That it has been like this since 1999. Chairman Lamb asked if the Club had a regular crew of employees. Did they have a club manager? Mr. Borges replied that no, they did not. Chairman Lamb asked who the general manager was. Mr. Borges stated that they did not have one. Chairman Lamb stated that they may want to consider hiring a manager. Comments? None. Commissioner Mullen made a motion to approve the application for a change of manager. Commissioner Thomas seconded the motion. Motion passes unanimously.
4. **Bertucci's Restaurant Corp., d/b/a Bertucci's Brick Oven Pizzeria** – Application for a Change of Officer and Director & Stock Transfer – Appearing before the Board was the Senior VP for Bertucci's and the Manager, Fabio Uddin-Alves. This application has already been reviewed and approved on the ABCC level. Detective Lt. McCabe stated that he had no issues. Commissioner Mullen made a motion to approve the application for a Change of Officer and Director & Stock Transfer. Commissioner Thomas seconded the motion. Motion passes unanimously.
5. **Yamato Japanese Steakhouse, Inc.** – Requesting a change of hours. Appearing before the Board was Donna Lau, Manager. Chairman Lamb read letter requesting a change of hours into the record. Ms. Lau was requesting that the restaurant be closed on Mondays. Ms. Lau states that Mondays are very slow. Detective Lt. McCabe informed Ms. Lau that if the restaurant wanted to open again on Mondays, that they would need to appear before the Board and seek permission because this was a change in the license. Chairman Lamb stated that it is in our new regulations. Commissioner Mullen stated that the Board

would draft a new license which will state on it that the restaurant is closed on Mondays. The reapplication process will state that the restaurant is closed on Mondays. Commissioner Mullen made a motion to approve the change of hours to include a closing on Mondays. Commissioner Thomas seconded the motion. Motion passes unanimously.

6. **Riverfront Sports Pub, Inc.** – Status of License. Appearing before the Board was Attorney Wayne Berube. Attorney Berube explained that Mr. Souza and his wife were not present because Mrs. Souza is due to have a baby. Attorney Berube stated that the license was finally approved after a very long ordeal. He further stated that his client wanted to get some financing to perform some structure improvements on the building and parking lot improvements. Attorney Berube reiterated that his client was trying to get financing and would like an additional 60 days to obtain financing and then get moving on the opening. Attorney Berube stated that his client pays his taxes, pays insurance and the ongoing costs associated with the business. Commissioner Mullen asked if there was any progress on the building since the approval of the license. Attorney Berube stated no. Commissioner Mullen asked why Mr. Souza hasn't pursued this since April. Attorney Berube stated that he has been pursuing it. He was delayed a few years with the license process. Attorney Berube stated that there are additional licenses available; with Mr. Souza holding onto his license, it does not affect anyone else trying to obtain one. Chairman Lamb asked if Mr. Souza was altering the premises. Attorney Berube stated no, Mr. Souza was performing cosmetic changes. Chairman Lamb stated that any alterations needed to come before the board. Chief Walsh stated that Mr. Souza needed to do something with the outside of that property; the area is deplorable. He further stated that it is overgrown and that there is a sign in pieces on the lawn. Chief Walsh stated that these are matters Mr. Souza can handle without having to hire anyone. Attorney Berube stated that he would inform his client. Commissioner Mullen stated that Mr. Souza needed to make some sort of effort; he was concerned that Mr. Souza was not making an effort. Attorney Berube stated that the establishment had been closed since Dec. 31<sup>st</sup>. It was only common sense that Mr. Souza wasn't going to borrow money if he was not going to receive a license. Now that the license has been approved, he will try and get financing. Attorney Berube stated money is the issue. Chairman Lamb stated that Mr. Souza was going to have to get his inspections done before renewal. Chairman Lamb stated that 60 days would bring us through October 31<sup>st</sup>. Chairman Lamb stated that Mr. Souza can work on the premises, but the restaurant cannot open until Mr. Souza comes before the Board. Attorney Berube asked why would Mr. Souza need to appear before the Board; his license has been approved. Chairman Lamb responded that Mr. Souza needs to update the Board as to the condition of the property. Detective Lt. McCabe stated that if Mr. Souza is asking to be closed, he will need to ask to reopen. Chairman Lamb stated that he agreed. Attorney Berube stated okay. Commissioner Thomas stated that we are meeting again in September. Not sure what Mr. Souza can get done by then, but to let us know. Weed wacking, cut the grass, pick up the sign; that type of stuff. Attorney Berube stated that he was not aware that it was looking so unkept. Chairman Lamb stated that he knew it was a long process. I know they have put a lot of work in it. Attorney Berube stated that if his client gets his financing and gets his work done maybe they will return before the sixty days.

Commissioner Thomas made a motion to extend the status for 60 days. Commissioner Mullen seconded the motion. Motion passes unanimously.

7. Follow up on the corrective measures from the July 24, 2013 meeting:

**ATCI Corp.** - Appearing before the Board is Copal Awad, manager and owner. Chairman Lamb reiterated the conditions and expectations from the last meeting. Mr. Awad passes out a copy of the policies and handbooks that are now in effect for his store and employees. Chairman Lamb asked Detective Lt. McCabe if these polices satisfy the requirements. Detective Lt. McCabe stated yes. Chairman Lamb stated that this compliance satisfied the day which was held in abeyance and will now move to 2 years. Chairman Lamb told Mr. Awad that the Board appreciated his efforts. Commissioner Mullen made a motion to accept the corrective measures that ATCI has made and that the Board keep the 4 days held in abeyance for two years from July 24, 2013. Commissioner Thomas seconded the motion. Motion passed unanimously.

**Kuma Ventures, Inc. d/b/a Taunton Liquors** – Mahpal Patel, a corporate officer, appears before the Board and passes out an outline of the corrective measures. Commissioner Thomas asked if the scanner was in place now. Mr. Patel stated yes. Commissioner Thomas asked Mr. Patel if the employees were trained to use the scanner properly. Mr. Patel stated yes. Chairman Lamb asked how often does something like that get updated with software downloads? Mr. Patel stated automatically. Commissioner Thomas asked if they had to update it. Mr. Patel stated no, that Kuma Ventures, Inc. has a contract with a company that does it. Chairman Lamb asked if the machine has the capability to identify someone whom you do not want to sell to. Mr. Patel stated yes. Commissioner Mullen made a motion to accept the corrective measures that Kuma Ventures has made and that the Board keep the 4 days held in abeyance for two years from July 24, 2013. Commissioner Thomas seconded the motion. Motion passed unanimously.

**Royal Liquor Company, Inc. d/b/a Regal Food Mart** – Appearing before the Board was Vui Le. Chairman Lamb stated to that Mr. Le missed the last meeting and therefore, Royal Liquor Company Inc. had a 5 day suspension. Mr. Lui stated that was correct. Chairman Lamb stated that Mr. Lui was informed that Royal Liquor Company, Inc. needed to make some corrective measures. Chairman Lamb asked if they were able to complete the corrective measures. Mr. Lui stated yes and passed out an outline. Commissioner Thomas asked if the company had an identification book or a scanner. Mr. Lui stated yes. Commissioner Thomas asked Mr. Lui if he received a training manual or an identification book? What kind of book did he receive? Mr. Le stated no, that he did the training and received a book in the training session and then when he passed the exam, he received the certificate. Mr. Le stated that he did not bring the book with him. Chairman Lamb stated that it was the Board's expectation that Mr. Le put in place a practice that this training is done every year and when Royal Liquor Company, Inc. has a new employee. Chairman Lamb stated that some of the other license holders were having the employee sign off that they had received the information. Chairman Lamb questioned Mr. Le if he had that practice in place? Mr. Le stated yes. Commissioner Thomas asked if Mr. Le had all that information, why didn't he bring it with him. Commissioner Thomas stated that the Board did not want Mr. Le to get in trouble again. Commissioner Thomas stated that he would like to see some kind of system that Mr. Le's employees are following. Commissioner Thomas asked Mr. Le is he was local. Could he go get the information and bring

it back? Mr. Le stated yes. Chairman Lamb stated that was a good idea; we are seeing that the employees are knowledgeable and signing off on it. Chairman Lamb stated that this item would be tabled and Mr. Le would go get the information. Mr. Le came back and provided documentation that there were policies in place. Commissioner Mullen made a motion to accept the corrective measures. Commissioner Thomas seconded the motion. Motion passed unanimously.

**Sunny and Dev Corp d/b/a Smart Stop** – Appearing before the Board on behalf of Sunny and Dev Corp was Sunil Patel, Manager. Chairman Lamb stated that Mr. Patel was going to bring forth corrective actions. Mr. Patel stated yes, that the store has a scanner with training; that the gentleman performed training with all three of the employees for several hours. Commissioner Mullen asked what the criteria was for using the scanner; were the employees scanning everyone? Mr. Patel stated yes, everyone who is under 30. Commissioner Thomas asked Mr. Patel how does he know they are under 30? Mr. Patel stated that they scan them. Commissioner Mullen made a motion to accept the corrective measures that Sunny and Dev Corp. has made and that the Board keep the 4 days held in abeyance for two years from July 24, 2013. Commissioner Thomas seconded the motion. Motion passed unanimously.

**Apex Ventures, Inc., d/b/a Andy's Supermarket** – Appearing before the Board on behalf of Apex Ventures, Inc. was Maninder Singh, Manager. Chairman Lamb stated that Apex Ventures was given the same one day suspension and one day in abeyance for corrective measures. Mr. Singh stated that he sat with the employees and went over how to recognize a fake identification. Mr. Singh also stated that they ask everyone for identification. He continued to state that he has a training book and once the employee has reviewed the book, they need to sign the back of the book acknowledging that they have gone over it. Chairman Lamb asked if he had a plan to have written policies in place for each of the employees. Mr. Singh stated yes, that they are still formulating a written policy. Commissioner Mullen made a motion to accept the corrective measures that Apex Ventures has made and that the Board keep the 4 days held in abeyance for two years from July 24, 2013. Commissioner Thomas seconded the motion. Motion passed unanimously.

8. Police Incident Report 13012772 – Detective Lt. McCabe gave a narrative of his report. Chairman Lamb asked if this compliance check is part of the same publication notification. Detective Lt. McCabe stated yes.

**GMRI, d/b/a Olive Garden** – appearing before the Board was Gregory Demarkis, Attorney for the corporation and Corey Wilson, who is the manager. Chairman Lamb asked if they had received a copy of the police report. Attorney Demarkis stated yes. Chairman Lamb asked if they would stipulate to the facts. Attorney Demarkis stated yes. Chairman Lamb asked if they had anything to add. Attorney Demarkis stated yes and continued, stating that GMRI had held their license since 2005 with no prior incidents or violations. He additionally stated that Mr. Wilson had worked in this location from 2005 – 2007 and had worked at other locations and then in 2011, Mr. Wilson was brought back to this location. The bartender who served the underage occupant is a good employee who was on the track to manager. The company considers this to be a fireable offense. Attorney Demarkis stated that the company has policies which are already in place. Every employee has to sign off on the alcohol training. They card everyone who is under 30. After the incident, every individual was re-educated and retrained on the alcohol serving. Attorney Demarkis stated that he brought the manual with him tonight. Attorney

Demarkis stated that someone made a mistake and someone should have known better. Mr. Wilson stated that after the incident, the company had every employee go over the statement and sign it. Chief Walsh stated that he understood most corporations have underage drinking policies. The Board has standards in place for underage drinking. Attorney Demarkis stated that he did not dispute that. Attorney Demarkis further stated that the company has had compliance checks with the ABCC and have never had a violation. Attorney Demarkis stated that the Board had the discretion to give a warning up to a suspension of seven days. It is Attorney Demarkis' position that he cannot imagine another company who would be a better candidate for a warning. Additionally, he added, the bartender lost his job. Commissioner Mullen stated that one issue the Board had last time was that there was lack of training processes; that is not the case here. Commissioner Mullen stated he was trying to figure out if the same penalty is appropriate. Commissioner Thomas stated that he agreed; that GMRI has had in depth training. Commissioner Thomas stated that they had a plan before there was a situation. Commissioner Thomas agreed that the Board had the ability to go from 0 – 7. Chairman Lamb stated that GMRI received a license to serve alcohol; this is the basic rule. Chairman Lamb stated that he cannot veer from that and he appreciated that GMRI had policies and it was an unfortunate situation. Chairman Lamb added that from a consistency standpoint – GMRI had a system and it failed. He understood that an employee lost his job but fortunately no one got hurt. Attorney Demarkis recognized that this was a serious offense. He stated that sometimes people do things that you cannot control. Chairman Lamb acknowledged that all of the licensees have had minimal issues; that all the establishments were done consistently on the same day, same group so there was no discrimination. Chairman Lamb stated that the Board did have discretion but that they also had the ability to go above that. Commissioner Mullen stated that one of the Board's responsibilities was public safety and that is where the idea of suspensions came from. Commissioner Mullen added that selling to someone under 21 - whether you are a liquor store or a restaurant, the first rule is not to sell to anyone under 21. Commissioner Thomas had asked same day or different day suspension. Chairman Lamb asked what day the compliance check was. Detective Lt. McCabe stated Saturday. Attorney Demarkis stated that the thought that was harsh. He added that some communities let the company pick the slow day. He asked that if the Board was going to suspend them for one day that the Board let GMRI pick the day. Chief Walsh stated that the Town of Norton has a 10 day mandatory suspension. Discussion ensued as to which day GMRI would like to serve their suspension. Commissioner Mullen wanted to get across that the Board was not anti – business. The Board wants businesses to be successful and we realize that a Saturday night will pack a large amount of people. Commissioner Mullen stated that he did believe in consistency and 1 day suspension is where he was headed. Commissioner Mullen and Chairman Lamb agreed that they would not have the licensee pick the day. Commissioner Thomas stated that regardless of how big a company is, it is who you affect. The Board wants to set regulations that it is fair and consistent across the board. Attorney Demarkis stated that the ABCC had issued a decision that a sting is educational. Commissioner Thomas stated that GMRI was going to have to close for the day but he understood that a restaurant could not close; that they would not be able to serve alcohol. Commissioner Mullen suggested Thursday? Chairman Lamb stated it was case by case and suggested a Wednesday or a Thursday? He stated that he was inclined for Thursdays. Commissioner Mullen suggested Wednesday. Commissioner Thomas stated Wednesday. Chairman Lamb stated he was agreeable to Wednesday. Detective Lt. McCabe suggested about staggering the days establishments are suspended to mitigate the impact on the public.

Chairman Lamb stated that was a good point. Commissioner Thomas stated that they should be staggered. Chairman Lamb stated that the Board can take it case by case. Commissioner Mullen made motion for a one day suspension to be served on Wednesday, September 25, 2013. Commissioner Thomas seconded the motion. Motion passed unanimously.

**Bertucci's Restaurant Corp. d/b/a Bertucci's Brick Oven Pizzeria** – Attorney Demarkis appeared before the Board representing Bertucci's, as well as Fabio Uddin-Alves, Manager. Attorney Demarkis stated that this was a similar situation with GMRI, Corp. That Bertucci's had been in Taunton since 1992 and their last violation was in 1993. Attorney Demarkis stated that there was an employee handbook and employee alcohol server training that all employees must sign off on. Attorney Demarkis stated that the bartender had been terminated. Attorney Demarkis added that after the incident, the company retrained and hired staff; that the employees watched a one and one half hour video in which they all signed off on. Attorney Demarkis stated that the company is embarrassed, that this is not acceptable and will not happen again. Mr. Uddin-Alves stated that when the company hires employees, they emphasize the training and monitor. Mr. Uddin-Alves added that the management has daily conversations with the staff. Chief Walsh stated that there is not a set rule; that the Board wanted to make sure that the same offense received the same punishment. Attorney Demarkis argued that Bertucci's was different because they had corrective measures in place. Chief Walsh stated that one establishment had received a five day suspension for the same offense. Chief Walsh added that the department's operative is 19 years of age, but looked 14. He added that the department did not dress someone up and send them in; the basic fact was that they had an under 21 year old going into these establishments and getting served alcohol. Chief Walsh stated that one day was a lot less than seven. Chairman Lamb added that there was a high number of violators; that the Board needed to make sure that education was in place. Chairman Lamb added that the Board wanted to stress the seriousness of this offense. Commissioner Mullen made a motion for a one day suspension to be served on Wednesday, September 25, 2013. Commissioner Thomas seconded the motion. Motion passed unanimously.

**Barbeque Intergrated, Inc. d/b/a Smokey Bones** – Appearing before the Board was Attorney Peter Nicosis and Douglas Harvey, General Manager. Attorney Nicosis had a general report that stipulates to the facts. Commissioner Thomas made a motion to have the report made part of the record. Commissioner Mullen seconded the motion. Motion passed unanimously. Attorney Nicosis stated that this was a similar situation. Smokey Bones was aware of the seriousness of the violation and they were being proactive; similar to the last corporations before the Board. Attorney Nicosis stated that is an employee handbook that the employees must sign off and that they are required to be TIPS certified. Attorney Nicosis stated that this employee did ask for an identification, but made an incorrect calculation as to the date resulting in termination of the employee. Attorney Nicosis stated that everyone who handles alcohol went through retraining and the regional director had become involved to make sure policies were implemented. Attorney Nicosis added that alcohol is a big part of this business and his client wanted to do what it had to in order to protect this asset. Attorney Nicosis stated that the ABCC had indicated that compliance checks were to be used as educational and not punishment. Attorney Nicosis added that fair resolution in this particular situation should be a warning; that the establishment is very proactive and consistency should be a sliding scale but within the Board's guidelines. Attorney Nicosis suggested discretion to fashion the penalty. Chairman Lamb asked Detective Lt. McCabe to clarify that this was an under 21? Detective Lt. McCabe

stated yes. Attorney Nicosis stated that a potential violator who pulls out an identification with a clear date is not a typical offender. Attorney Nicosis stated that the person checking the identification made a mistake and human nature says that if someone is giving an identification, they must be of age. Attorney Nicosis stated that they were not disputing the facts; that the bartender made a mistake. Commissioner Thomas stated that he wanted to stay consistent. Commissioner Mullen stated that as far as it being not human nature for someone under 21 to hand over a license, this is where the training should come into play. Commissioner Mullen added that the under 21 licenses are turned vertical and stated under 21. Attorney Nicosis stated that there is now a date posted in the server area that will change every day so that the servers will see the date and know it. Chairman Lamb stated that the Board appreciated the fact that the company has this procedures in place and that they are intent on following the rules. Attorney Nicosis stated that if the company could pick the day, they would like a Monday or a Tuesday. Commissioner Mullen stated that he thought the Board would keep the same day, but different weeks. Commissioner Mullen made a motion for a one day suspension to be served on Wednesday, October 2, 2013. Commissioner Thomas seconded the motion. Motion passed unanimously. Attorney Nicosis asked if there was ultimately an appeal, could they stay the penalty? Chief Walsh stated yes.

**Giatis Corporation d/b/a Pizza Depot** - Appearing before the Board is Attorney John Paul Thomas and Mariana Giatis, Manager. Commissioner Thomas disclosed that Attorney John Paul Thomas is his brother and asked to recuse himself. Chairman Lamb made a motion to recuse Commissioner Thomas. Commissioner Mullen seconded the motion. Motion passed. Attorney Thomas agreed to stipulate to the facts in the report. Det. Lt. McCabe asked if that included the change in the "dba" name that occurred in 2012. Attorney Thomas stated yes. Attorney Thomas further stated that Giatis Corp. is a family owned and operated business and has been for several years. Attorney Thomas added that the family depends on their business. Attorney Thomas stated that he understood that his client will not be excluded from the suspension and he appreciated that. Attorney Thomas stated that he also appreciated that the day will be different from the violation day. Attorney Thomas stated that when this matter was brought to my client's attention, she immediately took measures; there was disciplinary action against the bartender. Attorney Thomas added that his client's establishment is fine dining - a Mediterranean cuisine. Attorney Thomas stated that Giatis Corporation does not get a young crowd; it was a mistake. Attorney Thomas added that there are no ongoing issues and suspension of their liquor license will hurt them and it will affect all of the workers. Attorney Thomas stated that they will have to shut down for the day, which is 1/7<sup>th</sup> of their week. Commissioner Mullen asked what type of corrective measures had been taken or policies in place so that this does not happen again. Attorney Thomas stated that there is required identification training for all their bartenders; that they are being more proactive. Chairman Lamb stated that the Board appreciated Attorney Thomas' characterization that this is a family restaurant, but this was a compliance check throughout the City. Chairman Lamb stated that Giatis Corporation got caught up just like the others did. Chairman Lamb added that with regard to the corrective action, for those that did not have a policy in place, the Board would like to see a program put in place; written policies with the employees signing off. Chairman Lamb stated that this was part of the punishment.



Commissioner Mullen stated that he would like to see some corrective measures in place. Detective Lt. McCabe asked Attorney Thomas if the Board would have the application for a change in business name for the next meeting? Attorney Thomas stated yes. Commissioner Mullen made a motion for a one day suspension to be served on Wednesday, October 9, 2013, for Giatis Corp., with one day held in abeyance until September 18<sup>th</sup> for a formal program to be put in place. Chairman Lamb seconded the motion. Detective Smith asked if the Board could have the day in abeyance held for six months rather than two years? Chairman Lamb stated that he thought there were mitigating circumstances. Detective Smith stated that he thought it was harsh. Detective Smith added that he is aware that he does not have a vote, but wanted to put in some input; perhaps a one day suspension on October 9, with one day to be held in abeyance for a period of 30 days. Commissioner Mullen stated that the difference between this establishment and the three previous ones was that the three previous establishments already have policies in place. Chairman Lamb stated that these smaller establishments have more vested in following the rules. Commissioner Mullen stated that he would amend his motion to suspend the license for a period of one day to be served on Wednesday, October 9, 2013, with one additional day to be held in abeyance until the next Commission meeting to show proof that corrective measures plan is in place. If proof is presented that a corrective measures plan is in place, then the one day will be held in abeyance for one year. Chairman Lamb seconded the amended motion. Motion passes unanimously.

**B & DW, Inc. d/b/a Pub 76**– Appearing before the Board was Arthur Wilbur, owner and manager. Mr. Wilbur stipulated to the facts and had nothing to add. Commissioner Mullen asked Mr. Wilbur if his establishment had formal procedures or policies in place. Mr. Wilbur stated that there is an elderly crowd in his establishment. Chairman Lamb stated that the Board was looking for corrective actions such as a book identification or tip training. Mr. Wilbur stated that he understood. Commissioner Mullen made a motion for a one day suspension to be served on Wednesday, September 25, 2013, with one day held in abeyance for 30 days corrective action at our next meeting then that one day will be held in abeyance for one year. Commissioner Thomas asked why is the Board going to hold this over his head for a year? Chairman Lamb stated that the big corporations already have these programs and policies in place. Commissioner Thomas stated that he is agreeable to a one day suspension and have him come back in 30 days, but he does not agree to hold it for a year. Commissioner Mullen stated that he disagreed. Detective Lt. McCabe stated that the distinction is some companies have it in place and some do not. Chairman Lamb seconded the motion. Commissioner Thomas opposed the motion. Motion carried 2 – 1.

**Bobby's Place d/b/a Bobby's Place** – Appearing before the Board was Denise Asack, Manager and her husband, Robert Asack. Mrs. Asack stipulated to the facts and added that the bartender had been fired. Mr. Asack stated that the employees have been recertified with the TIPS program. Mr. Asack asked if they could serve their suspension next Wednesday? He stated that he wanted to get it over with as soon as possible. Chairman Lamb asked Mrs. Asack if she understood that policies and corrective actions need to be put in place. Mrs. Asack stated that she understood. Chairman Lamb stated that it needs to be part of their regular policies; that the employees need to sign off on it. Commissioner Mullen made a motion for a one day

suspension to be served on Wednesday, September 11, 2013, for Bobby's Place with one additional day to be held in abeyance until the next Commission meeting to show proof that corrective measures plan is in place. If proof is presented that a corrective measures plan is in place, then the one day will be held in abeyance for one year. Chairman Lamb seconded the motion. Commissioner Thomas opposed the motion. Motion carried 2 – 1.

**1 Carnation LLC d/b/a Fusion Kitchen** – Appearing before the Board was the Manager, Lisa Luu and her employee, Adna Steward-Figueroa. Ms. Luu stated that she had received the police report and had read it over. She did not stipulate to the facts, but wanted Ms. Steward-Figueroa to speak regarding the incident. Ms. Steward-Figueroa stated that a gentleman came in sat at the bar. She stated that she had asked if he wanted a drink he said yes. She stated that she checked his identification, opened the beer and gave him the beer. Detective Lt. McCabe stated that his recollection was that the operative stated that he was not asked for an identification. Chief Walsh asked if the operative had any identification on him. Detective Lt. McCabe stated yes, he had a Massachusetts driver's license. Chief Walsh asked what age was listed on the driver's license. Detective Lt. McCabe stated 19. Ms. Steward-Figueroa stated that she had received licenses that were vertical but that the individuals are 21. She further stated that when she checked it, she thought he was 21. Ms. Luu passed out photocopies from the video which shows that Ms. Steward-Figueroa did check for identification. Ms. Luu further stated that Ms. Steward-Figueroa takes her job seriously and that she has a husband and young children. Ms. Steward-Figueroa stated that she has never served a minor, ever. Chief Walsh stated that apparently she did; the date is right on the license. Chairman Lamb asked Ms. Steward-Figueroa that there was no dispute that she served him. Commissioner Mullen made a motion that the photos be placed into the record. Commissioner Thomas seconded the motion. Motion passed. Commissioner Mullen asked Ms. Luu if what she was trying to say was that she was not convinced that the operative was under 21. Ms. Luu stated that she was not sure the identification the operative showed Ms. Steward-Figueroa said that he was under 21. Chairman Lamb stated that Detective Lt. McCabe followed procedures; that the operative is clearly under 21 whether or not Ms. Luu agreed with the facts. Commissioner Thomas stated that Ms. Steward-Figueroa looked at the identification but she didn't look at the date; the facts are the facts. It is an unfortunate circumstance. Ms. Luu stated that she understood; that she was shocked that Detective Lt. McCabe said that he wasn't carded because that is a flat lie. Chief Walsh stated to Ms. Luu that a lot of her clientele fall into that younger age bracket and she should pay very close scrutiny to that. The Commission and the Police Department have concerns. Chief Walsh further added that there was no question in his mind that Ms. Steward-Figueroa should have asked for an identification which she did. As Commissioner Thomas pointed out that she should have checked the date on that identification. Ms. Luu stated that Ms. Steward-Figueroa had done all that she could do. Chief Walsh stated that she failed to read the date; it is not a question of this Board whether or not Ms. Steward-Figueroa loses her job. Chairman Lamb stated that this was not a targeted sting on Fusion Kitchen; a mistake was made. The facts are what they are and we need to make a decision. Commissioner Mullen asked what types of programs does Fusion Kitchen have in place to prevent this from happening. Ms. Luu stated that she uses STOP. That all of her employees are trained before they receive their schedule. Chairman Lamb stated that as part of the education element of this hearing, the Board was asking that if the establishment does not have formal training in place, that you come back with evidence of all the training. Commissioner Mullen stated the Board would like Ms. Luu to come back with a list of the employee identifications with their signatures that she has

that is a standard policy. Commissioner Mullen made a motion to issue a one day suspension to be served on Wednesday, October 2, 2013, with an additional day to be held in abeyance for Ms. Luu to come back to the next meeting to show that she has training across the board for each employee and then that day be held for one year. Chairman Lamb seconded the motion. Commissioner Thomas opposed. Motion carried 2-1.

**Polish American Citizens Club, Inc.** – Appearing before the Board was Steve Nastri, Manager and Kevin Kiernan, President. Chairman Lamb asked if they had received a copy of the police report. Mr. Nastri stated that they did and would stipulate to the facts. Mr. Nastri said that this was a serious offense; that they had made a mistake. He stated that the bartender had misread the id. Chairman Lamb asked if the Polish Club had a practice or written policy for checking identifications. Mr. Kiernan stated that all the employees have gone through STOP training; that it is a requirement. Chairman Lamb stated that the Board would like Mr. Nastri to come back and show the Board that corrective measures have been taken. Chairman Lamb also stated that Marilyn Edge from the Tobacco Control Board has a written form that works well and each employee signs off on it. Commissioner Mullen made a motion for a 1 day suspension to be served on Wednesday, September 25, 2013, with one day held in abeyance until the next Commission meeting to show proof that corrective measures plan is in place. If proof is presented that a corrective measures plan is in place, then the one day will be held in abeyance for one year. Chairman Lamb seconded the motion. Commissioner Thomas opposed. Motion carried 2-1.

**Apex Ventures, Inc. d/b/a Andy's Supermarket** – Appearing before the Board on behalf of Apex Ventures, Inc. was Maninder Singh, Manager. Chairman Lamb asked Mr. Singh if he had received a copy of the police report. Mr. Singh stated that he had and he would stipulate to the facts. Chairman Lamb asked him if he had anything he wanted to add. Mr. Singh stated that he had taken measures to make sure that this type of incident doesn't happen again. Chairman Lamb asked if this the same employee? Mr. Singh stated yes, it was; he had been suspended for 5 days. Commissioner Mullen asked Mr. Singh if he was going to take any special steps with this employee so that this doesn't happen again. Mr. Singh stated yes. Commissioner Thomas asked if Mr. Singh had a scanner. Mr. Singh stated no. Commissioner Thomas asked Mr. Singh if his employee asked for an identification. Mr. Singh stated yes. Commissioner Thomas stated that he didn't want to see Mr. Singh in front of the Board again for the same violation. Mr. Singh stated that he understood; this was the risk I have taken by giving him a chance. Chairman Lamb asked Detective Lt. McCabe if he had followed up with other establishments that he had checked the first time. Detective Lt. McCabe stated that yes there were some. Chairman Lamb stated that the Board was disappointed that Mr. Singh was here again in such a short time. As you are aware, you have a significant amount of days already in abeyance. Mr. Singh stated yes. Commissioner Thomas made a motion that Apex Ventures, Inc. receive a three day suspension to be served on Wednesday, September 25, 2013, October 2, 2013, and October 9, 2013. Commissioner Mullen seconded the motion. Motion passed unanimously.

**99 West, LLC d/b/a 99 Restaurants Pub** – Appearing before the Board is Attorney Gregory Demarkis and the Manager, Paul Tellier. Chairman Lamb asked if Attorney Demarkis had reviewed the police report and if he would stipulate to the facts. Attorney DeMarkis stated that he would stipulate to the facts, but he wanted to ask Detective Lt. McCabe some questions. Attorney Demarkis asked Detective Lt. McCabe if, after the incident, he spoke with the person

She got the name right and she asked for the license. She made a mistake. It is far different than someone who takes a cursory look at the license. Attorney Demarkis stated that the server was terminated. She was a seven year employee; a 36 year old woman with two kids. She made an effort and misread the numbers. Attorney Demarkis stated that after the incident, everyone was re-educated and signed off by the manager. Chief Walsh asked if the server got the license from the operative or the other bartender. Detective Lt. McCabe stated that she got it from the other bartender probably because it was busy. Chairman Lamb stated that this was a compliance check; you failed. Commissioner Mullen stated that the Board was surprised by the number of restaurants that failed. Commissioner Thomas asked if the server had been terminated. Attorney Demarkis stated yes. Commissioner Thomas stated that Attorney Demarkis was asking the Board to do something that the establishment did not; that they had fired her. Attorney Demarkis stated that the company has a zero tolerance for serving minors. Commissioner Thomas asked if there was intent then. Attorney Demarkis stated that there wasn't a better case than this one for a warning; that the server went further than most people. She remembered the name. She made a mistake. They had the procedures in place and she made a mistake. Chief Walsh added that she paid for the mistake. Chairman Lamb stated that the term warning was in there as a guideline. The Board knew that it wasn't your intent to serve a minor. It is a statutory violation for what is the most basic regulation that this Board should have. It is one of the most important violations. Attorney Demarkis stated that if this doesn't merit a warning, then you should take it out. Commissioner Mullen stated that we have issued warnings for other violations. Chairman Lamb stated that this is the most important regulation that should be followed. Commissioner Mullen added that he felt so strongly about serving underage, that he would never consider a warning. Detective Smith stated that at least five people came in this evening and said that they had misread the identification. Detective Smith continued by stating that the employee misread the identification and you (the 99) terminated her on the spot. Commissioner Mullen made a motion for as one day suspension to be served Wednesday, September 11, 2013. Commissioner Thomas seconded the motion. Motion passed unanimously.

New business: None

Commissioner Mullen made a motion to adjourn. Commissioner Thomas seconded the motion. Meeting adjourned at 10:24 p.m.



Peter C. Lamb, Chairman



Brendan P. Mullen, Commissioner



Bruce M. Thomas, Commissioner

---

**CITY OF TAUNTON  
BOARD OF LICENSE COMMISSIONERS**

In the Matter of:

**Barbeque Integrated, Inc. d/b/a Smokey Bones Bar and Fire Grill #7592**

August 28, 2013

---

NOW COMES the Licensee Barbeque Integrated, Inc. d/b/a Smokey Bones Bar and Fire Grill #7592, by and through legal counsel, and hereby submits the following Hearing Memorandum:

**Stipulated Facts**

1. The licensee stipulates to the facts contained in the Taunton Police Report dated June 29, 2013.
2. The licensee stipulates to an unintentional violation of 204 CMR 2.05(2) and M.G.L. c.138, s.34, to wit 'sale or delivery of an alcoholic beverage to a person under 21.'

**Penalty Mitigation**

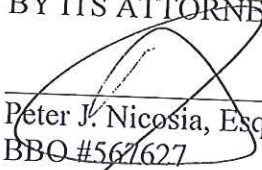
1. "The purpose of using underage operatives in 'stings' is not to enhance the effectiveness of police undercover work" or penalize; "rather, the purpose of 'stings' is to educate the licensee in the value of responsible retailing." In Re: Mui T. Tran d/b/a Cedar Street Market, Milford (ABCC Decision dated April 14, 2011; In Re: Hinoelia Rivera d/b/a El Coqui Liquor, Wareham (ABCC Decision dated June 4, 2008) and, In Re: Epicure Package Store, Inc., Foxborough (ABCC Decision dated March 28, 2007.)
2. The licensee has no prior violations at this location.
3. The licensee has taken the matter very serious at the highest levels of management and engaged in the following remedial measures:
  - \* terminated the offending employee
  - \* requiring re-certification in TIPS training for those employees handling alcohol
  - \* requiring re-training in ID checking procedures for those employees handling alcohol
  - \* enhanced training for all new hires in both TIPS and ID checking procedures

- \* revised the job descriptions for floor, mid and upper level managers in the monitoring of rank and file employees handling alcohol
- \* new postings in the workplace making it obvious the cut off age date for those potentially being served alcohol so there is no confusion during ID checking
- \* investing in enhanced ID checking mechanisms
- \* use of an outside source to conduct 'corporate stings' to self police compliance with ID checking and TIPS procedures.

**Conclusion & Penalty Request**

In light of the foregoing, the licensee respectfully asks the License Commission to impose a 'warning' as the penalty for this first offense.

RESPECTFULLY SUBMITTED,  
BARBEQUE INTEGRATED, INC.  
BY ITS ATTORNEYS,

  
\_\_\_\_\_  
Peter J. Nicosia, Esquire  
BBO #567627

Nicosia & Associates, P.C.  
PO Box 721, 259 Middlesex Road,  
Tyngsboro, MA 01879  
T: 978-649-4300  
F: 978-649-9306  
E: nicosia@nicosia-associates.com



2013/06/29 21:02:46



2013/06/29 21:02:47



2013/06/29 21:02:42



2013/06/29 21:02:44



2013/06/29 21:02:48



2013/06/29 21:02:49



2013/06/29 21:02:49