



# Licensing Board

August 25, 2014 – 7:00 PM – **Agenda**  
City Hall, 133 William Street, Room 314

**LICENSING BOARD MEETING**

**-AGENDA**

**Monday, August 25, 2014**

**Room 314 – 7:00 p.m.**

**REQUIRED: Steven A. Beauregard, Chairman**

**Marcelino “Sonny” G. Almeida, Commissioner**

**A/O 08/20/14**

**Edmund F. Craig, Jr., Commissioner**

**Atty. John A. Markey, Jr., Asst. City Solicitor**

**Capt. Steven Vicente, Police Department Liaison to the Lic. Bd.**

**Nick Nanopoulos, Director**

**APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION**

**Change of Manager - Trans. #040 – Plot # 104-164**

**Whaling City Club, Inc., 447 Belleville Avenue, is requesting the approval of Carlos Barreira who resides at 373 Belleville Avenue, New Bedford, MA. as their new manager.**

**Approved By ABCC –08/06/14**

**Change of Officers, Directors, Stockholders, & Transfer of Stock - Trans. # 053 – Plot # 85--62**

**Endzone Sports Pub, Inc., Manuel R. DeMelo, President, who is requesting a Change of Officers, Director, (New) Stockholder, and the Transfer of Corporate Stock of the Common Victualler (Restaurant) All Alcoholic Beverages License; and the acceptance of his resignation as the President, Treasurer, and Secretary; and allow the Transfer of all his Corporate Stock (100%). Upon approval, Troy M. DeMelo will be the President, Secretary, Co-Director, and Co-Shareholder (50%), Ryan S. DeMelo will be the Treasurer, Co-Director, and Co-Shareholder (50%), and Manuel R. DeMelo will remain as a Co-Director; and Troy DeMelo will remain as the Manager. Premises will remain the same at 218 Coggeshall Street.**

**Approved By ABCC –08/13/14**

**Change of Description - Trans. #064 – Plot # 53--134**

**Daniels Goggin, Inc. d/b/a ‘Brick’, John Goggin, Treasurer/Co-Owner, who is requesting permission to Change the Description of the Common Victualler (Restaurant) All Alcoholic Beverages license to include an outdoor area approximately 585 sq. ft. (39’ x 15’) to be used as a ‘Sidewalk Café’, which will be enclosed by a 45” high Wrought Iron designed temporary patio fence, and will be used for seated dining purposes only. The enclosed area will include four (4) tables with four (4) dining chairs for the seating of sixteen (16) people, and is located on the west side of the building, which is contiguous to the licensed premises. The proposed outdoor area will only be accessible from an entrance/exit leading from the side door of the restaurant, along with one (1) emergency only exit, and is located in the area known as Wing’s Court. The proposed hours of operation are **daily from 11:00 a.m. until 10:00 p.m., at which time all outdoor activity must cease, and shall be in effect from May 1<sup>ST</sup> through October 30<sup>th</sup>**, in accordance, and as specified in the City of New Bedford Sidewalk Café Permit Ordinance. (Ord. Ch. 15, Article VI, sec. 15-100 (B) (items 8 & 15). The licensed premises will remain as 163 Union Street.**

**Approved By ABCC –08/13/14**

**1. PETITION - Trans. #058 – Plot # 24—325 (No Representation Required)**

**O'Escondidinho, Inc., Renee Y. Sebastian, President**, who is requesting a **Change of (New) Stockholder and Transfer of Corporate Stock of the Common Victualler (Restaurant) All Alcoholic Beverages License**. **Paulo Oliveira** is petitioning to allow the transfer of all his corporate shares (60) to **Joe J. Sebastian** (New Stockholder); along with the transfer of forty (40) shares of corporate stock held by **Renee Y. Sebastian** to **Joe E. Sebastian**; the licensee is also requesting approval of the **addition of the proposed d/b/a of Sebastian's Café & Sports Bar**. Upon approval, **Renee Y. Sebastian** will remain as the President, Secretary, Treasurer, Sole Director, and Co-Shareholder (100); and **Joe J. Sebastian** will be a Co-Shareholder (100). **Renee Y. Sebastian** will remain as **Manager**. Premises will remain the same at **110-114 County Street**.

*Application has been advertised.*

## **2. PETITION - Trans. #166 – Plot # 110--243**

**Jofria, Inc. d/b/a Brooklawn Liquors, Jorge M. Frias, President**, who is petitioning to **transfer a Retail Package Store All Alcoholic Beverages License** to **MUSKAN, LLC d/b/a Brooklawn Liquors**; the applicant is also requesting approval of a **Pledge of the Retail Package Store All Alcoholic Beverages License to Rockland Trust Company, 288 Union Street, N.B., MA.** as security to authorize and execute a promissory note in the amount of **One Hundred and Five Thousand Dollars (\$105, 000.00), pursuant to Massachusetts General Laws Ch.138 s.23.**

Upon approval, **Natwarbhai Madhavlal** will be the Sole Member and Manager of the LLC; and **Natwarbhai Madhavlal** is also the **Proposed New Manager**. The previously approved premise consists of one room in an area approximately 1,968 sq. ft. with one walk-in cooler and shelving for the display of alcohol on the first floor of a one-story building with a rear stockroom. The premise, which is situated on the southeast corner of **Ashley Boulevard** and **Clifford Street**, will remain the same at **496 Ashley Boulevard**.

*Application has been advertised.*

Final approval will require a **'Change of Tenant'** from the **Building Department**.

## **3. PETITION - Trans. #083 – Plot #53—198A**

**Pi-Zans, Inc., Jason P. Lanagan, President**, who is petitioning to **transfer a Common Victualler (Restaurant) Wine & Malt Only Beverages License** to **Cultivator Shoals, Inc. d/b/a Cultivator**. Upon approval, **Jason P. Lanagan** will be the President, Secretary, a Co-Director, and a Co-Shareholder (50%); and **Howard I. Mallowes, IV** will be the Treasurer, a Co-Director, and a Co-Shareholder (50%); and **Jason P. Lanagan** is also the **Proposed New Manager**. The previously approved premise consists of an area approximately 918 sq. ft. on the first floor of a three story building, which includes one (1) dining room with table seating for approximately 52 patrons, an open kitchen with stock area, which has a food service counter, and two (2) handicapped restrooms. There is one entrance/exit in the front of the building onto **Union Street**, with an additional exit in the rear of the building, and one handicapped accessible entrance/exit on the west side of the building. Premise is located on the north side of **Union Street** between **Front** and **Water Streets**. Premises will remain the same at **29 Union Street**.

*Application has been advertised; Abutters have been notified.*

Final approval will require a **'Certificate of Inspection'** from the Building Department, a **'Food Permit'** from the Health Department, and a signed **'Fire & Building Certificate'** as required under the Chapter 304 Fire Acts Compliance; along with a copy of **'Proof of Liquor Liability'**.

## **4. APPLICATION, (No Representation Required)---DATE CHANGE FROM AUGUST 23<sup>RD</sup>**

**Low Tide Yacht Club, Edward Lobo, Representative**, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a **'Clamboil'**, to be held inside the **Low Tide Yacht Club**, located within **Fort Taber Park**; and to be held on **Saturday, August 16, 2014, from 6:00 p.m. until 10:00 p.m.** (*Final approval will require Liquor Liability with the City named as additionally insured.*)

## **5. APPLICATION, (No Representation Required)**

**Prince Henry Society, Manuel Pereira, Representative** who is requesting approval of an application for a

**Special One-Day All Alcoholic Beverages License** for their '5<sup>th</sup> Annual Summerfest Benefit' to be held within the **Madeira Field Pavilion Area**, located at **50 Madeira Avenue**; and to be held on **Saturday, August 23, 2014**, from **6:00 p.m. until 11:00 p.m.**

**6. APPLICATION, (No Representation Required)**

**First Citizens Federal Credit Union, Leslie Poulin, Representative**, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverage License** for a 'Chamber After Hours', to be held at the **First Federal Citizens Credit Union**, located at **570 North Front Street**; and to be held on **Wednesday, August 27, 2014**, from **5:00 p.m. until 7:00 p.m.**

**7. APPLICATION, (No Representation Required) ---DATE CHANGE FROM SEPTEMBER 14TH**

**Knucklehead's, LLC d/b/a Knucklehead's Restaurant, John Stone, Manager**, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Dan Festival Fundraiser' to be held in the **Knucklehead's Parking Lot**, located at **85 MacArthur Drive**; and to be held on **Saturday, September 13, 2014** from **11:00 a.m. until 11:00 p.m.**

**8. APPLICATION, (No Representation Required)**

**Irmandade Do Divino Espirito Santo Do Pico, Jose Matos, Representative**, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Harvest Dinner' to be held at the 'Club', located at **2056 Acushnet Avenue**; and to be held on **Saturday, September 20, 2014** from **6:00 p.m. until 11:00 p.m.**

**9. APPLICATION, (No Representation Required)**

**South Coast Business Alliance, Nick Francis, Representative**, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for their '9<sup>th</sup> Annual Oktoberfest Fundraiser' to be held within the **New Bedford State Pier Building**, located at **93 State Pier**; and to be held on **Saturday, October 4, 2014** from **3:00 p.m. until 11:45 p.m. (Last call will be at 11 p.m.) (Final approval will require Liquor Liability with the City named as additionally insured and a copy of the Police Detail Contract)**

**10. APPLICATION, (No Representation Required)**

**W.H.A.L.E (Waterfront Historic Area League, Inc.), Diane M. Brodeur, Membership and Events Manager**, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Wine Festival & Auction Fundraiser' to be held within the **New Bedford State Pier Building**, located at **93 State Pier**; and to be held on **Friday, October 10, 2014** from **5:30 p.m. until 9:00 p.m. (Final approval will require Liquor Liability with the City named as additionally insured and a copy of the Police Detail Contract)**

**11. Hearing: Jalice Café, Inc.**

**Derick Pina Goncalves, Manager/Co-Owner**  
**1468 Acushnet Avenue**

Please accept this letter as an updated / amended Notice of Hearing. This letter includes additional information and details that have become available as a result of the continuing investigation. **Your presence** and that of **Maria S. Sequeira, Co-Owner**, is requested at a hearing of the New Bedford Licensing to determine whether you have violated certain provisions of M.G.L., ABCC Regulations, and/or Licensing Board Rules & Regulations.

This hearing will focus on: (a) the type of liquor license and the use of the licensed premises; (b) the scope / area of the licensed premises; (c) the control and operations of the licensed premises; (d) the facts surrounding a special event that your establishment hosted and/or promoted on Friday evening August 1, 2014; and (e) the

incident that occurred on Saturday, August 2, 2014 at approximately 1:30 a.m. As you know, the DJ promoted event that you allowed in your establishment resulted in a disturbance in the immediate area outside the premises. Ultimately, this disturbance led to a number of people being wounded by gunfire where at least one of the victims was an individual who was nineteen years old.

The Licensing Board is troubled about this event because you failed to heed the Board's earlier warnings about the dangers associated with "promoted" events which often result in problems on or about the premises. The Board has also cautioned you and others that managers may not relinquish control of the licensed premises for "promoted" events which effectively result in the manager ceding control of the licensed premises to persons not responsible and not directly subject to the Licensing Board control. This is in contravention to your legal duties. By failing to maintain the licensed premises in a safe manner and by failing to maintain complete authority and control of the licensed premises, you made a conscious decision to place your license at risk.

At the hearing, the Board will also consider certain unauthorized changes to the facility and to the licensed premises, including: (a) the failure to operate a restaurant - as approved by the Board; and (b) the failure to obtain approval from the local licensing authority and the ABCC as well as other City Departments for alterations that were made to the licensed premises.

The Board is also concerned that there is evidence that VIP services were being offered by the promoter and that alcohol was being consumed in a VIP Area that was not part of the licensed premises.

If these allegations are proven, the Licensing Board may take action to revoke or amend your entertainment license. If warranted, a roll back of hours may also be considered.

If these allegations are proven, the Licensing Board may also take action to modify, suspend, revoke, or cancel your liquor license.

**Date and time of alleged violations: Saturday, August 2, 2014 @ approx.1:25 a.m.**  
**Police Report #'s 14-9687-OF & #14-9687-OF (Supplemental)**

The potential violations are as follows:

**Violations: Massachusetts General Laws Chapter 138, Sections 12, 12A, 15A**

The Licensee was issued this license under Section Twelve to conduct a restaurant. As such, the Licensee must satisfy the licensing authority that they are in good faith operating a restaurant and that such restaurant is provided with proper equipment for the service of food. If the licensee wishes to cease functioning as a restaurant with a license, an application must be filed with the local licensing authority and the ABCC to change the type of license.

In addition, any change to the physical layout of the premises must be approved by the local licensing authority. Further, by including a balcony and an additional service area which was not included on the license Is an additional violation.

**Violations: Massachusetts General Laws Chapter 140, Section 183A**

The licensing authorities may modify, suspend, or revoke an entertainment license granted pursuant to this section after providing an opportunity for a hearing preceded by a written notice to the licensee ten days prior to the hearing date; In order to preserve and protect the public health, safety, and order may place conditions upon the license and promulgate regulations for such licenses.

**Alcoholic Beverages Control Commission Regulation 204 CMR 2.05: (2)**

No licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

**Licensing Board Regulations No.1, 6, 8, 10, 11, 12, 13, 14, 36, 41**

Licenses may not be transferred or surrendered without permission of the Board; each Corporate Licensee shall appoint a manager who shall have full authority and control of the premises and who shall be satisfactory to the Board, and who shall be a United States citizen; No person shall store or keep for sale, alcoholic beverages in any area not specified on the license; Alcoholic Beverages shall not be served to a person who is or appears to be intoxicated;

Objectionable persons shall not be permitted on or about the premises. It is the responsibility of the licensee to enforce this rule; Premises must at all times be kept safe, clean, neat, and sanitary; Signs and Advertisements shall be neat and dignified; Sales of beverages to be taken off the premises are prohibited, unless the premises are licensed as a package store. Licenses are subject to suspension, revocation or forfeiture after hearing for breach of any of the listed regulations or any other law of the Commonwealth; the type of entertainment shall be subject to reasonable regulations by the Licensing Board.

**(VIP) BOTTLE SERVICE – Approved & Adopted by Licensing Board Vote February 22, 2010**

**Any type of (VIP) Bottle Service is a violation** of the Happy Hour Restrictions (ABCC 204 CMR 4.03, inclusive). Therefore, no licensee nor any agent for the licensee or person on behalf of the licensee shall advertise, promote, or offer in any way, whether within or without the licensed premises, any of the practices prohibited under ABCC 204 CMR 4.03; **it's solely the responsibility of the licensee to ensure that no violation of this provision occurs** within the premises, or is offered in any promotional ads whether in print or electronically.

**12. Hearing: Jalice Café, Inc.**

**Derick Pina Goncalves, Manager/Co-Owner**  
**1468 Acushnet Avenue**

Your presence and that of Maria S. Sequeira, Co-Owner, is requested at a 'Public Hearing' to determine whether a roll back (decrease) of hours is warranted as a result of violations of certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations, as a result of an incident reported by the New Bedford Police Department; as well as a result of certain changes in the day to day operation of the premises. This roll back (decrease) of hours could affect the hours in which you will be allowed to be open.

The local licensing authority, may after proper notice, hold a hearing to determine whether a roll back of hours is warranted, on the basis of frequency of arrests, disturbances, and incidents requiring police involvement inside or outside the licensed premises; this decision is one that is not appealable to the Alcoholic Beverages Control Commission or to the superior court. (As noted in Chapter 138, sec. 12 - )

• **CORRESPONDENCE**

From: Commonwealth of Massachusetts

dated 07/29/14 received – 07/31/14

**Re: Irmandade do Divino Santo Do Pico**

**2056 Acushnet Avenue**

**SPECIAL LEGISLATION: An Act Authorizing the City of New Bedford to Grant an additional License for the Sale of All Alcoholic Beverages to be Drunk on the Premises under Ch. 138 sec.12;** The license shall be subject to all of said Chapter 138, except said section 17; The licensing authority **shall not approve the transfer of the license to any other person, organization, corporation or location.**

**From: DOR/Taxpayer Service Division**

**Dated – 08/06/14 Received – 08/06/14**

**Re: Qutumi, Inc. d/b/a Ro-Art Liquors**

**23 Rodney French Boulevard**

Pursuant to the authority of Section 56 of Chapter 62C of the General Laws and by virtue of a levy placed in my hands for execution by the Department of Revenue, I have seized the following described property for non-payment of delinquent Massachusetts taxes due from Qutumi, Inc. in the amount of \$30,569.31.

**Description of Property: The rights, title, and interest of the all alcoholic off premise liquor license.**

**Note: 08/07/14 – A Release of Levy was received from the DOR.**

**From: Atty. Joseph P. Fingliss, Jr.**

**Dated – 08/07/14 Received – 08/11/14**

**Re: R.V. Gas, Inc. d/b/a Joe's Gas**

**277 Nash Road**

Please accept this correspondence as our client's NOTICE OF APPEAL from the decision of the New Bedford Licensing Board dated August 5, 2014 as being both arbitrary and capricious and an abuse of power.

- **COMPLAINTS RECEIVED:**

---NONE--

- **REVIEW POLICE DEPARTMENT INCIDENT REPORTS/ COMPLAINTS**

<b><u>NAME</u></b>	<b><u>POLICE REPORT#</u></b>	<b><u>DATE</u></b>	<b><u>VIOLATION</u></b>
1. Tilia's Café	#14 – 9658-OF	08/02/14	A & B W/ A Dangerous Weapon (Approximate Time of Violation 1:30 a.m.)
2. Euphoria Lounge	#14 – 10406-OF	08/17/14	Disturbance/Shots Fired (Approximate Time of Violation 2:07 a.m.)

- **NEXT TWO MEETING DATES:** September 22<sup>nd</sup> & October 20<sup>th</sup>, both in the Ashley Room (120) @7:00 p.m.

- **MEETING ADJOURNED:**