



Licensing Board

September 22, 2014 – 7:00 PM – **Agenda**
City Hall, 133 William Street, Room 314

LICENSING BOARD MEETING

-AGENDA-

Monday, September 22, 2014

Room 314 – 7:00 p.m.

REQUIRED: Steven A. Beauregard, Chairman

Marcelino “Sonny” G. Almeida, Commissioner

Edmund F. Craig, Jr., Commissioner

Atty. John Flor, Asst. City Solicitor

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

Nick Nanopoulos, Director

MOTION TO ACCEPT THE MEETING MINUTES OF JULY 28, 2014

APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Transfer, Altering of Premises, & Pledge of License – Trans. #189 – Plot # 17A--103

Salty Cod, LLC, Luis Martins, Manager of LLC, license formerly exercised on premises located at 1500 Cove Road, who is petitioning to transfer a Common Victualler (Restaurant) Wine and Malt Only Beverages License to DeSouza Enterprises, LLC d/b/a Cove Surf & Turf, along with a request for a Change of Description to include an adjacent room; and a Pledge of the Common Victualler (Restaurant) Wine & Malt License to Salty Cod, LLC, 17 Bertrand Way, Acushnet MA. as security to authorize and execute a promissory note in the amount of Forty Thousand Dollars (\$40,000.00), pursuant to Massachusetts General Laws Ch.138 s.23.

Upon approval, Deborah L. DeSouza will be a Co-Member and the Sole Manager of the LLC, as well as a 50% Interest Holder of the LLC, and Jessie J. DeSouza will be a Co-Member and a 50% Interest Holder of the LLC. Deborah L. DeSouza is also the Proposed Manager of the Liquor License. The new proposed licensed premises consists of one (1) room for dining, with seating for twenty-three (23) patrons, along with a kitchen area, takeout /cashier area, and one (1) restroom in an area approximately 800 sq. ft.. on the first floor of a one-story building, with alcohol being stored and served from two (2) stand alone coolers located in the kitchen area; with additional storage in an adjacent room approximately 1,209 sq. ft. which will be used for storage purposes only. There is also an outside patio area approximately 336 sq. ft., which is contiguous to the dining room and has seating for Sixteen (16) patrons, which is enclosed with a 40" high wooden fence that has an entrance/exit into the main dining area only.

The premise is situated at the intersection of Cove Road and Padanaram Avenue, with One (1) entrance/exit in the front of the building, and two emergency exits located in an adjacent storage area located through the kitchen area, and is **numbered 1500-1502 Cove Road. (License was previously approved with a Midnight (12:00 a.m.) Closing along with the stipulation that only plastic cups are to be used in the outdoor patio area.)**

Final approval will require a signed ‘**Fire & Building Certificate**’ as required under the Chapter 304 Fire Acts Compliance and a copy of ‘**Proof of Liquor Liability**’.

Approved By ABCC –09/02/14

Change of Location & Pledge of License - Trans. #025 – Plot # 28--140

Olivia Anne, Inc. d/b/a The Bar, 1669 Acushnet Avenue, Robert A. Faria, Jr, President, who is petitioning for a **Change of Location of a Common Victualler (Restaurant) All Alcoholic Beverages License**. The applicant is requesting a **Change of Location from 1669 Acushnet Avenue to 266-268 Dartmouth Street** the applicant is also requesting approval of a **Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License to Bristol County Savings Bank as security to authorize and execute a promissory note in the amount of One Hundred and Thirty Thousand Dollars, (\$130,000.00), pursuant to Massachusetts General Laws Ch.138 s.23.**The description of the proposed new location, which was previously licensed as an all alcohol restaurant until the license was transferred to a new location, will be as follows: The new licensed premises consists of an area approximately 4,800 sq. ft., which will consist of two rooms with a bar area and dining area, a kitchen, and two (2) restrooms on the first floor of a two-story building; with stock on the first floor and in the basement. There is a main entrance/exit onto Dartmouth Street, and two emergency exits onto Rivet Street, and is **numbered 266-268 Dartmouth Street.**

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’**.

Approved By ABCC –09/04/14

DISAPPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Transfer & Pledge - Trans. #031 – Plot # 23—9

Calypso Hospitality, LLC d/b/a Fernando’s Grille & Bar, Gregory Kulpinski, Manager of LLC who is petitioning to **transfer a Common Victualler (Restaurant) All Alcoholic Beverages License to 161 Highland Avenue, Inc, d/b/a Trio Restaurant;** the applicant is also requesting approval of a **Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License to Goulart Square Realty, LLC, as security to authorize and execute a promissory note in the amount of Ninety-Seven Thousand and Nine Hundred Dollars, (\$97,900.00), pursuant to Massachusetts General Laws Ch.138 s.23.** Upon approval, Sandra S. Rodrigues will be the President, Treasurer, Secretary, Sole Director, and Sole-Shareholder (100%); and **Katie C. Stephenson** is the **Proposed Manager**. The previously approved premises is located on the street level of a Three (3) story building, which includes One (1) dining room approximately 2,000 sq. ft. with a bar, Two (2) Handicapped Restrooms, and seating for approximately Eighty (80) people, a pastry shop, approximately 350 sq. ft., with seating for approximately Ten (10) people; there is also a full kitchen, approximately 650 sq. ft., with the storage of liquor in the basement. There are two (2) main entrances/exits; one (1) into the dining room from Rivet St. and one(1) into the Pastry Shop/Kitchen from Bolton St., and two (2) additional rear exits. The licensed premises also includes a ‘Seasonal Outdoor Patio Area’ approximately 430 sq. ft. (10’ x 43’) to be used as a ‘Sidewalk Café’, which is enclosed by a 4 ft. high resin fence with a decorative lattice panel design, and is to be used for seated dining purposes only. The enclosed area includes Ten (10) tables for the seating of Thirty – Two (32) patrons for dining only, as well as a Hostess Station; and is located on the east side of the building, which is contiguous to the licensed premises. The outdoor area is only accessible by way of an entrance/exit off the main entrance ramp located in the front of the building, and is accessible by ‘Hostess Seating’ only; the area will also be monitored by the hostess and wait staff at all times. The 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 1ST through October 30th**, in accordance, and as specified in the City of New Bedford Sidewalk Café Permit Ordinance.

“Return No Action” – 08/29/14

The ABCC is requesting that documents be submitted for a new “new” manager to complete the application.

Recommendation: *Application to be sent back to the ABCC “For Reconsideration”, only upon receipt of all the documents that have been requested.*

Transfer - 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’**.

Disapproved By ABCC – 09/04/14 - Failure to Comply With Mass Tax Laws (DUA) – 1st Attempt

Application to be sent back to the ABCC “For Reconsideration”, only upon notification from the Applicant or the DUA, that all outstanding issues have been resolved.

1. PETITION - Trans. #031 – Plot # 23—9—“FOR RECONSIDERATION W/A NEW PROPOSED MANAGER”

Calypso Hospitality, LLC d/b/a Fernando’s Grille & Bar, Gregory Kulpinski, Manager of LLC who is petitioning to **transfer a Common Victualler (Restaurant) All Alcoholic Beverages License to 161 Highland Avenue, Inc, d/b/a Trio Restaurant**; the applicant is also requesting approval of a **Pledge of the Common Victualler (Restaurant) All Alcoholic Beverages License to Goulart Square Realty, LLC, as security to authorize and execute a promissory note in the amount of Ninety-Seven Thousand and Nine Hundred Dollars, (\$97,900.00), pursuant to Massachusetts General Laws Ch.138 s.23**. Upon approval, Sandra S. Rodrigues will be the President, Treasurer, Secretary, Sole Director, and Sole-Shareholder (100%); and **Nevin Benjamin** is the **Proposed Manager**.

The previously approved premises is located on the street level of a Three (3) story building, which includes One (1) dining room approximately 2,000 sq. ft. with a bar, Two (2) Handicapped Restrooms, and seating for approximately Eighty (80) people, a pastry shop, approximately 350 sq. ft., with seating for approximately Ten (10) people; there is also a full kitchen, approximately 650 sq. ft., with the storage of liquor in the basement. There are two (2) main entrances/exits; one (1) into the dining room from Rivet St. and one(1) into the Pastry Shop/Kitchen from Bolton St., and two (2) additional rear exits. The licensed premises also includes a ‘Seasonal Outdoor Patio Area’ approximately 430 sq. ft. (10’ x 43’) to be used as a ‘Sidewalk Café’, which is enclosed by a 4 ft. high resin fence with a decorative lattice panel design, and is to be used for seated dining purposes only. The enclosed area includes Ten (10) tables for the seating of Thirty – Two (32) patrons for dining only, as well as a Hostess Station; and is located on the east side of the building, which is contiguous to the licensed premises. The outdoor area is only accessible by way of an entrance/exit off the main entrance ramp located in the front of the building, and is accessible by ‘Hostess Seating’ only; the area will also be monitored by the hostess and wait staff at all times.

The 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 1ST through October 30th**, in accordance, and as specified in the City of New Bedford Sidewalk Café Permit Ordinance.

(Ord. Ch. 15, Article VI, sec. 15-100 (B) (Item #'s 8 & 15), and requires yearly approval from the City of New Bedford.

The premise is situated on the corner of Rivet & Bolton Streets **and will remain the same at 418-420 Rivet Street**.

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’**.

Application was previously advertised on 07/18/14; Abutters were also previously notified.

Tabled at 06/30/14

2. Hearing: Giraldo's Restaurant, Inc. d/b/a

Adriana's Mexican Restaurant

Mr. Fernando Giraldo, President/Co-Owner

1262 Acushnet Avenue

Approved by ABCC – 02/07/13

Your presence is respectfully requested at a hearing to be held in this office to determine the status of your annual liquor license for the year **2014**.

Notice is given in accordance with Massachusetts General Laws Chapter 138, section 77,.....Cancellation of license upon cessation of licensed business; the hearing is being held at the request of the members of this Board to discuss your plans for your liquor license for the year 2013 prior to this Board considering approval of your 2014 renewal application.

Minutes of 06/30/14 Meeting

Present: Fernando Giraldo, Co-Owner along with Martha Gonzalez, Manager (Requested letter was submitted)

Mr. Nanopoulos informed the Board that the licensee had some parking issues with regard to the adjacent parking lot, and that Jill Mclean, who's the City Planner, came by the office and stated that her office was going issue a temporary variance, so that the parking lot could be used the way it is, in order for the licensee to open up; which would allow the licensee to raise some funds to complete the renovations that are required on the parking lot.

Ms. Gonzalez submitted a letter outlining the current status of the work being done and the plan moving forward, which was unanimously received and placed on file by the Board.

When asked by Chairman Beauregard as to what their time frame was now, Ms. Gonzalez responded, it really depends on whether we are going to be able to get the parking issue resolved ... first we have to put the property (an income property) to be sold because we don't have the \$70,000.00 it will take to get the work done ... so as soon as that's sold ... the money will be put into the parking lot.

Chairman Beauregard responded by asking, is this a surprise ... why wasn't this already included in the plans and design when you started?

Mr. Gonzalez responded, because of the cost of the opening of the restaurant ... I ran out of money ... and I can't get money from anywhere now except to sell the house to have money to fix the parking lot according to the Building Departments requirements.

When asked by Chairman Beauregard, didn't you know in the beginning that the parking lot had to be done?

Mr. Gonzalez responded, yeah, I knew that ... and I was working really hard on that but ... everything comes with expenses and money pours ours like crazy ... then I ran out of money ... so, that's the issues we have now ... we have Worker's Comp & Insurance that we've been paying for two months ... so I just came to the city to ask if they would give me a temporary permit for handicap parking ... and that's what we're working on right now ... and I told them that I don't have money to fix the lot the way they want it ... the cost is \$70,000.00 ... I'm not a big business man ... I'm just a local person ... it's a small business ... I'm spending more money on the parking lot than on everything else.

Mr. Gonzalez added, the restaurant only seats 50 people ... and it's a big parking lot ... and we've been talking to different companies to see who could do it for a cheaper cost ... but it has to be done well ... so it doesn't crack and it lasts ... and that's going to cost a lot of money ... we just never imagined that it would cost that amount of money.

Mr. Nanopoulos stated to both Mr. Giraldo and Ms. Gonzalez, I spoke to Jill McLean a few days ago, and she told me that they were going to authorize a temporary variance so that you could open ... so the parking isn't a hold up at this point.

Mr. Giraldo responded, they haven't given us anything yet ... they're going to authorize that ... as soon as they say that the parking is okay ...

When asked by Mr. Nanopoulos, if they authorize the parking in 10 days, when would you open, Mrs. Gonzalez responded, as soon as we get that authorization ... all I have to do is call the Health Department to get their permit ... because we've already set up our accounts with our liquor and food distributors.

When asked by Mr. Nanopoulos, so if we can expedite the temporary permit for you, then there are no other

roadblocks for you to open ... right?

Mr. Gonzalez responded, no, nothing! ... Everything is done!

Atty. Markey instructed Mr. Giraldo to call him tomorrow so that he could set up a conference call with Jill McLean to find out what it is she feels she needs, and to talk to Danny Romanowicz who's with the Building Department to see if he has issues, and added, Building and Planning should be helping you at this stage with regard to the parking lot.

Voted: Commissioner Almeida made a motion to follow Mr. Nanopoulos's recommendation, to **table the matter to the Board's September meeting.** – **Unanimous**

07/11/14 - Mr. Giraldo as a holder of an inactive license was notified in writing that he has **until September 1, 2014 to be open and operating at the current location;** and failure to be operational by this date, will require him to appear before this Board once again, at which time the Board may consider revoking his license for non-use.

3. Hearing: The Sky Room, Inc. d/b/a The Sky Room

Ms. Audrey Carter, Manager/Owner
651 Orchard Street

Your presence is requested at an Emergency Hearing of the New Bedford Licensing Board to determine whether you have violated certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules & Regulations. This hearing will focus on certain changes that were filed with the Secretary of State on your latest Corporate Annual Report filed on June 3, 2014. These changes reflect changes in the corporation (The Sky Room, Inc.) that is the legal holder of the liquor license issued for 651 Orchard Street, which have not been approved by the local licensing authority and the Alcoholic Beverages Control Commission. Based on their findings, the Licensing Board may take action to modify, suspend, revoke, or cancel your license.

M.G.L. Chapter 138, sec. 12,12A, 15A, & 64-

An application must be filed to obtain approval from the local licensing authority and the ABCC for a Change of Officers, Directors, New Stockholders, Manager, and Transfer of Stock.

The licensing authorities after notice to the licensee and reasonable opportunity to him to be heard by them, may modify, suspend, revoke or cancel his license upon satisfactory proof that he has violated or permitted any condition thereof (Chapter 138), or any law of the commonwealth.

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

States 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-

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. Immediate notice of the appointment must be made to the Board in writing.

Violation Summary

New Management – All management changes need to be approved by the local Licensing Board and the ABCC. No management changes have been submitted for approval.

4. Hearing: United Fisherman's Club, Inc.

Jack Custodio, Manager
639 Orchard Street

As a result of your application for a Change of Officers, Directors, and Manager to your 'General on Premise' liquor license being **disapproved by the ABCC on July 8, 2014, based on your failure to comply with Mass Tax Laws (DUA)**, which is a violation of M.G. L. Ch. 138, sec.64 (Failure to Comply with Laws of the Commonwealth), and your failure to resolve this matter in a timely manner, please be advised of the following: **Your presence** and that of **Mark Custodio, Proposed New Manager**, is requested at a hearing to discuss your plans to resolve this matter, which is required in order for your pending application to be considered by the ABCC for approval. Based on their findings, the Licensing Board may take action to suspend your license until such a time that this matter is resolved.

You were served with written notice of this denial in hand on July 15, 2014, at which time it was strongly recommended that this matter be resolved as soon as possible and that you notify this office, once all outstanding issues have been resolved, so that your application may be re-submitted to the ABCC "For Reconsideration". As of this date, this office has not received notification from you or the DUA that this matter has been resolved.

5. APPLICATION, "Representation Required"

Marion Institute, Brooke Baptiste, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for their '10th Annual Connecting for a Change Event/CD Release Party', to be held in the '**Whalen Parking Lot**', located on **Purchase Street**; and to be held on **Saturday, October 25, 2014 from 6:00 p.m. until 10:45 p.m.**

6. APPLICATION, "Representation Required"

Ribeiro Brothers, LLC d/b/a Pour Farm Tavern & Grille, Noah Griffith, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a 'Great Pumpkin Beer Fest' to be held **within Wing's Court**', and to be held on **Sunday, October 12, 2014, from 12:00 p.m. until 6:00 p.m.**

7. APPLICATION, (No Representation Required)

Andrews-Dahill Post #1531, Veterans of Foreign Wars of the United States, Inc., Patrick M. Flinn, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a 'Memorial Fundraiser Dinner' to be held in the 'Club' Parking Lot, located at **477 Park Street**, and to be held on **Thursday, August 28, 2014, from 5:30 p.m. until 8:30 p.m.**

8. APPLICATION, (No Representation Required)

Committee to Benefit St. Jude's Hospital, Joseph Pereira, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'St. Jude's Fundraiser', to be held at the **Madeira Field – Main Pavilion**, located on **Madeira Avenue**; and to be held on **Saturday, September 6, 2014 from 6:00 p.m. until 11:45 p.m.**

9. APPLICATION, (No Representation Required)

Group Folkloric Madeirens, Michael Canastra, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Fundraiser Dinner', to be held at the **Madeira Field – Main Pavilion**, located on **Madeira Avenue**; and to be held on **Sunday, September 14, 2014 from 6:00 p.m. until 11:45 p.m.**

10. APPLICATION, (No Representation Required)

Zeiterion Theatre, Inc., Justin LaCroix, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a 'VIP Lounge Fundraiser' to be held in the "**Penler Space**", located at **686 Purchase Street**, and to be held on **Sunday, September 14, 2014, from 7:00 p.m. until 11:45 p.m.**

11. APPLICATION, (No Representation Required)

Zeiterion Theatre, Inc., Justin LaCroix, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a ‘NBSO Reception’ to be held in the “**Penler Space**”, located at **686 Purchase Street**, and to be held on **Saturday, September 20, 2014, from 6:30 p.m. until 11:00 p.m.**

12. APPLICATION, (No Representation Required)

New Bedford Art Museum/Art Works!, Lindsay Mis, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for an ‘Art Opening Reception’, to be held at the **New Bedford Art Museum/Artworks!**, located at **608 Pleasant Street**; and to be held on **Friday, September 26, 2014 from 6:00 p.m. until 8:00 p.m.**

13. APPLICATION, (No Representation Required)

Working Waterfront Festival Committee, Jaime Kelly, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a ‘Private Party’, to be held on **Pier 3**; and to be held on **Saturday, September 27, 2014 from 7:00 p.m. until 10:00 p.m.**

14. APPLICATION, (No Representation Required)

Zeiterion Theatre, Inc., Justin LaCroix, Manager, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverages License** for a ‘VIP Lounge Fundraiser’ to be held in the “**Penler Space**”, located at **686 Purchase Street**, and to be held on **Saturday, September 27, 2014, from 7:00 p.m. until 11:45 p.m.**

15. APPLICATION, (No Representation Required)

Fort Taber/Fort Rodman Historical Association, Joseph Langlois, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a ‘Fundraiser Dinner’, to be held at the **Fort Taber Community Center**, , located within **Fort Taber Park**; and to be held on **Saturday, October 11, 2014 from 5:00 p.m. until 8:00 p.m.**

16. APPLICATION, (No Representation Required)

Spinner Publications, Inc., Joseph Thomas, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a their ‘33rd Anniversary Fundraiser’, to be held at the **Fort Taber Community Center**, located within **Fort Taber Park**; and to be held on **Saturday, October 18, 2014 from 6:00 p.m. until 10:00 p.m.**

17. Hearing: Barbosa and Raposo, Inc.

d/b/a Tilia’s Café & Restaurant

Mr. Jose Barbosa, Manager/Co-Owner

1615-1623 Acushnet Avenue

Your presence is requested at a hearing to determine whether you have violated certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations as reported by the City of New Bedford Police Department. Based on their findings, the Licensing Board may take action to modify, suspend, revoke, or cancel your license; and if warranted, a roll back of hours may be considered.

This hearing will focus on the control and operations of the licensed premises, and the facts surrounding two separate incidents that occurred at your establishment; the first incident occurred on the Saturday, August 2, 2014, (Madeira Feast Weekend), which resulted in a highly intoxicated patron being assaulted within your licensed premises by two other patrons; and a second incident that occurred on Saturday, August 23, 2014, which also resulted in a patron being assaulted within your licensed premises by two male patrons.

The Licensing Board is troubled about both of these events including the fact that the first patron assaulted was highly intoxicated as well as the fact that both these incidents occurred within a three week period resulting in two patrons being assaulted by other patrons. 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 control of the licensed

premises, you made a conscious decision to place your license at risk.

Incident # 1 - Date and time of alleged violations: Saturday, August 2, 2014 @ approximately 1:30 a.m.

Police Report #14-9658-OF – 08/02/14

Incident # 2 - Date and time of alleged violations: Saturday, August 23, 2014 @ approximately 1:01 a.m.

Police Report #14-10669-OF – 08/23/14

The potential violations are as follows:

M.G.L. Chapter 138, sections 69-

No alcoholic beverages shall be sold or delivered to an intoxicated person on any licensed premise.

ABCC Regulation 204 CMR 2.05: (2)-

States 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. 10, 11, 12, 36-

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's the responsibility of the licensee to enforce this rule; Premises must at all times be kept safe; 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.

18. Hearing: Barbosa and Raposo, Inc. d/b/a Tilia's Café & Restaurant

Mr. Jose Barbosa, Manager/Co-Owner

1615-1623 Acushnet Avenue

Your presence 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 -)

19. Hearing: Route Six Properties, Inc. d/b/a Temptation

Mr. Steven M. Camara, Manager/Owner

161 Pope's Island

Your presence and that of Jason Gibau, Manager, is requested at a hearing of the New Bedford Licensing Board 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 control and operations of the licensed premises including the current management that is in place; (b) the facts surrounding an incident that occurred that resulted in the serious assault of a patron by a bouncer employed by Temptations; (c) the hindering or delaying of the investigation by ownership and employees of Temptations, as well as their refusal to provide or to hide information from the police during their investigation; (d) the statement by the alleged assailant, who was also an employee that he was drinking alcohol and taking drugs (snorting cocaine) while on duty as a

bouncer on the night of the incident.

The Licensing Board is exceptionally troubled about this assault since it's attributed to an employee, as well as to the actions of ownership and employees immediately following the incident, which indicates a clear attempt to cover-up the incident.

This is in violation of the legal responsibilities of both you and your employees. By failing to maintain the licensed premises in a safe manner and by failing to maintain complete authority and control of the licensed premises, and your failure and that of your staff to co-operate with the police, you made a conscious decision to place your license at risk.

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 16, 2014 @ approximately 2:11 a.m.

Police Report # 14-2922-OF – 08/16/14

The potential violations are as follows:

Violations: Massachusetts General Laws Chapter 138, Sections 12, 12A, 15A, 63A

An application must be filed to obtain approval from the local authorities and ABCC for a change of manager. It is a violation to hinder or delay or refuse to give information to any authorized agent of the local licensing authorities (Police).

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. 6, 10, 11, 12, 36, 41

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 (Immediate notice of the appointment must be made to the Board in writing; 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; 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.

Illegal Narcotics

It is a violation to permit any illegality on the premises including the use or sale of illegal narcotics. It is the responsibility of the licensee to contact the local police immediately, if they suspect illegal narcotics use or sales on their premises. Indications of illegal narcotics use include persons making frequent trips in and out of the premises or in and out of restrooms.

20. Hearing: Route Six Properties, Inc. d/b/a Temptation

Mr. Steven M. Camara, Manager/Owner

161 Pope's Island

Your presence 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: City Council **Dated – 08/21/14** **Received 009/09/14**

WRITTEN MOTION: Requesting that THE MAYOR , THE Licensing Board, and the Police Chief, favorably consider asking all bars and liquor establishment along Acushnet Avenue and Belleville Avenue within an eight block radius, north, south, east, and west of the Feast of the Blessed Sacrament location to close at midnight, on all four nights of the Feast, giving law enforcement the ability to control crowds and provide a safe area for residents and tourists and those visiting the area for this special event. (To be referred to the Mayor, Committee on Public Safety and Neighborhoods, and the New Bedford Licensing Board.

Brian K. Gomes, Councilor at Large

IN CITY COUNCIL, August 21, 2014

Adopted-

Presented to the Mayor for Approval on August 25, 2014

Dennis W. Farias, City Clerk

Dennis W. Farias, City Clerk

RETURNED UNSIGNED September 5, 2014

- **COMPLAINTS RECEIVED:**

---NONE---

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

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
1. Tropicana Bar & Grille	#14-3188 – AR	09/06/14	Disturbance/Fight (Approximate Time of Violation 1:57 a.m.)
2. Tropicana Bar & Grille	#14-11746 – OF	09/14/14	Disturbance/Fight (Approximate Time of Violation 1:35 a.m.)
3. Temptations	#14-11696 – AR	09/13/14	Operating After Hours/Owner & Patron Intoxicated/Allowing Alcohol To Leave the Premises (Approximate Time of Violation 2:50 a.m.)
4. 91 William Street @ 771 Purchase St.	#14-3304 – AR	09/13/14	Intoxicated Person (Approximate Time of Violation 1:57 a.m.)
5. Hibernia Brew Pub	#14-3303 – AR	09/13/14	Intoxicated Male/ Narcotic Possession (Approximate Time of Violation 1:29 a.m.)

6. **Hibernia Brew Pub** #14-3302 – AR 09/13/14
Disturbance/Intoxicated Male /
Drug Possession
(Approximate Time of Violation 1:27 a.m.)
7. **Hibernia Brew Pub** #14-3302 – AR 09/13/14 Marijuana Use On The
Premises/Intoxicated Male /
Drug Possession /Failure to
Control the Premises
(Approximate Time of Violation 1:27 a.m.)

- **NEXT TWO MEETING DATES:** October 20th & November 17th, 2014 both in the Ashley Room
(120)
@7:00 p.m.
- **MEETING ADJOURNED:**