



# Licensing Board

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

**LICENSING BOARD MEETING**

**-MINUTES**

**Monday, August 25, 2014**  
**Room 314 – 7:00 p.m.**

**PRESENT:** Steven A. Beauregard, Chairman  
Marcelino “Sonny” G. Almeida, Commissioner  
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**

**VOTED:** To accept the approval from the ABCC. – **Unanimous**

### **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**

**VOTED:** To accept the approval from the ABCC. – **Unanimous**

### **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 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**

**VOTED:** To accept the approval from the ABCC. – **Unanimous**

**Transfer & Pledge of License - Trans. #078 – Plot # 52--229**

**Almost Brothers, Inc. d/b/a Hibernia Pub, Barry (Bartholomew) W. Flynn, President**, who is petitioning to **transfer a General on Premise All Alcoholic Beverages License to Carrig, Inc. d/b/a Hibernia Brew Pub**, who is also requesting approval of a **Pledge of the General on Premise All Alcoholic License to the New Bedford Economic Development Council, 1213 Purchase Street, N.B., MA.** as security to authorize and execute a promissory note in the amount of **One Hundred and Thirty-Five Thousand Dollars (\$135,000.00)**, pursuant to Massachusetts General Laws Ch.138 s.23. **Barry (Bartholomew) W. Flynn** will be the President, Sole Director, a Co-Shareholder (50%), and the **Proposed Manager**; and Catherine Flynn will be the Treasurer, Secretary, and a Co-Shareholder (50%). Premises will remain the same at **109 William Street**.

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

**Approved By ABCC –08/19/14**

**VOTED:** To accept the approval from the ABCC. – **Unanimous**

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

**O’Escondidinho, Inc., Renee Y. Sebastion, 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. Sebastion (New Stockholder); along with the transfer of forty (40) shares of corporate stock held by **Renee Y. Sebastion** to Joe E. Sebastion; the licensee is also requesting approval of the **addition of the proposed d/b/a of Sebastion’s Café & Sports Bar**. Upon approval, Renee Y. Sebastion will remain as the President, Secretary, Treasurer, Sole Director, and Co-Shareholder (100); and Joe J. Sebastion will be a Co-Shareholder (100). Renee Y. Sebastion will remain as **Manager**. Premises will remain the same at **110-114 County Street**.

*Application has been advertised.*

**Present:** *No one was required to attend.*

Mr. Nanopoulos informed the Board that this was simply a buyout of one partner by the other; and a transfer of that stock (100 Shares) to the current owner’s husband, who would now become a new shareholder; along with the addition of a d/b/a (Sebastion’s Café & Sports Bar).

**Voted:** Commissioner Almeida made a motion to approve the petition as presented and to forward the application to the Alcoholic Beverages Control Commission for their approval. – **Unanimous**

**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 Patel will be the Sole Member and Manager of the LLC; and **Natwarbhai Madhavlal Patel** 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**.

**Present:** *Atty. Henry S. Levin along with Natwarbhai Madhavlal, Applicant*

Responding to questions from Chairman Beauregard, Atty. Levin speaking on behalf of his client stated that Mr. Patel was purchasing both the property and the business, and that he also owns another full liquor package store in Onset, MA. which he’s owned since 2008, so he is experienced.

When asked by Chairman Beauregard as to how many hours is he currently on site in Onset, Mr. Patel responded, about 40 hours.

When asked by Chairman Beauregard as to how many hours would he be spending at the New Bedford location, Mr. Patel responded, about as many as he currently does in Onset, and that he has experienced help in Onset, so he can dedicate his time to New Bedford, once the transfer is approved; and that he would be at the store during peak hours on Thursdays,

Fridays, and Saturdays.

When asked by Chairman Beauregard if he had any issues in Onset with regard to the illegal sale of alcohol to minors, Mr. Patel stated that he did not.

When asked by Commissioner Almeida if he was T.I.P.S. Certified and if he planned to have his staff certified as well, Mr. Patel stated that he was certified, and that his staff would be as well.

**Voted:** Commissioner Almeida made a motion to approve the petition as presented, and to forward the application to the Alcoholic Beverages Control Commission for their approval; with the stipulation that Mr. Madhavlal complete an Alcohol 'Server Certification' course within Forty-Five (45) Days after final approval is received or prior; and that proof of his certification be provided to this office; and that all his staff be 'certified' as well, with copies of their certifications to be kept on file for review, if needed. – **Unanimous**

**Item #3** was tabled until later in the meeting as result of the applicant not being present when the application was called.

**Voted:** Commissioner Almeida made a motion to take Item #3 for the table. (9:22 p.m.)

### **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. Mallows, 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**'.

**Present:** *Jason P. Lanagan, Owner/Proposed Manager*

Responding to questions from Chairman Beauregard, Mr. Lanagan stated, we just plan on reopening and that there would not be any entertainment.

When asked by Commissioner Almeida if he was T.I.P.S. Certified and if he planned to have his staff certified as well, Mr. Lanagan stated that he was certified, and that his staff would be as well.

When asked by Commissioner Craig as to what time they would be closing, Mr. Lanagan responded, 2 o'clock.

When asked by Chairman Beauregard as to what time would they be serving food until, Mr. Lanagan responded, it is our intention to sell food up until we close; and added, that particular location did very well selling late night food ... we didn't have any issues ... any issues that occurred on lower Union Street ... typically came from other establishments ... we were very successful maintaining a profitable business selling pizza late night ... and we feel it added to the fabric of that neighborhood ... and since our closure as well as some other's places ... it's been virtually a ghost town ... so we hope to re-establish that location as a late place to go.

Chairman Beauregard responded, so just to be clear, it's your plan to serve some type of food until at least 1:30 a.m., to which Mr. Lanagan responded, that's right.

When asked by Mr. Nanopoulos as to when he planned on re-opening, we're projected to re-open by the end of this year.

**Voted:** Commissioner Almeida made a motion to approve the petition as presented and to forward the application to the Alcoholic Beverages Control Commission for their approval. – **Unanimous**

**VOTED:** Commissioner Almeida made a motion to take up **Item #'s 4 – 12** at one time; waive reading; and approve the applications as presented – **Unanimous**

### **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) – LATE FILE**

**Carl Lee Pacheco Scholarship Fund Committee, Chanda Coutinho, 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 **Saturday, September 20, 2014 from 6:00 p.m. until 11:45 p.m.**

**10. APPLICATION, (No Representation Required) – LATE FILE**

**Alma Del Mar Charter School, Cara Beller, Representative**, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Get To Know You Event', to at the **Alma Del Mar Charter School**, located at **26 Madeira Avenue**; and to be held on **Tuesday, September 23, 2014, from 5:30 p.m. until 7:30 p.m.**

**11. 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)**

**12. 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)**

**13. 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 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 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.

***Present: Atty. Donna Sowa long with Derick P. Goncalves, Manager/Co-Owner, Maria S. Sequeira, Co-Owner, and the following persons that were present to testify on behalf of Jalice Café: Robert F. Jones (Investigator), along with Kevin E. Almeida, Phillip Goncalves, Elizabeth B. Goncalves, and Kendra Lynn Tavares; Capt. Vicente, Police Department Liaison to the Lic. Bd., along with Det. Sgt. Victor Mendes and Danny Romanowicz, Commissioner of Buildings***

***All communications that were received prior and during the meeting were unanimously received and placed on file.***

Upon being asked by Mr. Nanopoulos if her client had received a copy of the 'Hearing Notice', and if they had read the summary contained in the notice, and if they understood why they were requested to appear before the Board based on the summary, and the list of alleged violations contained in the 'Notice', Atty. Sowa stated that they did.

***(All witnesses were sworn in prior to the start of the hearing.)***

Chairman Beauregard informed Atty. Sowa and her clients that the Reporting Officer was present to read, summarize, or give testimony to what was contained in his summary report; and at the conclusion of his testimony, the Board would then ask any questions they may have, and then they would be given an opportunity to respond to the testimony presented, and address the Board before they make their decision.

Atty. Sowa requested that Det. Mendes give a summarized account of his reports.

Chairman Beauregard opened the hearing by asking Det. Sgt. Victor Mendes to summarize his report regarding the incident that occurred on 08/02/14.

Det. Sgt. Mendes proceeded to give his testimony as to what was contained in his report (#14-9687) regarding the incident that occurred on 08/02/14, as well as to the information that was contained in his supplemental report, as a result of his follow-up investigation the next day; as well as to the action taken by the New Bedford Police Department as a result of the seriousness of the incident, as directed by the Chief of Police.

Following the testimony presented by Det. Sgt. Mendes, Atty. Sowa was allowed to question Det. Mendes as well as bring those present to testify on behalf of Jalice Café, as part of her defense of her client to the alleged violations that were reported by the New Bedford Police Department.

The Licensing Board also questioned Det. Mendes as well as those that were brought forward by Atty. Sowa to testify on behalf of Jalice Café.

At the conclusion of more than two hours of testimony from those sworn in to testify, and as a result of that testimony, **the Board voted unanimously to suspend the Common Victualler (Restaurant) All Alcoholic Beverages license for a period of fourteen (14) days with seven (7) days (10/03/14 – 10/09/14) to be served and seven (7) days held in abeyance for one (1) year.** Additionally, the establishment will serve a one (1) year probationary period effective August 26, 2014 and ending on August 26, 2015: also, as a result of this incident, the Licensing Board is also requesting that the licensee develop a business and security plan of which a copy must be submitted to the Office of the Licensing Board within forty-five (45) days of receipt of this notice.

**The Board's decision was based on the following as noted in its written decision dated 09/19/14:**

As a result of the testimony presented this Board found that you violated ABCC regulation 204 CMR 2.05 (2), specifically permitting an illegality to occur on the licensed premises as well as M.G.L. Chapter 138, sections 12, 12A, 26, & 15A, in that changes were made regarding the day to day operation of the premises as well as unauthorized changes to the physical layout of the premises, which were not approved. The Board heard testimony and concurred that you also violated the following local Licensing Board Regulations:

# 6 – Each corporate licensee shall appoint a manager (by a properly authorized and executed written delegation) who shall have full authority and control over all business relative to alcoholic beverages which takes place on the

premises;

# 8 - No person shall store or keep for sale, alcoholic beverages in any area not specified on the license;

#11 - Objectionable persons shall not be permitted on or about the premises;

#12 - Premises must at all times be kept safe;

#13 - Signs and advertisements shall be neat and dignified;

#14 - Sales of beverages to be taken off the premises are prohibited, unless the premises are licensed as a package store.

The Board carefully considered the testimony of all parties as well as your record of prior incidents that have occurred in or around your establishment. The testimony of the New Bedford Police indicated that as a result of an event at your establishment, an incident occurred which led to seven people being wounded by gunfire. The New Bedford Police also presented testimony that there was evidence of a VIP area and that alcohol was being consumed in this area which was not part of the licensed premises. There was also a promotional poster presented which indicated that VIP service was being offered by a third party who was promoting the event.

Testimony was also presented by witnesses for the licensee that a person associated with the promoter was collecting the cover charge to enter the premises. It should be noted that it is the licensee's obligation to comply with the Liquor Control Act and Commission regulations which cannot be circumvented by using a third party.

The decision of the Board was based on the seriousness of the event as well as the licensee's failure to heed the Board's earlier warnings about the dangers associated with "promoted" events. The Board also cautioned the licensee 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 affiliated with the licensed establishment.

The Board also considered the licensee's altering of the premises without prior approval. Additionally, the Board was not convinced by the testimony and evidence presented that the licensee was operating as a restaurant as required but rather as a nightclub. The police department testified that the tables and chairs had been removed from the dining room, there were two promoted events scheduled for that weekend and postings on Facebook and Twitter confirmed the events.

*A copy of the audio of the complete hearing is on file.*

#### **14. 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 - )

***Present: Atty. Donna Sowa long with Derick P. Goncalves, Manager/Co-Owner, Maria S. Sequeira, Co-Owner, and the following persons that were present to testify on behalf of Jalice Café: Robert F. Jones (Investigator), along with Kevin E. Almeida, Phillip Goncalves, Elizabeth B. Goncalves, and Kendra Lynn Tavares; Capt. Vicente, Police Department Liaison to the Lic. Bd., along with Det. Sgt. Victor Mendes and Danny Romanowicz, Commissioner of Buildings***

Based on the testimony presented, a 'roll back of hours was also considered on a motion by Commissioner Craig, on which **the Board voted unanimously to decrease the hours of operation and amend the Common Victualler (Restaurant) All Alcoholic Beverages License to reflect an 11:30 p.m. closing. This decrease in hours will be for eighteen (18) months, with twelve (12) months to be served and six (6) months held in abeyance as long as there are no further violations of M.G. L., ABCC Regulations, or N. B. Licensing Board Rules and Regulations.** This decision shall be effective on August 26, 2014 and set to expire on August 26, 2015. The eighteen (18) month probationary period will expire on February 26, 2016.

**The reduction in hours is non-appealable under M.G.L. Ch. 138, sec.12.**

**The Board's decision was based on the following as noted in its written decision dated 09/19/14:**

This decision is the result of complaints reported by the New Bedford Police Department as well as numerous occurrences of late night disturbances involving alleged violations of Massachusetts General Laws, Alcoholic Beverages

Control Commission Regulation 204 CMR 2.05 (2), and New Bedford Licensing Board Rules & Regulations. Upon proper notice and hearing, this Board concurred that based on the frequency of incidents that have occurred between 12:00 a.m. and 2:20 a.m. since the opening of your establishment that have required police involvement at that location, which include violent incidents resulting in a patron being struck with a beer bottle, a patron being stabbed with a knife, and the latest incident of patrons being struck by gunfire, an early closing is warranted to hopefully stem the tide of incidents. We do not take decisions affecting the financial resources of any establishment lightly but we have an absolute obligation to make sure all licensed establishments are safe to the general public.

- **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.*

**ACTION TAKEN:** Received & Placed on File.

**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.

**ACTION TAKEN:** Received & Placed on File.

**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.

**ACTION TAKEN:** Received & Placed on File.

- **COMPLAINTS RECEIVED:**

---NONE--

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

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
1. Tilia's Café	#14 – 9658-OF	08/02/14	A & B W/ A Dangerous Weapon (Approximate Time of Violation 1:30 a.m.)

**Decision:** Bring In For a Hearing – 09/22/14

2. Euphoria Lounge	#14 – 10406-OF	08/17/14	Disturbance/Shots Fired (Approximate Time of Violation 2:07 a.m.)
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**Decision:** Receive & Place on File with a Warning Letter

3. Temptations

#14 – 29222-AR

08/16/14

Disturbance/Patron Assaulted  
Hindering Investigation

(Approximate Time of Violation 2:11 a.m.)

Decision: Bring In For a Hearing – 09/22/14

- NEXT TWO MEETING DATES: September 22<sup>nd</sup> & October 20<sup>th</sup>, both in the Ashley Room (120) @7:00 p.m. - Approved
- MEETING ADJOURNED: 9:35 p.m.