

Taped

The License Commission held its regular monthly meeting at 6:00pm on Thursday, January 17, 2019 in the Basement Level at City Hall. Present was Chairman Henry Tartaglia; Commissioners Jeffrey Charnel, David Teixeira and Larry Siskind; License Agent Det. Santiago Cirino standing in for Lt. LeGrice and standing in for License Administrative Assistant Synthia Olivier.

1. Approval of Minutes of the License Commission regular meeting of December 20, 2018.

A motion was made by Commissioner Siskind to approve the minutes of the before said meeting which motion was second by Commissioner Charnel and made unanimous by vote of the members present.

2. Approval of the following police officers as license agents for the month of January, 2019; Lieuts. Kenneth LeGrice and Paul Bonnanca; Sgts. George Khoury, and Michael Dennehy; Dets. Thomas Hyland, Nazaire Paul, Eric Clark, Santiago Cirino, Jackie Congdon, Michael Bunker, Michael Cesarini, Patrick Donahue and Erin Cummings.

A motion was made by Commissioner Siskind to approve the license agents as listed for the month of January, 2019. The motion was seconded by Commissioner Charnel and made unanimous by vote of the members present.

3. Hearing on Sinead Enterprises dba Owen O'Leary's, President Kevin Gill makes application for change of location of their All Alcoholic License, Common Victualer License and Entertainment License from 1280 Belmont Street to 863 Belmont Street Brockton, MA.

Present were Attorney Lou Cassis of 18 Russell Park, Quincy representing Kevin Gill, owner of Owen O'Leary's of 1280 Belmont Street, Brockton. Attorney Cassis started off by saying that Owen O'Leary's has been in Brockton for over 27 years. He is changing the location where the new location was formerly a Chinese restaurant with 6,500 square feet going to seat about 200 people. Legal capacity is about 300 in the building. Attorney Cassis will have to produce a better floor plan due to the current one being faded. Kevin has employed a lot of people and has patrons that have come to support the move. Chairman asked whoever is in favor to step forward.

Bill Basset is a resident of Brockton and a firefighter for over 20 years. He was employed by Kevin back in 1992 for about 10 years and a good friend of his till this day. He believes the location is great because it is within walking distance from his home. He also believes that the transfer should be approved due to Kevin having very little infractions over the years. He has employed a lot of friends and family. Mr. Basset also states that he runs a great business and has policies that other bar owners don't adhere to, which is no shots or doubles and feels board should look at that as a good person for the community. Stan David works for the Brockton

Police Department for over 20 years and has known Kevin for that long. Mr. David states that Kevin has always been good to them and takes care of the Police Department as well as Firefighters. Ward 5, City Councilor Anne Beauregard is also for the move. Councilor states they have always had a great menu and reasonable prices.

Chairman asked if anyone is against this license. Attorney John Pavlos stated he is against the transfer. Attorney Pavlos on behalf of Rock Meadow LLC began by stating that he has a letter which is based on past performance. Rock Meadow LLC is the landlord and has been during the entire 27 years and the objection or opposition is that he is leaving an excess of \$50,000.00 dollars of owed rent. Attorney Cassis objected and said this is improper and if they have a legitimate dispute of what's owed, it should have nothing to do with if the license should be transferred. Attorney Pavlos stated that past performance is something that can be considered and whether or not it's suitable. Attorney Cassis stated past dispute over what, over rent? Attorney Pavlos responded owing prior vendors, leaving the property the way he did. Chairman stated we can take this on record and Attorney Pavlos agreed with putting it on the record. Mr. Gill stated yes he can argue that stating Rock Meadow believes Mr. Gill owes \$50,000.00, but he can also turn around and say he believes Rock Meadow owes him \$325, 000.00. Chairman stated that is fine, they just want it on the record. Chairman asked if anyone else had any questions, no response, but Chairman stated he has some questions. He has heard from the Police Officers and from Kevin stating that they have had problems with O'Leary's. Before O'Leary's had closed, they just got cited from the Police Department on a sting for serving minors and prior to that cited by State. Chairman read the report out loud. City checked 22 establishments and O'Leary's was the only one that failed. Chairman stated that it was the second time O'Leary's has been caught within two years. Kevin stated he understands but over the course of 27 years, it was those two. Chairman responded by saying he understands but also has known other establishments that have been opened for 80 years and have had no violations. Attorney Cassis states that had they had a hearing, he probably would have received a suspension and not revocation. Chairman is stating the establishment closed before any action was taken, but what disturbs him more was that it happened in 2017 and 2018. Also Chairman stated that O'Leary's have had problems with the Board of Health such as having been cited for 7 critical violations. Chairman stated that if you have 3 violations, Board of Health usually shuts you down. Chairman asked Mr. Gill if he was aware of the violations and Mr. Gill responded yes he is aware and whatever violation he had, he took care of. Chairman stated that besides the serving of the minors, Mr. Gill has also had problems with the Board of Health. Eddie Williams reported to the Board of Health that there was an issue with water leaking and had to be called. When he arrived, traces of food left on floor, kitchen grimy, blackened ceiling tiles, fire extinguisher hanging on wall was grimy. The electrical room smelled like garbage, Mr. Gill stated he does not have access to the electrical room.

Mr. Gill stated he would like to present as to what happened when he received the first violation. A group of Stonehill College students came in and when the sting happened, they asked for ids,

but some of the ids were fake out of state and O'Leary's got fooled. After that, they went out to purchase a \$4,400 id machine that ABCC uses, so no more out of state ids can get pass them. The second sting took place on one of their busiest Friday nights, when they had to call in a third bartender. When the bartender arrived, she was explained what was going on but in one of the rooms was a 5, 10, 15 year reunion from Stonehill College. The first person she served, she didn't id and she should have, but thought that person was part of the reunion. Mr. Gill states there is no excuse and his employees were wrong. Attorney Cassis wants to understand where the board is coming from with the violations because if O'Leary's was currently open, they would be receiving a suspension at most, is the board considering revocation? Commissioner Charnel stated he is not saying revocation, but that it seemed toward the end, Mr. Gill let it go. Mr. Gill responded he does not think so, but Commissioner Charnel stated that's what's being demonstrated in factual data to the Board. The License Board would like to make sure they are issuing a license to a licensee that will continue the 27 years before the issue started happening. As a Commissioner, Commissioner Charnel stated its great Mr. Gill is explaining what happened in each situation, but what he wants to know is what are you going to do to remedy the issue? Meaning is there a lead bartender, is training being done and hiring TIP certified people. Mr. Gill responded that he is a TP certified trainer and for the Commission to state he let it go is not true, when he invested \$125, 000.00 the year before to make it better. Commissioner Charnel asked the Chairman if he would like to table this for a later date. Chairman stated yes because some of the violations are serious, not just serving of minor, but Board of Health and from the Fire Department. Chairman stated that he was just hit with all of this that day and has not had time to think about it. Attorney Cassis asked if it will be set for another date, because there is another restaurant trying to go into O'Leary's current location. Commissioner Charnel responded it has been tabled also. Det. Cirino wanted to add from a police perspective that they have not had any issues outside of the violations with O'Leary's, and that they would be in favor for a full 2 a.m. license. Attorney Cassis stated that a month is a long time seeing as thought they wanted to initially get on the December's meeting, and is not sure what will change in a month. Chairman stated a special meeting can be done and will notify O'Leary's for a date.

A motion was made by Commissioner Charnel to table the change of location for Owen O'Leary's. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

4. Hearing on a request from Nina Sousa for a Beer & Wine permit for Graduation Family Gathering on February 1, 2019 from 6:30 p.m. to 11:00 p.m. at the Fruth Center located at 891 Montello Street, Brockton, MA.

Present was Cynthia Hodges of 891 Montello Street representing for Nina Sousa for a Nurse's Graduation Party at the Fruth Center. She is expecting 80 guests for her daughter's graduation. Chairman asked Det. Cirino if police detail is required and Det. Cirino said no police detail is needed. Commissioner Siskind asked where the Fruth Center is located. Cynthia responded across from Cape Cod Pizza, there is the First Lutheran Church and the Fruth Center is behind

that. The Fruth Center is a part of the church. Commissioner Siskind asked if this was a church event and Cynthia responded no, it is a nurse's graduation party for her daughter. Commissioner Charnel asked if they have had this event in the past, Cynthia responded they have had about three of them since she has been there.

A motion was made by Commissioner Charnel to approve Nina Sousa's Beer & Wine Permit for February 1, 2019. The motion was seconded by Commissioner Siskind and made unanimous by vote of the members present.

5. Hearing on a request from Ramiero Velaquez for an All Alcoholic permit for a Valentine Dance Celebration on February 8, 2019 from 8:00 p.m. to 1:00 a.m. at the Fruth Center located at 891 Montello Street, Brockton, MA.

Present was Cynthia Hodges representing for Ramiero Velaquez expecting 150-200 guests. Det. Cirino stated they will need police detail and because it is not a non charitable organization, they are only approved for Wine & Malt Beverages. Cynthia stated that Mr. Velaquez has Block Security who have provided a certificate but Det. Cirino stated they still will need police detail and working hours will be from 8:00 p.m. to 1:30 a.m. Chairman stated to Cynthia to get together with Lt. Barry for police detail. Commissioner Charnel asked if Fire needs to sign off and Chairman stated no need because Fire inspects once a year.

A motion was made by Commissioner Charnel to approve Ramiero Velaquez's Beer & Wine Permit for February 8, 2019. The motion was seconded by Commissioner Siskind and made unanimous by vote of the members present.

6. Hearing on a request from Manny Mizhirumbay for a Wine & Malt Permit for Dance Gathering on March 2, 2019 from 9:00 p.m. to 12:00 midnight at the Fruth Center located at 891 Montello Street, Brockton, MA.

Present was Cynthia Hodges representing for Manny Mizhirumbay expecting to have 200 guests and will need police detail from 9:00 p.m. to 12:30 a.m.

A motion was made by Commissioner Charnel to approve Manny Mizhirumbay's Beer & Wine Permit for March 2, 2019. The motion was seconded by Commissioner Siskind and made unanimous by vote of the members present.

7. Hearing on Fritz Restaurant Group, LLC dba Brack's Grill & Tap, Manager Frank D. Brack makes application for a New Alcoholic License for location at 1280 Belmont Street, Brockton, MA.

Present was Attorney Matt Porter representing Fritz Restaurant Group, LLC dba Brack's Grill & Tap. This matter will have to be tabled due to no abutter notification being sent out and will have on next month's License meeting.

8. Hearing on George's Café of Brockton, Inc. dba George's Café, President Charlie H. Tartaglia makes application for a transfer of All Alcoholic License to George's Northern Lights, Inc. dba George's.

Present were Attorney Rick Lawton of 157 Belmont Street, Maxwell, Marcel and John Cardoso, running late. The four gentleman including Hamilton Rodrigues have entered into a purchase and sale agreement with Mr. Charlie Tartaglia, wife Penelope and daughter Diane to purchase 11 parcels of property, which 2 are where George's Café is. They are purchasing a commercial property, 4 family and single family next to George's Café in the same parking lot. They have done this to keep the parking for their guests. Night's Templar LLC has formed a corporation which is going to be the licensee for insurance purposes, which is George's Northern Lights. They come before the City as purchasers of Mr. Tartaglia's restaurant but also as the abutting properties. Attorney Lawton stated that they are accomplished business owners with Maxwell as a civil engineer working with Raytheon. Marcel owns a number of properties and also owns a business. John Cardoso owns a restaurant in Boston, MA. The four of them have worked together in complex properties. Night's Templar LLC is going to be the owner of the property but George's Northern Lights is going to be the licensee. Attorney Lawton also states that their intent is to operate George's in the same way Charlie has. Mr. Rodrigues has been in the restaurant on several occasions picking Charlie's brain. In preparation of this change they have prepared a lease for all memorabilia and photographs to be leased for \$1.00 a year. They will protect and cover those and if anything should change, they will be returned to the Tartaglias. The intent is to run George's Café in the same way and to preserve the 80 years of memories the family have cultivated in the restaurant. Attorney Lawton goes on to state that of course changes will come with new photographs as the history of Brockton will change. Attorney Lawton asked if there were any questions. Commissioner Siskind stated he had a chance to meet one of the owners, having a nice long talk over lunch. Commissioner Siskind stated that he knows if Charlie was not secure in his relationship with the gentlemen, he would not allow it to happen. Commissioner Siskind stated there will be a lot of tears including his. Commissioner Charnel stated he only expects the establishment to run smoothly without any issues with alcohol.

A motion was made by Commissioner Siskind to approve the transfer of All Alcoholic License, Common Victualer License and Entertainment License from George's Café of Brockton, Inc. dba George's Café to George's Northern Lights, Inc. dba George's. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

9. Hearing on S and T Deli, Inc. dba Tommy Doyle's Pub, President Thomas P. Doyle for amendment pledge of collateral.

Present were Attorney Rick Lawton stating when Tommy bought Bickford's, it was under a realty trust. They didn't know until after the hearing that they wanted a pledge of the license. They wanted S&T Deli to sign as a core guarantor. Attached to the Pledge is a letter stating that S&T Deli is acting as a core guarantor along with the trust. He is seeking approval of the pledge. Commissioner Charnel states that he has no issue at all because it is standard.

A motion was made by Commissioner Siskind to approve the pledge of collateral for S&T Deli. The motion was seconded by Commissioner Charnel and made unanimous by vote of the members present.

10. Hearing on Zyberi Inc. dba Flo's Pizza makes application for a Common Victualer License for a pizza restaurant located at 750 Centre Street, Brockton, MA.

Present was Florian Elqeni of Washington Street, Weymouth. He is looking to open up a pizza shop where Goodfellas was previously located. His family has been in the pizza business for years. The establishment has a seating capacity of 24. Councilor Beauregard stated that she doesn't think it's a bad idea and the nurse's will be able to get their pizza.

A motion was made by Commissioner Siskind to approve the Common Victualer's license. The motion was seconded by Commissioner Charnel and made unanimous by vote of the members present.

11. Hearing on Antonia Cardoso of Malu's located at 23-25 Montello Street for a 2:00 a.m. closing after being rolled back on December 28, 2017 for an ABCC violation.

Present was Antonia Cardoso of West Street, Brockton owner of Malu's. Chairman asked if anyone is in favor or opposed? Councilor Beauregard stated that you don't want to deprive the business of not getting a 2 a.m., because everyone else has a 2 a.m. There has to be massive emphasis on security especially with construction going on now. The problem seems to be going on outside and if stipulations can be put in place, that would work. Ms. Cardoso states that she pays for 4 parking spots. Commissioner Charnel stated detail should be outside, because that is where her issue is when the let out happens. Chairman stated they told her last time police detail should be outside, but it didn't happen and detail was inside. Commissioner Charnel stated detail and security should be placed outside and would like to give her another chance. Commissioner Siskind asked if there have been any issues since the roll back. Chairman stated it is when she has a 2 a.m. issues happen and not 1 a.m. closing. Commissioner Siskind stated that he remembers the situation very well and the License Commission Board bent over backwards and is personally against 2 a.m. licenses, but that is ok and has no objections at this point. Councilor Rodrigues stated that he was present at the last meeting, and hopes the License will stick to their commitment that if she has no issues during the roll back, she would get her 2 a.m. back.

Chairman stated if 2 a.m. is given back, that she will be on a short leash. Councilor Rodrigues added it is important for Ms. Cardoso to know that City will work with her, but she has to work with the City. Det. Cirino said he has not had any problems with Malu's, but Lt. Legrice is against the 2 a.m. closing. Chairman stated that the License Commission did give her a year and told her to come back within a year. If there were no problems they would give her back her 2 a.m. and doesn't want to go back on what he said. Chairman stated do not come back if she loses the 2 a.m. again. Commissioner Charnel stated that Ms. Cardoso should listen to her friends, councilors and councilors at large because she has a lot of support.

A motion was made by Commissioner Charnel to approve a 2 a.m. closing for Malu's with stipulations to have detail outside. The motion was seconded by Commissioner Siskind and made unanimous by vote of the members present.

12. Hearing on Maria Rodrigues of Cristal located at 250 Main Street to explain why the restaurant has been closed since January 1, 2019 despite having completed their renewal application.

Present were Maria Rodrigues of Cristal, Attorney Jake Creedon representing Maria Rodrigues, Manny DaSilva, acting manager of Cristal and Attorney John Pavlos representing Manny DaSilva. Attorney Creedon stated that back then it was McSweeny's Bar and Maria and her husband have been there for years and have completed their renewal every year. The dilemma comes up back in March/April of 2018 to have Manny DaSilva become the manager of Cristal. Manny DaSilva took it to believe that he was going to own the business. They did enter into an agreement at some time Maria would transfer the license over. When Maria went to go pick up the license in December, the Board of Health sent in letters stating that another business was established at the same address of Cristal. Maria tried to tell him that no approval was given for manager by ABCC and Manny locked Maria out of the business. The reason Maria was not able to open January 1st is that Manny DaSilva would not let her back in. Attorney Creedon read a letter aloud that was drafted by Synthia Olivier of the Law Department explaining the ownership of licenses to Attorney Diesenhof. Attorney Diesenhof was unfamiliar with licensing, therefore the letter stated that a license goes with the person, not location and the status of Maria Rodrigues' license. The letter also included information on who can sign for renewals which is either the owner of the business or ABCC approved manager. Although locally the License Commission approved Manny DaSilva as manager, it was not approved by ABCC. Commissioner Charnel stated if counselor can state that it was a technicality and that is why he received a non approval from ABCC. Attorney Creedon responded stating they did an investigation and found out Manny DaSilva was applying for Food Permits under his own business name and buying liquor from liquor stores which you cannot do, liquor have to purchased from a distributor. Commissioner Charnel stated that maybe it was a technicality of some sort, because when a transfer is taking place, the other person makes preparation for this

change. Attorney Creedon stated Maria went right away in December to say there was a problem with the contract for the buyout and that Mr. DaSilva has not complied.

Maria stated she found out on December 20th that Manny DaSilva applied for his own business under Julieme and Friends Lounge. Board of Health called Maria and stated that there can't be two businesses at the same place. Maria was confused and asked Board of Health what do they mean? Board of Health stated there is Julieme Lounge and Cristal at 250 Main Street, Maria responded no there is only Cristal and Julieme Lounge doesn't exist and she tried to protect him. For 8 months, Manny DaSilva has been using her business for his own business and also got a letter from ABCC stating that if they find him at Cristal's operating as a manager, Maria would receive a \$15,000.00 fine. She stated it is not that she does not want to give Manny DaSilva the license, because she brought him to appoint him as manager, but he has brought these problems on himself when he established his own business. Commissioner Siskind stated that this is not a small thing and this is fraudulent and illegal and has tied Maria in as a fraudulent transfer and the ABCC is not happy about that. Commissioner stated they will now have to hear from the counselor for Manny DaSilva to explain why Maria is in the wrong and how Manny DaSilva has not violated the law. Maria stated she doesn't want any issues and just wants to go back to her business and will deal with this in court. Chairman stated let's hear from Attorney Pavlos.

Commissioner Charnel stated did Maria not give Mr. DaSilva the right to run the business while she was absent. Attorney Creedon stated no she gave him responsibilities as a manager. Commissioner Charnel asked Attorney Creedon if Maria Rodrigues was at Cristal's everyday running the day to day business and Maria responded no. Every time she would show up, Mr. DaSilva's wife would not want her there.

Attorney John Pavlos representing Mr. DaSilva and his partner, Ms. Isabel Ribeiro. Attorney Pavlos contacted Attorney Diesenhof to ask what gives, it is the turn of the year and license was suppose to be transferred and your client is in breach of her own agreement. Attorney Diesenhof was retained by Ms. Rodrigues to put together an agreement for the sale of Cristal and that was done in April of 2018. The agreement was put together by Attorney Diesenhof and Sims & Sims representing Mr. DaSilva. Attorney Pavlos goes on to say it is not an agreement he would have put together, because of this issue and would have put more teeth into it about transfer and her participation of the transfer. Attorney Pavlos stated that they are going to Superior Court regardless of what happens here, because Mr. DaSilva and his partner have paid \$140,000.00 according to the contract. Maria states it is not true. Ms. Ribiero shouts she has receipts here and that Maria is a liar. Attorney Pavlos states that Mr. Dasilva and his partner are frustrated because they are losing everything because of this shell game Maria is playing. Maria shouts they didn't lose anything. Chairman bangs gavel and ask Maria to be quiet. Attorney Pavlos states they put in an application in May of 2018 and it was approved locally. What was missing is that when it went to ABCC, ABCC stated that this is not a change of manage but rather a transfer of license

and just do that or anticipatory transfer. Also what was missing was the DUA affidavit and DOR affidavit of the seller showing she didn't owe anything along with receipts for 3 months. Those documents never went in and that is why ABCC took no action. Throughout this period they were working together as he made payments, \$20,000 this month, \$15,000.00 another month till it was all paid off according to the contract. Again Mr. DaSilva puts in another application for transfer in November of 2018 and again Maria fails to participate to transfer in anticipation of the New Year. Mr. DaSilva was getting their own account and things ready in preparation of the transfer so they weren't held back in January, and that is why Julieme Friends and Lounge was established. Attorney Pavlos is asking the board to suspend the license and that Maria should not be able to benefit off Mr. DaSilva. Attorney Pavlos goes on to say he has heard that Maria Rodrigues is trying to sell to someone else and that there were never any provisions of interest being paid if they were late on payments, because Mr. DaSilva has always paid on time. Mr. DaSilva has done everything in good faith, has lost money and now Maria wants to take the \$140,000 and benefit off it.

Attorney Creedon read a letter from the IRS stating that under Manny's Corporation, he was alleging that he was the owner back in July of 2018 and IRS is looking for taxes. Chairman asked who they are looking for taxes from. Attorney Creedon responded Manny's corporation, who was claiming that he was the owner back in July of 2018. Maria states that Manny was using her business address for 8 months to operate his own business and has now caused her a lot of problems. Chairman asked what they want the License Commission to do. Maria shouts out that Manny DaSilva still owes her money. Attorney Creedon stated if they have a case, it is in a Superior Court and not here. Attorney Creedon stated the issue is whether she is the licensee which she is because she completed her renewal and is still the licensee holder. Commissioner Teixeira asked who paid for the renewal and both Maria and Manny respond that Mr. DaSilva paid for the renewal. Chairman states that this is a civil thing because if the liquor license is in Maria's name, she controls it until a transfer is done.

Manny DaSilva states he has been there since April 21, 2018 and has never had any issues there. He paid Maria \$140,000.00 and has worked hard to pay her the same way it was in the contract. Everything was to be transferred to him when the last installment was paid which was in November 2018 of \$5,000. The Board of Health told Mr. DaSilva to apply for a food permit because he finished paid Ms. Rodrigues. Mr. Robert from Board of Health told Mr. DaSilva to go and apply. He paid \$240.00 to the Board of Health and paid \$2,950.00 for the renewal of the liquor license. Chairman asked why would you pay for the renewal license if it is not in your name. Mr. DaSilva responded Maria gave him permission. Chairman stated that you cannot pay for her license and expect it to be in his name, it doesn't happen that way. Attorney Pavlos stated that she had asked him to do that to maintain the continuity of the license. Chairman stated this is up to a court and they are a License Commission. Commissioner Charnel would like to table for a further date, because they will be running around in circle all night. Attorney Pavlos stated Ms.

Maria Rodrigues do not own the building and Mr. DaSilva has a lease with the landlord. Chairman wants to make a motion to table for a further date.

A motion was made by Commissioner Charnel to table Cristal for a further date. The motion was seconded by Commissioner Teixeira and made unanimous by vote of the members present.

No new business to come before the License Commission.

Respectfully submitted,

Henry Tartaglia
Chairman

APPROVED:

Jeffrey Charnel, Alt Commissioner

Lawrence Siskind, Esq., Commissioner

David Teixeira, Commissioner