

MINUTES
LICENSE COMMISSION MEETING
6:00 p.m.
Thursday, January 20, 2022
ZOOM Virtual Meeting

The License Commission held its regular monthly meeting on Thursday, January 20, 2022, via Zoom. Present were Commissioners Jeffrey Charnel, John McGarry, and Paul Studenski. Also, present were License Agent Paul Bonanca, Synthia Oliver and Assistant City Solicitor Aileen Bartlett.

1. Approval of the Minutes of the License Commission Meeting of December 16, 2021, and the Special Meeting of December 13, 2021.

A motion was made by Commissioner McGarry to approve the minutes of the previously mentioned meetings which motion was seconded by Commissioner Studenski and made unanimous by vote of the members present.

2. Approval of the following police officers as license agents for the month of January 2022: Lieuts. Paul Bonanca and David Farrell; Sgts. George Khoury and Christopher McDermott; Dets. Erin Cummings, Jackie Congdon, Eric Clark, Santiago Cirino, Thomas Hyland, Michael Bunker, Nazaire Paul, James Cronshaw and Timothy Stanton.

A motion was made by Commissioner Studenski to approve the license agents as listed for the month of January 2022. The motion was seconded by Commissioner McGarry and made unanimous by vote of the members present.

3. Hearing on a request from Doyle's On the Green for a Special Permit to Sell Wine and Malt Beverages at D.W. Field Golf Course- 331 Oak Street, Brockton, MA., from March 16, 2022, to November 30, 2022, from 10:00 a.m. to 8:00 p.m.

Present was Ann Ferrari of 229 Vernon Street, Bridgewater, MA 02324

Ms. Fararri informed the board that she has been there for three years, and she took over the business last year and they apply yearly, and nothing has changed. Everything went well last year, and they had no problems. Chairman Charnel asked the Commissioners if they had any questions? and there were none. He then asked Lt. Bonanca if he had any issues? He stated that it appears to be consistent with the events held each year. There were no issues with the Police Department and no objections on the Police Department end.

A motion was made by Commissioner McGarry to approve the licenses. The motion was seconded by Commissioner Studenski and made unanimous by vote of the members present.

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4. Hearing on a request from the Brockton License Commission to Nature's Embrace dba Botera located at 747 Centre Street, Brockton for possible violations of Chapter 935, section 502 of the

Code of Massachusetts Regulations.

- 935 CMR 502.105(4)(b)(2) which prohibits “advertising... by means of ...print publication, unless at least 85% of the audience is reasonably expected to be 21 years of age”; and
- 935 CMR 502.105(4)(b)(15), which prohibits “any advertising of an improper or objectionable nature including, but not limited to, the use of recipe books or pamphlets for MIPs or marijuana products which contain obscene or suggestive statements.”

Present was Mr. Robert Murphy of 221 Oak Street, Brockton, MA, and Mr. Matt O’Brien of 3075 Menden Road, Cumberland RI.

Mr. Murphy stated to the board that he is going to let his manager handle it and he admitted they had made a mistake by sending the pamphlet out. He stated that he would follow the city's rules but will let the manager explain everything to the board. The manager Matt O'Brien introduced himself to the board and stated he would be explaining everything. He understands that the board has concerns about the mailers that went out months ago and they apologize if it caused a nuisance or caused any inconvenience to any of the residents or members of the board.

The mailers that they sent out to a few thousand homes were sent through a company that they use named Tridell. They are a direct mailing service similar to the United States Postal Service. They focus on targeted ads based on demographics. It compiles data on residential homes and apartments from various sources and offers a suite of services that narrows down targeted audiences as age, gender, location, and annual income, etc. They selected their target audience of an age of twenty-five and above.

As the board can see from the heat maps, they had a 93% match to ages twenty-five and above in the location they selected. This means that an individual receiving the mailer had at least someone in the household who is aged twenty-one or above. Their intent was to ensure that the mailers are reaching the hands of someone who is of the age of twenty-one and above however they opted for the more conservative and selected twenty-five and above. The other point brought up on the mailers was the use of the perforated filter tips. They understand that they were not allowed to promote any product or pricing related to marijuana outside of their premises.

The idea of the perforated filter tips was a means to recycle in a fun interactive part of the mailer. It was not their intent to promote the use of tips or to provide them to consumers that need one. The company has already made the decision to omit using the filters in the future if they do send out any mailers. Upon receiving the notice from the Brockton License Commission, they contacted their CCC inspector to review the ad and the basis for running the advertisement. After review of the documents the same ones provided to the commission and inquiries into Tridell. Their inspectors found out that the company took every measure possible when sending the flyers out.

The inspectors, point of view is that the company took preventative measures to ensure that they remained compliant under the CCC's regulations and guidelines for which they can advertise. As long as it could be reasonably expected that 85% of their audience is of the age of 21 or older. They understand that they are in front of the License Commission for Brockton which is a separate body from the CCC.

The cannabis industry has been difficult to tackle in the means of advertising. There are so many limitations compared to normal businesses. Their intent was to find several ways to bring awareness of their establishment and remain compliant within regulations, and this was one of them. They took every preventative and compliant measure to ensure that the flyers were sent out to a target audience of 25 years or older.

They are already making the changes to remove the perforated filters and even went further to develop new preventative measures, such as placing the mailers inside an envelope detailed with their logo that should be opened by people twenty-one plus or older as a layer of protection. They will be looking at more secure ways in the future. Lastly the mailers are currently being distributed by several other companies in the Commonwealth and it is not new as far as an advertisement method.

He thanked the board for their time and hard work and stated he would be sure to ensure that they are compliant in the future. Chairman Charnel informed everyone that he would let the counselor speak and asked them if they were OK with that? and they replied yes, Mr. Murphy stated that it was an honest mistake and, in the future, they will do whatever the board asks of them. Assistant City Solicitor Bartlett informed the Chair and the Commission that the city does not have a statement at this time. He then asked the board if they had any questions on the alleged violation?

Commissioner McGarry stated that he had a couple of comments he informed them that the board was in receipt of the guidelines and though the mailing company suggested twenty-five or older which he certainly commends them for trying. Part of the problem is there is a 25 year or older potentially in that house with those records from US Postal Service through the mailing company. The problem with the complaint that the board received is that it was because you did a mailing in a postcard form that fell into the hands of anyone in the house that went to get the mail or who was home at the time of the mailing.

He stated that the board will certainly be looking to the Commonwealth for guidance for the community. It was far too general and by being how general it was that was what created the major issue with the mailing and the recycling effort. It was on a general card to a household address and not to a specific individual who would have been over the age of 25 years by the parameters they set. He thanked them and stated that moving forward they should do the necessary legwork and they will make sure the citizens of Brockton are prepared and protected.

Chairman Charnel thanked Commissioner McGarry and asked Commissioner Studenski if he had any questions? he replied, no and commended Commissioner McGarry for a job well done Chairman Charnel stated that just to add on to what Commissioner McGarry stated he thinks that an effort was made to make it accessible to an older audience. His issue is that the tips were actually rolling paper and he is strongly against sending it out as an instrument that can be used to roll a joint as they say, not knowing that it can get into the hands of someone that is under the age of 21.

He stated that you can read some of the CMR'S and it is very vague, some of the language but none of it says that you can send paraphernalia out to residents. He thinks that is more of an issue than the actual mailer. He thinks the matter itself is relatively ok, but you can't make the recycling and actual thing that can be used to roll a joint or marijuana. He stated that at this point he is comfortable with the statement that was made by Natural Embrace that they are going to take steps to make sure that this does not happen again.

He would like a letter placed in their file on the proposed violation stating that the board has spoken to them, and they have assured the board that they will make changes. He then asked Lieutenant Bonanca if he had anything to add? Lieutenant Bonanca stated that he agreed with the Chairman that the language in the CMR is vague. He wanted to ask a question and he commended the licensee for taking the option of trying to pursue a demographic of 25 and older, but what about pursuing or making sure that the demographic of under 21 is avoided in future mailings? before they send mailings or have the CMR adjusted to at least make it a little clearer in the future. Maybe avoiding that demographic along with concentrating on over twenty-five in the future. That is his suggestion

Mr. Murphy stated that yes, whatever the board thinks is best and then Matt stated that the envelopes should help with the situation as well. They will stick with the 85% and use the mailers with nothing visible if they do send mailers in the future. Chairman Charnel stated that sounds reasonable and asked them to leave tips out of mailers in the future. They should really be left out of marketing Matt informed the board that they were not tips they were cardboard which can be used on the tip of it. He agreed that they will not send out any filter tips or cardboard and definitely not rolling paper.

Chairman Charnel apologized for his lack of knowledge on the kinds of products utilized by the marijuana industry as he is not a smoker. Matt stated that the board has been very cordial, and they do not want to step on any toes and will do everything to keep on the up and up. Chairman Charnel asked if there is anyone speaking against them on the call? and there was none. He asked if there was anyone in favor or opposition? Synthia stated that she admitted some people onto the meeting Chairman Charnel waited and there were none for or against on the call.

A motion was made by Commissioner McGarry to put a letter in their file that states they have agreed to change their format on advertising via mail and have agreed not to send out any filter tips or anything like that in the future. The motion was seconded by Commissioner Studenski and made unanimous by vote of the members present.

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5. Hearing on a request from PB Skyhawk dba Playa Bowls for a Common Victualer license located at 1285 Belmont Street, Brockton, MA.

Present was Ms. Dana Nentin of 11 Spook Ridge Road, NJ, 07458 and Mr. Hung Lam of 1054 Brook Road Milton, MA 02186.

Mr. Lam informed the board that there are four partners they all went to Boston College together and they decided to embark on a journey of opening a franchise called Playa Bowls. For those not familiar with Playa Bowls, it consists of acai smoothies and juices, all healthy living products. They started their first one across from Boston College where they went to school, and it did very well. They then moved on to two other universities, northeastern and the other Harvard. They also opened one in Milton where he currently lives.

They had an opportunity to open near Stonehill College with the location being in Brockton, so they are excited to be part of our community as well. Commissioner Charnel asked if they had anything else to add? he stated that with regards to the space it is next door to the Bertucci's and Starbucks. It is in the center, and it is close to Stonehill and that will be some of their targeted demographic as well as serving Easton and Brockton. Essentially, everyone in and around the area. Upon doing their research they

found that there were not a lot of healthy food options in the area and thought it would be a great opportunity for them to potentially open a space.

They are currently looking for (22) seats and informed the board that most of their customers go in and out, not many will sit down. They are not a sit-down type of restaurant they are more of a quick service restaurant. They will offer delivery up to five and six miles. The hours are standard they will open at 8:00 AM and close at 9:00 PM they are not looking to cater to the late crowd or offer drunk food. They open for breakfast and serve oatmeal; smoothies and smoothie bowls, and they close around 9:00 PM after everyone finishes dinner.

Dana added that they do not have on site cooking. There is no food there, they only serve smoothie bowls, smoothies, and fresh juices, all made fresh daily on-site. Chairman Charnel asked the Commissioners if they had any questions? Commissioner McGarry stated that the board did receive pictures and it looks like they are still in the early stages, and it is looking like they have quite a way to go before they open. Considering that the pictures they received are recent he asked them what was the status of construction? Dana stated that she spoke to the contractor today and they had all the rough inspections completed. They are on track to close the walls and start with the painting next week. She stated that they are targeting a mid-February timeline to open. They wanted to get ahead of the board because they only meet once a month, and they wanted to get before the board before the late February meeting.

They should be on track for a mid-February opening if all goes well. Commissioner McGarry asked them if they provided a layout on what the product is going to be? she replied yes, they submitted all their plans including seating. Chairman Charnel stated that he is looking at the seating plan. Commissioner McGarry yielded, and Chairman Charnel asked Commissioner Studenski if he had any questions? and he stated no. Everything looks fine to him he stated. Chairman Charnel stated that he had a couple of questions regarding the seating. He stated that on the application the seating states (22) 5 tables but says 16 seats. Will there be a bar area that he assumes will have seating? Mr. Lam replied yes, it is right in front of the window, it will have bar seating with stools.

Chairman Charnel asked them if they would not be opposed to the stipulations being added that all sign offs must be in prior to the issuance of the license? and they replied, no. Dana stated that is standard procedure such as with their other locations. Chairman Charnel stated that he has been to their Harvard square location, and it was very nice. He would not have known that it was a local chain it looks like it is a big chain. Chairman Charnel asked Lieutenant if he had anything to add? He stated that he did an inspection on the 15th and sent photos to the Commission. It appears they are in the early stages of construction and rough stages. The preference would be to make sure the floor plan is the finished product. It is up to the Commission and re-inspection will be needed when it is closer to completion as well as all city department sign offs.

Chairman asked the Lieutenant if he would be opposed to re-inspecting and prior to the issuance of the license? He stated it is up to the board but that would be acceptable. Chairman Charnel asked if anyone was there in favor or in opposition? and there was none.

A Motion was made by Commissioner McGarry to approve the license with the stipulations that all requirements are signed, and all the inspections are completed by Lt. Bonanca or his people. The motion was seconded by Commissioner Studenski and made unanimous by vote of the members present.

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6. Hearing on a request from Kwench Juice Café for a Common Victualer license located at 194 Oak Street, Brockton, MA.

Present was Mr. Cassio Vertil of 265 Market Street, Brockton, MA 02301

Mr. Vertil stated that he has a natural juice and smoothie café, and he serves acai bowls, and he is looking to put less than 19 seats at the location. In the plaza there are no places like his around and many customers keep asking for seating. When they stop in to get their bowls, they want a place to sit down as well as for meetings. He would like to set up Wi-Fi for his customers and would like to provide a sit-down option as well as takeout. He is currently open for takeout and asked the Commissioners if they had any questions? Commissioner Studenski stated that he does not have a seating plan and asked if the Lieutenant will be going to the location? Lieutenant Bonanca stated that he will have to take some measurements, he stated that Commissioner Studenski stole his thunder. He did not see a detailed floor plan submitted or anything with the number of seats, and that will be required before approval.

He did take photographs and he submitted that to the Commission which consists of open spaces. He thinks there will have to be measurements to ensure that it is going to fit 19 spaces. He stated that he submitted two photographs of the open space between the counter and the front of the business. He will need a detailed floor plan before there can be an approval. Chairman Charnel agreed with Lieutenant and Commissioner Studenski he stated he would be in favor of granting the license upon receipt of a detailed floor plan. He stated that the photograph of the place looks great. He just does not know how many seats could fit in the location.

Lieutenant Bonanca stated there are no issues with the entire building. They have put a lot of work into the building, and he would like the plans so that he can assess if it can fit the tables. Mr. Vertil stated that he submitted the plans to the Planning office, however the Chairman informed him that the License Commission would need to see the plans as well to grant the number of seats. The board does not know how many seats can fit in that establishment. Commissioner Studenski asked him if he had a copy and he stated yes, Commissioner Studenski asked the Chair if he wanted the copy mailed and that could be part of the stipulations? He would be in favor of granting with stipulations that Lieutenant Bonanca reviews the floor plan.

A motion was made by Commissioner McGarry to approve the license with the stipulation that before the license is granted the applicant must submit a floor plan that must be reviewed and agreeable to the legalities of the requirements of the City License Commission, or he must come back before the board at the next meeting. The motion was seconded by Commissioner Studenski and made unanimous by vote of the members present.

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7. Hearing on a request to have the Law Department respond to an Open Meeting Law complaint submitted on December 16, 2021.

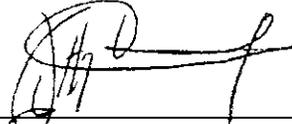
A motion was made by Commissioner McGarry to close the meeting and move to Executive Session. The motion was seconded by Commissioner Studenski and made unanimous by vote of the members present.

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A motion was made by Commissioner McGarry to adjourn the meeting. The motion was seconded by Commissioner Studenski and made unanimous by vote of the members present.

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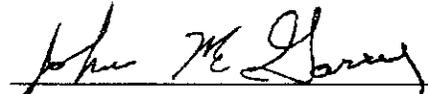
Respectfully Submitted,



Jeffrey Charnel, Acting Chairman

APPROVED



Paul Studenski, Commissioner

John McGarry, Commissioner