December 6, 2018

Licensee(s): Brian Grace and Paul Dunshol
Fireball Entertainment, Inc., T/a The Big Easy Cabaret
2000 Eastern Avenue 21231

Class: "D" Beer, Wine & Liquor License

Remand/Transcript and Evidentiary Review Items.

Board's Information:

Remanded to the Circuit Court of Baltimore City as per an order by the Court of Special Appeals, with instructions to vacate the order of the Board of Liquor License Commissioners for Baltimore City and to remand to the Board of Liquor License Commissioners for Baltimore City to make specific findings of facts and a decision regarding the protest of renewal of the establishment's Class "D" Beer, Wine & Liquor License.

Board's Decision:

PETITION OF BRIAN GRACE, *et al.*	**IN THE**
FOR JUDICIAL REVIEW OF THE DECISION OF THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALITMORE CITY	**CIRCUIT COURT**
	FOR
	BALTIMORE CITY
IN THE CASE OF	
BRIAN M. GRACE, PAUL GUNSHOL, AND FIREBALL ENTERTAINMENT, INC.	**Case No. 24-C-15-002718**
PROTEST OF RENEWAL OF LIQUOR LICENSE, HEARING DATE: April 23, 2015	

ORDER REMANDING TO AGENCY

Pursuant to the Mandate of the Court of Special Appeals (Paper No. 35), which vacated the Judgment of this Court, it is this 27th day of March, 2018, by the Circuit Court for Baltimore City, Part 26, hereby **ORDERED** that this matter is **REMANDED** to the Board of Liquor License Commissioners for Baltimore City for further proceedings consistent with the decision of the Court of Special Appeals.

It is further **ORDERED** that the Clerk of the Court shall send copies of this Order to the agency and to all parties in the case.

Lawrence Fletcher-Hill
Judge's Signature Appears
On Original Document

Judge Lawrence P. Fletcher-Hill

Circuit Court for Baltimore City
Case No. 24-C-15-002718

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 296

September Term, 2016

BRIAN GRACE, *et al*

v.

BOARD OF LIQUOR LICENSE
COMMISSIONERS FOR BALTIMORE CITY

Reed
Beachley,
Kenney, James A., III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kenney, J.

Filed: September 26, 2017

In 2013, Brian Grace and Paul Gunshol, were issued a license to sell alcoholic beverages (the "License") at The Big Easy Cabaret, a tavern in Baltimore City, by the Board of Liquor License Commissioners for Baltimore City (the "Board"). The License was renewed in 2014. When an application was submitted to the Board to renew the License in 2015, members of the community signed and submitted a petition in protest of the renewal application. Following a public hearing, the Board denied the renewal application, and Grace, Gunshol, and Haley Taggart, (collectively "appellants"), filed a petition for judicial review of the Board's decision in the Circuit Court for Baltimore City. The circuit court affirmed the Board's decision, and appellants noted this appeal. They present one question for our review:

> Did the Board of Liquor License Commissioners for Baltimore City err in upholding a protest of renewal of the 2015 liquor license?

For reasons to follow, we conclude that the Board's decision does not permit meaningful judicial review. Accordingly, we vacate the judgment of the circuit court and remand the case to the Board for further proceedings consistent with this opinion.

BACKGROUND

The Big Easy Cabaret (the "Big Easy"), a tavern and adult entertainment establishment, is owned and operated by Fireball Entertainment, Inc. ("Fireball"). In March of 2013, two of Fireball's officers, Brian Grace, president, and Paul Gunshol, secretary, acting on behalf of the corporation, applied for and were granted the License by the Board. In March of 2014, they renewed the License for another year. In September of that year, a fight involving one of the Big Easy's patrons resulted in a hearing before the

Board in November of 2014. Following the hearing, the Board suspended the License for two-months and imposed a fine.[1]

In 2015, when Grace and Gunshol submitted an application to renew the License (the "2015 Renewal Application"), the Fells Prospect Community Association ("FPCA") submitted to the Board a Petition for Public Hearing that was signed by dozens of area residents. The Board held a hearing on FPCA's petition on April 23, 2015. At that hearing, FPCA maintained that Grace and Gunshol did not meet the statutory requirements to hold a liquor license in Baltimore City and that the operation of the Big Easy negatively affected "the public health, safety, and welfare of the community."

As to their first contention, FPCA noted that in order for Grace and Gunshol to hold a valid liquor license in Baltimore City, both needed to be officers of Fireball and one of them needed to be a registered voter and taxpayer in Baltimore City who had resided in Baltimore City for at least two years prior to submitting the renewal application. To support its position on that issue, FPCA presented "a packet of documents" to the Board. Included in that packet was paperwork from the Maryland State Department of Assessments and Taxation that indicated that, in 2014, Grace resided in Queen Anne's County and Gunshol resided in Anne Arundel County. FPCA, referring the Board to the 2014 Renewal

[1] The Board found that Grace and Gunshol had violated two Board Rules: disturbing the peace and failing to cooperate with police. Grace and Gunshol thereafter filed a petition for judicial review in the Circuit Court for Baltimore City. That court reversed the Board's decision as to the first violation (disturbing the peace) but affirmed as to the second violation (failing to cooperate). An appeal was noted, and this Court affirmed. *Brian Grace, et al. v. Board of Liquor License Commissioners for Baltimore City,* September Term 2015, No. 611 (filed April 24, 2017).

Application, pointed out that both Grace and Gunshol listed Baltimore City addresses as their places of residence. FPCA further pointed out that Grace and Gunshol had listed Baltimore City addresses as their places of residence on the 2015 Renewal Application.[2]

Regarding its second argument – that the Big Easy had a negative impact on the community – FPCA referred the Board to several letters in which various community members, associations, and local legislators asked the Board to deny the renewal application. One letter, written on behalf of the FPCA, noted the Big Easy's "long history of troubling behavior" and that neighbors were "unable to sleep through the night due to patrons, employees and noise generated from the club pounding through the walls of their homes." Another letter, written on behalf of the Baltimore Highlands Neighborhood Association, noted "traffic and parking issues for neighborhood residents" and "criminal dealings, which are associated with the establishment." A letter, written by James Kraft, a Baltimore City councilman, complained of "frequent phone calls from neighbors of this property regarding criminal activity, noise, public intoxication, and other issues indicative of a systemic lack of good management and oversight by the current licensee." Another Baltimore City Council member, Jack Young, stated that "community residents are consistently disrupted by noise levels, trash, public intoxication, parking, public urination and fighting directly related to this establishment." Approximately twelve such letters were submitted containing "various complaints as to the operation of the establishment" and "a lot of complaints about noise, parking."

[2] The 2015 renewal application was not made part of the record before this Court. Grace testified that Gunshol was not included as a licensee on the 2015 renewal application.

FPCA then called two witnesses. The first, Marianne Furgison, had lived "a half block from the Big Easy for the last 20 years." Ms. Furgison stated that the Big Easy had been open for only "a couple weekends" since the License had been suspended. She recounted one occasion, after the Big Easy reopened, when she witnessed "people standing outside loitering," which she described as "a chronic problem." She emphasized that she had been "coming to the Liquor Board about this bar, this problem bar since 2006" and that, in her opinion, it was "necessary for the public health, safety, and welfare of the community to deny the renewal."

Robert Burch, who owned property adjoining the Big Easy, also testified. During his testimony, Mr. Burch read part of a letter written by three of his tenants:

> In closing, we enjoyed a bit of a reprieve from the Big Easy from the time the Liquor Board suspended its liquor license in November of last year to late January 2015. However, as far as we're concerned, the situation has not changed.
>
> Getting restful sleep is difficult, and our concerns about fights and arrests of patrons with firearms clearly do not sit well with us. Lastly, most important, as we have learned, the federal government continues to investigate the Big Easy, making us ask ourselves, if it's time to move on.

Brian Grace testified in response to FPCA's presentation. He admitted that he currently resides in Queen Anne's County but that he also rents an apartment in Baltimore City, which he uses when he comes to the Big Easy on weekends and that was the address he listed on his renewal applications. It was his impression that "by having an apartment to rent that [he] was a resident."

Grace admitted that Gunshol's primary residence was in Anne Arundel County but that he did not know that until June of 2014. After learning of Gunshol's residency, he

submitted a revised renewal application omitting Gunshol as a licensee and naming Hailey Taggert, a dancer at the Big Easy and a resident of Baltimore, as the proposed licensee in Gunshol's stead. Grace's counsel later explained that this revision was made on the 2015 Renewal Application and that Gunshol was "not being requested to be a licensee for the upcoming year." Grace acknowledged that Taggert was neither an officer of nor a shareholder in Fireball at the time of the hearing.

Regarding the Big Easy's operations following the suspension of the License in November of 2014, Grace stated that he fired the manager, Mr. Mariano, following the incident that led to the suspension, but he was unaware that Mr. Mariano had since been arrested. He also stated that he had not received any complaints from Mr. Burch's tenants since the suspension. On cross-examination, Grace admitted that he had not done a background check on Mr. Mariano prior to hiring him as manager and was unware of Mr. Mariano's "prior drug and gun charges."

At the end of the hearing, each member of the Board's three-judge panel voted to deny Grace's request to have the License renewed:

> [CHAIRMAN]: All right. Time for decision. I vote first. My – the decision is, I vote that the license shall not be renewed. Because I adopt [the] argument with respect to the legality of the renewal of the license, which I find that it has not been properly renewed. And then the license is a nullity, and – at the present time.
>
> Therefore, since it has not complied with the city law with respect to the Liquor Board, and the city law with respect to liquor license approvals, it can't be renewed.

In addition to that, with respect to the testimony, I find that while past performance is not a – that there seems to be, in this particular case, an improvement, certainly in the operation of the license.

Nevertheless, I adopt all of the prior testimony and the testimony today with respect to my decision.

[COMM'R 1]: I concur with the [Chairman]. And I was very quiet during the proceeding, but I was listening....And what I heard was, [Mr. Grace] did not know. You know, sometimes what you don't know can cause harm to others. In this case, it caused harm to the peacefulness of this community.

As – we have a due diligence to knowing things about the business that you're going to be a part of. And the type of business that we are talking about can have a great effect on that community. And I think every community deserves peace. And also, there should be a good working relationship with that community and owner of your establishment.

I'm quite sure you're a good person, your intent was good, you wanted to do something good for yourself and your family, but your method for going about doing that was poor. I mean, you hired somebody without knowing the background. Obviously, there wasn't enough supervision over that person; things happened.

With all this in mind, I mean, I agree. I have nothing further to add.

[COMM'R 2]: So I concur with the Chairman and my fellow Commissioner. I remember when you were here in November, and one of the things that struck me then, and I don't have the full record, but I remember being very concerned about the

absentee nature of the management of this location. And that has continued.

But it's even worse than that. You all aren't even Baltimore City residents. There is no Baltimore City resident. So I think the first argument that was made regarding the eligibility to own this license is – it's persuasive. And it makes very, very clear that they're – even the basic requirements haven't been met. And I think that it's more of an – not an actual not knowing of information, but active knowing.

You're a former police officer. You're a current member of the fire department for the District of Columbia. I think that raises – that gives you a higher level of access to the knowledge necessary to vet those that would be managing your property. The absolute failure to do anything at all to vet the background of your manager.

And I do have the testimony where we asked you what was it that you wanted, and you said it was your wish that the – [Mr. Mariano] managed the property, the business properly. And we even – I said properly and you said yes, properly.

And nothing was – that was not – that's not what happened. I think that the problems that the community has had to deal with are gross. It's just absolutely gross and it doesn't have to be that way.

So it's – you know, it's for those reasons that I do join in the decision to not renew this license.

[CHAIRMAN]: All right. Folks, you have our decision.

Appellants thereafter filed a petition for judicial review of the Board's decision in the Circuit Court for Baltimore City. Following a hearing, the circuit court affirmed the

Board's decision. Appellants then noted this appeal, arguing that the Board's denial of their 2015 Renewal Application was erroneous.

STANDARD OF REVIEW

The statutory standard applicable to judicial review of the Board's decision is set forth in Section 16-101(e)(1)(i) of Article 2B[3] of the Maryland Code:

> Upon the hearing of such appeal, the action of the local licensing board shall be presumed by the court to be proper and to best serve the public interest. The burden of proof shall be upon the petitioner to show that the decision complained of was against the public interest and that the local licensing board's discretion in rendering its decision was not honestly and fairly exercised, or that such decision was beyond the powers of the local licensing board, and was illegal.

Id.

"We have 'consistently explained that judicial review of a decision by the Board is similar to review of decisions by most other administrative agencies.'" *Rojas v. Board of Liquor License Commissioners for Baltimore City*, 230 Md. App. 472, 480 (2016) (citations omitted). We do not review the circuit court's decision; rather, we adopt "the same posture as the circuit court...and limit our review to the [Board's] decision." *Anderson v. Gen. Cas. Ins. Co.*, 402 Md. 236, 244 (2007) (citations omitted).

When we review factual findings, we apply the substantial evidence test and "decide whether a reasoning mind reasonably could have reached the factual conclusion the [Board] reached." *Rojas*, 230 Md. App. at 481 (citations omitted). In doing so, we "review

[3] Article 2B has since been repealed and recodified as the Alcoholic Beverages Article. *See* Acts 2016, c. 41, § 1, eff. July 1, 2016. In this opinion, we shall cite to the statute as it existed at the time of the hearing.

the [Board's] decision in the light most favorable to the [Board] since its decision is *prima facie* correct and carries with it the presumption of validity." *Id.* (citations and quotations omitted). And, although our review of the Board's legal conclusions is less deferential, we still "respect the [Board's] expertise in its field and give considerable weight to its interpretation and application of any statutes or regulations it is charged with administering." *Board of Liquor License Commissioners for Baltimore City v. Austin*, 232 Md. App. 361, 368 (2017). In short,

> we are limited to determining if there is substantial evidence in the record as a whole to support the [Board's] finding and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law. Stated differently, [o]ur primary goal is to determine whether the [Board's] decision is in accordance with the law or whether it is arbitrary, illegal, and capricious.

Rojas, 230 Md. App. at 481 (citations omitted).

That said, the Board is required to make meaningful findings of fact "in part to protect the fundamental right of a party to a proceeding before an administrative agency to be apprised of the facts relied upon by the agency in reaching its decision and to permit meaningful judicial review of those findings." *Accokeek, Mattawoman, Piscataway Creeks Communities Council, Inc. v. Maryland Public Service Commission,* 227 Md. App. 265, 288 (2016) (citations and quotations omitted). Meaningful findings of fact are essential because

> [j]udicial review of administrative action differs from appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgment and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of

> agency action the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency.

United Steelworkers of Am. AFL-CIO, Local 2610 v. Bethlehem Steel Corp., 298 Md. 665, 679 (1984) (quoted in *Kor-Ko Ltd. v. Maryland Department of the Environment*, 451 Md. 401, 424 (2017)). In other words, the Board's findings "'must at least be sufficiently detailed to apprise the parties as to the basis for the agency's decision.'" *Accokeek*, 227 Md. App. at 284 (citations omitted).

DISCUSSION

Appellants argue that the Board's decision not to renew the License was erroneous in several respects. First, they contend that the record contains "no evidence at all supporting a specific complaint as to the operation of the Licensee's establishment," which they claim is required under Maryland law. They also maintain that the Board's rationale for its decision was deficient, in part because the Chairman, in stating his decision, "essentially makes no findings of fact" and because "the Liquor Board's decision does not specify how it applied specific facts to the law to support its conclusion not to renew the Liquor License." To the extent that the Board found that the 2015 Renewal Application was deficient because none of the appellants was statutorily qualified to hold the License, appellants aver that such a finding was not a legally sufficient basis for denying the 2015 Renewal Application because, in Baltimore City, "the sole basis for upholding a protest and not renewing the liquor license is a specific complaint as to the operation of the Licensee's establishment…and not the qualifications of the Licensee."

The Board counters that its decision was proper and supported by substantial evidence. In its view, appellants' failure to meet the residency requirement was a specific complaint as to the operation of the business, more specifically, that appellants "operated the establishment out of compliance with the law." The Board further maintains that it"also found that the license should not be renewed because of the general disturbances the Big Easy caused to the community." This finding, it avers, was supported by documents and testimony presented at the hearing.

"The scope of the Board's authority under Article 2B is a question of statutory interpretation and, thus, a question of law." *Thanner Enterprises, LLC v. Baltimore County,* 414 Md. 265, 275 (2010). Although we may defer to an agency's application of the statute it administers, "an agency may not take action 'which is inconsistent or out of harmony with, or which alters, adds to, extends or enlarges, subverts, impairs, limits, or restricts the act being administered.'" *Board of Liquor License Com'rs for Baltimore City v. Hollywood Productions, Inc.,* 344 Md. 2, 11 (1996). "Even in cases where [our courts] have recognized broad delegations of authority, we have emphasized that agency rules and regulations must conform to the language and spirit of the statute under which the agency acts." *Id.* at 10-11. In short, "[i]n any particular area of legislative concern, whether there should be a broad delegation of regulatory authority to administrators, or a more specific delegation, is a choice for the General Assembly." *Christ v. Maryland Dep't of Natural Res.,* 335 Md. 427, 439 (1994).

To be sure, the control and management of the sale of alcoholic beverages is an area of legislative and regulatory concern and, in that area, the General Assembly has exhibited quite specific (even stingy) delegation of regulatory authority to local liquor boards:

> The provisions of [Article] 2B cover a myriad of subjects. They include the typical controls on the sale and consumption of alcoholic beverages, such as the types of places which may be licensed, the types of beverages which may be sold, the hours of sale, the license fees, etc. The subjects covered in [Article] 2B also include regulations concerning the premises, the conduct of licensees, ownership of establishments, membership requirements for association or club licensee, etc. For examples, [Article] 2B contains provisions dealing with the nature of kitchen equipment and kitchen facilities for the preparation of food on the premises of licensees, the size of dining rooms, sanitary and health conditions relating to the preparation of meals, the minimum number of rooms to qualify for a hotel license, landscaping and gardens for certain types of licensees, the clothing to be worn by employees of a licensee, the number of stories and elevators in a building to qualify for a hotel license, the size of parking facilities, restrictions on music, requirements concerning curtains on windows, the noise level of music, citizenship requirements for licensees, the number of boat slips for a yacht club to qualify for a license, the number of tennis courts and the size of the swimming pool to qualify for a country club license, and specific membership requirements for armed forces veterans clubs, fraternal clubs, etc., to be eligible for licenses.

Coalition v. Annapolis Lodge, 333 Md. 359, 371-72 (1994).

Because of the comprehensive nature of Article 2B, the Court of Appeals has determined that the power given to the local boards must be viewed through a more focused lens than that used when evaluating other agencies:

> Rather than providing broad general guidelines, the General Assembly has chosen to closely control by statute even the more detailed aspects of the alcoholic beverages industry. This close regulation is perhaps partly due to the fact that, unlike other regulated areas, there is not a single agency that administers the alcoholic beverages law, but rather numerous local boards that are charged with its enforcement. Regardless of the reason for its enactment, the result of such a comprehensive statutory scheme is that the authority of the administering agencies necessarily is more circumscribed

> than the typical administrative body. The Liquor Board thus differs fundamentally from those agencies to which the legislature more generously delegates the particulars of a regulatory scheme.

Hollywood, 344 Md. at 13.

In interpreting any statute, our primary goal is to determine the intent of the legislature, and "[t]he most reliable indicator of [legislative] intent is the statute's plain language as ordinarily understood." *Id.* "If statutory language is unambiguous when construed according to its ordinary and everyday meaning, then we give effect to the statute as it is written." *Kushell v. Dep't of Natural Res.,* 385 Md. 563, 577 (2005).

Article 2B proscribes the sale of alcoholic beverages without a license. Md. Code, Art. 2B § 1-201. In order for a business to obtain such a license, it must file an application "with the local licensing board where the place of business is located."[4] Md. Code, Art. 2B § 10-101(a). "[I]f the application is made for a corporation...the license shall be applied for by and be issued to three of the officers of that corporation...at least one of whom shall be a registered voter and taxpayer of the county or city...and shall also have resided therein, at least two years prior to the application." Md. Code, Art. 2B § 9-101(b)(1)(i). When, as in this case, a corporation has fewer than three officers, "all officers or directors shall make the application as provided in this section." Md. Code, Art. 2B § 9-101(b)(6). If approved,

[4] Article 2B identifies different "classes" of license based on the circumstances under which the alcoholic beverages are to be sold. Although the statute does provide general regulations applicable to all classes, some statutory provisions apply only to certain licenses. We discuss here only those provisions applicable to the type of license at issue in the instant case (Class "D" Beer, Wine, and Liquor License).

a license is usually dated "as of the date of issue and shall expire...on April 30 next after its issuance[.]" Md. Code, Art. 2B § 10-206(a).

Once a license is issued, the holder, except in special circumstances, "shall, not less than 30 nor more than 60 days before the first day of May of each and every year, file a written application, duly verified by oath, for the renewal of the license with the official authorized to approve the same." Md. Code, Art. 2B § 10-301(a)(1)(i). Ordinarily, "on the filing of the renewal application and payment of the annual fee, the holder of the expiring license is **entitled to a new license for another year** without the filing of further statements or the furnishing of any further information unless specifically requested by the official authorized to approve the license." Md. Code, Art. 2B § 10-301(a)(1)(ii)(4) (emphasis added).

On the other hand, "a license by way of renewal may not be approved without a hearing before such official if a protest has been filed against the granting of the new license at least 30 days before the expiration of the license for which renewal is sought." Md. Code, Art. 2B § 10-301(a)(1)(iii)(1). "If the protest has been filed it shall be heard and determined as in the case of original applications, **except in Baltimore City** it shall be heard and determined not as in the case of original application in regard to zoning but only on a specific complaint as to the operation of the licensee's establishments." Md. Code, Art. 2B § 10-301(a)(1)(v) (emphasis added).

Article 2B § 10-301(a)(1)(v) makes plain that any protest filed against the granting of a renewal of a liquor license in Baltimore City must be "heard and determined...only on a specific complaint as to the operation of the licensee's establishments." *Id.* The

Chairman comments on "past performance" but also speaks of "an improvement, certainly in the operation of the license," presumably since the suspension of the License, and he "adopts" the "prior testimony and the testimony today" without reference to any particular or specific complaint. Moreover, his conclusion appears to rest primarily on his determination that the License is "a nullity" and "cannot be renewed." One other Commissioner stated a concurrence with the Chairman without explanation but spoke of the importance of maintaining a "good working relationship" with the community, referenced the earlier November hearing, and criticized Grace for poor hiring practices and the lack of supervision of the Big Easy's manager. And, the third Commissioner concurred with both the Chairman and the other Commissioner. His concern focused on the "absentee nature of the management" and the fact that the licensees were not Baltimore City residents.

As noted, we can only sustain the Board's decision on its findings and for the reasons stated by it, but no specific findings of fact were made in this case. Did the Board conclude that, because the proposed licensees were not statutorily qualified to hold the License, consideration of Article 2B § 10-301(a)(1)(v) was unnecessary? If not, what "specific complaint as to the operation" of the Big Easy was the basis for non-renewal, and what evidence over what time frame supported the Board's decision? In short, the factual

and legal basis for non-renewal of the License, in light of the statutory scheme for renewal of licenses in Baltimore City, is not sufficiently clear for meaningful judicial review.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY VACATED. CASE REMANDED TO THE CIRCUIT COURT WITH INSTRUCTIONS TO VACATE THE ORDER OF THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY AND TO REMAND TO THE BOARD OF LIQUOR LICENSE COMMISSIONERS FOR BALTIMORE CITY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY THE MAYOR AND CITY COUNCIL OF BALTIMORE.

COPY

CITY OF BALTIMORE
BOARD OF LIQUOR LICENSE

Brian M. Grace and Paul Gunshol, Fireball Entertainment, Inc., The Big Easy Cabaret - 2000 Eastern Avenue - Class "D" Beer, Wine & Liquor License - Protest of Renewal under the provisions of Article 2B Section 10-301(a)

City Hall
Baltimore, Maryland

April 23, 2015

BEFORE: THOMAS WARD, Chairman
HARVEY JONES, Commissioner
DANA PETERSON MOORE, Commissioner
MICHELLE BAILEY-HEDGEPETH, Executive Secretary
STACI RUSSELL, Office Assistant

Also Present:

Peter Prevas, Attorney for Licensee
Becky Witt, Fells Prospect Community Association

Reported by:

Bryson Dudley

I N D E X

E X H I B I T S

Exhibit #:	Description	Marked/Received
No exhibit entered		

P R O C E E D I N G S

MS. BAILEY-HEDGEPETH: The next case is a Protest of Renewal for Brian Grace, Paul Gunshol, Fireball Entertainment, Inc., The Big Easy Cabaret. This is located at 2000 Eastern Avenue, a Class "D" Beer, Wine and Liquor License; Protest of Renewal under Article 2B 10-301(a).

CHAIRMAN WARD: All right. Folks, everybody that's going to testify in this case, please come up.

Why doesn't everyone just stand, just in case, to be sworn?

CHAIRMAN WARD: Everybody that's going to be testifying, please come up. All right. Call the case. Where's Michelle?

COMMISSIONER PETERSEN-MOORE: She went out.

MS. WITT: I believe she called it.

COMMISSIONER PETERSEN-MOORE: She did call it.

CHAIRMAN WARD: Huh?

MS. BAILEY-HEDGEPETH: I called it.

COMMISSIONER PETERSEN-MOORE: Just -- it's --

CHAIRMAN WARD: Oh, you did?

MS. BAILEY-HEDGEPETH: Yes, I did, sir.

COMMISSIONER JONES: Yeah, she did.

COMMISSIONER PETERSEN-MOORE: She did.

CHAIRMAN WARD: All right. Swear all the -- just please --

MS. BAILEY-HEDGEPETH: Sorry.

CHAIRMAN WARD: -- swear all the witnesses.

(Whereupon, the witnesses testifying in the matter were placed under oath.)

CHAIRMAN WARD: All right. Who is going to represent 2000 Eastern Avenue?

MR. GRACE: Brian Grace.

CHAIRMAN WARD: All right. Come on up. Enter your appearance.

MR. PREVAS: Good afternoon, Your Honor. Peter Prevas on behalf of the licensee.

CHAIRMAN WARD: All right. Now, this is a Protest of Renewal, so we're going to go to them first and then come to you.

MR. PREVAS: Yes, sir.

CHAIRMAN WARD: All right. Ms. Witt, you

represent the --

MS. WITT: I represent the Fells Prospect Community Association --

CHAIRMAN WARD: All right.

MS. WITT: -- in protest of the renewal.

CHAIRMAN WARD: Anybody else?

MS. WITT: No, that is my only client.

CHAIRMAN WARD: So everybody here is under your wing?

MS. WITT: Yes.

CHAIRMAN WARD: Okay, I'll be glad to hear from you.

MS. WITT: Okay, all right. So I have a packet of documents for each Commissioner. Oh, sorry.

CHAIRMAN WARD: Okay.

MS. WITT: Excuse me. And --

MS. BAILEY-HEDGEPETH: Thank you very much. I have this for the record, sir.

MS. WITT: Okay, so there's two main arguments, the -- about the protest of renewal. And the first one that I'm going to begin with is that the licensees are

ineligible to be Baltimore City licensees. And then the second argument that I'll get to is about the public health, safety, and welfare of the community. So --

CHAIRMAN WARD: All right. And your first one is ineligible.

MS. WITT: Yes. The licensees are ineligible to be Baltimore City liquor licensees under the law. So going to Article 2B Section 9, which talks about who is eligible to be a licensee. 9-101(b) --

CHAIRMAN WARD: 901(b).

MS. WITT: 9-101(b).

CHAIRMAN WARD: 9-101(b).

MS. WITT: Yes, it says that for --

CHAIRMAN WARD: You got your book? No?

COMMISSIONER PETERSEN-MOORE: I didn't bring it.

MS. BAILEY-HEDGEPETH: I didn't bring mine either.

MS. WITT: Oh, you don't have one?

CHAIRMAN WARD: Who's got it?

MS. BAILEY-HEDGEPETH: I got it -- 9-101(b).

CHAIRMAN WARD: Can I count on, Commissioner to --

COMMISSIONER PETERSEN-MOORE: For the future, sure.

CHAIRMAN WARD: -- look at it --

MS. BAILEY-HEDGEPETH: I have mine.

CHAIRMAN WARD: No, right now.

COMMISSIONER PETERSEN-MOORE: Oh, yeah. Yes.

MS. WITT: It's on page 188.

CHAIRMAN WARD: Oh, go ahead.

MS. WITT: Sure. So what the law says is that if an application is made for a corporation, which the case is here, that the license shall be applied for by and be issued to three of the officers of that corporation, as individuals, for the use of the corporation, at least one of whom shall be a registered voter and taxpayer of the county or city, and shall also have resided therein, at least two years prior to the application.

So I'm going to go through the two licensees and talk about why neither of them is qualified to be a

licensee for this renewal. So first of all, the first requirement is that they be officers of the corporation.

So Mr. Grace, according to his 2013 transfer of ownership application, and 2014 renewal application, is an officer of the corporation. He is the president of the corporation. Mr. Gunshol, who is a co-licensee, according to the same documents, which are attached in this first packet, is neither. He is not an officer of the corporation. So he is not eligible to be a licensee.

In Section 10-103(b), the application has to say that each licensee has a pecuniary interest in the business. And if you look at those same documents, Mr. Grace has a 100 percent interest. Mr. Gunshol has zero percent interest in the business.

The third element is that one of the officers has to be a Baltimore City resident according to Section 9-101(b), like we just read through, and also according to Liquor Board Rule 2.05.

Mr. Grace -- we were here, as you all probably remember, in November 20th -- on November 20th, sorry, 2014, testified that he lives on the Eastern Shore. So

he is not a Baltimore City resident. Also, the original transfer of ownership application from 2013 says that he lives on the Eastern Shore and has lived there for 12 years. Also, the State Department of Assessments and Taxation has a homestead application for Mr. Grace at his dwelling in -- on the Eastern Shore in Queen Anne's County. And he's also registered to vote there.

Mr. Gunshol, when the application to transfer was first admitted, was a resident and property owner in Baltimore City, in Federal Hill. However, he sold that property about six months after the transfer. So it was in August of 2013, and he now lives in Anne Arundel County, and has lived there since the fall of 2013.

And so attached to this little packet are all the printouts from the State Department of Assessments and Taxation showing that Mr. Grace, this on page 11 of the packet, Mr. Grace in Centreville, which is in Queen Anne's County on the Eastern Shore. And Mr. Gunshol, on page 13, lives in Millersville, Maryland, which is Anne Arundel County. And he has lived there -- and he brought the property in September 2013, and submitted a homestead

application in October 2013.

You can also see on page 12, that Mr. Gunshol's former address in Federal Hill, 130 East Clement Street, is now owned by new owners. And they have submitted their own homestead application. So they are residents and owners of that property.

So the problem comes in where for the 2014 renewal application, which is on page 5, begins on page 5, Mr. Grace asserts that he lives at 2637 Hudson Street, and that he's a city resident. So if you see on page 5 --

CHAIRMAN WARD: 20 -- what?

MS. WITT: 2637 Hudson Street. It's an address in Canton. Mr. Gunshol testifies, in this 2014 application, that he lives at 130 East Clement Street, which is the house that he had sold six months prior to the -- when this application was submitted. And he also testifies that he is a city resident, which he was not for six months. Also, neither of them is registered to vote in Baltimore City. They're both registered to vote at their respective homes in Queen Anne's County, and in

Arundel County. And those printouts are --

CHAIRMAN WARD: Now, I'm confused --

MS. WITT: -- attached in this packet.

CHAIRMAN WARD: -- about Mr. -- the first one, 2637 Hudson Street was the City of Baltimore. Why is his statement incorrect?

MS. WITT: Well, because he has testified here before the Board in October 2014 that he has lived on the Eastern Shore. And he doesn't own that property. That doesn't necessarily mean he doesn't reside there, but it's contradictory to his other testimony.

CHAIRMAN WARD: What -- is there any evidence that would indicate that he does have a residence at Hudson Street?

MS. WITT: Not that I know of. And then, just to -- I just got a copy of the renewal application for 2015 --

CHAIRMAN WARD: So your point is that neither of them are city residents.

MS. WITT: Exactly. And they both have testified that they do, in their renewal applications.

CHAIRMAN WARD: They both have testified --

MS. WITT: They both testified in 2014 that they do live in Baltimore City, when neither of them does. And the same thing is true of their 2015 renewal application. If you look at it, it says, licensee -- you all should have a copy, I believe. It says, current home address for licensee number one, Brian Grace, 2637 Hudson Street. It says he's lived there for two years. And then it doesn't -- on the line that says, are you a city resident, it's not filled out.

Licensee number two, Paul Gunshol, it says, current home address, 130 East Clement Street. How long have you lived there? Six years. That is the house that he sold in August of 2013. And then it says, are you a city resident. That is not filled out. It's been highlighted by Liquor Board staff.

So I believe that's all I had to present on the ineligibility for Baltimore City liquor license. Just to go back to the code one more time, it says, a license shall be applied for and be issued to three of the officers for the use of the corporation, at least one of

which shall be a registered voter and taxpayer of the city, Baltimore City, in our case, and shall also have resided therein at least two years prior to the application.

So the application, when it was originally submitted, may have been correct. But the renewal application for 2014 and 2015 contained fraudulent, misleading, deceptive statements to the Board.

CHAIRMAN WARD: Now, did they -- and they never stated that they voters and taxpayers in the renewals, or did they?

MS. WITT: I am --

CHAIRMAN WARD: You said it was not filled out. I'm not sure what you were talking about.

MS. WITT: Right, so --

COMMISSIONER PETERSEN-MOORE: Because he left this blank.

CHAIRMAN WARD: I want to hear what she --

COMMISSIONER PETERSEN-MOORE: Oh.

MS. WITT: So on the 2015 renewal, it says -- there's a line that says, are you a city resident. And

it's left completely blank.

CHAIRMAN WARD: But what is it -- then the answer to my question, did they state they were voters or taxpayers?

MS. WITT: I don't see a part of the application that talks about voter registration and taxpayer status.

CHAIRMAN WARD: Since you have -- since it has a requirement, that's what you're stating?

MS. WITT: Yes, sir. It is a requirement.

CHAIRMAN WARD: Well, how did they get past muster?

MS. WITT: I don't know, to be honest. I think this application is incomplete, and I also think the 2014 application is incomplete.

CHAIRMAN WARD: Um-hum. Okay.

MS. WITT: It --

MS. BAILEY-HEDGEPETH: The 2014 has not been renewed --

CHAIRMAN WARD: Wait a minute. Stop. You're not testifying.

MS. WITT: So let me just look quickly at the 2014 application. Okay, so --

CHAIRMAN WARD: You've got to use the mic all the time.

MS. WITT: Okay. So the 2014 application says, it says, are you a city resident, and they both said yes, which we believe to be misstatements.

CHAIRMAN WARD: All right. Now, what about the --

MS. WITT: The voter registration?

CHAIRMAN WARD: Um-hum.

MS. WITT: I'm not sure that there's a section on the renewal application that talks about voter registration.

CHAIRMAN WARD: Okay.

MS. WITT: At least not one that I see here.

CHAIRMAN WARD: So there's nothing one way or the other?

MS. WITT: Right. And nor does it say anything about property, sorry, taxpayer status.

CHAIRMAN WARD: And that's your first issue?

MS. WITT: Yes, that's my first issue.

CHAIRMAN WARD: All right. Now, let me ask you question.

MS. WITT: Yes.

CHAIRMAN WARD: Do you want us to then let him respond to the first issue before we go on to the other issues?

MS. WITT: That's fine with me, if that works.

CHAIRMAN WARD: All right. You hear what she said?

MR. PREVAS: Yes, Your Honor.

CHAIRMAN WARD: All right. We're only limiting it to this issue.

MR. PREVAS: Totally understood.

(Whereupon,

BRIAN GRACE

was called as a witness, and after having been first duly sworn, was examined and testified as follows:)

EXAMINATION

BY MR. PREVAS:

Q. Mr. Grace, you -- where do you currently live?

A. I currently reside at 108 Bonds Road in Centreville, Maryland.

Q. And you own that house?

A. Yes.

COMMISSIONER PETERSEN-MOORE: What was that? I'm sorry.

CHAIRMAN WARD: Centreville.

MR. PREVAS: Centreville.

COMMISSIONER PETERSEN-MOORE: 108 --

MR. GRACE: Bonds, B-o-n-d-s Road in Centreville, Maryland.

BY MR. PREVAS:

Q. Okay, and you own that house?

A. Yes.

Q. With whom, if anybody else?

A. My wife and four children.

Q. Okay, and what, if any, contact do you have with 2637 Hudson Street, Baltimore, Maryland 21224?

A. I stay there on weekends when I'm at the bar late. And I've been doing that since roughly I started the bar.

Q. Now, in the hearing back in November, you indicated that your address was what?

A. 108 Bonds Road in Centreville, Maryland.

Q. Okay. And you further indicated that you previously resided where?

A. In Canton.

Q. At the Hudson Street address?

A. Yes.

Q. Okay. You don't own the house in Hudson Street?

A. No.

Q. Who owns that house?

A. I believe it's a corporation. I'm not sure of the exact name.

Q. But who's the person that --

A. My landlord.

Q. Your landlord at 2000 Eastern Avenue?

A. Yes.

Q. Okay, so you have an apartment at Hudson Street?

A. I rent a room, yes.

Q. Okay, you don't own it?

A. No.

Q. You're not registered to vote there?

A. No.

Q. Okay. When you filled out Hudson Street --

A. Yes.

Q. -- you -- why did you put Hudson Street?

A. I thought that I was establishing residence in Baltimore City when I was doing that. I thought by having an apartment to rent that that was a resident. I didn't realize I needed to register to vote, or I would have.

Q. Okay, now, you further testified in the hearing back in November that your Baltimore City qualifying resident, Mr. Gunshol --

A. Yes.

Q. -- that he lives in Washington D.C., I believe the transcript indicated?

A. Millersville. Anne Arundel County.

Q. He lives in Millersville now?

A. Yes.

Q. Where does he work?

A. Washington D.C.

Q. I'm sorry. My --

A. Yes.

Q. -- misstatement. Okay, and you knew Mr. Gunshol from where?

A. From working in Washington D.C.

Q. And you worked for the --

A. Washington D.C. Fire Department.

Q. Okay, now, Mr. Gunshol previously resided where?

A. I'm not sure of the exact address. In Federal Hill; Clement Street, I believe was --

Q. Okay. When did you become aware that Mr. Gunshol no longer resided in Federal Hill, or otherwise owned that house?

A. I'm not entirely sure. It was definitely after he moved.

Q. Okay.

A. I couldn't give you an exact date. I want to say it was in the summer time, so possibly June of 2014.

Q. Okay, now, when these issues were brought to your attention, did you contact me?

A. Yes.

Q. And did you revise your application?

A. Yes, as soon --

CHAIRMAN WARD: When these issues -- we're talking about --

MR. PREVAS: Residency. Yes, sir.

MR. GRACE: Yes. As soon as I found out that I had not established residency, that Paul was not, you know, a city resident, I contacted Mr. Prevas immediately, and did what I could to rectify the situation.

BY MR. PREVAS:

Q. Okay, and did you submit a revised application?

A. Yes.

Q. And have you provided the Board with someone other than Mr. Gunshol as a Baltimore City resident?

A. Yes.

Q. And has that person been fingerprinted?

A. Yes.

Q. Okay, so you agree that Mr. Gunshol would no longer qualify?

A. Yes, absolutely. As --

Q. And --

A. -- soon as I realized that, I tried to rectify it.

Q. And if the Board sees fit to renew this license, he will be removed.

A. Yes.

Q. And the new person, Hailey Scott Taggert (ph.), 5204 Plainfield Avenue, Baltimore 21206, would be the other city resident licensee?

A. Yes.

MR. PREVAS: Okay. I have no further questions on that issue.

CROSS-EXAMINATION

BY MS. WITT:

Q. Okay. So you testified just now that you learned that Mr. Gunshol moved from Baltimore City in the summertime of 2014.

A. Roughly.

Q. Okay, because just to refresh your recollection with two pages of the transcript from the November 20th hearing -- I'm just going to show it to you, and then you can see what you testified. So it's just at the bottom of page 9 of what I've handed the Commissioners.

This is from your testimony on the 20th of November. So what did you tell the Commissioners in November of 2014 about where Mr. Gunshol lived?

A. I don't remember his address exactly.

Q. And you further clarified --

A. Federal Hill somewhere.

MS. WITT: Okay. Okay. I guess that's all the questions that I had about Mr. Grace's testimony about the addresses. I can address the revised application that was submitted late in the day yesterday.

CHAIRMAN WARD: We'll have argument in a second.

MS. WITT: Okay.

CHAIRMAN WARD: All right. I want to make sure that the questions are taken care of.

MS. WITT: Okay.

CHAIRMAN WARD: Any re-direct?

MR. PREVAS: No, Your Honor.

CHAIRMAN WARD: Commissioner, questions?

EXAMINATION

BY COMMISSIONER PETERSEN-MOORE:

Q. Who is Hailey Scott Taggert?

A. She's been an employee and a good friend.

Q. Employee of who or what?

A. She's a dancer.

Q. So who is she employed by?

A. Well, she's employed by herself, but she's danced for me for two years.

Q. For the Big Easy?

A. They're independent contractors.

Q. So she dances at the Big Easy?

A. And other places, yes.

Q. And so Hailey Scott Taggert is a 23 year old dancer --

A. Um-hum.

Q. -- from the Big Easy. And that is the person who gives you the city residency.

A. Yes.

Q. Correct? Does she have an ownership interest in the business?

A. She will.

Q. Does she today?

A. Not as of right now, no.

Q. Okay. And she does -- did -- not as of today, and certainly not as of the time of the application? Because the application predates today, so she didn't have it -- lose it.

A. Right.

Q. She never had it. She doesn't have it. She has no ownership interest in the business as of today, correct?

A. Yes, that is correct.

Q. Okay. And how long has she been dancing at the Big Easy?

A. Two years.

COMMISSIONER PETERSEN-MOORE: Two years. Okay. All right. Thank you.

CHAIRMAN WARD: Any other questions? Done?

All right. Argument.

MS. WITT: Okay. Section 10-503 talks about transfers of interest between licensees. And so it says in Section 10-503(a)(2), any holder of a license may transfer or sell or assign the license, but only if an application has been submitted, and the new assignee is approved by the Board.

And Ms. Taggert, I believe her name is, has not submitted an application to transfer ownership of the license, as far as I am aware. And I'm certain that she has not been approved by the Board under 10-503, which I mean, we have hearings all the time about transferring ownership from one licensee to another.

And I am unclear as to how this could happen during a renewal application as opposed to a transfer application. I don't think it's legal under --

CHAIRMAN WARD: So you're saying --

MS. WITT: -- Article 2B.

CHAIRMAN WARD: -- the application was not submitted.

MS. WITT: Yes, that's -- as far I know, sir.

CHAIRMAN WARD: And because -- and if it was submitted, it would have to be approved as to form --

MS. WITT: Yes, sir.

CHAIRMAN WARD: -- by the staff. And then submitted for a hearing.

MS. WITT: yes, sir.

CHAIRMAN WARD: And you said there was no hearing.

MS. WITT: No, there has not been --

CHAIRMAN WARD: That's your position?

MS. WITT: -- a hearing, as far as I know.

CHAIRMAN WARD: All right. Anything else on your arguments?

MS. WITT: When it comes -- no, not as far as the fact that the licensees are not qualified to hold their license. They haven't been qualified since Mr. Gunshol sold his property in 2013.

CHAIRMAN WARD: So there's no resident in the City of Baltimore.

MS. WITT: Yes, and they've made material misstatements both in the 2014 renewal and the 2015

renewal. That, I think, shed a lot of light on their character, on whether their license should be renewed.

CHAIRMAN WARD: All right. Argument?

MR. PREVAS: With regard to the application issue, on the new -- the 2015 renewal form, the second to last question, or actually the last question on the first page says, are there any majority stockholder or corporate officer changes from last year. It has been Board policy, although I don't know --

CHAIRMAN WARD: This is a form that we have in our record?

MR. PREVAS: Yes, Your Honor.

CHAIRMAN WARD: Um-hum.

MR. PREVAS: It has been Board policy that if it's not a majority stockholder change, that the changes can be made through the renewal process. And I think it specifically says in 10-301, that changes in officers or licensees are allowed to be made on the transfer application. So that's what --

CHAIRMAN WARD: But didn't you originally say there was an amended transfer?

MR. PREVAS: Renewal.

CHAIRMAN WARD: Renewal?

MR. PREVAS: Renewal, Your Honor.

CHAIRMAN WARD: But you're not talking about the one for the coming year?

MR. PREVAS: For the 2015. Yes.

CHAIRMAN WARD: Yes. But that's the only one that exists, that you're alleging exists.

MR. PREVAS: Yes, Your Honor.

CHAIRMAN WARD: All right.

MR. PREVAS: I just wanted to point out --

CHAIRMAN WARD: And what does it say, this renewal application for 2015?

MR. PREVAS: As modified, Brian Grace -- I'm sorry, I'm looking at the wrong one. Brian M. Grace, 108 Bonds Road, Centreville, Maryland. Hailey Scott Taggert is the proposed licensee, 5204 Plainfield Avenue, Baltimore 21206. Mr. Gunshol is not being requested to be a licensee for the upcoming year.

CHAIRMAN WARD: This is the one before the Board right now.

MR. PREVAS: Yes, sir.

MS. WITT: I mean, my issue with that is it says, are there any majority stockholder or corporate officer changes from last year. So the corporate officers who were in place last year are Mr. Grace, by himself. And so it says, no.

So Ms. Taggert is not an officer of the corporation because there have not been any major -- there have not been any corporate officer changes, and therefore, she's not eligible to be a licensee currently. She doesn't have an interest in the business. She's not an officer. That is what the law says, that the license is issued to officers of a corporation. And she's not an officer, as they just informed the Board.

CHAIRMAN WARD: What's your answer to that?

MR. PREVAS: The -- what Mr. Grace testified to is she's not yet a stockholder, but she's -- if approved, would become a minority stockholder. So she wouldn't be an officer, but she would be a stockholder.

CHAIRMAN WARD: Well, he testified -- just finished testifying that she's not a stockholder as of

now.

MR. PREVAS: Right.

MR. GRACE: If I could clarify, I'd promised her 25 percent of the company. And that was all a verbal -- if she would do it for me, which she did. I haven't had a chance to do any of the paperwork or anything to that effect. So a verbal agreement has been reached with her. I have no filed any sort of official paperwork. I didn't even know where to begin. I just was trying to get this resolved.

MR. PREVAS: And that's conditionally upon the Board --

MR. GRACE: Yes.

MR. PREVAS: Approving her as a licensee?

MR. GRACE: Yes.

COMMISSIONER PETERSEN-MOORE: But don't we just have -- we have to have an application, right?

MR. PREVAS: The renewal application.

COMMISSIONER PETERSEN-MOORE: Don't we? No, but don't we have to have an application to transfer an interest?

MR. PREVAS: A majority interest.

COMMISSIONER PETERSEN-MOORE: Any interest to remove somebody from the license and then to add someone from the license. And the only question is the qualifications of the new licensee, the person that's being added to the license, that's our right to do that. And we haven't had an application asking us to assess the credentials, qualifications, bonafides of Ms. Taggert.

MR. PREVAS: Can I --

COMMISSIONER PETERSEN-MOORE: How do we?

MR. PREVAS: We'd be more than happy to do that.

COMMISSIONER PETERSEN-MOORE: But you --

MR. PREVAS: I probably did --

COMMISSIONER PETERSEN-MOORE: But it hasn't happened. And no disrespect, but going from no interest to 25 percent in that quick of a flash doesn't --

MR. GRACE: I don't know.

COMMISSIONER PETERSEN-MOORE: I've said it before, when it walks like a duck, and it talks like a duck, and it quacks like a duck, it's a duck. And that

is -- that's challenging testimony from you.

MR. GRACE: I don't understand.

COMMISSIONER PETERSEN-MOORE: In terms of belief, believability.

MR. GRACE: Oh, okay.

MS. WITT: I guess I would just -- to bring us back to 9-101, it says that the license is given to officers and not necessarily to stockholders. I don't see in the law where it says the license is issued to a stockholder, so unless Ms. Taggert is made an officer, she cannot hold a liquor license for this establishment.

COMMISSIONER PETERSEN-MOORE: That's true.

CHAIRMAN WARD: That's what it said?

COMMISSIONER PETERSEN-MOORE: It's two officers.

CHAIRMAN WARD: Read it, please.

COMMISSIONER PETERSEN-MOORE: So "If the application is made for a corporation or a club, whether incorporated or unincorporated, the license shall be applied for and be issued to three of the officers of that corporation or club, as individuals, for the use of

the corporation or club."

So it only speaks to officers, not stockholders or shareholders. They must be officers. That's Maryland Law.

MS. WITT: And if there --

COMMISSIONER PETERSEN-MOORE: Article 2B Section 9-101(b). Not our laws. That's the State of Maryland.

MR. PREVAS: B?

COMMISSIONER PETERSEN-MOORE: If you look at page 188, Mr. Prevas, at the top.

MR. PREVAS: I don't --

MS. WITT: Oh, he's using --

MR. PREVAS: Yeah, I have a different volume.

COMMISSIONER PETERSEN-MOORE: Oh, okay.

MS. WITT: -- a different copy.

MR. PREVAS: I have official code B.

MS. WITT: I'll just point out also, that we -- even if we did have an application before us, we don't have any reason to believe that Ms. Taggert is a taxpayer of the city. She may be a resident. She doesn't own

property that I could find in Baltimore City. And she hasn't paid personal property tax in her own name in Baltimore City. So there's no other information in the application about whether or not she's a taxpayer in Baltimore City.

MR. GRACE: She is registered to vote.

MS. WITT: She is registered to vote. That's true.

COMMISSIONER PETERSEN-MOORE: Is she here today?

MR. GRACE: No.

COMMISSIONER PETERSEN-MOORE: She's not here. Okay.

MR. PREVAS: Commissioner Moore, your point is well taken that if so duly qualified, that Ms. Taggert should be not only a stockholder, but granted an office. And we would --

COMMISSIONER PETERSEN-MOORE: She -- it doesn't matter whether she holds stock or not, so you could save your 25 percent.

MR. PREVAS: Right.

COMMISSIONER PETERSEN-MOORE: You don't have to give her anything, but she has to be an officer.

MR. PREVAS: Yeah. The prior years' forms had a listing of all the stockholders and their percentages and all of the officers. She revised form does not have that on here. And that probably would've been --

COMMISSIONER PETERSEN-MOORE: Okay. That's understandable.

MR. PREVAS: -- helpful when filling it out.

COMMISSIONER PETERSEN-MOORE: The --

MR. PREVAS: Thank you.

COMMISSIONER PETERSEN-MOORE: Yeah.

MS. WITT: I would -- I agree with that, and just point out that in 2014, the 2014 renewal has Mr. Grace as the sole officer of the corporation, which means that Mr. Gunshol was apparently removed sometime between April of 2013, when the license was transferred, and March of 2014, when the 2014 renewal application was filed. So even in 2014, the renewal application was insufficient. And in 2015, it is also insufficient.

CHAIRMAN WARD: Okay, anything else?

MS. WITT: No, that's the end of my first argument.

CHAIRMAN WARD: All right. Now, I'm going to hold that decision in abeyance, and we're going to go on to your next item.

MS. WITT: Okay. So continuing along in my packet, the next section is a section of letters asking the Board to deny the renewal because it's a detriment to the public health, safety, and welfare of the community. And there are letters from the Fells Prospect Community Association, the Fells Point Community Organization, Butchers Hill Association, Patterson Park Neighborhood Association. These are all neighboring community associations.

The only community association that directly surrounds the bar is Fells Prospect, but these are all, you know, as you know very well, Baltimore neighborhoods are very small, and things happen -- things that happen in one neighborhood affect others.

So -- sorry, Patterson Park, Butchers Hill, Baltimore Highlands Neighborhood Association, and the

Cristo Rey Jesuit High School, those are all the institutions in the area that submitted letters asking the Board to deny the renewal.

There's also a letter from City Councilman, Jim Kraft; City Council President, Jack Young; and this letter came in just now. It's from the 46th legislative delegation. So including the three delegates and the state senator from the 46th District, asking to deny the renewal. And then, there are three letters from individual neighbors also, all asking to deny the renewal. So just wanted to submit those.

CHAIRMAN WARD: All right. You gave us that, the packet.

MS. WITT: Yes, you have that in the packet.

CHAIRMAN WARD: All right. So what do they say?

MS. WITT: Well, they give various complaints as to the operation of the establishment. There's a lot of complaints about noise, parking.

CHAIRMAN WARD: Now, what complaints have occurred since the last hearing?

MS. WITT: Since the last hearing.

CHAIRMAN WARD: Yes.

MS. WITT: So that actually --

CHAIRMAN WARD: Because we were here for the last hearing.

MS. WITT: Um-hum.

CHAIRMAN WARD: And we found them responsible. And there was punishment.

MS. WITT: Indeed.

CHAIRMAN WARD: And so now I'm interested as to what has occurred to see whether or not, for example, there's been an improvement --

MS. WITT: Right.

CHAIRMAN WARD: -- in the operation of the facility.

MS. WITT: Um-hum.

CHAIRMAN WARD: Or whether the same complaints are still existent.

MS. WITT: I think most of the complaints were from before the suspension because of some other evidence that I will bring in to explain why it hasn't been open

very much as of late. I guess I can skip to that. So we already --

CHAIRMAN WARD: I think the Board can take knowledge of the fact that what we heard last time, of course we heard. But what you have to do is tell us what's changed, if anything.

MS. WITT: Yes, sir. So what I wanted to bring up, this is the very final packet, which is -- has to do with Richie Mariano (ph.), who was here in November, as the manager. He testified about the fight, the alleged fight that had happened, as well as two bartenders.

And so what happened after the November 20th hearing, was four days after that, Mr. Mariano was arrested with two large packages of cocaine in his car that he had driven from New York to Baltimore.

And so some of the reason that -- and there's more information in this packet that I'm happy to go through more specifically, but some of the reasons that there haven't been noise complaints recently is because of that arrest and subsequent raid of the bar. It hasn't been open very much. I'm just proffering that.

CHAIRMAN WARD: Well, can you tell us exactly -- give us --

MS. WITT: Sure. So here is the federal criminal complaint against Mr. Mariano. It begins on page 1, and this is an affidavit of Mr. Fisher (ph.), who is an agent of the ATF, and talks about the investigation that he did into Mr. Mariano.

The ATF -- the -- so I'm looking at page 2 of this packet, under summary of the investigation, the ATF, the police department, and the Department of Homeland Security have been investigated Mr. Mariano. They had spoken with confidential sources, they had done wiretaps on his phone and some other phones, and figured out that he was trafficking cocaine into Baltimore City.

And so November 24th, which again, is four days after the hearing that we had here on November 20th, he was arrested in Maryland traveling in a car back to Baltimore City, and two softball-sized bundles --

CHAIRMAN WARD: And what was the date of that arrest?

MS. WITT: This is November 24th at 5:40 a.m.

There was a warrant issued for his arrest on November 21st, which is the day after our hearing here. So on November -- I'm looking at page 3, and there's some highlighted parts, which are my highlighting. But he was stopped on the road and they found two softball-sized bundles of hard and compressed white powdery substance in a clear white plastic -- sorry, a clear plastic bag wrapped in a towel and disguised in some way. They had a K-9 unit that identified it as cocaine.

CHAIRMAN WARD: All right. Now, he's the manager of the bar.

MS. WITT: He was the manager of the bar.

CHAIRMAN WARD: But the drugs were not found on him in the bar?

MS. WITT: No.

CHAIRMAN WARD: Or any connection with the bar?

MS. WITT: Not that we know of right now.

CHAIRMAN WARD: Well, there's no evidence before us.

MS. WITT: Right. So he was arrested right on the highway. And then, subsequent to that, I believe on

the same day or in -- within a couple days, the bar was raided by ATF agents, and we don't know what if anything they found at the bar.

CHAIRMAN WARD: What date was that?

MS. WITT: I am not 100 percent certain. I think it was the same day as the arrest, or it could've been the next day. It was somewhere within one or two days of Mr. Mariano's arrest that the bar was raided by --

CHAIRMAN WARD: And you have no result of that?

MS. WITT: No, they're still -- the ATF is still putting together its investigation. So they haven't really given a lot of information.

CHAIRMAN WARD: All right. Go ahead.

MS. WITT: Okay, so right. So this arrest was not --

CHAIRMAN WARD: And then, you say the bar was not open as much. What -- you going to have to give us facts.

MS. WITT: Okay, I can call up two people to testify about their experience with the bar. So I'm

going to call up first Marianne Ferguson. Sorry, one more thing I just wanted to point out about the criminal complaint, is that it says that they found three people in the car, and the three people were Mr. Mariano, Megan Fisher (ph.), and Christine Hamilton. And those three people all testified no November 20th. The two women were the bartenders who testified about the fight. So they were in the car when the drugs were found in the car. Just wanted to make that clear. Okay.

COMMISSIONER PETERSEN-MOORE: Okay.

MS. WITT: Could we borrow a microphone for Marianne?

MS. BAILEY-HEDGEPETH: Sure, sure. That's fine.

COMMISSIONER PETERSEN-MOORE: Right here.

MS. WITT: Okay. Marianne, could you state your name for the record, please?

MS. FURGISON: Um-hum. Marianne Ferguson.

MS. WITT: And could you spell your last name?

COMMISSIONER PETERSEN-MOORE: You're going to need to speak right at it.

MS. FURGISON: It's F-u-r-g-i-s-o-n.

COMMISSIONER PETERSEN-MOORE: Better?

COURT REPORTER: I can't hear her.

MS. WITT: Okay.

COURT REPORTER: She needs to speak up.

MS. WITT: Can you speak up --

COMMISSIONER PETERSEN-MOORE: Yeah, speak up.

MS. WITT: -- just a little bit?

(Whereupon,

MARIANNE FURGISON

was called as a witness, and after having been first duly sworn, was examined and testified as follows:)

EXAMINATION

BY MS. WITT:

Q. So where do you live in relations to the Big Easy?

A. I live a half block away from the Big Easy for the last 20 years.

Q. And can you describe to the Commissioner some of the specific complaints that you've had about the Big Easy since April 2013, when the licensees took it over?

A. Okay, so in the evenings --

CHAIRMAN WARD: Let me ask you, we had a hearing --

MS. FURGISON: Right.

MS. WITT: Okay.

CHAIRMAN WARD: -- on all these complaints.

MS. FURGISON: Right.

CHAIRMAN WARD: Why are we going back before the hearing?

MS. WITT: Well, we can talk about, I guess what's happened since the hearing, but we thought that under your administrative order that anything that's happened since --

CHAIRMAN WARD: That's true. Anything that's happened.

MS. WITT: -- the licensees took over.

CHAIRMAN WARD: But speaking for myself, it seems to me if a person comes in, gets punished, and warned, they come back, you know, this and that will happen, then we are going to have to pay particular attention to what has happened since that time.

MS. WITT: Okay.

CHAIRMAN WARD: Plus the fact that I think we can be charged with the knowledge of what we heard before.

MS. WITT: Okay. All right.

CHAIRMAN WARD: Plus the fact you've had a hearing since, and one of those charges was reversed, wasn't it?

MR. PREVAS: Yes, sir.

CHAIRMAN WARD: Yeah. Did you know about that?

MS. WITT: Yes.

CHAIRMAN WARD: Okay.

MS. WITT: Okay, so Ms. Furgison, could you talk about any issues and complaints that you've had specifically since the suspension occurred, which was November 20th.

MS. FURGISON: Well, they haven't been opened since the suspension. There were two months --

EXAMINATION

BY CHAIRMAN WARD:

Q. Haven't been open at all?

A. A few weekends the lights were on. I assumed they were open on those days. But there was one occasion where there were, again people standing outside loitering. This has been a chronic problem, where they're standing outside, talking loudly, carrying on. They're not just there for a few minutes to smoke a cigarette. They're out there for extended periods of time. And I could hear it at my house a half block away.

Q. Now, how many feet away would you say your house is?

A. Probably about --

Q. How about a football field, are you that far?

A. Yeah, probably about --

Q. Football field?

A. -- one and a half football fields.

Q. One and a half. Okay.

A. Um-hum. About 150 --

CHAIRMAN WARD: And you could hear --

MS. WITT: You guys --

MS. FURGISON: Huh? Me?

COMMISSIONER JONES: Excuse me?

MS. FURGISON: Oh, they're saying 70, so --

UNIDENTIFIED SPEAKER: I measured it from --

CHAIRMAN WARD: Well, wait -- we got to -- you got to be the one to testify.

MS. FURGISON: Okay, so --

COMMISSIONER PETERSEN-MOORE: It's less than a football field -- a half.

CHAIRMAN WARD: Less than a football field.

MS. FURGISON: Okay, yes.

CHAIRMAN WARD: Okay.

COMMISSIONER PETERSEN-MOORE: Yeah.

MS. WITT: If this --

CHAIRMAN WARD: Now, what did you hear?

COMMISSIONER PETERSEN-MOORE: It's more like 70 yards.

MS. FURGISON: 70 yards, okay.

BY CHAIRMAN WARD:

Q. Now, what did you hear with the less than -- what did --

A. Well, I can hear them talking out there. And I looked outside, and can see them outside at the

Washington Street side of the Big Easy.

Q. People standing outside?

A. Standing outside. Yes.

MS. WITT: I did submit a map to the Board. It's in your packet, about -- of all the people who signed the petition. And Ms. Furgison's name is -- so maybe she can point out to you where she lives on the map.

COMMISSIONER PETERSEN-MOORE: Okay.

CHAIRMAN WARD: All right. She can --

MS. FURGISON: So --

CHAIRMAN WARD: -- put an F there for Furgison.

MS. FURGISON: Yep. And actually, on this corner right here.

MS. WITT: Okay.

CHAIRMAN WARD: All right. I think we heard enough about where she lives, frankly.

MS. WITT: Okay.

CHAIRMAN WARD: Let's go on.

MS. WITT: Okay, so can you testify to anything that's happened since the raid?

MS. FURGISON: Like I said, it has not been open --

BY CHAIRMAN WARD:

Q. Well, you said a couple weekends.

A. Yeah, just a couple weekends that I --

Q. And you could hear people stand outside and talking.

A. Yes.

Q. All right. What else?

A. Disturbing my peace. I just want to say that this is -- what has happened, we come to the Liquor Board, this is just half of the stuff I've gathered since I've been coming to the Liquor Board about this bar, this problem bar since 2006. Part of that, we were in the community trying to discover ways we could talk with the owners, and have agreement on how they can be --

Q. All right. Let me ask you, the current ownership goes back to where? '10?

A. 2003 [sic].

MR. PREVAS: 2013.

MR. GRACE: '13.

CHAIRMAN WARD: '13.

MR. PREVAS: May --

CHAIRMAN WARD: So you see --

COURT REPORTER: One at a time.

CHAIRMAN WARD: -- we're going --

MS. FURGISON: Right, but --

CHAIRMAN WARD: Can't go back before then.

MS. FURGISON: Sir, what happens is --

CHAIRMAN WARD: Here's the problem that -- Ms. Furgison, that's obvious to me, and it has nothing to do with my decision. But to have this type of bar under this type of code in this location, whoever -- whatever Liquor Board way back made this decision, I don't think they realized that downtown Baltimore is going to not become -- is going to become a place to live for people like you and for many other people, and anybody who wants to live.

In the old days, it was all warehouses and empty piers and broken down stuff and so forth. I know very well, because I know the city. And what we've got now is we've got a mistake from an old Liquor Board that

put this type of use that we're bound by. And we can't close this bar because we don't think they should have that type of use. You understand that?

MS. FURGISON: Sure, I understand that.

CHAIRMAN WARD: This Liquor Board can only close this bar if they don't their -- obey the law and operate properly. So we go back to when he gets the new ownership.

MS. FURGISON: Right.

CHAIRMAN WARD: And we've already heard this -- the disciplines that we imposed at the previous hearing. And that's why, I think, as far as myself is concerned, I'm more interested in what has happened since that time to see whether or not that he's learned any lesson, whether the licensees have learned a lesson.

MS. FURGISON: Um-hum. Well --

CHAIRMAN WARD: And --

MS. FURGISON: What I just wanted to say was, the licensees come to the Liquor Board; we're all here, you know, explaining to them that this has been a chronic problem in the past. So we see new leadership, we think

-- or ownership, we think, okay, you know, maybe they'll turn it around and make it -- be good neighbors in the neighborhood. And that doesn't happen because they end up hiring shadow owners and then we have problems, the bar goes to pot, no pun intended, but --

MS. WITT: So --

CHAIRMAN WARD: Yes.

MS. WITT: Ms. Furgison, do you believe that it's necessary for the public health, safety, and welfare of the community to deny the renewal?

MS. FURGISON: I do. I feel that it has not gotten any better. And I feel that it needs to be out of this neighborhood.

MS. WITT: Thank you.

MS. FURGISON: Um-hum.

CHAIRMAN WARD: All right. Questions, if any?

CROSS-EXAMINATION

BY MR. PREVAS:

Q. Ms. Furgison, you indicated that you saw people loitering on the corner of Eastern and Washington in front of the premises.

A. Right. Alongside the premises on the Washington Street side.

Q. Okay, did you see them come out of the premises?

A. No, I did not seem them coming out of the premises, but they were against the side wall, which is --

Q. On Washington Street?

A. Yes. On the Washington Street side, the 400 Block.

MR. PREVAS: Okay, thank you. I have no further questions.

CHAIRMAN WARD: All right. Commissioner, questions, if any?

COMMISSIONER PETERSEN-MOORE: I have a question, not for this witness, but more to the -- about the license itself. So I can wait.

CHAIRMAN WARD: All right. Next witness.

MS. WITT: Okay, just one more.

(Whereupon,

ROBERT BURCH

was called as a witness, and after having been first duly sworn, was examined and testified as follows:)

EXAMINATION

BY MS. WITT:

Q. Robert Burch, can you state your name, for the record, and spell your last name please?

A. My name is Robert Burch, B-u-r-c-h.

Q. And do you own property adjoining the Big Easy?

A. I do, at 2002 Eastern Avenue.

Q. And can you describe -- you testified in November about some of the complaints that you've had. Can you talk about any complaints that you've received about the Big Easy since the raid and suspension?

A. I'd like to reference -- the answer to your question really lies in a letter that my three tenants, living in the property, prepared and submitted to Ms. Hedgepeth. Very specifically, in the last paragraph, it reads -- and have the Commissioners seen the letter? I don't want to waste your time. May I read the --

CHAIRMAN WARD: I haven't seen it. Go ahead.

MS. BAILEY-HEDGEPETH: No, we haven't --

CHAIRMAN WARD: I'm not sure about the --

MS. BAILEY-HEDGEPETH: No.

COMMISSIONER PETERSEN-MOORE: No.

MS. BURCH: No, just two, three sentences. "In closing, we enjoyed a bit of a reprieve from the Big Easy from the time the Liquor Board suspended its liquor license in November of last year to late January 2015. However, as far as we're concerned, the situation has not changed.

Getting restful sleep is difficult, and our concerns about fights and arrests of patrons with firearms clearly do not sit well with us. Lastly, most important, as we have learned, the federal government continues to investigate the Big Easy, making us ask ourselves, if it's time to move on."

CHAIRMAN WARD: All right. Questions, sir?

MR. PREVAS: Thank you.

CROSS-EXAMINATION

BY MR. PREVAS:

Q. Mr. Burch, you don't live there. You're the landlord as you indicated, correct?

A. That is correct.

Q. Okay. And the -- your tenants are not here today?

A. That is correct.

Q. My reading of the letter, they do not address any specifics about anything that occurred since the closure. Is that correct?

A. The -- that I'm aware of, no. It only -- they only indicate that -- as it says, as far as we concerned, the situation has not changed, and getting restful sleep is difficult.

Q. Okay. And the tenants do have the cell phone number of Mr. Grace, and they know how to contact him?

A. I can't deny or confirm that. I don't know.

Q. Thank you. One final question. At the prior hearing, your property is on 2002 Eastern Avenue, correct?

A. That is correct.

Q. And the premises -- the licensed premises is 2000 Eastern Avenue.

A. That is correct.

Q. And when I went on the city website, it indicates that you're a B-2 zone, but you had testified that you had that changed to residential?

A. Zoning, I believe zoning changed its -- it's R -- I don't know what the number is.

Q. Okay, but you actually had a zoning proceeding to change that zoning from B-2 to R-8, because the map still says B-2. Just curious.

A. I believe that zoning changed it to R. I believe.

MR. PREVAS: Okay. Thank you. I have no further questions.

MR. BURCH: Okay.

CHAIRMAN WARD: Your answer is that you didn't do it, but zoning did it.

MR. BURCH: That's correct, Your Honor.

CHAIRMAN WARD: Did you understand that?

MR. PREVAS: Understood.

CHAIRMAN WARD: Okay, no other questions?

MR. PREVAS: No other questions.

CHAIRMAN WARD: Commissioner, questions, if

any?

COMMISSIONER PETERSEN-MOORE: No questions.

CHAIRMAN WARD: All right. Any other witnesses?

MS. WITT: No other witnesses and no other --

CHAIRMAN WARD: You're excused, sir.

MR. BURCH: Thank you.

MS. WITT: -- testimony. I think all my evidence has been submitted.

CHAIRMAN WARD: Okay. Final roundup, and then argument. I give you two minutes.

COMMISSIONER PETERSEN-MOORE: Do you want to --

MS. WITT: Or does Mr. Prevas --

MR. PREVAS: Would you like to hear from Mr. Grace, Your Honor?

CHAIRMAN WARD: Oh, I'm sorry. Yeah. I'm jumping ahead. Absolutely. Your case.

MR. PREVAS: Okay.

COMMISSIONER PETERSEN-MOORE: Are there --

MR. PREVAS: I'm sorry.

COMMISSIONER PETERSEN-MOORE: -- the officers

here?

MS. WITT: No.

COMMISSIONER PETERSEN-MOORE: No.

CHAIRMAN WARD: Go on.

MR. PREVAS: Thank you. Call Mr. Brian Grace.

RE-DIRECT EXAMINATION OF

BRIAN GRACE

BY MR. PREVAS:

Q. Mr. Grace, you've been sworn?

A. Yes, sir.

Q. Okay. Now, you are the owner of the licensed premises?

A. Yes.

Q. Of this Fireball Entertainment?

A. Yes.

Q. All right. Now, when we had the hearing back in November --

A. Yes.

Q. -- and you heard the testimony that everyone else here heard --

A. Yes.

Q. -- what did you do?

A. I fired Richie Mariano before we left the building.

Q. And anyone else?

A. Anybody involved with him.

Q. Okay, now, there was a closure ordered by this Board.

A. Yes.

Q. Did you request a stay of that closure?

A. I know we filed an appeal, but that was all we did.

Q. But you remained closed?

A. Yes.

Q. And you fired Mr. Mariano?

A. Yes.

Q. Okay, now, that was on a Thursday, that hearing?

A. Yes.

Q. What occurred the weekend following?

A. I don't know.

Q. With regard to the premises.

A. It was shut down that night.

Q. I'm talking with regard to any criminal investigations.

A. The ATF apparently raided the bar.

Q. And that was on Saturday into Sunday of that weekend?

A. Yes.

Q. Okay. And they came in with a search warrant?

A. I never saw a copy of a search warrant.

Q. But you're aware of that.

A. I'm assuming that they did, or I was told.

Q. Okay. What, if anything, did they confiscate?

A. The camera system.

Q. And do they still have that camera system?

A. Yes.

Q. Okay. Now, you honored the closure?

A. Yes.

Q. You didn't open for any purpose during that closing period?

A. No.

Q. And did you reopen?

A. Yes, as soon as our timeframe was up.

Q. And who was there day to day during that reopening?

A. Me. I'm basically the only person there.

Q. And when do you open?

A. Fridays and Saturdays.

Q. Only Fridays and Saturdays?

A. Yes.

Q. Do you have dancers?

A. Yes.

Q. Okay, but you're the sole person?

A. Yes.

Q. No managers?

A. No, I'm the bartender, the door man, manager, everything.

Q. Okay, have you taken heed of the Board's --

A. Yes, that was --

Q. -- warnings?

A. -- a very sobering situation.

Q. Okay. You have a lot of money invested in this?

A. Yes. Hundreds of thousands.

Q. And you do not want risk that?

A. No, I do not want to lose that.

Q. Okay. So with regard to consistency of opening, you are open every Friday and Saturday?

A. The nights that I was working in Washington D.C., I was not. But other than that, yes.

Q. Okay. You're not allowing anyone else to open for you?

A. No. I'd rather be closed than face what I faced before.

Q. You are a Washington D.C. fireman?

A. Yes.

CHAIRMAN WARD: Washington D.C. what?

MR. PREVAS: Fireman.

MR. GRACE: Yes.

BY MR. PREVAS:

Q. And that's your current employment?

A. Yes.

Q. And what did you do before that?

A. I was a police officer.

Q. Where were you a police officer?

A. Ocean City, Maryland.

Q. And how long did you do that?

A. Six months.

Q. Six months, okay.

A. Six months and then I was hired by the fire department, so I left.

Q. Okay, do you have any involvement with Mr. Mariano whatsoever?

A. None whatsoever.

Q. Do you condone any of his activities?

A. Absolutely not. I wasn't even aware that he had been arrested until she just read that. I didn't know that.

Q. Okay, but you --

A. I have not --

Q. -- severed --

A. -- even spoke with him.

Q. You severed all contacts with him --

A. Absolutely.

Q. -- as you left the building in November?

A. Yes.

Q. You know Mr. Burch's tenants at 2002 Eastern Avenue?

A. I know as of say, last June, who was there. I don't know who is -- if they're still the same people, then yes. I have not seen or heard from them.

Q. Okay. You had provided them with your cell phone?

A. Yes.

Q. And they used to patronize the premises when you were a day-to-day operator?

A. Yes.

Q. You haven't seen them since the closure?

A. No.

Q. Have you received any phone calls from them, with regard to noise or loitering complaints, or any other complaints?

A. No.

Q. Okay. If there was a complaint, would you react?

A. Absolutely.

MR. PREVAS: Thank you. No further questions, sir.

CHAIRMAN WARD: You're talking about the tenants?

MR. PREVAS: The tenants. Yes, sir.

CHAIRMAN WARD: All right. Cross?

CROSS-EXAMINATION

BY MS. WITT:

Q. Did you do a background check on Mr. Mariano when you hired him as manager?

A. Regrettably, no.

Q. You did not?

A. No.

Q. So you didn't know about his prior drug and gun charges?

A. I asked him point blank if he was a felon and he told me no, he had a couple minor drug mishaps. But absolutely not.

Q. Okay.

A. If I had known that, I would have never hired him.

Q. Okay. Did you ever inform the Liquor Board that Mr. Mariano was your manager?

CHAIRMAN WARD: Was what?

MS. WITT: Was the manager.

MR. GRACE: No.

BY MS. WITT:

Q. Okay. You may have already answered this question from Mr. Prevas, but do you know if the ATF agents found any drugs or guns or anything illegal in the -- on your property when they raided it?

A. Not to my knowledge, no.

Q. Okay. So you said that the November 20th hearing was sobering. Have you been to any community association meetings to talk about ways that you could improve your business?

A. I have reached out to the community association. That was not very successful. And I reached out to Mr. Burch as well. And I told him that I wanted to be a good neighbor, and I'd keep the sound down, and I didn't want to cause any problems for him.

Q. You said you fired Mr. Mariano before you left

the building on November 20th?

A. Yes.

Q. Oh, okay. But during the hearing, you said that you wanted Mr. Mariano to continue running the bar in a responsible way, did you not?

A. No, I don't recall. But by the time I left out of here, I was so angry. He was deceitful to me as well. He did not tell me the truth. The whole situation was a bad situation. I was furious when we left. It cost me two months and $2,000. And no, I had no intentions of -- believe me, when I left here, he's gone. As far gone as you can be.

MS. WITT: Okay. I believe those are all my questions.

CHAIRMAN WARD: Any re-direct?

MR. PREVAS: One small question. Mr. Mariano worked for you for how long? From when to when?

MR. GRACE: Let's say August to that day in November.

MR. PREVAS: Okay, thank you.

CHAIRMAN WARD: All right. Any --

Commissioner, questions?

COMMISSIONER PETERSEN-MOORE: There was a lot of discussion about being able to change a corporate officer -- and that applies only in a certain circumstance. So my question is whether or not this license is a state-wide license.

MR. PREVAS: It's not. The state-wide licenses would be the Comptroller's office issued license. The other licensees are the Baltimore City and the counties.

COMMISSIONER PETERSEN-MOORE: Yeah, so this is strictly a city, local license?

MR. PREVAS: Yes.

COMMISSIONER PETERSEN-MOORE: All right. And I just wanted to tell you, my reading of Article 2B Section 9-101(b), which I think is what you were relying on to say that you could change your corporate officer at renewal, that only applies to state-wide licenses, which this is not. So there's no provision for changing a corporate officer at renewal for this local license. Just wanted to get that clarity.

MR. PREVAS: If I could add to that, having

done things by custom, as opposed to the letter of the law, after we got the Yim decision, a case that I was counsel on, and the Court of Special Appeals issued a 54-page decision, going word by word, I learned a lot of things that were not done by custom.

And if the Board were to give Mr. Grace the opportunity to continue, we would certainly make every effort to comply with the spirit and the letter of the law.

CHAIRMAN WARD: Anything else? All right. Final argument, two minutes.

MS. WITT: Okay.

CHAIRMAN WARD: Time it please.

MS. WITT: So just to re-cap, the two licensees are not qualified to be licensees because one of them is not an officer, and the other one does not live in Baltimore City. And not only are they not qualified, but they have willfully misled the Board for both the 2014 and 2015 renewal application, which speaks to their character.

On top of which, this bar has been a problem

for the neighborhood for a long time. I know we're only here for the last two years, but as we found out in November, the licensees have been absentee licensees. They've enjoyed all of the financial benefits of the business, and put all of the harm onto the local community, with the noise, and fights, and -- that we heard about in November, the gun that was found, and now an ATF raid, a federal raid of this bar.

The licensee stated in November that he wants to be at the bar as little as possible, but the neighbors do not have that luxury. This is where they live. And he has the luxury of living in another county, a nice quiet county, where he doesn't have to deal with a strip club in the middle of his residential community. It's just not fair to the community members who are here. They want the license denied, its renewal.

I think Chairman Ward, you said that the bar being put here was a mistake by an old or former Liquor Board, and I think it's time to correct the mistake, and deny the renewal of the license. The licensees have forfeited their privilege at this location. And I hope

that you will deny the renewal of this license. Thank you.

CHAIRMAN WARD: Two minutes.

MR. PREVAS: Thank you, Your Honor. I believe the -- Mr. Grace has shown loud and clear that he took heed of the Board's admonition back in November, and he's done everything to be as quiet and unobtrusive and comply with the law and the peace of the neighborhood since that occurred.

And he has no intention of going back to the nightmare that he went through, and that everybody else went through in this situation. For that reason, I respectfully request that the license be renewed; that he has shown that he takes it seriously.

With regard to the application, I was not initially directly involved in completion of the application. We will rectify anything that needs rectifying and -- if the Board is so inclined to renew this license, and make sure that we comply with all requirements and the statute. Thank you.

D E C I S I O N

CHAIRMAN WARD: All right. Time for decision. I vote first. My -- the decision is, I vote that the license shall not be renewed. Because I adopt Ms. -- argument with respect to the legality of the renewal of the license, which I find that it has not been properly renewed. And then the license is a nullity, and -- at the present time.

Therefore, since it has not complied with the city law with respect to the Liquor Board, and the city law with respect to liquor license approvals, it can't be renewed.

In addition to that, with respect to the testimony, I find that while past performance is not a -- that there seems to be, in this particular case, an improvement, certainly in the operation of the license.

Nevertheless, I adopt all of the prior testimony and the testimony today with respect to my decision.

COMMISSIONER JONES: I concur with the Judge.

And I was very quiet during the proceeding, but I was listening.

CHAIRMAN WARD: Oh, thank you.

COMMISSIONER JONES: And what I heard was, I did not know. You know, sometimes what you don't know can cause harm to others. In this case, it caused harm to the peacefulness of this community.

As -- we have a due diligence to knowing things about the business that you're going to be a part of. And the type of business that we are talking about can have a great effect on that community. And I think every community deserves peace. And also, there should be a good working relationship with that community and the owner of your establishment.

I'm quite sure you're a good person, your intent was good, you wanted to do something good for yourself and your family, but your method for going about doing that was poor. I mean, you hired somebody without knowing the background. Obviously, there wasn't enough supervision over that person; things happened.

With all this in mind, I mean, I agree. I have

nothing further to add.

COMMISSIONER PETERSEN-MOORE: So I concur with the Chairman and my fellow Commissioner. I remember when you were here in November, and one of the things that struck me then, and I don't have the full record, but I remember being very concerned about the absentee nature of the management of this location. And that has continued.

But it's even worse than that. You all aren't even Baltimore City residents. There is no Baltimore City resident. So I think the first argument that was made regarding the eligibility to own this license is -- it's persuasive. And it makes very, very clear that they're -- even the basic requirements haven't been met. And I think that it's more of an -- not an actual not knowing of information, but an active knowing.

You're a former police officer. You're a current member of the fire department for the District of Columbia. I think that raises -- that gives you a higher level of access to the knowledge necessary to vet those that would be managing your property. The absolute

failure to do anything at all to vet the background of your manager.

And I do have the testimony where we asked you what was it that you wanted, and you said it was your wish that the -- Mr. Marina (ph.) managed the property, the business properly. And we even -- I said properly and you said yes, properly.

And nothing was -- that was not -- that's not what happened. I think that the problems that the community has had to deal with are gross. It's just absolutely gross and it doesn't have to be that way.

So it's -- you know, it's for those reasons that I do join in the decision to not renew this license.

CHAIRMAN WARD: All right. Folks, you have our decision.

MR. PREVAS: Thank you.

(Whereupon, the hearing concluded on April 23, 2015.)

C E R T I F I C A T E

This is to certify that the attached proceedings before the Board of Liquor License Commissioners for Baltimore City in the matter of: Brian M. Grace and Paul Gunshol, Fireball Entertainment, Inc., The Big Easy Cabaret - 2000 Eastern Avenue - Class "D" Beer, Wine & Liquor License - Protest of Renewal under the provisions of Article 2B Section 10-301(a)

BEFORE: THOMAS WARD, Chairman

DATE: April 23, 2015

PLACE: Baltimore, Maryland

were held as herein appears, and that this is the transcript thereof for the file of the Department.

Bryson Dudley, Reporter
Free State Reporting, Inc.