



City of Cambridge

27.

IN CITY COUNCIL

January 11, 1993

VICE MAYOR CYR

ORDERED: That the City Council go on record supporting the North Cambridge Stabilization Committee and the numerous residents of North Cambridge who have come to this Council, in their appearance before the License Commission to try to resolve the ongoing and outstanding concerns with the liquor license at the White Hen Pantry; and be it further

ORDERED: That the City Council go on record as urging the License Commission to discontinue the license because the issuance of the license serves no public need where it has been overwhelmingly opposed by the neighborhood because it is detrimental to the safety in the neighborhood and because the conditions stipulated in the license have not been met; and be it further

ORDERED: That the City Clerk be and hereby is requested to deliver a copy of this order to the License Commission prior to its hearing on January 12, 1993.

In City Council January 11, 1993.
Adopted by the affirmative vote of nine members.
Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
D. Margaret Drury
City Clerk



City of Cambridge

Comm. # 4A

IN CITY COUNCIL

March 30, 1992

VICE MAYOR CYR

WHEREAS: The number of alcoholic beverage licenses currently being exercised in North Cambridge is more than adequate to serve the public need; and

WHEREAS: No such need has been asserted or demonstrated to justify the operation of a package store license at White Hen Pantry, 2245 Massachusetts Avenue; and

WHEREAS: Public safety and the common good would be jeopardized by allowing the sale of alcoholic beverages on the site of an all-night drive-in convenience store, especially one that is located in a residential neighborhood and is situated directly across the street from a church; that has a history of noise, disturbances, unsanitary conditions, and violent crimes; that has refused to adopt adequate security measures to protect its employees, customers, and the general public; that frequently attracts minors and is easily accessible to them; that has submitted deceptive license applications and renewal affidavits to the local licensing authorities; that has failed to employ a manager who is experienced in the sale and control of alcoholic beverages; and that has repeatedly broken promises made to the neighborhood; and

WHEREAS: Written objections to the activation of such a license have been filed by abutters, neighboring residents and homeowners, nearby business proprietors and commercial property owners, affected church members and clergy, the North Cambridge Stabilization Committee, and various Cambridge city councillors; and

WHEREAS: The authorization, granting, issuance, renewal, transfer, or exercise of such a license at this location violates the Alcoholic Beverages Control Act, MGL Chapter 138, Sections 15, 15A, 16A, 16B, 16C, and 23; the Regulations of the Alcoholic Beverages Control Commission, 204 CMR 2.00; and the written rules and regulations of the Cambridge License Commission; now therefore be it

RESOLVED: That this City Council go on record to respectfully petition the Massachusetts Alcoholic Beverages Control Commission to:

1. investigate the granting of a license to sell wines and malt beverages as a package store to White Hen pantry, 2254 Massachusetts Avenue.
2. investigate the conduct of the business, if any, being done thereunder and the repeated transfer and protracted failure to issue or exercise said "pocket" license.

3. conduct a public hearing on this matter after notifying all interested parties; and thereupon

4. revoke and cancel any such license, and take other appropriate remedial and punitive actions if circumstances warrant; and be it further

RESOLVED: That the City Clerk be and hereby is requested to forward a suitably engrossed copy of this resolution to Mr. Edward R. Redd, Chairman of the Alcoholic Beverages Control Commission, on behalf of the entire City Council.

In City Council March 30, 1992.

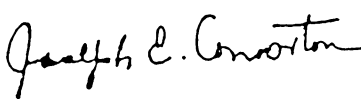
Adopted by a yea and nay vote:

Yeas 9; Nays 0; Absent 0.

Attest:- Joseph E. Connarton, City Clerk.

A true copy;

ATTEST:-


Joseph E. Connarton
City Clerk



City of Cambridge

Comm. # 4B

IN CITY COUNCIL

March 30, 1992

VICE MAYOR CYR

ORDERED: That the communication from Don McMath, Chairman, North Cambridge Stabilization Committee, dated March 26, 1992 and received by this City Council at its meeting of March 30, 1992 be forward to the City Manager in order for the City to proceed to take the appropriate legal action against the Massachusetts Alcoholic Beverage Control Commission.

In City Council March 30, 1992.

Adopted by the affirmative vote of nine members.

Attest:- Joseph E. Connarton, City Clerk.

A true copy; *Joseph E. Connarton*

ATTEST:-

Joseph E. Connarton
City Clerk

March 26, 1992

Cambridge City Council
c/o City Clerk
City Hall
Cambridge, MA 02138

Dear Councillors:

The attached appeal to the Alcoholic Beverages Control Commission raises serious concerns about the Cambridge License Commission's handling of the White Hen Pantry's package store liquor license in North Cambridge.

Pursuant to a unanimous vote on March 25, the North Cambridge Stabilization Committee respectfully urges you to ask the City Manager for a complete report and periodic updates on this matter, and to take immediate steps to ensure that all state and local licensing laws, rules, regulations, and conditions are being properly administered and strictly enforced by the local licensing authorities.

Thank you for your careful consideration of this request.

Yours truly,


Don McMath

Chairman
North Cambridge Stabilization Committee
97 Pemberton Street
Cambridge, MA 02140

encl.

March 23, 1992

Mr. Edward R. Redd, Chairman
Alcoholic Beverages Control Commission
100 Cambridge Street
Boston, Massachusetts 02202

RE: White Hen Pantry, Inc., 2245 Massachusetts Avenue, Cambridge;
transfer of wine-and-malt-beverages package store license to
Joanne Contaldi, d/b/a White Hen Pantry at said address

Dear Mr. Redd:

Enclosed please find Attachment A, a petition protesting the above transfer and seeking ABCC intervention pursuant to MGL Chapter 138, Sections 64 and 67. Grounds for challenging this license are listed below.

1. The Cambridge License Commission's stated reasons for approving this transfer despite "reservations" reflect arbitrary and capricious action and are based on errors of law and of fact (see Attachment B).

2. The described premises are not now and have never been open for business as a package goods store, contrary to the manager-of-record's sworn license renewal affidavit for 1992 (Attachment C).

3. In past years two other transfers involving the White Hen Pantry convenience foodstore at this location have been granted by the local authorities and approved by the ABCC (Attachment D). However, the local board has repeatedly failed to issue a license as required by Chapter 138, Section 16B.

4. No license has been displayed on the premises as required by the regulations of the ABCC, 204 CMR 2.01(10).

5. No license has been operative on the authorized premises as required by Chapter 138. (According to the Supreme Judicial Court, "a license must be exercised on approved premises and cannot exist as a roving license"--Opinion of the Justices, 1965, 208 NE2d 823).

6. In essence, the "license" in question is an unissued, unposted, unexercised, unauthorized, unrenewed, and unlawful phantom license that for years has been roving about, in violation of Chapter 138; 204 CMR 2.00; and the written rules and regulations of the Cambridge License Commission pertaining to "pocket" licenses (Attachment E).

7. The purported license was not lawfully renewed for 1989 in accordance with Chapter 138, Section 16A. The 1989 renewal application (Attachment F) appears to have been falsely sworn and filed by a person who was not the lawful holder of the 1988 license, which in fact described premises at a different location, 2286 Massachusetts Avenue (see Attachment G).

8. Because the license was not renewed by the holder, it expired on December 31, 1988, pursuant to Section 23 of Chapter 138. Consequently, all subsequent renewals and transfers, including the pending one, are invalid.

9. The Cambridge License Commission unlawfully failed to treat the 1989 renewal application (Attachment F) as an application for a new license, as required by Chapter 138, Section 16A.

10. Thus, by granting a license for 2245 Massachusetts Avenue in 1989 (see Attachment D), the Cambridge License Commission violated its written "cap" policy (Attachment H).

11. The granting of a license for 2245 Massachusetts Avenue in 1989 also violated Chapter 138, Section 16C, since the decision issued by the local authorities failed to address the objection filed by the church located directly across the street from the licensed premises (see Attachment I).

12. Moreover, the granting or transfer of a license to 2245 Massachusetts Avenue in 1989 was illegal because certain abutters were not mailed notice as required by Chapter 138, Section 15A (see Attachment J).

13. The license renewals granted for 1991 and 1992 were improper because the licensee failed to comply with the conditions attached to the license by the local authorities in conjunction with the transfer approved in January 1990 (see Attachment K).

14. White Hen Pantry, Inc., the licensee of record and transferor, is not qualified to hold this or any other package store license under Chapter 138, Section 15. Specifically,

- (a) said corporation is not "organized under the laws of the commonwealth" (it is a Delaware corporation-- although a recently filed Form 983 and earlier application materials make representations to the contrary; see Attachment L); and
- (b) a majority of its directors are not Massachusetts residents (the sole director lives in Illinois, as do all the other corporate officers listed on the application forms; see Attachment M).

15. Furthermore, directly and through its franchisees, White Hen Pantry, Inc., already holds interests in more than three such licenses in Massachusetts, contrary to the statutory limitation imposed by the Legislature in Section 15 (see Attachment N).

16. White Hen Pantry, Inc., has repeatedly violated 204 CMR 2.05, Sections 2, 5, 8, and 10 (see Attachment O).

Mr. Edward R. Redd, Chairman, ABCC
March 23, 1992
Page 3

17. Public records indicate that the described premises are not owned or actually controlled by either the transferor or the transferee--a violation of Chapter 138 as construed in Board of Selectmen of Sudbury v. ABCC (519 NE2d 1365; see Attachment P).


18. The sworn application of the transferee implies that she will be the sole manager and states that she will be the only person or entity with financial or beneficial interests in this license, but other public documents disclose the involvement of parties who may not be qualified to hold a liquor license in Massachusetts or to act as joint manager (see Attachment P).

19. Various irregularities in application processes and administrative procedures over a period of several years constitute recurring technical violations of Chapter 138 and 204 CMR 2.01 that render the license invalid; incomplete or false application forms and affidavits; undated signatures; unnoted filing times and dates; transfers approved without formal petitions on file; applications informally withdrawn or altered after being filed; renewals processed for ineligible persons; local board decisions rendered in untimely fashion; failure to issue proper written decisions or to notify the ABCC of pertinent conditions attached to licenses by the local authorities; and so on.

I trust you will find that the above reasons amply justify disapproving this transfer and rescinding the previously approved license at this address. Members of the Commission or its staff may phone me at (617) 864-3520 if additional details or further explanation would be helpful.

I thank you for your consideration of these matters and look forward to the Commission's timely response.

Sincerely,


Michael J. Brandon
27 Seven Pines Avenue
Cambridge, Massachusetts 02140

encl.
cc.(without attachments):

Mr. Don McMath, Chairman, North Cambridge Stabilization Committee
Cambridge City Council
Mr. Robert Healy, City Manager
Mr. Richard Scali, Cambridge License Commission, Executive Officer
White Hen Pantry, c/o Mr. Vincent Panico
Mr. George McCray, Ms. Kate Mattes, Mr. Michael Grossi, Ms. Mari Morgan,
Ms. Ruth Horgan, et al.

PETITION OPPOSING WHITE HEN PANTRY'S BEER & WINE LICENSE (2245 MASS. AVE.)

TO: Massachusetts Alcoholic Beverages Control Commission
100 Cambridge Street
Boston, Massachusetts 02202

WHEREAS the number of alcoholic beverage licenses currently being exercised in North Cambridge is more than adequate to serve the public need; and

WHEREAS no such need has been asserted or demonstrated to justify the operation of a package store license at White Hen Pantry, 2245 Massachusetts Avenue; and

WHEREAS public safety and the common good would be jeopardized by allowing the sale of alcoholic beverages on the site of an all-night drive-in convenience store, especially one that is located in a residential neighborhood and is situated directly across the street from a church; that has a history of noise, disturbances, unsanitary conditions, and violent crimes; that has refused to adopt adequate security measures to protect its employees, customers, and the general public; that frequently attracts minors and is easily accessible to them; that has submitted deceptive license applications and renewal affidavits to the local licensing authorities; that has failed to employ a manager who is experienced in the sale and control of alcoholic beverages; and that has repeatedly broken promises made to the neighborhood; and

WHEREAS written objections to the activation of such a license have been filed by abutters, neighboring residents and homeowners, nearby business proprietors and commercial property owners, affected church members and clergy, the North Cambridge Stabilization Committee, and various Cambridge city councillors; and

WHEREAS the authorization, granting, issuance, renewal, transfer, or exercise of such a license at this location violates the Alcoholic Beverages Control Act, MGL Chapter 138, Sections 15, 15A, 16A, 16B, 16C, and 23; the Regulations of the Alcoholic Beverages Control Commission, 204 CMR 2.00; and the written rules and regulations of the Cambridge License Commission; now

THEREFORE we, the undersigned Cambridge taxpayers and voters, respectfully petition the Massachusetts Alcoholic Beverages Control Commission to

- (1) investigate the granting of a license to sell wines and malt beverages as a package store to White Hen Pantry, 2245 Mass. Ave.;
- (2) investigate the conduct of the business, if any, being done thereunder, and the repeated transfer and protracted failure to issue or exercise said "pocket" license;
- (3) conduct a public hearing on this matter after notifying all interested parties; and thereupon
- (4) revoke and cancel any such license, and take other appropriate remedial and punitive actions if circumstances warrant.

PETITION OPPOSING WHITE HEN PANTRY'S WINE & BEER LICENSE (2245 Mass. Ave)

Printed Name	Signature	Street Address	Telephone No.
1. Michael R. Grossi	Michael R. Grossi	9 DAY ST	864-4833
2. Stella Peroni	Stella Peroni	36 Dover St.	547-2386
3. Joseph Peroni	Joseph Peroni	36 Dover St	547-2382
4. MARIA MANUEL	Maria Manuel	37 Dover St.	492-4322
5.	Keann Aranda	19 Woodbridge St.	547-0676
6.	Nicholas Aranda	19 Woodbridge St.	547-0676
7.	Oliver Murphy	43 Woodbridge St.	547-9574
8.	Emelynn Terrio	23 Woodbridge St	354-2866
9.	Donna Manuel	20 Woodbridge St.	547-3888
10.	Henry Manuel, Jr.	20 Woodbridge St.	547-3855
11.	Josephine Almeida	21 Woodbridge St.	
12.	Elizabeth George	17 Woodbridge St	
13.	Concetta M. Santos	17 Woodbridge St	
14.	Michele Morrisey	11 Day Street	
15.	Michael J. Morrisey	11 Day St	
16.	Evelyn J. Richards	11 Day St.	
17.	James L. Davis	4 Day St #3	864-3403
18. MARI MORGEN	Mari-Elizabeth Morgen	6 Day St.	492-6368

PETITION OPPOSING WHITE HEN PANTRY'S WINE & BEER LICENSE (2245 Mass. Ave)

Printed Name	Signature	Street Address	Telephone No.
1. <u>MARY GROSS</u>	<u>Mary Gross</u>	<u>10A Day St Cambridge</u>	<u>868-8790</u>
2. <u>Peg Cyr</u>	<u>Peg Cyr</u>	<u>17 Day St. Camb</u>	<u>547-7778</u>
3. <u>Matthew Wilding</u>	<u>Matthew Wilding</u>	<u>15 Day St. Camb.</u>	<u>354-1838</u>
4. <u>Brad Lawson</u>	<u>Brad Lawson</u>	<u>7 Day St. Camb.</u>	<u>868-6274</u>
5. <u>Kate Mattes</u>	<u>Kate Mattes</u>	<u>2211 MASS. AVE</u>	<u>492-0062</u>
6. <u>Letitia Ames</u>	<u>Letitia Ames</u>	<u>31 Gray St</u>	<u>864-7966</u>
7. <u>Mike Frongillo</u>	<u>Mike Frongillo</u>	<u>24 Rice St</u>	<u>354-6284</u>
8. <u>Alice Delaney</u>		<u>12 Abells St</u>	<u>876-3278</u>
9. <u>Abigail A. KELLEY</u>	<u>Abigail A. Kelley</u>	<u>14 RICE ST</u>	<u>864-4789</u>
10. _____	_____	_____	_____
11. _____	_____	_____	_____
12. _____	_____	_____	_____
13. _____	_____	_____	_____
14. _____	_____	_____	_____
15. _____	_____	_____	_____
16. _____	_____	_____	_____
17. _____	_____	_____	_____
18. _____	_____	_____	_____

ABCC PETITION OPPOSING WHITE HEN PANTRY'S WINE & BEER LICENSE (2245 Mass. Av.)

Printed Name	Signature	Street Address	Telephone No.
1. MICHAEL J. BRANDON	<i>Michael J. Brandon</i>	27 Seven Pines Ave	864-3520
2. Joseph Costello	Joseph Costello	17 Gold Star Rd.	
3. Joseph Costello	<i>Joseph Costello</i>	17 Gold Star Rd.	
4. FRANCIS J. HOLLUM	<i>Francis J. Hollum</i>	95 PEMBERTON CT	
5. DOTTIE McMATH	<i>Dottie McMATH</i>	97 PEMBERTON ST	661-3256
6. OLIVE PIERCE	<i>Olive Pierce</i>	69 HARVEY ST	864-2438
7. LAWRENCE BANK	<i>Lawrence Bank</i>	40 JACKSON	492-4196
8. RICHARD CLAREY	<i>Richard Clarey</i>	15 Brookford	864 6751
9. SARAH GRUPPE	<i>Sarah S. Gruppe</i>	11 Brookford St.	868-5676
10. Carolyn Mieth	Carolyn Mieth	15 Brookford St.	
11. Carolyn Mieth	<i>Carolyn Mieth</i>	15 Brookford St.	864-6757
12. Norma Bowler	<i>Norma Bowler</i>	2 New Morden St	864-4899
13. JUDITH MISKELL	<i>Judith Miskell</i>	85 Harvey St	
14. John MISKELL	<i>John Miskell</i>	85 Harvey St.	
15. Don McMATH	<i>Don McMATH</i>	97 Pemberton St.	661-3256
16. Andrew Magdon	Andrew Magdon	2167 Pemberton St.	
17. Andrew Magdon	<i>Andrew Magdon</i>	2167 Pemberton St	576-2089
18. Victoria Brandon	<i>Victoria Brandon</i>	27 Seven Pines Ave.	

CC PETITION OPPOSING WHITE HEN PANTRY'S WINE & BEER LICENSE (2245 Mass. Ave

Printed Name	Signature	Street Address	Telephone No.
1. GERARD DUANE	<i>Gerard Duane</i>	25 Dover St	864-4477
2. John D. Kent	<i>John A. Kent</i>	28 Dover St	384-5738
3. Susan Wilson	<i>[Signature]</i>	16 Dover	791-2613
4. KAY-GROSSI	<i>Kay Grossi</i>	9 Day St.	
5. Renee Fall	<i>Renee D Fall</i>	6A Day St.	876-3021
6. Ruth Horgan	<i>Ruth Horgan</i>	14 Dover St.	864-5331
7. ARTHUR HORGAN	<i>Arthur Horgan</i>	14 DOVER ST	547-4918
8. JEANNE GROSSI	<i>Jeanne A. Grossi</i>	9 Day St.	576-3304
9. Jennifer Lawson	<i>Jennifer Lawson</i>	7 Day St.	868-6274
10. Ralph Galen	<i>Ralph Galen</i>	2210 Mass. Ave.	354-624
11. Annette Ferme	<i>Annette Ferme</i>	7 Haswell St.	547-7157
12. Helene Cyr	<i>Helene Cyr</i>	17 Day St	547-7772
13. Catherine Hurley	<i>[Signature]</i>	17 Day St	547-7772
14. Dorothy E. Cyr	<i>[Signature]</i>	17 Day St.	547-7772
15. CLINTON BEARS	<i>Clinton Bears</i>	38 DAY ST	
16. Barbara Niemeyer	<i>Barbara Niemeyer</i>	37 DAY ST	
17. Ellen Ryan	<i>[Signature]</i>	15 Day	876 3248
18. Anthony [Signature]	<i>[Signature]</i>	15 Day St	876-4849



CAMBRIDGE LICENSE COMMISSION *Attachment B*

CITY OF CAMBRIDGE

831 MASSACHUSETTS AVE., 1ST FLOOR, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 349-6140

ALEX RODRIGUEZ
Commission Chairman

KEVIN FITZGERALD
Chief-of-Fire Department
Commission Member

HENRY BREEN
Police Representative
Commission Member

RICHARD V. SCALI
Commission Executive Officer

February 10, 1992

Ms. Joanne Contaldi
113 Shore Drive
Somerville, Massachusetts 02145

Re: Transfer of White Hen Pantry Wine and Malt Package
Goods license at 2245 Mass Ave. to Joanne Contaldi, d/b/a
White Hen Pantry

Dear Ms. Contaldi:

This is to advise you that the Cambridge License Commission has approved the above transfer from White Hen Pantry, Inc. to Joanne Contaldi, d/b/a White Hen Pantry at the same location.

Although this Commission had reservations about allowing this transfer, the Commission recognizes that this license exists on the premises and could be operated right now without further approval from this commission by White Hen Pantry, Inc. with existing conditions. Therefore, this Commission found it important to continue the existing conditions plus additional requirements, in order for you to operate this license at this location due to the concerns of the neighborhood as expressed at our hearing.

The concerns expressed, were those involving the hour of closing; the safety of the area due to robberies at this location; the availability of the manager/owner for response to the neighborhood; landscaping of the area around the building; and access to the beer and wine after 11:00 pm and before 8:00 am since the store is open 24 hours.

Therefore, the following conditions have been placed on your license:

- 1) You shall be responsible for and control the nuisance of people drinking and any noise behind or around your building from cars or people, even after 11:00 pm when the sale of beer and wine ceases.
- 2) Your manager/owner's name, business addresses and telephone number shall be posted conspicuously so as to be readily available to customers and residents should a problem arise.

page 2

3) Reasonable landscaping shall be effected as agreed to by you with the neighborhood and with Community Development.

4) The beer and wine shall be in locked containers during the hours when the license is not being exercised. As per your letters, a metal grate shall be used to separate the beer and wine from non-alcoholic products inside the cooler. Only the owners of the store shall have keys to access this area. All cooler doors and doors that lead to the cooler room shall have locks on them. They will be locked at night by 11:00 pm. A time lock box shall be used for the keys, whereby access to the keys shall only be available after 8:00 a.m.

5) There shall be a review by this Commission in six months from the date you start to operate the beer and wine license, as to whether the common good is being protected. The Commission will determine at that time, whether the license should be sold from this premises.

You should be aware, that this Commission puts the responsibility of the closing hour on you as the owner of the premises. Although this Commission licenses the alcoholic part of your business, it does not have the authority to dictate the closing hour of your variety store business. If however, your variety store business interferes with the operation of this license, this Commission may, upon review in six months, order that you sell the license from this premises.

Please be aware, that all the above conditions must be completed before you may actively operate this license.

Before, this approval is submitted to the Alcohol Beverage Control Commission, you must submit a transfer Form signed by White Hen Pantry, Inc. and by you, Joanne Contaldi. You may pick up this form from our office. You will also need your building and fire department approvals before this license may be issued.

If you should wish to appeal this decision, you may do so to the Alcohol Beverage Control Commission within 5 days of receipt of this decision.

Sincerely yours,

Richard V. Scali
Executive Officer

cc: Councillors Russell, Duehay, Myers; Alex Rodriguez, Chairman;
Kevin Fitzgerald, Fire Chief; Henry Breen, Police Captain;
Vincent Panico, Esq.; Michael Grossi; Michael Brandon; Mari
Morgan; Stephen Kenyon, Director of Franchising; Don McMath, N.
Cambridge Stabilization Committee; Kate Mattes

April 21, 1992

Cambridge City Council
c/o City Clerk
City Hall
Cambridge, MA 02138

Dear Councillors:

On behalf of the North Cambridge Stabilization Committee, I am writing to thank the Council for its unanimous support of the neighborhood's appeal of the White Hen Pantry's liquor license.

As the attached notice indicates, the Alcoholic Beverages Control Commission has scheduled a hearing on this license for Tuesday, May 5, 9:30 am, at 100 Cambridge Street, Boston.

Please ask the City Clerk to forward a copy of this notice to the City Manager so that the City provides appropriate legal representation at the ABCC hearing, as called for in the City Council Order of March 30 (Comm. # 4B).

The Stabilization Committee is grateful that the City Council shares our concerns about the License Commission's mishandling of this package store license. We hope that individual councillors whose schedules permit will attend the upcoming hearing and help us overturn the local board's decision to grant this license transfer.

Yours truly,

 (by *DM*)

Don McMath
Chairman
North Cambridge Stabilization Committee
97 Pemberton Street
Cambridge, MA 02140

encl.



The Commonwealth of Massachusetts

The Alcoholic Beverages Control Commission

*Leverett Saltonstall Building, Government Center
100 Cambridge Street, Boston, Mass. 02202-0002*

William F. Weld
Governor

Telephone: (617) 727-3040
Fax: (617) 727-1258

Gloria C. Larson
Secretary

Argeo Paul Cellucci
Lieutenant Governor

Edward R. Red
Chairman

NOTICE OF HEARING (APPEAL)

Joanne Contaldi
dba White Hen Pantry
2245 Massachusetts Ave.
Cambridge, MA 02140

AMENDED-RESCHEDULED

You are hereby notified that your appeal will be heard by the Commission on:

TUESDAY, MAY 5, 1992 @ 9:30 a.m.

in Room 2203, 22nd floor, the Saltonstall Building, 100 Cambridge Street, Boston, MA.

APPEAL FROM THE ACTION OF THE LICENSING BOARD OF: The City of Cambridge by twenty five or more taxpayers/voters in the granting of a transfer of license from White Hen Pantry, Inc. to Joanne Contaldi, dba White Hen Pantry.

Hearings are held pursuant to M.G.L. C.138, C. 30A and 801 Code of Massachusetts Regulations, s.s 1.02 and 1.03. You may appear on your own behalf or with your attorney. Hearings are tape recorded. Pursuant to M.G.L. C.30A, S11 (6) written transcripts will be furnished if requested in writing with tender of payment. You may arrange for your own stenographer. Reports, if any, concerning the violations charged may be examined and copied at the Commission's office, (Room 2204).

NOTE: It is important that licensees and those interested in this matter attend the hearing to present evidence and testimony. The Commission, in some cases, has the power to suspend, modify, revoke or cancel licenses.

DATED at Boston, Massachusetts this 3rd day of April 1992.

Peter J. Connelly
Peter J. Connelly
Executive Secretary

cc: Licensing Board
Michael Brandon ✓
Vincent Panico, Esq.
M. DelVendo, Supv. Inv.

June 28, 1992

Mr. Robert W. Healy
City Manager
Cambridge City Hall
Cambridge, MA 02140 (BY HAND)

RE: White Hen Pantry, Inc., 2245 Mass. Ave.,
transfer of wine-and-malt-beverages package store license to
Joanne Contaldi, d/b/a/ White Hen Pentry at said address

Dear Mr. Healy:

Enclosed is a copy of a decision by the Alcoholic Beverages Control Board dismissing the protest filed by the City Council and other concerned taxpayers in the above matter.

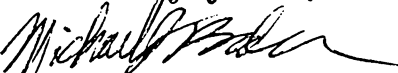
Please instruct the Law Department to file a timely Superior Court appeal pursuant to City Council Order "Comm.#4B" of March 30, 1992, a copy of which is also attached.

As you know, the City Council is not scheduled to meet again until August. I am referring this request to you directly since time is of the essence.

I trust that you will notify me immediately if the city does not intend to pursue this court appeal on behalf of the Council, so that the neighbors may take appropriate action.

You can reach me at 864-3520 if additional information is necessary. I will be happy to help your legal staff overturn this flawed ABCC decision, which fails to address many of the legal issues raised in the initial appeal.

Sincerely yours,


Michael J. Brandon
Vice Chair, North Cambridge Stabilization Committee
27 Seven Pines Ave.
Cambridge, MA 02140

P.S. Several other pertinent documents, are attached for your convenience.

cc: Cambridge City Council
NCSC officers



The Commonwealth of Massachusetts

The Alcoholic Beverages Control Commission

Leverett Saltonstall Building, Government Center

100 Cambridge Street, Boston 02202

TELEPHONE: (617) 727-3040

FAX: (617) 727-1258

Re: Joanne Contaldi
dba White Hen Pantry
Premises: 2245 Massachusetts Avenue
City/Town: Cambridge
License: WM-PKG (application)
Heard: May 5, 1992

DECISION

This was an appeal by twenty-five or more voters or taxpayers of the decision of the Cambridge Board in approving a change of ownership application of a wine and malt license from White Hen Pantry, Inc. to Joanne Contaldi.

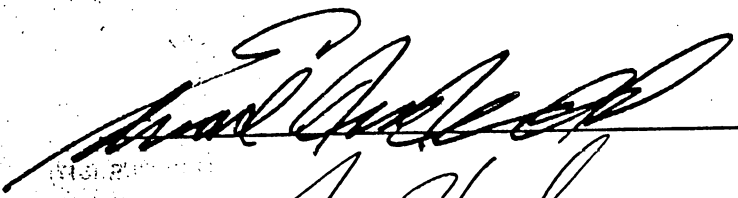
After hearing, the Commission makes the following findings:

- 1) The license has been held as an inactive license under various ownerships since 1989.
- 2) The local board permits inactive licenses in compliance with regulations adopted by the local board.
- 3) The local board approved the transfer of the license with the understanding that the license would become operational after complying with conditions relative to management and operation as imposed by the local board.
- 4) While the proposed licensee is a franchise operation of White Hen Pantry, no revenue from liquor sales from this location will be shared by the parent organization.
- 5) At hearing, questions were raised as to a possible undisclosed beneficial interest in the license by Contaldi's husband, Gaetano Contaldi.

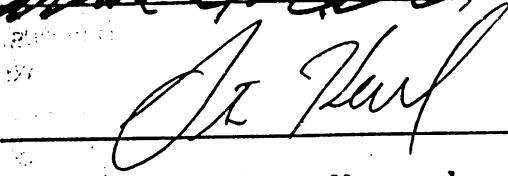
Based on the evidence heard, the Commission finds that the decision of the local board on the issued raised in the protest was a reasonable use of the board's discretion. The protest is dismissed.

The application is pending before the Commission and will be held for administrative review and action, including a requirement of the Commission that the licensee submit an amended Form 43 disclosing the beneficial interest of Gaetano Contaldi, whether direct or indirect.

ALCOHOLIC BEVERAGES CONTROL COMMISSION



Edward R. Redd, Chairman



Stuart P. Krusell, Commissioner

Dated in Boston, Massachusetts on this 22nd day of June, 1992.

Under the provisions of Massachusetts General Laws, Chapter 30A, you have the right to appeal this decision to Superior Court within thirty days of receipt thereof.

cc: File

- Consumer Affairs
- Chief Investigator
- Atty. Vincent Panico
- Michael J. Brandon ✓
- Local Board



CITY OF CAMBRIDGE

Office of the City Solicitor
City Hall

795 Massachusetts Avenue
Cambridge, Massachusetts 02139

Tel. (617) 349-4121

Fax. (617) 349-4307

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Birge Albright
Legal Counsel

Gail S. Gabriel
Legal Counsel

Diane Wynshaw-Boris
Legal Counsel

Laura H. Yager
Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

July 22, 1992

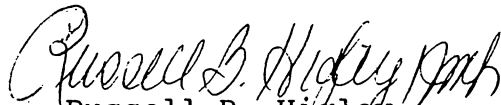
Mr. Michael Brandon
27 Seven Pines Avenue
Cambridge, MA 02140

Re: White Hen Pantry

Dear Mr. Brandon:

Enclosed is a copy a letter which I sent to the City Manager in reply to your request in your letter of June 28, 1992 in the above matter.

Very truly yours,


Russell B. Higley

RBH/jml
Enclosure



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Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

July 17, 1992

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02138


Re: *White Hen Pantry, 2245 Mass. Ave.--Package Store License*

Dear Mr. Healy:

In response to a letter from Mr. Michael Brandon dated June 28, 1992 which you forwarded to this office, please be advised that we are not able to respond to Mr. Brandon's suggestion that you "...instruct the Law Department to file a timely Superior Court appeal..." from the decision of the Alcoholic Beverages Control Commission (ABCC) regarding the above-referenced license. The decision of the ABCC upheld the approval by the Cambridge License Commission of the transfer of the license in question. The City Council was not a party to the appeal and has no standing to take an appeal of the ABCC decision in the Superior Court.

This office gave oral notice to Mr. Brandon several days ago that we would not be able to file an appeal on behalf of the City Council. We did so in order to provide the taxpayers may take any action they deem necessary with regard to the appeal.

Very truly yours,


Russell B. Higley

Michael J. Brandon
27 Seven Pines Avenue
Cambridge, MA 02140

July 30, 1992

Mr. Russell B. Higley
Office of the City Solicitor
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

RE: *White Hen Pantry, 2245 Mass. Ave.--Package Store License*

Mr. Higley:

In regard to your July 22 letter forwarding a copy of your advice to the City Manager in the above matter, please explain the specific basis for your opinion that "the City Council was not a party to the appeal and has no standing to take an appeal of the ABCC decision in the Superior Court."

The nine city counselors who unanimously decided to petition the ABCC along with more than twenty-five other Cambridge taxpayers seem clearly to be parties to the ABCC appeal entitled to seek a judicial review in Superior Court.

Moreover, MGL c.30A, sec.14, gives legal standing in a court appeal to "any person"--not just any party--"aggrieved by a final decision of any agency." Surely you must agree that as elected public officials the councilors' interests are substantially prejudiced by an ABCC decision that defies MGL c.138.

I also fail to understand why you waited until July 17--more than three months after the City Council expressed its desire to pursue an appeal--before you indicated to the City Manager that you believed they did not have standing. It is also puzzling that you waited until July 22 to send me a copy of your July 17 note to the City Manager.

I can only conclude that you wanted to discourage a timely Superior Court appeal by neighbors with legal standing and thus prevent an impartial court review of what on its face seems to be an unlawful decision by both the Cambridge License Commission and the ABCC.

Please let me know if your intentions were otherwise.

Sincerely yours,



Michael J. Brandon

cc: City Manager, City Council



City of Cambridge

5.

IN CITY COUNCIL

February 3, 1992

COUNCILLOR DUEHAY

ORDERED: That the City Manager be and hereby is requested to direct the Department of Public Works to confer with the White Hen Pantry, 2245 Massachusetts Avenue, in order to discuss and implement various suggestions made by neighbors and members of the North Cambridge Stabilization Committee, including narrowing existing curb cuts, instituting speed bumps, repairing the badly damaged sidewalk in front of the business, and providing suitable landscaping; and be it further

ORDERED: That in the implementation of this request the Department of Public Works confer with the North Cambridge Stabilization Committee; and be it further

ORDERED: That the City Manager be and hereby is requested to provide the City Council with a progress report on these matters within one month.

In City Council February 3, 1992.
Adopted by the affirmative vote of eight members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy;

ATTEST:-

A handwritten signature in cursive script that reads "Joseph E. Connarton".

Joseph E. Connarton
City Clerk

North Cambridge Stabilization Committee

RECEIVED
CITY CLERK
JAN -4 PM 12:30
CAMBRIDGE MA.

January 4, 1993

The Honorable Cambridge City Council
c/o Ms. D. Margaret Drury, City Clerk
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

RE: White Hen Pantry
2245 Massachusetts Avenue
Six-Month Review of Package Store License

Dear Ms. Drury:

Enclosed are various documents to supplement Richard Clarey's communication of December 31, 1992, in regard to the package store license unlawfully issued to White Hen Pantry.

Please provide all councilors with advance copies of these items for reference during discussion of this matter at tonight's meeting of the City Council.

Sincerely yours,



Michael J. Brandon
Vice Chair, NCSC

c.: Richard Clarey
encl.

Consent Comm. # 4

Comm. from Michael J. Brandon, Vice Chair,
North Cambridge Stabilization Committee,
transmitting supplemental information
submitted by Richard D. Clarey, regarding
the license issued to the White Hen
Pantry.

In City Council,

January 11, 1993

*Referred to Calendar
Item # 1 on motion
of Councillor Russell*

NORTH CAMBRIDGE STABILIZATION COMMITTEE

002 DEC 31 PM 3:47
CAMBRIDGE MA.

December 31, 1992

The Honorable Cambridge City Council
795 Massachusetts Avenue
Cambridge, MA 02139

ATTENTION: Margaret Drury, City Clerk

RE: White Hen Pantry
2245 Massachusetts Avenue
Six-Month Review of License

Dear Ms. Drury:

I write to advise that the North Cambridge Stabilization Committee voted on December 23, 1992, to ask that the City Council formally support its request to the License Commission regarding this license at its hearing on January 12, 1993. See attached letter to Mr. Scali dated December 31.

The Committee also requests that the City Council have the City Manager explain why the License Commission decision was not appealed as ordered by the City Council on March 30, 1992, and to recommend how to correct the situation.

Sincerely yours,


Richard D. Clarey

RDC:emc

4329S
cc: Joanne Contaldi
Vincent Panico, Esq.

NORTH CAMBRIDGE STABILIZATION COMMITTEE

RECEIVED
CITY CLERK

DEC 31 PM 3:47

CAMBRIDGE MA.

December 31, 1992

Richard V. Scali
Executive Officer
Cambridge License Commission
831 Massachusetts Avenue
Cambridge, MA 02139

RE: White Hen Pantry
2245 Massachusetts Avenue
Six-Month Review of License

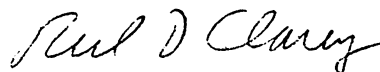
Dear Mr. Scali:

This is to inform you that the North Cambridge Stabilization Committee voted on December 23, 1992, to strongly urge the Commission to reconsider the propriety of its granting of the license on the following grounds:

1. The license is not valid because it expired in 1988 and was never lawfully amended or transferred to the site.
2. There has been substantial non-compliance with the terms of the license, including inadequate landscaping, failure to lock-up liquor after hours, and excessive display of wine and beer.

We look forward to elaborating on these matters at the hearing on January 12.

Sincerely yours,



Richard D. Clarey

RDC:emc

4328S

cc: Joanne Contaldi
Vincent Panico, Esq.

Comm. # 13

SD

Comm. from Richard D. Clarey
North Cambridge Stabilization
Committee, regarding the license
issued to White Hen Pantry.

In City Council,

January 4, 1992

*Charter Right
exercised by
Councillor Walf.
1/11/93 Placed on file
See Order # 27
Adopted regarding
this matter*