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CITY OF MILWAUKEE

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LICENSES COMMITTEE

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In the Matter of the Class "B" Tavern and Instrumental
Music renewal application and NEW request for a
permanent extension of premises to include a patio
at the north side of the premises and expansion of
the kitchen for:

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OSBALDO IBARRA
"PEPE'S ROCKN' TACO SHACK"
2012-14 N. Farwell Avenue

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COMMITTEE MEMBERS

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ALD. JAMES BOHL - Chair
ALD. MILELE COGGS, - Vice-Chairman
ALD. ASHANTI HAMILTON
ALD. T. ANTHONY ZIELINSKI
ALD. NIK KOVAC

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LICENSING DIVISION by REBECCA GRILL
POLICE DEPARTMENT by SEARGENT CHET ULICKEY
OFFICE OF THE CITY ATTORNEY by ATTORNEY BRUCE SCHRIMPF

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Proceedings had and testimony given in
the above-entitled matter, before the LICENSES
COMMITTEE OF THE CITY OF MILWAUKEE, on
the 17th day of June, 2008.

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P R O C E E D I N G S

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CHAIRMAN BOHL: Moving on to our 11:30 agenda, we have Osbaldo Ibarra, Class "B" Tavern and Instrumental Music renewal applications and new request for a permanent extension of the premises to include a patio at the north side of the premises and expansion of the kitchen for "Pepe's Rockn' Taco Shack" at 2012 North Farwell Avenue.

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MR. OSCAR IBARRA: Good afternoon.

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CHAIRMAN BOHL: Good afternoon, sir.

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MR. OSCAR IBARRA: I am Oscar Ibarra.

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CHAIRMAN BOHL: Okay.

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MR. OSCAR IBARRA: I am Ossi's brother.

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He happens to be out of the country. We received a notice a week and a half ago, and he already had plans to go out of the country. So - -

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CHAIRMAN BOHL: Are you an attorney?

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MR. OSCAR IBARRA: No, I'm not. And we talked to Alderman Kovac.

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MS. GRILL: Mr. Chair.

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CHAIRMAN BOHL: Ms. Grill.

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MS. GRILL: This is an individual

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application, so there's not even a legal

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entity - -

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1 CHAIRMAN BOHL: We can't - - No can do
2 I.

3 MS. GRILL: And I believe that I spoke
4 with Alderman Kovac.

5 ALDERMAN KOVAC: Yeah, and I - - I
6 spoke to Ossi about this, and I - -

7 MR. OSCAR IBARRA: Yes, he had a
8 conference call.

9 ALDERMAN KOVAC: I said to him
10 specifically that an attorney - - if he wasn't
11 here because he's going to be out of the country,
12 an attorney needed to be here. And he, I think
13 he explicitly said could you just be our's, and I
14 said - - and I asked him if he had an attorney.
15 He said yes.

16 MR. OSCAR IBARRA: We do, but it was -
17 - it was not clear. You were on a conference
18 call with me and - -

19 ALDERMAN KOVAC: It was very clear, and
20 I said it about five times to them, because I
21 knew - - I was worried this would happen,
22 frankly.

23 MR. OSCAR IBARRA: So what do we do
24 from this point? Again, like I previously said,
25 we received the notice a week and a half ago,

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1 when these plans for his out of the country was
2 made about six months ago.

3 CHAIRMAN BOHL: And I - - And I
4 understand, you know, there's - - there may be
5 family or other situations which - -

6 MR. OSCAR IBARRA: Correct.

7 CHAIRMAN BOHL: - - bring individuals
8 out. You either have to make account for an
9 attorney, because sometimes you just don't know.
10 I mean, if it's a vacation and this is your
11 business and your means of - - of - - of a
12 living, you never schedule a vacation around the
13 renewal of your license. It's kind of the
14 equivalent of making sure you're not out of town
15 during your wedding anniversary. - -

16 MR. OSCAR IBARRA: Correct.

17 CHAIRMAN BOHL: You know, unless your
18 wife's with you.

19 MR. OSCAR IBARRA: Correct.

20 CHAIRMAN BOHL: So, are there any
21 neighbors here to testify? Are you in favor or
22 in opposition?

23 THE WITNESSES: In opposition.

24 CHAIRMAN BOHL: What - - What I'm going
25 to do is I'm going to call it forward. We are

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1 going to hear from these neighbors. I'm not
2 going to make them wait. I'm not going to ask
3 them to come back on another day. We will now
4 take up this matter. We will get your testimony
5 for the record. Again, Osbaldo Ibarra, Class "B"
6 Tavern and Instrumental renewal applications and
7 - - and a new request for a permanent extension
8 of the premises to include the patio at the north
9 side of the premises and expansion of the kitchen
10 for "Pepe's Rockn' Tac - - Taco Shack".

11 Individuals here to testify please come
12 forward. And I just will request that we have a
13 transcript of this at the next meeting. If
14 you'll raise your right hands, please, we'll
15 swear you all in.

16 (Whereupon the witnesses were sworn.)

17 CHAIRMAN BOHL: Okay. Mr. Ibarra, I
18 just want to ask you, does your brother currently
19 have a tavern license there at all?

20 MR. OSCAR IBARRA: Yes.

21 CHAIRMAN BOHL: He does. So it's - -
22 It's a renewal of the - -

23 MR. OSCAR IBARRA: It's a renewal.

24 CHAIRMAN BOHL: - - tavern.

25 MR. OSCAR IBARRA: We're a full service

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1 restaurant of the Class "B".

2 CHAIRMAN BOHL: But it's just the new
3 request for the permanent extension of the
4 premise.

5 MR. OSCAR IBARRA: Well, at the first
6 committee meeting all that was under
7 construction, and it was all pending, and had to
8 get the go ahead from the inspectors. And all
9 that was done. That's why the wording on the - -
10 on the renewal application was confusing to
11 myself, and it seemed like to our neighbors.

12 CHAIRMAN BOHL: Okay.

13 MS. GRILL: Mr. Chair.

14 CHAIRMAN BOHL: I appreciate that. Ms.
15 Grill.

16 MS. GRILL: The original application
17 last year, I believe, just had out - - outdoor
18 seating on the front of the premises, which was
19 improved - - which was approved. So at the
20 renewal time, this north side patio and kitchen
21 expansion was applied for, and that's the
22 permanent extension.

23 CHAIRMAN BOHL: So it does - - It does
24 not apply to some of this. What - - As part of
25 the renewal and the protected property right is

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1 what they currently have. The extension applies
2 to only - - only the latter part that you reflect
3 here.

4 MS. GRILL: Right. The current
5 premises is the first floor, and then the front
6 patio, not the - -

7 CHAIRMAN BOHL: Okay.

8 MS. GRILL: - - not the north patio.

9 CHAIRMAN BOHL: Okay. Thank you. Sir,
10 we'll go from my left to right. Your name and
11 address for the record. If you have difficult -
12 - If you have a difficult spelling of your name,
13 if you could please spell it for the record.

14 THE WITNESS: Steven Merola. M, as in
15 Michael, E-R-O-L-A. I live at 1831 East
16 Lafayette, Apartment J. I have a question.

17 CHAIRMAN BOHL: Um-hnh.

18 THE WITNESS: Does the permit include
19 allowing outdoor music?

20 MS. GRILL: Mr. Chair.

21 CHAIRMAN BOHL: Ms. Grill.

22 MS. GRILL: Whenever someone has a
23 license for inside the tavern, when they have
24 outside premise, they have - - that extends out
25 into their outdoor area, but it cannot go past

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1 the noise - - noise nuisance restrictions. So,
2 if they have the front patio and they have, I
3 believe, they have instrumental music, they could
4 have instrumental music outside on that front
5 patio, but it shouldn't be over the - - the
6 restrictions that are part of the ordinances.
7 And it should not be outside of the hours that
8 are approved, and I believe, as far as the
9 outdoor patio, the hours were until nine p.m.
10 during the week and ten p.m. on weekends. So
11 there should not have been anything outside, like
12 there should not have been music after those
13 hours.

14 THE WITNESS: Okay. That's my - -
15 That's my concern is living right around the
16 corner, is summertime a lot of people in my
17 neighborhood don't, you know, don't have air
18 conditioning. The windows are wide open all
19 summer long. And, you know, not discriminating
20 against any type of music or anything, but I'm
21 concerned about the - - if there is music
22 outside, the - - the volume, you know, I don't,
23 you know, don't want to hear it in my apartment.

24 CHAIRMAN BOHL: Okay. And so you - -
25 You aren't necessarily opposed to the current

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1 hours up until nine p.m. It would be the
2 extension above and beyond that or? I just want
3 to clarify that.

4 THE WITNESS: Um, no. It - - It's as
5 long as - - Well, I guess, I - - I would be. If
6 there's - - If there's going to be bands outside,
7 I am concerned about the noise at the current
8 time.

9 CHAIRMAN BOHL: Okay. All right.
10 Thank you, sir. Questions by committee?

11 ALDERMAN KOVAC: Mr. Chair?

12 CHAIRMAN BOHL: Alderman.

13 ALDERMAN KOVAC: I have a question for
14 Ms. Grill. They - - Are they allowed to have
15 bands out there now?

16 MS. GRILL: They have a instrumental
17 music - -

18 ALDERMAN KOVAC: Instrumental music.

19 MS. GRILL: - - license, which includes
20 bands.

21 ALDERMAN KOVAC: So have they - - Have
22 you noticed that they have been having bands out
23 there?

24 THE WITNESS: I have not noticed. I
25 was just - - It's just a concern.

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1 CHAIRMAN BOHL: Other questions by
2 committee? Thank you, sir. Sir.
3 THE WITNESS: Excuse me. Brian Buchs,
4 B-U-C-H-S. We live at 1812 East Lafayette place,
5 unit number 307. That is the condominium that is
6 directly behind the patio at Pepe's. Our bedroom
7 window literally looks out over the top of the
8 patio. When the - - the patio was originally
9 built, we met with the owners. We had some
10 concerns about noise levels, hours of operation.
11 They agreed, and I believe it's in the minutes
12 from their - - their first hearing, that they
13 would close the patio at nine p.m. on weeknights,
14 ten p.m. on weekends. And while we haven't had a
15 abundance of nice nights since that time for
16 people to be outside, the ones that we've had
17 we've noticed that they have been going over that
18 nine p.m. At the core here that there's a
19 difference of opinion over what "close at nine
20 p.m." means. Our - - Our feeling is that at nine
21 o'clock people should be routed inside. Bar
22 service should be stopped outside, and that it
23 would be reasonable to expect that by ten o'clock
24 tables and chairs are cleared and - - and
25 business is concluded outside. They apparently

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1 do not share that opinion. I made a couple of
2 attempts - - We made two attempts to phone down
3 and talk to somebody during business hours. Were
4 not met with successfully. I stopped down
5 personally one day, left my name, number,
6 address, asked somebody to contact me. That was
7 back in May, and didn't hear from anybody until
8 this past Friday.

9 CHAIRMAN BOHL: Okay. Thank you.
10 Questions by committee?

11 MR. SCHRIMPF: Mr. Chairman.

12 CHAIRMAN BOHL: Mr. Schrimpf.

13 MR. SCHRIMPF: And when you heard from
14 somebody, who were they representing themselves
15 to be?

16 THE WITNESS: I heard from Mr. Ibarra's
17 brother.

18 MR. SCHRIMPF: All right. That's all I
19 have.

20 CHAIRMAN BOHL: I will - - I'll just
21 say that my general belief is, is that if you
22 have the ability to operate by license until nine
23 o'clock, that means nobody's out there after nine
24 o'clock eating or drinking.

25 MR. OSCAR IBARRA: Well, the

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1 gentleman's agreement we came upon with - -
2 CHAIRMAN BOHL: There is no gentleman's
3 agreement. I - - I don't - -
4 MR. OSCAR IBARRA: The ex-alderman
5 D'Amato.
6 CHAIRMAN BOHL: I don't care. You know
7 what? The ex-alderman - -
8 MR. OSCAR IBARRA: So at - - So at nine
9 o'clock you are to - -
10 CHAIRMAN BOHL: Sir, if - - if I - - if
11 I - - If I may. If I may speak, because I hold
12 the gavel that allows me to say that.
13 MR. OSCAR IBARRA: Yes, sir.
14 CHAIRMAN BOHL: Okay. I don't care
15 what Alderman D'Amato told you. If Alderman
16 D'Amato told you you could stay open until four
17 a.m., that's wrong. It's unlawful. And it will
18 get you a license revoked. Okay. There is no
19 gentleman's agreement. If - - If - - If Alderman
20 D'Amato said you could play music out there later
21 on a gentleman's agreement, no, you can't. You
22 can't. So if - - What I'll tell you is, if Mike
23 D'Amato tells you that - - or Alderman Kovac
24 tells you can stay open past 2:30, gentleman's
25 agreement, you tell him State law says I can't.

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1 I can't. That's - - You hold no sway,
2 whatsoever. When you got to appear before this
3 committee, there is no gentleman's agreement. So
4 just lettin' you know where the law stands.

5 MR. OSCAR IBARRA: Oh, I understand
6 where the law stands. Okay.

7 CHAIRMAN BOHL: Okay.

8 MR. OSCAR IBARRA: But at nine o'clock
9 we stop seating. We shut the music off. People
10 that are out there will finish their meals and
11 then leave. Now, it would be unjust and it would
12 be detrimental to our business if at nine
13 o'clock, we routed everybody inside like a bunch
14 of cattle, telling them that - - We would lose
15 business left and right. Now we do - - We do not
16 seat anyone after nine o'clock outside.

17 CHAIRMAN BOHL: Okay. What I'll - -
18 What I'll tell - -

19 MR. OSCAR IBARRA: Now according to
20 Milwaukee, we have the right to do it until ten,
21 but we came to this agreement that we would do it
22 at nine o'clock. Now it seems to be a one-way
23 street with the condominium complex. They have
24 asked for everything. They have gotten
25 everything they've asked for. We have not asked

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1 for anything in return. The only thing we asked
2 for is a little bit of leeway.
3 CHAIRMAN BOHL: Your - - Your extension
4 of premises goes until when?
5 MR. OSCAR IBARRA: I'm sorry?
6 CHAIRMAN BOHL: Your extension of
7 premises extends until when?
8 MR. OSCAR IBARRA: Nine o'clock during
9 the week, ten o'clock on the weekends.
10 CHAIRMAN BOHL: Okay.
11 MR. OSCAR IBARRA: So we're not
12 breaking any laws.
13 CHAIRMAN BOHL: If they're drinking
14 liquor outside of those hours, yes, they are.
15 MR. OSCAR IBARRA: So at ten o'clock
16 every patio in the City is done serving alcohol?
17 CHAIRMAN BOHL: No.
18 MR. OSCAR IBARRA: Is that what you're
19 telling me?
20 CHAIRMAN BOHL: Yours is. That's what
21 I'm telling you. Yours is.
22 MR. OSCAR IBARRA: Well, I'm not
23 serving anything after - -
24 CHAIRMAN BOHL: No, it is consumption.
25 MR. OSCAR IBARRA: So if they - -

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1 CHAIRMAN BOHL: Consumption. You - -
2 MR. OSCAR IBARRA: If they've ordered -
3 - I have to pour out their drinks?
4 CHAIRMAN BOHL: Yes, you do.
5 MR. OSCAR IBARRA: Okay.
6 CHAIRMAN BOHL: Yup. Just the same way
7 that, you know, your - - your argument here - -
8 This is called - -
9 MR. OSCAR IBARRA: I'm not arguing,
10 sir.
11 CHAIRMAN BOHL: Okay. Your - - Your
12 logic. Okay. You're using some form of logic
13 with me. Your logic with me is the equivalent of
14 saying - - of being a bar and saying this much.
15 MR. OSCAR IBARRA: We're not a bar.
16 We're a restaurant, for the record.
17 CHAIRMAN BOHL: For the record, could
18 you be quiet and not say a word for the next
19 minute? Your logic is the equivalent of saying
20 gee, I'm a place that has a Class "B" tavern and
21 some patrons come in, even though we officially
22 close at 2:30 on a Saturday. And this gentleman
23 comes in and at 2:15 he buys a beer and it's
24 still three-quarters full. Would it really be
25 fair to shuffle him out at 2:30 if his drink

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1 isn't finished? That's your logic. And I'll
2 tell you, the law says at 2:30 he better be gone.
3 Not, well his beer's still, you know, his beer is
4 still a little full. It's not fair, you know, he
5 ought to be able to drink it to a quarter to
6 three. If he nurses a drink, hey, he's a good
7 customer. You have no - - Your - - Your logic
8 that you're using doesn't comply with the law.
9 That's all I'm telling you. That's it. And what
10 I'm telling you is this much, comply with the
11 law. No gentleman's agreements. Comply with the
12 law.

13 And the other thing is, is don't argue
14 with the Chair.

15 MR. OSCAR IBARRA: I'm not arguing,
16 sir. I am not arguing.

17 CHAIRMAN BOHL: Don't be argumentative.

18 ALDERWOMAN COGGS: Mr. Chair.

19 CHAIRMAN BOHL: Alderwoman Coggs.

20 ALDERWOMAN COGGS: This question is for
21 the City Attorney. Maybe I'm just a little bit
22 confused. Because he's not the agent or
23 licensee, how much of this conversation is really
24 official.

25 MR. SCHRIMPF: Well, everything is

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1 official.

2 ALDERWOMAN COGGS: What I mean is,
3 towards our consideration of this license at all,
4 if he's not able to actually be even representing
5 him.

6 MR. SCHRIMPF: Well, it's - - it's
7 going into the record, and I think the committee
8 can certainly use it as fair game for - - for
9 evaluating the license. But we are here right
10 now for the purpose of preserving the testimony
11 of the objecting witnesses, as an accommodation
12 to them because the actual licensee has not
13 appeared. We are going to be getting a
14 transcript. The licensee will have a chance to
15 review that.

16 ALDERWOMAN COGGS: I guess my question
17 was less about the witnesses, because I
18 understand that.

19 MR. SCHRIMPF: Correct.

20 ALDERWOMAN COGGS: And it's more about
21 this person sitting before us who is not a legal
22 representative of the licensee.

23 MR. SCHRIMPF: Well, that is - - That
24 is correct. And, I mean, he can certainly make
25 the statements that he wants to make, but the

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1 point of the matter is, is that we don't really
2 have the licensee here. Correct about that.

3 CHAIRMAN BOHL: Okay. Any other
4 questions of this witness? Ma'am.

5 THE WITNESS: My name is Judith
6 Bostetter. I reside at 1812 East Lafayette,
7 also. I'm married to Brian Buchs. We live in
8 unit 307. So - - I'm sorry. B-O-S-T-E-T-T-E-R.

9 So I'll limit my comments to things
10 that I've per - - personally witnessed that
11 perhaps Brian has not. Well, I guess I'll start
12 there. One thing I want to mention is that in
13 addition to playing music after their scheduled
14 hours, now that the weather has warmed up,
15 they've started playing music before their
16 scheduled hours. For example, this past Saturday
17 they started playing music on the patio at about
18 9:30 a.m., which is an hour and a half before
19 they're supposed to open. So we're dealing with
20 not only them, you know, playing music and having
21 people on the patio after they're supposed to,
22 but now, a new development is that there are
23 people there before, also. I'm sorry, not
24 people, but music playing, also.

25 I - - I do take issue with what Mr.

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1 Ibarra said regarding the fact that they stopped
2 seating at nine p.m. I've documented this in
3 writing, which I've sent to the Alderman, as well
4 as Ms. Grill. Just last week we took photographs
5 of the patio simply for the purpose that after
6 nine in the evening new customers were being
7 seated and given menus. And Oscar Ibarra is the
8 on-site manager. He is there, from what I can
9 see, every day. So even though he's not the
10 licensee, he's the person that we deal with. He
11 personally sat out on the patio that evening with
12 his customers until almost 10:30 at night. He
13 does this routinely.

14 We met with Mr. Ibarra and his brother
15 as a condominium association before their patio
16 was completed last year, and their then manager,
17 I don't believe he works there anymore, told us
18 that they were very skilled in moving people off
19 the patio when it was time to close. That this
20 particular manager, who I think is no longer
21 employed with the company, had worked at other
22 establishments that had outdoor patios with
23 closing times. And that he had those specific
24 skills, and that he knew how to deal with people,
25 that he would offer to buy them a drink inside or

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1 whatever he needed to do to make sure that when
2 that closing time came, he moved them indoors.
3 So to now say that that's an unreasonable
4 request, I think, is - - is misleading.

5 CHAIRMAN BOHL: Thank you. Questions
6 of this witness? Mr. Ibarra, any questions you
7 want to pose? Right. I thank you for - - for
8 all coming down and providing your testimony. I
9 will make the specific request that the next time
10 this matter is heard that a copy of the
11 transcript will be provided when the matter does
12 come before us. With that, we will have Alderman
13 Zielinski move to hold this matter at the Call of
14 the Chair. Are there any objections to that
15 motion? Hearing none, so ordered. Thank you for
16 coming down.

17 And, Mr. Ibarra, we'll - - we'll just
18 - - If you want to just contact the License
19 Division, and whenever either your brother,
20 and/or we can have an attorney, we'll try to work
21 you in at the next available meeting. Thank you.

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STATE OF WISCONSIN)

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2 MILWAUKEE COUNTY)

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I, JEAN M. BARINA, of Milwaukee Reporters
Associated, Inc., 5124 West Blue Mound Road,
Milwaukee, Wisconsin 53208, certify that the foregoing
proceedings is a full and complete transcript of the
Pepe's Rockn' Taco Shack proceedings.

JEAN M. BARINA
Court Reporter

Dated this day of June, 2008.

