

Pursuant to his authority under Chapter 147 of the Acts of 1996, Patrick Wardell, the Commissioner of Public Health for the City of Cambridge, held a quasi-adjudicatory hearing on April 6, 2017.

The purpose of the hearing was to hear testimony and take evidence on the issue of whether smoke and/or odors that are alleged to be emanating from the use of solid fuel (wood and charcoal) as a cooking source at the Shepard Restaurant & Bar, located at 1 Shepard Street in Cambridge, Massachusetts have caused a condition of nuisance, noisome trade, injurious odor, and/or a condition causing sickness which may be injurious to the public health, and to allow the owners of the Restaurant to respond to these allegations.

The proceeding was conducted as a quasi-adjudicatory hearing because the rights of the owners of the Restaurant, with respect to the conduct of their business, were at issue. This format allowed only the two parties to the hearing, the Cambridge Public Health Department (“CPHD”) and the Restaurant owners, to present evidence and sworn testimony through witnesses regarding the issues to be determined in this matter. The Director of Environmental Health for the CPHD presented evidence and sworn testimony regarding numerous complaints that CPHD has received over the past two years from residents living near the Restaurant. The witnesses who testified claimed to have suffered impacts from smoke and odors emanating from the Restaurant. The Restaurant owners were represented by legal counsel, who also presented evidence and sworn testimony in response to the residents’ complaints. The decisions about what evidence to submit to the Commissioner at the hearing were made by the two parties to the hearing: the Director of Environmental Health on behalf of the CPHD, whose role was to present evidence of the neighbors’ complaints to the Commissioner, and the Restaurant’s owners’ attorney, whose role was to present any evidence that the Restaurant owners wished to submit in support of their position regarding the complaints that had been lodged against them.

Notice of the hearing was posted on the CPHD’s website and at the Cambridge City Clerk’s office. Notice was also served upon the Restaurant owners and mailed via first class mail to abutters, abutters to abutters and neighbors residing directly across the street from the Restaurant. The notice of the hearing informed members of the public that they were invited to attend the hearing and that public comment would not be permitted.

Commissioner Wardell stated at the beginning of the hearing that his determination would be based solely on sworn testimony and evidence presented at the hearing, and that he would not otherwise consider statements, whether written or oral, from members of the public. The Commissioner will weigh all of the evidence presented by both CPHD and the Restaurant, apply the relevant law to the facts that he finds, and render a decision as to the specific claims brought against the owners of the Restaurant.

At the conclusion of the hearing, the Commissioner took the matter under advisement. A decision is expected to be issued by no later than mid-June. The decision will be posted on the CPHD website.