

IN THE MATTER

Of the Sale and Supply of
Alcohol Act 2012 ("the Act")

AND

IN THE MATTER

of an application from
ARIANNA HOSPITALITY
LIMITED pursuant to s136 of
the Act for a Temporary
Authority

Decision 5/2017

BEFORE THE HOROWHENUA DISTRICT LICENSING COMMITTEE

Chairperson: Cr Ross Brannigan
Members: Mr Allen Little
Mr Phillip Comber

HEARING at Levin on 20 December 2016

APPEARENCES

- (a) Mr Navtej Singh - Applicant
- (b) Mr Gary Lawry - Advisor to applicant
- (c) Ms Lisa Roiri, Liquor Licensing Inspector – To assist
- (d) Senior Constable Simon Carter , NZ Police – To assist

DECISION OF DISTRICT LICENSING COMMITTEE

Introduction

This decision relates to an application by Arianna Hospitality Limited for a Temporary Authority in respect to premises trading as The New Oxford Hotel.

The application was filed on 16 December 2016, with the hearing held on 20 December 2016.

Reporting Agencies

The Liquor Licensing Inspector filed a report on the application expressing concern regarding the suitability of the applicant. The Police supported the Licensing Inspector's recommendation.

Background

A Temporary Authority was issued to Arianna Hospitality Limited on 7 July 2016 after they took over the business from the holders of the previous substantive licence Full Draw Hospitality Limited. The applicant applied for second Temporary Authority on 5 September 2016. This was issued on 29 September 2016 and the decision was accompanied by a letter from the Secretary of the District Licensing Committee reminding the applicants that they needed to apply for their full substantive on-licence as the committee might not issue a third Temporary Authority. The existing Temporary Authority expires on 8 January 2017. The current application was received on 16 December 2016 with an application for a substantive on-licence. The period from 20 December 2016 until 15 January 2017 is defined as one working day in the Act and the Police and Medical Officer of Health have up to 15 working days to inquire into the application as reporting agencies.

Evidence

1. Mr Navtej Singh appeared on behalf of Arianna Hospitality Limited as a shareholder of the company. Mr Singh expressed his apologies for the lateness of his application and said his application for a substantive licence had been delayed due to negotiations with 10 Pin NZ and Time Out regarding the bar at the back of the premises. Mr Singh told the committee that he was trying to sort the issues out before putting in the substantive application.
2. Mr Gary Lawry spoke in support of the applicant and spoke about there having been no issues with the running of the business while operating under the Temporary Authorities.
3. Mr Lawry spoke about the negotiations with Time Out and 10 Pin NZ and Mr Singh's desire to get the back bar sorted out as being reasons for the delay in the applicant applying for a substantive licence. Mr Lawry acknowledged that Ms Roiri brought it to the applicant's attention that the Temporary Authority was due to expire in January. Mr Lawry expressed his opinion that the applicant did not fully understand the implications of not submitting application for a substantive licence in a timely manner.
4. Mr Little enquired as to whether Mr Singh had read the Act. Mr Singh's response was that they wanted to get the back bar sorted before the application was submitted but it had been delayed and he apologised for that.
5. The Liquor Licensing Inspector, Ms Lisa Roiri, gave evidence regarding the steps she had taken to remind Mr Singh that he needed to apply for a substantive licence. Ms Roiri outlined how she had called Mr Singh on numerous occasions and had given him three application packs. Ms Roiri expressed her opinion that the application for a substantive licence was tardy and Mr Singh's excuse that he had been busy was not good enough.
6. Mr Little queried whether Mr Singh had received any hospitality training. Mr Lawry informed the committee that Mr Singh is aware of host responsibility requirements and has had training in relation to problem gambling.

7. The Chair asked Ms Roiri whether the hotel is well run. Ms Roiri advised there have been no incidents in relation to alcohol reported, that the premises has passed a recent controlled purchase operation and she considered it to be well run.
8. Senior Constable Simon Carter queried how long the applicant had been in the liquor industry. Mr Singh replied that he had been in the industry for 18 months and that he had 6 premises with on-licences. Mr Singh is on site at each of the premises at least once a week.
9. Senior Constable Simon Carter expressed that he had no issues with the way the premises was being run with regards to alcohol related incidents. Senior Constable Carter had concerns with regards to how long the applicant has been operating under temporary authorities before applying for a substantive licence.

Legal Framework

10. The Committee considered the application with regards to section 136 of the Act and the criteria outlined in section 105 (1)(b) with regards to suitability of the applicant. This section of the Act was considered to be applicable because section 136 (5) states: *"The person authorised by the order has for the purposes of this Act the same duties, obligations, and liabilities as the holder of the on-licence or off-licence concerned."*

Committee's Decision

11. Temporary authorities: on-licences and off-licences - s136

The Committee took the intent of Section 136 to be a provision to allow applicants taking over existing businesses to continue to trade for a limited period, not exceeding 3 months, until the substantive licence is granted. The committee did not consider that this provision was to allow the applicant to trade by way of continuous Temporary Authorities in the absence of a substantive licence. As a consequence, the committee felt sufficient time has been granted in allowing a second Temporary Authority for the applicant to have addressed the substantive licence requirements.

12. Suitability of applicant – s105(1)(b)

The premises are being well run and passed a recent controlled purchase operation. The committee considered this to reflect positively on the staff involved with the day-to-day running of the business.

The Committee was concerned by the applicant's lack of knowledge and awareness of the requirements of the Act.

Decision

1. The decision of this committee is to decline the application from Arianna Hospitality Limited for a Temporary Authority.
2. The Committee is cognizant of effects that the decision may have on staff of the business, but considers that responsibility for this lies with the applicant.

^{11th}
DATED at LEVIN this day of January 2017



R J Brannigan
Chairperson