

IN THE MATTER

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

A N D

IN THE MATTER

of an application from **ARIANNA
HOSPITALITY LIMITED** pursuant to
s100 of the Act for a new On-Licence
Decision 24/2017

BEFORE THE HOROWHENUA DISTRICT LICENSING COMMITTEE

Chairperson: Cr Ross Brannigan
Members: Mr Philip Comber
Mr Allen Little QSM,JP

HEARING at Levin on 28 February 2017.

APPEARANCES

- (a) Mr Jon Wiles – Counsel for the Applicant
- (b) Harkamal Singh – Applicant
- (c) Navtej Singh – Applicant
- (d) Ms Kathryn Pulley, Liquor Licencing Inspector
- (e) Senior Constable Simon Carter, NZ Police

DECISION OF THE DISTRICT LICENSING COMMITTEE

Introduction

This decision relates to an application by Arianna Hospitality Limited for an on-licence in respect of the premises trading as The New Oxford Hotel which includes The Old Macs Bar and Restaurant and Private Function Centre known as the Back Bar.

The application was filed on 16 December 2016, with the hearing held on 28 February 2017.

An on-licence is sought for seven (7) days a week from 9.00 am to 1.00 am the following day.

Reporting agencies

NZ Police and the Liquor Licencing Inspector had no objection to the application however they had some concerns in relation to the suitability of the applicant.
There was no opposition from the Medical Officer of Health.

There is an approved fire evacuation scheme in place.

Background

There has been a hotel operating from this site for many years under various names and licensees.

The company was incorporated on 7 June 2016, with a capital of 100 shares. At the time of the application Jarnail Singh was Director of the Company and a 90 percent shareholding, and Navtej Singh a shareholder with 10 percent.

A recent change now has Harkamal Singh Sole Director with an 80 percent shareholding, Jarnail Singh and Navtej Singh with a shareholding of 10 percent each.

Since the time of the original application the applicant has notified a reduction in the hours to 9.00 am to 1.00 am the following day.

At the District Licensing Committee Hearing on the 20th December 2016 an application for a Temporary Authority was declined and the premises ceased trading on 8 January 2017, being the expiry date of the previously granted Temporary Authority. The premises remains closed at present.

Evidence

1. Mr Jon Wiles spoke on behalf of the applicant referencing the Committees decision regarding the Temporary Authority that was declined on the 20th December 2016. Mr Wiles acknowledged the concern expressed regarding the applicants suitability in that decision however made the observation in his submission that there is no need for directors to have experience in the liquor Industry; drawing reference to a 2014 decision of the Alcohol Regulatory & Licencing Authority [2014] NZARLA PH 588; *PONDA HOLDINGS LIMITED*.

Mr Wiles provided a summary of the applicant Harkamal Singh's experience in the Liquor Industry.

Mr Wiles presented a brief of evidence on behalf of Harkamal Singh and the brief was accepted by the Committee as read.

2. Harkamal Singh advised the Committee of the recent changes made to the Company's structure and shareholdings. Harkamal holds a Managers Certificate and informed that he would be working in the premises in a General Managers role responsible for the employment and training of staff.

Harkamal spoke to the Committee about his experience in the Liquor Industry and that he has a very good track record in businesses in association with the Liquor Industry. And, that he would ensure any people employed by him will be properly trained. He then produced a copy of the HPA Managers Guide and as a consequence was fully aware of his host responsibilities.

Harkamal informed the Committee that the area known as the 'Back Bar' will only be used for private functions only, such as weddings and 21st birthdays. He advised that if there are more than 100 attendees to any such function that 2 licenced security guards will be provided and in attendance, and was happy with a one way door policy from midnight.

3. Mr Navtej Singh was next to give evidence. His written brief was also taken as read. Navtej informed the Committee that he is not going to be involved in the day to day operation of the premises and his interest is only as a shareholder in the fundamental company.
4. The District Licencing Inspector Ms Kathryn Pulley advised that after hearing the evidence to date, she had nothing further to add.
5. Senior Constable Simon Carter advised the Committee that he was satisfied with what he had heard in the evidence presented and had no further questions.

6. Mr Wiles summarised on behalf of the applicant stating if the Committee were satisfied with the suitability of the applicant Harkamal Singh that there should be no reason to withhold a licence.

Legal framework

7. The criteria the Committee must use in considering whether to issue this licence is set out in section 105 of the Act. It is also noted that when forming an opinion in respect of effects on amenity and good order the committee must also consider section 106.

Committee's decision

Section 105 matters

8. *Object of the Act – s105(1)(a)*

The Committee has considered the object of the Act in reaching its decision on the application and is satisfied that the sale, supply and consumption of alcohol will be undertaken safely and responsibly, with harm caused by excessive or inappropriate alcohol consumption minimised.

9. *Suitability – s105(1)(b)*

The applicant is a Limited Liability Company with a recent change in Directors. It is clear from the evidence presented the new Director Harkamal Singh is suitable. It is for the applicant to demonstrate their suitability. In other words the Committee must make a suitable finding on the evidence put before it. There must be evidence that an applicant has the requisite experience, knowledge or willingness to carry out its duties. Accordingly it was believed that Mr Harkamal Singh had demonstrated his suitability.

10. *Any relevant local alcohol policy – s105(1)(c)*

There is no Local Alcohol Policy in force for the area, however the DLC are aware that a draft policy is currently being consulted on. This application meets the draft requirements.

11. *The days upon which the Applicant proposes to open – s105(1)(d)*

The hours proposed by the applicant are within the national maximum opening hours as set out in Act, as well as the guidelines within the Horowhenua District Council's Sale of Liquor Policy 2006, and are consistent with the hours proposed in the Draft Local Alcohol Policy. The hours are considered reasonable.

12. *The design and layout of the premises – s105(1)(e)*

There are no issues with the design and layout of the premises. However in respect of the Back Bar (Events Centre) it was noted that the applicants evidence stated that they would be happy to comply with a one way door policy from midnight and 2 licenced security guards when this area is being used for private functions with attendances of over 100 people.

13. *Sale of goods and services other than those relating to alcohol and food – s105(1)f) & (g)*

There are no issue arising under this heading.

14. *Amenity and good order – s105(1) (h) & (i)*

The Act is concerned with effects of alcohol but also extends to people's enjoyment of their environment. The question the Committee must answer is whether the amenity and good order of the area would be likely to be reduced to more than a minor extent by the effects of the issue of the licence. The Committee does not believe there will be any effect.

15. *Appropriate systems, staff and training – s 105(1)(j)*

From the evidence presented Mr Harkamal Singh appears to have a good understanding of the Sale and Supply of Alcohol Act 2012, and was well aware that he would be responsible to ensure that staff employed by him is appropriately trained.

16. *Reporting agencies – s105(1)(k)*

As noted at paragraphs 4 and 5 above. In addition there was no objection from the Medical Officer of Health.

17. *Manner of sale*

There are no issues associated with this matter.

Conclusion – Issue of licence

18. The Committee was impressed by the applicant Harkamal Singh's volunteering of his host responsibility knowledge and experience, and in addition his plans to offer a range of bar snacks.

19. The Committee have formed an opinion that the recent changes to the directors of the Applicant Company are positive and Mr Harkamal Singh's experience in the Liquor industry clearly demonstrate his ability and as a consequence he has satisfied the committee in the question of suitability.

The committee was encouraged to hear his plans of recruiting other suitable Managers to cover the business.

20. Accordingly the decision of the Committee is to issue a new On-Licence from 3 March 2017 for a twelve month period expiring on 2 March 2018, subject to the standard conditions required by the Act, and two further conditions being:

- The Back Bar (Events Centre) is to be used for private functions/events only, ie. Weddings and 21st Birthdays and is to operate with a one way door policy from midnight; and where attendance is over 100 people a minimum of two (2) licensed security guards are to be in attendance.
- Drinking water is to be freely available to customers whilst the premises are open to business and on the bar at every serving place.

DATED at LEVIN this 3rd day of March 2017.



R J Brannigan
Chairperson

