

**IN THE MATTER**

of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER**

of an application by L & J Trading Limited for an On Licence pursuant to s.99 of the Act in respect to premises situated at 218 Marine Parade, New Brighton, Christchurch, trading as Spagalimi's New Brighton.

**BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE:**

Chairman : Mr G B Buchanan  
Members: Mr A J Lawn  
Mr R Wilson

Hearing at the Christchurch City Council Chambers, CHRISTCHURCH on the 20<sup>th</sup> of August 2015.

**APPEARANCES**

Mr M Ferguson; Christchurch City Council Licensing Inspector  
Sergeant J Harris for NZ Police  
Ms Williams for the Medical Officer of Health

**APPLICANT**

L & J Trading Limited                      Mr Jie Lin

**Introduction**

- (1) This decision relates to an application for a new On Licence under section 99 of the Sale and Supply of Alcohol Act 2012.
- (2) This application relates to premises situated at 218 Marine Parade, New Brighton, Christchurch, known as "Spagalimi's, New Brighton". The premises have been previously licensed but that licence has since expired (having not being renewed within required timeframes). The applicant now seeks a new licence.
- (3) The premises are situated in an area on the eastern side of Christchurch City. The maximum number of occupants permitted on the premises is 40.

- (4) This application was heard by this District Licensing Committee on the 21<sup>st</sup> of May 2015 after the Licensing Inspector opposed the licence. He had expressed concerns regarding the suitability of this applicant to operate the licensed premises within the law.
- (5) The decision of the committee was to adjourn the matter to give the applicant the opportunity to complete his Manager's Certificate and complete an acceptable application for the On-Licence.
- (6) The committee adjourned the matter until the 30<sup>th</sup> of July 2015 so that these requirements could be completed to the satisfaction of the Licensing Inspector.
- (7) This date has now passed and the Licensing Inspector has asked for the matter to be heard. He opposes the application.

### **The Application**

- (8) Mr Lin is the applicant for the On Licence. He has been in the industry for a number of years and has previously held a Manager's Certificate. He is the sole shareholder of L & J Trading Limited ("the company").
- (9) Mr Lin acknowledged that there was a requirement that he complete his Manager's Certificate before the 30<sup>th</sup> of July. He said that he had completed his Qualification at CPIT and produced the certificate, dated 8<sup>th</sup> August 2015, to the committee.
- (10) He said that he had not yet completed his application with the council because he was waiting until he had completed his training.
- (11) To questions concerning the time it had taken him to complete his training and submit an application, Mr Lin said that he had been too busy working in a building job.
- (12) Mr Lin told the committee that he now had a second Manager for the premises. This person is his wife. He explained that she worked at another restaurant 3 days a week but worked the evenings 6 days a week at his premises.
- (13) To a question from Mr Ferguson, he acknowledged that his wife only had a Temporary Managers Certificate and therefore was not able to fulfil the role as a manager at his restaurant.

## **Reporting Agencies**

### **The Licensing Inspector**

- (14) The Inspector's report had been previously supplied to the committee.
- (15) Mr Ferguson made submissions to the committee which outline his concerns regarding the suitability of the applicant.
- (16) He said that no application for a Manager's Certificate had yet been received by the licensing team at Christchurch City Council.
- (17) An application for a new On-Licence had been received, but it lacked the detail which was required and there was little supporting documentation. The council received the application on the 29<sup>th</sup> of July 2015.
- (18) Mr Ferguson pointed out to the committee that the applicant showed very poor understanding of the requirements of a licensee and this was reflected in the inadequate manner in which the application was completed.
- (19) Mr Ferguson submitted that the applicant's failure to complete a simple task, such as submitting his applications for the On-licence and Manager's Certificate, indicates that he lacks the ability to apply the law as required.
- (20) He stated that Mr Lin could have submitted his application for a Manager's Certificate at any time prior to completing the qualifying course. He had not done so.
- (21) Mr Ferguson told the committee that the applicant was not considered suitable to hold a licence.

### **Medical Officer of Health**

- (22) Ms Williams asked Mr Lin if he understood the responsibilities of a Manager under the new Sale and Supply of Alcohol Act, and asked Mr Lin to explain the signs of intoxication. Mr Lin was unable to do so, although he did tell the committee that the new act is focused on reducing alcohol harm.

## **Decision**

- (23) All the evidence presented to the committee was considered.
- (24) The committee makes the point that it is for the applicant to demonstrate that he is suitable to hold a licence, (see *Page v Police 24/7/98, Pankhurst J, HC, Christchurch*

AP84/98). To do so he must satisfy the Committee that he meets the requirements of section 131 of the Act.

**J M Clark LLA 1169/99**

*“ A liquor licence is a privilege. It may colloquially be regarded as a ‘package deal’. Both the burden and the benefit runs with the licence. Mr Clark as a licensee must accept those burdens and control the sale and supply of liquor in a satisfactory manner, or he will not continue to enjoy the privilege. Either the licensee can manage the premises, and on-licence satisfactorily or he cannot.”*

- (25) The submission from the Licensing Inspector raised concerns as to the applicant’s suitability. We noted in the first hearing that the standard of the application documentation completed by Mr Lin was very poor. It has not improved since that time. It still does not adequately address the necessary requirements of an application, nor have the supporting documentation that would reasonably be required.
- (26) We note that Mr Lin still does not hold a current manager’s certificate, and to date has not yet applied for one. We also note that the required training at CPIT was not completed until the 8<sup>th</sup> of August. Eight days after the date all matters were required to be resolved.
- (27) We are not satisfied that being “too busy” is sufficient reason to have not completed the requirements set down by this committee at the earlier hearing on the 21<sup>st</sup> of May 2015.

**Conclusion**

We are satisfied as to the matters to which we must have regard as set out in s.131 of the Act and we make the following decision:

The application for an On-Licence for Spagalimi's New Brighton is declined.



Mr G Buchanan  
Chairman

Dated this 20<sup>th</sup> day of August 2015