

**IN THE MATTER**

of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER**

of an application by The Stables Limited for an On Licence pursuant to s.99 of the Act in respect to premises situated at 65 Rue Lavaud, Akaroa, trading as The Stables.

**BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE:**

Chairman : Mr G B Buchanan  
Members: Mr A J Lawn  
Mr D Blackwell QSM

Hearing at the Christchurch City Council Chambers, CHRISTCHURCH on the 15<sup>th</sup> of December 2015.

**APPEARANCES**

Mr P Spang; Christchurch City Council Licensing Inspector  
Constable G Craddock for NZ Police  
Ms P Williams for Community and Public Health

**APPLICANT**

The Stables Limited      Ms J Slagter

**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 65 Rue Lavaud, Akaroa, trading as "The Stables ". The premises have not previously been licensed.
- [3] The applicants have previously applied for an On-Licence which was opposed by the Licensing Inspector, Police and Medical Officer of Health. In a decision by the Alcohol Regulatory and Licensing Authority that application was declined.

- [4] The Licensing Inspector no longer opposes this application. He expresses some concern due to the manner in which a previous licensed premises was operated by the same company. He sought a public hearing to determine the matter.

### **The Application**

- [5] Ms J Slagter appeared for the applicant. She is a company director in The Stables Ltd that had previously operated a licensed Restaurant in Akaroa. In evidence she said that the company had not previously understood the requirements of operating a licensed premises. She said that they underestimated the level of responsibility needed to operate an Alcohol Licence and that the company had learnt their lesson.
- [6] Ms Slagter acknowledged that there had been some problems with the management of the previous licence. She undertook that there was a complete change in focus in the operation of the new business.
- [7] Ms Slagter told the committee that the Restaurant operates from around 8.30am until 4pm. She said that they advised customers that they were not licensed and because of this, up to 90% of patrons do not remain for a meal.
- [8] An alcohol licence would ensure that they would be able to provide a better service to customers. With the increase in summer trade and scheduled Cruise Ships visiting Akaroa, the licence was essential for the business to remain attractive to the public.
- [9] Ms Slagter said that noise had been a major problem previously and that they intended to have music only as a background element to assist with the ambience. She said that she would consider engaging a non-amplified guitarist on some occasions if possible.
- [10] She said that the directors submitted in the application documents an undertaking to ensure that they would have no live bands or excessive music.
- [11] When questioned by the Licensing Inspector regarding the Sale and Supply of Alcohol, Ms Slagter's knowledge was very good. She was able to tell the committee the object of the Act and how the business could operate to reduce alcohol harm.
- [12] To a question about staff training, Ms Slagter said that they had not yet had time to organise and write a suitable training procedure. She understood its importance but it had yet to be done.
- [13] Ms L Api also gave evidence on behalf of the applicant. She is the general manager appointed to run the business. She gave evidence that she understood that the focus was on the food and not alcohol. She showed a reasonable knowledge of her responsibilities under the Act and was candid about how these premises should be managed.

## **Reporting Agencies**

### **The Licensing Inspector**

- [14] The Inspector's report had previously been supplied to the committee.
- [15] Mr Spang made submissions to the committee which outlined his concerns regarding the application. He did not object to the application but asked for a public hearing, in order for all matters to be properly weighed at this hearing.
- [16] Mr Spang pointed out to the committee that the applicant showed a willingness to learn from previous mistakes and that the focus of this business was now on food. He thought that the undertaking by the applicant in keeping the noise to a suitable level was sufficient to deal with this issue.

### **Police**

- [17] Constable G Craddock did not object to this application for an On Licence. She submitted that the Police did not have any cause for concern.

### **Medical Officer of Health**

- [18] Ms Williams did not object to the application

## **Decision**

- [19] All the evidence presented to the committee was considered.
- [20] The application was duly advertised and no public objection or notice of desire to be heard has been received.
- [21] The committee makes the point that it is for the applicant to demonstrate that she is suitable to hold a licence, (see *Page v Police 24/7/98, Pankhurst J, HC, Christchurch AP84/98*). To do so she must satisfy the Committee that she meets the requirements of section 131 of the Act.
- a. *Section 13(1)(a) provides that the applicant for an on-licence must demonstrate his or her suitability. In other words what is required is a positive finding. That implies on onus on the applicant to demonstrate suitability. Such suitability is not established in a vacuum but in the context of a particular case."*

## **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 grant the licence for a period of 12 months from the date of this decision. The issue of the licence is subject to the undertakings as outlined.

The applicant's attention is drawn to s.259 of the Act which makes it an offence to not comply with certain requirements and restrictions imposed by or under this Act. Specifically sections 46 to 63 and 231(1).

The applicant must comply with all conditions specified on the licence.

The licence will be subject to the following conditions:-

The licence may be issued on payment of the annual fee payable in accordance with regulation 15 of the Sale and Supply of Alcohol (fees) Regulations 2013.

The decision is that the On-Licence is granted subject to the following conditions:

- The applicant must submit in writing, an undertaking that ;
  - Music will not be excessive so as to cause nuisance to neighbours
  - There will be no live music.
  - All music will cease at 9.30pm every night.

This undertaking must be signed by the company directors and be received by the licensing Inspector before 10 March 2016.

- The applicant must submit a training manual to the licensing Inspectors for approval before 10 March 2016.

## **Compulsory conditions – section 110 (2)**

**The following conditions are compulsory:**

- (a) Alcohol may only be sold the following days and during the following hours when the premises are being operated as a Restaurant:**

**Monday to Sunday 11.00 am to 10.00pm the same day**

**No alcohol is sold on or supplied on the premises on Good Friday, Easter Sunday or Christmas Day, or before 1 pm on Anzac Day to any person who is not on the premises for the purposes to dine.**

**(b) water will be freely available to customers on the premises while the premises are open for business.**

**Discretionary conditions – section 110 (1)**

- (a) the following steps must be taken to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed:
- Display of appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (b) the following steps must be taken to ensure that the provisions of the Act relating to the management of the premises concerned are observed:
- Alcohol must only be sold, supplied and consumed within the area marked on the plan submitted with the application.
- (c) the following steps must be taken to promote the responsible consumption of alcohol:
- The licensee must implement and maintain the steps proposed in their host responsibility policy aimed at promoting the reasonable consumption of alcohol.

**Other restrictions and requirements**

**Section 51 -- Non-alcoholic drinks to be available.**

**Section 52 – Low alcoholic drinks to be available.**

**Section 53 – Food to be available.**

**Section 54 – Help with information about transport to be available.**

**Section 56 – Display Signs.**

**Section 57 – Display of licences.**

**Section 214 – Manager to be on duty at all times and responsible for compliance.**

Note:

The Police, Community Health and the Licensing Inspector have all indicated that they will not appeal the Committee's decision and agree to waive the 10 day appeals period as per section 155(1).

The licence can therefore be issued upon receipt of this decision.

A handwritten signature in blue ink, appearing to read 'G. Buchanan', is written over a faint, illegible printed name.

Mr G Buchanan

Chairman

Dated this 15<sup>th</sup> of December 2015