

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **FREE AND CRAZY COMPANY LIMITED** pursuant to s.100 and s.127(2) of the Act for a renewal on-licence in respect of premises situated at 14 Yewlett Crescent, Frankton, Queenstown known as "Frankton Arm Tavern"

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

Chairman: Mr E W Unwin
Members: Ms M W Rose
Mr J M Mann

HEARING at Queenstown on 10 February 2014

APPEARANCES

Mrs M Rodgers – representing the applicant company
Ms Z Hammett – Queenstown Lakes District Licensing Inspector – to assist
Sergeant L K Stevens – N Z Police – to assist
Miss T Surrey for Mrs J Waldron - objector
Mr B and Mrs J White - objectors

INTERIM ORAL DECISION OF THE COMMITTEE

- [1] Before the committee is an application by Free and Crazy Company Limited for the renewal of its on-licence. At the commencement of the hearing, one of the objectors represented by Miss T Surrey, made a request for an adjournment. Her request was basically that her client, (one of the five objectors), had not been given the 10 working days notice of the public hearing as required by s.202(4) of the Sale and Supply of Alcohol Act 2012. Her submission was that the documentation, (that is the inspectors report), had only been received very recently and not within the 10 working days notice.
- [2] The applicant company is represented by Ms M Rodgers who has no brief of evidence as such. The inspector has given a full report. There is no objection, per se, to the renewal of on-licence. The applicant company has clearly carried out the duties of the licensee in accordance with the Act. The

only issue is the request by the applicant to extend the trading hours for the outdoor area by 2 hours during the week from 8.00 pm to 10.00 pm, and 1 hour on a Sunday to 9.00 pm.

- [3] There is a history of noise complaints in respect of the previous licensee but not the applicant. However, when the present licensee made application for the on-licence objections from neighbours were received. In order to obtain a licence or perhaps avoid a hearing, the applicant reduced its proposed trading hours for the outdoor courtyard to 8.00 pm. The applicant now wishes to return to a later trading hour for the outside area. That is the issue that has attracted public objections, with one objector now alleging that she did not receive sufficient notice of the hearing.
- [4] We note section 208 of the Act which gives this committee the power to waive time if satisfied the omission was not wilful. There is a suggestion that the ten days notice should have been in writing. The indications are that notice was made by phone. There is no legal requirement that we can see that the notice should be in writing, but regrettably there is little evidence about the phone calls that were made.
- [5] The probability is that sufficient notice was given. In the event the applicant is unprepared. The formal notice of hearing showing the cases to be determined also includes a request that a typed statement of evidence and submissions is to be tendered at the hearing for the use of the committee. The applicant does not have such documents neither does the objector represented by Ms Surrey. In other words, apart from Mr and Mrs White, who have come from Dunedin with a prepared brief of evidence, the applicant and Miss Surrey's client are unprepared.
- [6] There are important issues at stake, made more significant by the new Act in relation to the good order and amenity of any community. In particular issues of noise have great relevance when considering trading hours. It is understood that up to now there have been no noise complaints but as Miss Surrey has pointed out, there has been no trading outside later than 8pm. We believe that with such important issues at stake it is good for the parties to reflect and prepare and be allowed time to do this.
- [9] Our decision is one that we feel will give parties a better opportunity to prepare. This application will be adjourned and will be heard on Tuesday the 4th of March at a time to be advised.

DATED at QUEENSTOWN this 14th day of February 2014


E W Unwin
Chairman

