

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER

of an application by
**MEDITERRANEAN MARKET
LIMITED** pursuant to S. 127 of the
Act for the renewal of an on-
licence in respect of premises
situated at 53 Robins Road,
Queenstown, known as “Raeward
Fresh”

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

Chairman: Mr E W Unwin
Members: Mr L A Cocks
Mr J M Mann

HEARING at QUEENSTOWN on 19 September 2018

APPEARANCES

Mr N K and Mrs A L Imlach – on behalf of the applicant company
Ms S H Swinney – Queenstown Lakes Licensing Inspector – to assist
Sergeant T D Haggart – N Z Police – to assist
Ms L M Grace – representing Medical Officer of Health – in opposition

Introduction

- [1] Since 2003, Mediterranean Market Limited (the company) has operated a grocery store with an associated off-licence trading under the name of “Raeward Fresh”. The off-licence has recently been renewed. The premises are situated in the Junction Building at 53 Robins Road, in Queenstown. Throughout this time the company has also operated a small cafe with an associated on-licence at the rear of the store. The patrons have been able to consume alcohol while they enjoy the food on offer in the cafe.
- [2] The company has traded virtually as one entity. There is no separate name for the cafe. There is a till at the counter, but this is used to print out dockets for the food and beverages ordered. The docket is taped to a large coloured card which is then taken to the checkout counters in the grocery store. In other words the account is paid when the customer leaves the store.
- [3] In the last fifteen years there have been no concerns about unsafe or the irresponsible supply of alcohol. It is because of the way the business is

trading that has attracted opposition to the renewal of the licence. The application to renew the on-licence was filed in early October 2016 but the processing was delayed pending the outcome in the Court of Appeal of the “Vaudrey” decision which was primarily about single-areas in supermarkets and grocery stores.

- [4] Public notification of the application was made in the name of Nathan Kemnay Imlach and not the company. Mr and Mrs Imlach are the owners and directors of the company. We are satisfied that the error was not wilful and a waiver is granted under s.208 of the Act. The trading hours sought are Monday to Saturday 8.00am to 6.30pm and on Sunday from 10.00am to 6.00pm.
- [5] There was no public opposition to the application. The Police had no issue with the renewal. The Inspector questioned whether it was appropriate for all sales from both the off and on-licence to be going through the same tills given that the two licensed areas were separate.
- [6] In her report on the application, the Medical Officer of Health’s delegated officer (Ms L M Grace) questioned whether a grocery store trading with an off-licence can also trade with an on-licence. She sought clarification from the Alcohol Regulatory and Licensing Authority or this Committee. Because of the issues raised, the renewal application was set down for a public hearing.
- [7] Section 25 of the Sale and Supply of Alcohol Act 2012 enables one kind of licence to be issued for premises (or part of the premises) for which a licence of another kind is already held.
- [8] However, there are other relevant rules, and one of them is s.32 of the Act. This sets out the type of premises for which an off-licence may be issued. An off-licence may not be issued for premises for which a restaurant style on-licence is held. However, in this case we are dealing with a grocery style off-licence which is the primary business being conducted on the premises.
- [9] The company is not the only grocery store to offer a cafe service. Other Committees have been faced with the same issues. At the heart of matter is the question of separation, and in particular the current requirement for customers of the cafe to use the check out tills when paying for the food and alcohol consumed in the cafe.

Preliminary Discussion.

- [10] Informal discussions were held prior to any evidence being given. Mr Imlach advised that the company had decided to change the way the cafe till is operated. In the future, payment for alcohol consumed in the cafe will be made through the till in the cafe. In addition, changes would be made to show that the cafe was a separate entity. This could be by way of a simple sign or the moving of a partition.
- [11] On the basis of the assurances given by Mr Imlach, the Medical Officer of Health withdrew any further opposition to the renewal.
- [12] It is understood that these adjustments may take time to be implemented but we are satisfied that the company intends to make the necessary changes (a)

to the way the cafe till is operated and (b) to the layout so that members of the public will be more aware that there are two distinct and separate businesses. On that basis we are prepared to renew the on-licence on its present terms particularly as a further renewal will be due in approximately twelve months.

The Committee's Decision.

[12] The application for the renewal of the on-licence is granted for three further years from 17 November 2016 with the same hours and conditions.

DATED at Queenstown this 5th day of October 2018



Mr E W Unwin
Commissioner

