

**Decision No. 60B [2014] 2958**

**IN THE MATTER**

of the Sale and Supply of Alcohol Act 2012.

**AND**

**IN THE MATTER**

of application under s.99 of the Sale and Supply of Alcohol Act 2012 by **CALIENTE KITCHENS LIMITED** in respect of premises at **98 Victoria Street, Christchurch**, known as **Tequila Mockingbird**.

**RESERVED DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE**

Chairperson: P R Rogers

Members: Mr G Buchanan and Mr A Lawn

**HEARING**

at CHRISTCHURCH on the 27 and 28 November 2014

**IN ATTENDANCE**

Mr P J Edgen - Counsel for applicant.  
Ms A Houston - Licensing Inspector  
Senior Sergeant G Spite - NZ Police  
Mr P Tweed - Canterbury District Health Board  
Janet Anderson - Committee Adviser

**OBJECTORS**

Ms S Templeton – Hagley/Ferrymead Community Board Member.  
Dr M Manthei – On behalf of Victoria Neighbourhood Association Inc.  
Mr B Manthei – As a witness for VNA.  
Ms M Thompson – Resident  
Mr I White – Resident  
Mr B Luff – Resident  
Ms C Bennett – Resident

## **INTRODUCTION**

The applicant seeks an On-licence for premises known as Tequila Mockingbird (TM), here-in-after to be known as “the premises” situated in a newly constructed purpose-built building at 98 Victoria Street Christchurch. The premises comprise of a ground floor restaurant and bar as well as a first floor bar. The hours sought for the entire premises are 8 am to 3 am daily. The City Plan lists the area an entertainment/hospitality precinct.

A certificate of compliance under the Resource Management Act 1991 has been issued which authorises the use, together with days and hours sought. The premises are situated in an area zoned “central city” in the Christchurch City Plan.

The site is contained within an area identified as ‘entertainment/hospitality’ and is in a Category 2 noise level area.

The applicant gave evidence and the Committee wish to make it clear there is no question over the suitability of Mr Giddens and we consider him to be one of the better operators in the industry.

Public Notices attracted 8 objections 2 of which were outside the time limit specified in the Act. For the reasons given for lateness a waiver is granted under s.208 for the 2 objections. Six of the objectors believe the hours are excessive and they are affecting the amenity and good order of the area.

None of the three agencies namely the Christchurch City Council (CCC) Inspector, the NZ Police, or the Medical Officer of Health opposed the application for renewal. That is not to say they did not have concerns of the amenity and good order of the neighbourhood as a result of the proliferation of late night licensed premises in the immediate area since the earthquakes of February 2011.

### **Committees Decision and Reasons**

After hearing the evidence of the applicant and the very real concerns of the residents in the area, including the Victoria Neighbourhood Association representatives concerning their loss of amenity and good order, the Committee in coming to its decision considered the following factors.

The location of the area in question in relation to the City Plan and other council ordnances; the fact the activity occurs as result of a Resource Consent and the hours granted for that activity.

The lack of a Local Alcohol Plan (LAP) which the Committee considers is at the nub of the problem. The residents are right to say they expected a change with the full enactment of the Sale and Supply of Alcohol Act 2012.

In the draft LAP, which has been for public consultation the area of Victoria Street in question has been identified as being an area affected by noise, nuisance and vandalism and a closing time of 1.00 am was recommended. This doesn't mean to say that the draft LAP will not change prior to coming into force, parts of it may, but the final policy will reflect the desire of the community as a whole. In this instance the delay in implementing the LAP is having a significant impact on this community.

Another problem identified was that there are a number of bars which do not trade as restaurants later into the night in the vicinity, which are a catalyst for the migration which causes issues within the residential neighbourhood.

The applicant also owns the licensed premises next door namely the Revival Bar which also trades to 3.00 am. Revival Bar's licence is due to come up for renewal in the near future and this is one of the reasons the Committee came to the conclusion it did.

The applicant said on more than one occasion that the popularity of his premises at the current time is what is attracting large numbers. He said as more bars open around Christchurch this could change with the availability of more late night premises.

He pointed out this happened at Merivale, a suburban shopping area about 1.5 kilometres from the premises. Shortly after the earthquake the amenity and good order of that area was affected by one particular late night bar. As other premises have opened around the city the patronage of this bar had dropped off to pre-earthquake levels and it was no longer a problem to nearby neighbours.

## **Conclusion**

For the reasons given it is the decision of the Committee to adjourn this matter for 12 months or sooner if the Committee so decides. That will mean that the applicant can continue to trade with the same conditions, without having to reapply in 12 months.

The Committee considers and recommends that during the adjournment there are a number of issues which the parties should address, and they are:

- VNA and other objectors should meet with the CCC planners to look at the feasibility of making 'residents parking only' in the residential streets after 8.00 pm on a Friday and Saturday night.
- Have all parties work with CCC re the part of the LAP which affects the area.
- Have the CCC Safer Community Team to update the Crime Prevention Through Environmental Design (CPTED) audit carried out for the area which should include the residential area.

- Carry out a 'patron survey' on migration in the area and look at solutions to any problems which arise.
- Discussions to take place with the applicant for him to consider using his security firm to actively police the residential area, and liaise with Police to deter congregation and alcohol consumption in the residential area which is an alcohol free zone.

The adjournment also gives the opportunity for all parties to work together as suggested above to attempt to mitigate the problems. The Committee wishes to make it clear that these are only suggestions, as the solutions to the issues in the area of the premises are not simple and we believe they require a 'holistic' approach.

It also gives time to see if the applicant's prophecy of the patronage reducing over the next 12 months does in fact occur, as other premises open across the city, and therefore assist in raising the amenity and good order of this particular area.

The 12 month adjournment also gives time, it is hoped, for the LAP to be finalised. The provision of s.92(2)(a) of the Act, stipulates that where an LAP restricts the hours, the premises affected have a 3 month period before those hours take effect. This would mean that all premises in the Victoria Street entertainment/hospitality precinct would have to fall in line with whatever hours had been set in the LAP, rather than one at a time as they come up for renewal when new hours are normally set.

In coming to this decision the Committee has attempted to follow the purpose of s.3(2)(a) and (b) of the Act in coming to a reasonable decision for all parties.

**DATED** at CHRISTCHURCH this the 23<sup>rd</sup> of December 2014.

A handwritten signature in blue ink, appearing to read 'H. Rogers', is written over a light blue rectangular stamp.

Chairperson

**Christchurch District Licensing Committee**