

IN THE MATTER of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER of an application by Wendy
XU Limited for a Temporary
Authority pursuant to s. 136
of the Act in respect to
premises situated at 35G
Riccarton Road, Christchurch,
trading as the Great Wall
Restaurant.

BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE:

Chairman : Mr G B Buchanan
Members: Mr R Wilson JP
Mr P Rogers

Hearing at the Christchurch City Council Chambers, CHRISTCHURCH on the 15th of February 2017.

APPEARANCES

Mr M Ferguson Christchurch City Council Licensing Inspector
Sergeant J Harris for NZ Police

APPLICANT

Wendy Xu Limited Ms W Xu

Introduction

- (1) This decision relates to an application for a Temporary Authority under section 136 of the Sale and Supply of Alcohol Act 2012.
- (2) The application relates to premises situated at 35G Riccarton Road, Christchurch, trading as "The Great Wall Restaurant".
- (3) The applicant has met with Police and the Licensing Inspector to resolve concerns held by the agencies regarding the ownership of the premises. Those issues could not be resolved to the satisfaction of the agencies and a hearing was sought for the District Licensing Committee to determine the matter.

The Application

- (4) Ms Wendy Xu appeared at the hearing. She is the sole owner and director of the applicant company. She gave evidence that her husband would help her run the business, but he was not an owner in the venture.
- (5) Ms Xu told the committee that the current owner of the Great Wall Restaurant is a friend and has agreed to sell her the business. The agreement between the two parties was that Ms Xu would not be required to pay any money at the time of settlement and that the money would be paid back at some time in the future.
- (6) Ms Xu supplied a copy of an 'Assignment of Lease agreement' signed by the vendor, purchaser and the landlord.
- (7) The two other documents supplied to the committee were a 'sale and purchase agreement' and a 'loan agreement'. Both these documents had been signed and dated by both the vendor and purchaser.
- (8) Under cross examination by the Police, Ms Xu agreed that the Loan agreement and the Sale and Purchase agreement had not been prepared by either the vendor or purchaser to formalise the sale, but had in effect been supplied as part of the application to satisfy the agencies. The arrangement had simply been based upon their friendship. According to Ms Xu it is common in her culture for such an agreement to exist without a legal contract.
- (9) Ms Xu also agreed under cross-examination that the documents had not been prepared by a lawyer and had not been signed and dated correctly. She agreed that they were 'defective' as a legal document.

Reporting Agencies

The Licensing Inspector

- (14) The Inspector's report had previously been supplied to the committee.
- (15) Mr Ferguson said that he was concerned with the legitimacy of the ownership of the business. He had not been able to resolve the issues at a recent meeting with the applicant. He had never struck a situation similar to this previously. Mr Ferguson also felt that the applicant had not produced sufficient evidence to date to satisfy him as to the legal issue of ownership of the business.

Police

- (16) Sergeant Harris submitted that the application was incomplete because of the defective documentation supplied in the application.

Decision

(17) All the evidence presented to the committee was considered. The committee also took into account the submission by the Police.

Conclusion

The issue of the ownership of the business has not been resolved to the satisfaction of the committee. It is our view that the application in its present state does not have sufficient information. The application is therefore incomplete and is refused.

If the applicant wishes to apply again for a Temporary Authority or new Licence she will need to provide sufficient information to satisfy the requirements under the Act.

A handwritten signature in blue ink, appearing to read 'G. Buchanan', is written in a cursive style.

Mr G Buchanan

Chairman

Dated this 17th of February 2017