

NORTHERN TERRITORY LICENSING COMMISSION

Decision on Whether Objections Will Proceed To Hearing

Applicant: Mr Edward Winter

Premises: Berry Springs Palms Café

Objector: Northern Territory Police
Mr Des Crowe on behalf of
Gregory Stephen Liebelt and Julie Anne Liebelt

Relevant Legislation: Sections 47F,G & I of the *Liquor Act*

Background:

- 1) An application has been made by Mr Edward Winter for a new liquor licence (tavern) for the premises known as Berry Springs Palms Café situated at 1420 Cox Peninsula Road, Berry Springs.
- 2) The application includes a request for a takeaway licence between certain hours.
- 3) The application was advertised in the proper form on 2 and 4 November 2005. Objectors are given thirty (30) days under the *Liquor Act* to forward their objections to the Director of Licensing. As the thirtieth day was Sunday 4 December 2005, the *Interpretation Act* allows objections to be received at the latest on Monday 5 December 2005.
- 4) Two (2) objections were received within the objections period. The first was received from Assistant Commander Mark Payne and was signed by him in his capacity as Assistant Commander of Operations Command. The letter was written on Northern Territory Police letterhead. Pursuant to Section 47F(3)(c) of the *Liquor Act*, Assistant Commander Payne has standing to lodge an objection in his work capacity.
- 5) The written objection clearly set out the facts relied on by Assistant Commissioner Payne. These included concerns regarding anti-social behaviour as a result of the takeaway component of the licence application. It also addressed road safety concerns, including an

increased risk to motorists and pedestrians (particularly school children). The objection further commented on the policing / monitoring difficulties that a further liquor outlet would cause for Police together with a submission that there are sufficient takeaway outlets already in the area.

- 6) A response was received from the applicant through their Solicitor, Mr Peter Maley. The response addressed all of the issues raised by the Police. It queried what was perceived as a general "formula" response by Police to this application.
- 7) I have considered the objection and the response from the applicant to the objection. I consider that the Police are entitled to a hearing in relation to this objection as they have raised sufficient concerns regarding public safety and neighbourhood amenity issues and they have provided sufficient facts to support their concerns.
- 8) The remaining objectors are Mr and Mrs Liebelt, who reside and work at Lot 2333 Darwin River Road, Berry Springs. Mr and Mrs Liebelt lodged their objection in writing through their Solicitor, Mr Des Crowe. The first question is whether they have standing as objectors. They rely on Section 47F(3)(a) of the *Liquor Act* which gives standing to "*a person residing or working in the neighbourhood where the premises the subject of the application are or will be located*".
- 9) Do they reside within the neighbourhood? Mr Maley, in his response to the Police objection, acknowledged that the relevant neighbourhood was the Township of Berry Springs and the surrounding areas of the Litchfield Shire and Coomalie Council and Litchfield National Park.
- 10) Whilst there is some dispute as to the actual distance between the Litchfield Hotel (where Mr and Mrs Liebelt reside and work) and the applicant's premises, I am satisfied that they fall within the neighbourhood. I base my reasoning on the fact that any licence with a takeaway component has a neighbourhood that is necessarily larger than an application that seeks an on licence condition only. The reality behind this reasoning is that the impact of the granting of a takeaway licence is more widespread than an on licence condition.
- 11) The Liebelt objection was received by the Director of Licensing on 5 December 2005 and was therefore received within the objection period. The objection addresses concerns such as road safety, an increase in consumption of alcohol and an increase in harmful drinking patterns. Finally the objection concerns itself with anti-social behaviour and public drunkenness in the neighbourhood.
- 12) Mr Peter Maley responded to these issues on behalf of the applicant but I consider that the concerns raised in the objection are sufficiently particularised to require the Commission to conduct a hearing into the same.

Decision

13) As the member of the Commission appointed to consider the objections to this application for a new liquor licence, I consider that both the objections from the Northern Territory Police and Mr and Mrs Liebelt are valid and the Commission must conduct a hearing with respect to each objection.

Brenda Monaghan
Legal Member

6 February 2006