

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

PREMISES:	KITTY O'SHEA'S IRISH BAR – CAFÉ AND NIGHTCLUB – AND THE ROX BAR AND NIGHTCLUB
LICENCE NUMBER:	80300296
LICENSEE:	JDM Hotel Management Pty Ltd
COMPLAINANT:	Director of Licensing
HEARING:	Complaint pursuant to Section 48(2) of the <i>Liquor Act</i> – Failure to comply with the camera surveillance requirements conditions of liquor licence
HEARD BEFORE:	Mr John Flynn Mr Paul Costigan Ms Brenda Monaghan
DATE OF HEARING:	04 August 2006
DATE OF DECISION:	04 August 2006
APPEARANCES:	Complainant – Mr Graham Tribe Nominee – Martin Mattick

1. This complaint was lodged by the Director of Licensing and the terms of the complaints were that both Kitty O'Sheas Irish Bar and the Rox Bar and Nightclub have failed to comply with Camera Surveillance Guidelines and therefore have breached their licence conditions. The failure to comply was in two main areas as follows:
 - a. Failing to provide proper coverage including not having a functional system that was working at a 3 frame per second minimum with the capacity for storage for 14 days. Our understanding is currently the system is working at 3 frames per second with approximately four days storage capacity; and
 - b. Failing to provide a recording of camera surveillance when requested.

2. The Licensee admitted these breaches. On behalf of the Licensee we have taken specific note of the following information:
 - a. Clearly some of the delays stemmed from the difficulties experienced between the managers and owners of the licensed premises and their camera surveillance provider and we take note of that fact;
 - b. We take account of the Licensee's open admission of the breaches today;
 - c. We note that we have been provided today with a quote for a superior upgrade of the system to twelve (12) frames per second and that is an upgrade we commend the Licensee for. It is a move that definitely satisfies the Commission;
 - d. We acknowledge the assurance of the Licensee through Mr Mattick today that the upgrade will be installed and functioning by the end of this month and we also note the willingness expressed by Mr Mattick (if required) to burn to disc the camera footage for daily surveillance from today until the new equipment or upgrade is installed.
3. We also note submissions and matters in the brief put forward by the Director of Licensing and they include:
 - a. The fact that there have been concerted and repeated attempts since September 2005 by Licensing Inspector Tribe on behalf of the Director of Licensing to try to ensure compliance without the need for this complaint being lodged;
 - b. We also note the fact that these camera surveillance guidelines have been in force since 2004 so there is no excuse for a premise to be non compliant three years later.
4. We have taken into account all of those factors in the submissions given to us and we make a ruling which gives some leeway to the Licensee, but also expresses our concern about the time that this matter has taken to get resolved. The decision also includes a deterrent element.

DECISION

- a. The Licensee has until August 31, 2006 to install the new system so as to comply with the Camera Surveillance Guidelines currently in force;
- b. Until that new system is installed, the Licensee is required to maintain copies of surveillance footage on disc so as to ensure compliance with the Guidelines, (including a minimum of three (3) frames per second/ surveillance from 8pm onwards/ retention of footage for a fourteen (14) day period);

- c. Should the Licensee fail to comply with the above time frame for the installation of the new system by 31 August 2006, then from 1 September 2006 until the new system is installed, trading hours in all bars will be restricted to a midnight closing time;
- d. Finally, we impose a suspension of two (2) days trading being a Friday and Saturday night but that suspension is immediately suspended. It will remain as a suspended suspension for a further twelve (12) month period from today. If within the next twelve (12) months, there is a proven breach of either the *Liquor Act* or the licence conditions that is of similar or greater seriousness to this matter, then the two (2) day suspension will come into force, together with any other penalty that may be imposed for the subsequent breach.

Brenda Monaghan
LEGAL MEMBER