

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

PREMISES:	TENNANT CREEK MEMORIAL CLUB
LICENSEE:	Tennant Creek Memorial Club Inc
LICENCE NUMBER:	81402774
NOMINEE:	Shawn Surridge (Temporary)
PROCEEDING:	Complaint Pursuant to Section 110 of the <i>Liquor Act</i>
HEARD BEFORE:	Mr Richard O'Sullivan Ms Brenda Monaghan Ms Helen Kilgariff
DATE OF HEARING:	27 February 2007
DATE OF DECISION:	27 February 2007 (Verbal) 8 March 2007 (Written)
APPEARANCES:	Senior Inspector Wayne Sanderson for the Director of Licensing Mr Shawn Surridge, Temporary Nominee Mr Steve Silvester, President

REASONS FOR DECISION

1. On 27 February 2007, the Tennant Creek Memorial Club admitted to breaches of the *Liquor Act* and of their licensing conditions as follows:
 - On 6 September 2006, they sold liquor on premises to two (2) persons who were neither members of the club nor bona fide visitors as defined by the licence conditions; and
 - For some months in mid 2006, the Club admitted they had failed to maintain a Visitors Book in the manner required by their licence conditions.
2. Mr Surridge, on behalf of the club, did not admit to a further complaint that the management committee had failed to sufficiently supervise club management and the Commission heard submissions on this issue. At the hearing on 27 February 2007, the Commission found this alleged breach proven on the grounds of the failure of the Management Committee to ensure the

maintenance of the Visitors Book. The Commission also heard from both parties on the issue of appropriate penalty and handed down an oral decision on that day on the basis that written Reasons for Decision would be handed down in due course. We now take the opportunity to provide those Reasons specifically with respect to penalty.

PENALTY

3. When considering penalty, we took into account a number of factors including the following:
 - a) The Commission noted that licensing inspectors had made a concerted attempt to work with the club to try to improve their level of compliance as regards maintaining a proper Visitors Book. Mr Sanderson, on behalf of the Director of Licensing, advised that in October 2005, a letter was sent out to all clubs advising them of the requirements that they properly maintain a visitor's book. During a routine inspection of the premises on 13 July 2006, Licensing Inspectors noted that the Club was not complying with licence requirements in this area. They not only raised the issue with Mr Harker, the Nominee of the Club in person on 14 July 2006 but the Director of Licensing (South) took the time to write to the Club warning them to improve their management processes in this area. The club's written response dated 25 July 2006 shows all too well that their management knew of the problem and fully understood the necessity for them to improve their processes. Despite this warning, however, when Inspectors returned on 6 September 2006, the problems had not been satisfactorily addressed. It is the Commission's view that in circumstances where Racing, Gaming & Licensing warn Licensees and offer their assistance in order to ensure compliance, then Licensees must accept the consequences if they fail to take regard of the warning.
 - b) The Commission takes into account on penalty the fact that on the 6 September 2006, the acting Nominee, Mr Surrige may have mistakenly assumed that the two Inspectors had been signed in as he saw them waiting near the receptionist who was responsible for ensuring proper signing in by members and guests. Mr Surrige did not, however, check their status with them before serving them alcohol so as to satisfy himself that they were bona – fide members or visitors. Mr Surrige did not however, recheck their status before arranging for them to be served alcohol so as to satisfy himself that they were bona–fide members or visitors.
 - c) The Commission notes the efforts taken by the acting Nominee and the new Management Committee to attempt to regularise and improve processes to prevent further breaches. We note that the Management Committee are currently reviewing the Association Constitution and that the acting Nominee is confident that the current signing-in process is compliant and that the membership records are up to date.

- d) The Commission notes that in previous cases where complaints have been admitted or upheld, the penalties given in the form of suspensions or suspended suspensions relate only to the takeaway aspect of the liquor licence rather than the full licence. In this case, because the breach relates to drinking on premises as opposed to takeaway, it seems appropriate that the penalty relates to the full liquor licence so the period of suspension should be shorter.
- e) The Commission considers that the appropriate penalty to impose in this case is a suspension of one and one half days. The suspension is fully suspended however but continues to remain in force for twelve (12) months from the date of hearing. Should no further breach of a similar or greater seriousness occur within the twelve (12) month period to 27 February 2008, then this suspended suspension will lapse at the end of that period. Should there be a further breach of similar or more serious nature within the twelve (12) month period, then the full day suspension will be served on a Wednesday and the half day suspension will be served on either the Tuesday or the Thursday of the same week at the option of the Licensee with the suspension prohibiting the sale of liquor from 1200 hours (ie noon) to 1700hrs on either of those days.
- f) We require that the Management Committee provide details of this decision to their members so as to educate them regarding their responsibilities to assist the committee and management in ensuring that licence conditions are not breached.

Richard O'Sullivan
CHAIRMAN