

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

PREMISES:	Bojangles Saloon and Restaurant
LICENSEE:	Bojangles Saloon Pty Ltd
NOMINEE:	Avril Vaughan
LICENCE NUMBER:	80802460
PROCEEDING:	Penalty Hearing into Breach of Section 106B(1) of the <i>Liquor Act</i> on Papers
MEMBERS:	Mr Richard O'Sullivan (Chairman) Mr Paul Fitzsimons Mr Wally Grimshaw
DATE OF DECISION:	7 May 2008

BACKGROUND

- 1) On Saturday 26 January 2008 a minor entered and remained on the licensed premises, Bojangles Saloon and Restaurant. The minor was aged seventeen (17) years and eight (8) months and entered the premises without being required to show ID to security who were present at the front entrance.
- 2) The minor at no time attempted to purchase alcohol or have another party purchase alcohol on her behalf. After being on premises for approximately thirty-five (35) minutes the minor was removed by licensed security.
- 3) Following this incident a complaint was lodged by the Acting Deputy Director South pursuant to Section 48 of the *Liquor Act* ("the Act").
- 4) At the Licensing Commission meeting of 9 April 2008 the following decision was made:

"Commission determined, as the breach had been admitted, to conduct a hearing on penalty on the papers before it."

CONSIDERATION OF THE ISSUES

- 5) The Licensee has co-operated fully with Licensing and Regulation Inspectors in dealing with the matter of a minor on premises. The Licensee has provided footage covering the period the minor was on premises and immediately after detection at 2.00am on the morning of 27 January 2008 was responding to the breach with a meeting with security and management staff present at the time.
- 6) In admitting to the breach the Licensee has advised of:
 - They have maintained an almost unblemished record;
 - The minor was seventeen (17) years eight (8) months at the time;
 - The minor did not approach the bar or any other person to purchase alcohol;
 - The minor did not consume any alcohol;
 - The minor was assisted by another patron (gold medallion status) in gaining entry;
 - Both the minor and the gold medallion holder have been given a twelve (12) month ban from entering Bojangles Saloon and Restaurant;
 - The licensed Crowd Controller at the entrance at the time the minor was admitted to the premises is no longer to be employed at Bojangles Saloon and Restaurant;
 - An improved system of controlling patrons to enter the premises, idEYE is to be installed at Bojangles Saloon and Restaurant;
 - As a popular late night venue Bojangles is generally targeted by minors as a desirable location which they pursue entry into.
- 7) The Commission has considered this background and has been advised that the Licensee has operated the premises since 27 October 1997 and in that time no breach of any major significance has come before the Commission (there is no Licensing Commission record of any breach or penalty applicable to this Licensee).
- 8) The Commission also notes the proactive and co-operative response of the Licensee.
- 9) The presence of a minor at a nightclub venue is a serious breach of the Act. While not lessening the seriousness of the breach the Commission in making its determination of this matter has taken regard of the previous good conduct of the Licensee and the recommendation of the Regional Executive Officer Southern Region.
- 10) The Regional Executive Officer has advised that he concurs with the suggested penalty proffered by the Licensee of a suspension of the licence for one (1) day, that day being a Saturday with that suspension to be suspended for a period.

DECISION

- 11) The Commission imposes a penalty of a one (1) day suspension on a Saturday for the Section 106B(1) breach of the Act, with this suspension to be suspended for a period. The Licensee has sought the suspended suspension be operative for a six (6) month period, however the Commission is minded to impose a more severe penalty and has determined that the suspended suspension will be for a twelve (12) month period from the date of this decision.
- 12) If a further breach occurs within that twelve (12) month period the suspension will automatically come into effect.

Richard O'Sullivan
CHAIRMAN

7 May 2008