

NORTHERN TERRITORY LICENSING COMMISSION

Decision on Whether an Objector can be Granted an Extension of the Time to Submit an Objection to an Application to Vary the Conditions of an Existing Licence

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| Premises: | VIRGINIA TAVERN |
| Licensee: | Solloc Pty Ltd |
| Licence Number: | 80317472 |
| Nominee: | Mr Ian Sloan |
| Objector: | Mr and Mrs Page |
| Date of Decision: | 15 November 2006 |
| Legislation: | Sections 27,28 and 29 of the <i>Northern Territory Licensing Commission Act</i> , Section 127 of the <i>Liquor Act</i> |
| Commissioners: | John Brears Helen Kilgariff Ian O'Reilly |

Background

1. An application had been made by Mr Ian Sloan (Nominee of the Licensee) for a variation to extend trading hours to midnight, seven (7) days a week.
2. The application was advertised on 16 and 18 August 2006. Under the *Liquor Act*, objectors are given thirty (30) days to forward their objections. The thirtieth day was Sunday 17 September 2006.
3. One (1) signed objection was received from the Darwin Boomerang Motel and Caravan Park on 28 September 2006 – some ten (10) days outside the objection period specified in the *Liquor Act*. In all other respects the objection is valid.
4. The applicant and the objector have given differing accounts regarding the conversations that took place between the two parties when the initial application was made and whether the Green Sign was displayed in a prominent position or not.

5. A Licensing Inspector has confirmed that the sign was publicly displayed at the Tavern in the manner required by the Commission. The application was also validly advertised in the *NT News*.
6. The Acting Chairperson referred the matter of this objection to a panel of three (3) members of the Commission to consider under Section 127 of the *Liquor Act* and to determine whether or not to extend the time for lodgement of an objection. On 10 October 2006 this panel considered the matter and decided to refuse to grant an extension of time.
7. The objector, after receipt of the above decision, made application in writing on 16 October 2006 for a review of the original panel's decision. The Acting Chairperson appointed three (3) further members of the Commission to consider the application for a review.

Decision

8. The three (3) further members of the Commission, met on 3 November 2006, and considered all of the correspondence and the previous decision made on 10 October 2006. The members noted in particular the statement in point (3) that "in all other respects, the objection is valid".
9. The members considered the letters dated 16 October 2006 from the Objectors, and 10 October 2006 from the Licensing Inspector, and noted that the Objector had not been advised that they could apply for a review of the decision under Section 28 of the *Northern Territory Licensing Commission Act (NTLC Act)*.
10. The members also noted that there are considerable differences in the written claims by the Applicant and the Objector, and without hearing evidence, there is no way of knowing whether or not the Objectors were misled by statements made to them by the Applicant to the effect that they would be personally advised when the application was lodged.
11. The Boomerang Caravan Park are the only objectors so there are no others who can raise relevant issues for consideration by the Commission.
12. The Boomerang Caravan Park is situated in very close proximity to the Licensee and their presence and evidence at the hearing will assist the Commission in ensuring that a licence variation (if granted) takes into account relevant issues impacting upon neighbourhood amenity.
13. The members decided that the letter from the Objector dated 16 October 2006 should be accepted as a valid objection under Section 28 of the *NTLC Act*, and that a hearing should be conducted. The reasoning for this is to be fair to both parties and enable the Commission to be fully informed of all of the facts, by evidence being given under oath and able to be tested by cross examination.
14. The members therefore decided under Section 127 of the *Liquor Act*, they would extend the time for an objection to be lodged in this case. The members urge, however, that each future similar case should be considered on its own merits.

15. This is a relatively discreet application and we anticipate that the Commission should be able to conduct a hearing within the next few weeks upon seven (7) days notice to the parties.
16. The Objectors should note that their evidence/submissions at the hearing are limited to the facts specified in their objection letter.

Commission Members

Helen Kilgariff
Ian O'Reilly
John Brears

15 November 2006