

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

PREMISES:	THE NT ROCK BAR
LICENSEE:	Coprax Pty Ltd
NOMINEE:	Ms Malathi Stewart
LICENCE NUMBER:	80805090
COMPLAINTS:	Cancellation of Liquor Licence Pursuant to Section 72(5)(a) of the <i>Liquor Act</i>
HEARD BEFORE:	Mr Richard O'Sullivan (Chairman) Mr Philip Timney Ms Helen Kilgariff
DATES OF HEARING:	28 October 2008
APPEARANCES:	Mr Wayne Sanderson for Director of Licensing Mr Sean Stewart for Coprax Pty Ltd Mr Robert Cowan for the Rock Boys Pty Ltd

BACKGROUND

- 1) In January 2008 the Northern Territory Licensing Commission approved the substitution of the licence held by Coprax Pty Ltd, trading as Malathi's, from 51 Bath Street, Alice Springs to 78 Todd Street, Alice Springs.
- 2) The business traded as the NT Rock Bar from the time of the licence substitution until the Commission suspended the licence for an indefinite period on 8 May 2008 as the business had ceased trading.
- 3) From material provided to the Commission at hearing, it is apparent that the lessees of the 78 Todd Street premises, the Rock Boys Pty Ltd were intending to form some form of partnership with Ms Malathi Stewart as a company titled Malathi and the Rock Boys Pty Ltd had been registered with Directors Ms Malathi Stewart, Mr Robert Cowan and Mr Jolyon George.
- 4) On the basis the Licensee had not recommenced trading and more than ninety (90) days had elapsed since the suspension of the licence the Deputy Director of Licensing has made application for the cancellation of the licence pursuant to Section 72(5)(a) of the *Liquor Act* ("the Act").
- 5) The registered proprietor of the 78 Todd Street property, Mr Theo Kassablis and Ms Irene Kassablis, were given notice of the hearing and were not present or represented during the proceedings.

HEARING

- 6) Mr Sanderson, on behalf of the Deputy Director South, outlined the grounds for seeking the cancellation of the NT Rock Bar Liquor Licence number 80805090. He advised the licence had not operated for a period of in excess of ninety (90) days.
- 7) Mr Stewart conceded that the business had not traded for a period in excess of ninety (90) days and outlined the background to the cessation of trading and the NT Rock Bar licence suspension. He advised of a fallout between Ms Malathi Stewart and the Directors of the Rock Boys Pty Ltd entity.
- 8) Mr Stewart tabled as evidence (Exhibit 1) correspondence from Security Provider Jasp Protection to the Directors of the Rock Bar alleging serious abnormalities in the operation of the premises and alleged breaches of the Act.
- 9) He sought an adjournment of the hearing on cancellation to afford time for the application of an On Licence by QC Restaurant to take its course. He stated that there was a business arrangement between Coprax Pty Ltd and the owners of QC Restaurant which would result in a simultaneous surrender of the Coprax licence and grant of an On Licence to QC Restaurant (should this be approved by the Commission).
- 10) Mr Cowan, on behalf of the NT Rock Boys Pty Ltd contested the veracity of information and allegations contained in the correspondence from Jasp Protection referred to above. He confirmed that Rock Boys Pty Ltd were the sole lessees of the premises and that neither Coprax or Ms Stewart had any interest in the premises.
- 11) Mr Sanderson queried the relevance of this information relating to the Jasp Protection allegations and further submitted that the QC Restaurant licence application had no bearing on the application currently before the Commission. The Commission was minded to accept this argument and in doing so has noted that Coprax Pty Ltd has no lease over the 78 Todd Street locale.

CONSIDERATION OF ISSUES

- 12) Following a short adjournment the Commission reconvened and advised all parties that the only issue before the Commission was the application by the Deputy Director for a licence cancellation. The Commission was not persuaded that the application by QC Restaurant for a licence variation was relevant to the application for cancellation. For that reason the Commission was not persuaded to grant the adjournment sought by Mr Stewart.
- 13) The Hearing was advised that the options open to the Commission were:
 - to cancel the licence pursuant to Section 72(5)(a) of the Act; or
 - to extend the period of suspension of the licence pursuant to Section 66(5) of the Act.

- 14) Mr Sanderson, correctly, informed the Commission that the discretion to extend the suspension pursuant to Section 66(5) only applied to suspensions pursuant to Section 49(4)(b) and Section 65 and that neither of those sections applied in this case.
- 15) The Commission accepted Mr Sanderson's submission as being the correct interpretation of the Act with the result the options open to the Commission at the conclusion of this hearing were:
- to cancel the licence pursuant to Section 72(5)(a) of the Act; or
 - to not cancel the licence with the result the licence would remain suspended pursuant to the notice issued on 8 May 2008.
- 16) The Commission was not persuaded that there was strong or valid links to the QC Restaurant application and the submission by Mr Stewart to delay the decision on licence cancellation, until the QC Restaurant application had been dealt with.

DECISION

- 17) The Commission determined that the conditions laid out in Section 72(5)(a) of the *Liquor Act* have been met and the NT Rock Bar licence is therefore cancelled forthwith.

Richard O'Sullivan
CHAIRMAN

30 October 2008