

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

Premises:	Holiday Inn Esplanade Darwin	
Licence Number:	80103654	
Licensee:	BG Hotels (Darwin) Pty. Ltd	
Nominee:	Mr Samuel Rhys Davies	
Hearing:	Application seeking an exemption from the Camera Surveillance Requirements	
Heard Before:	Mr Craig Spencer	
Date of Hearing:	4 March 2004	
Date of Decision:	4 March 2004	
Appearances:	Licensee:	Mr Samuel Rhys Davies & Mr Alex Wilson
	Director of Licensing:	Mr Peter Boyle

Background

1. At its meeting held in September 2003 the Licensing Commission determined to impose "Camera Surveillance Requirements" on various licensed premises that met certain operational criteria.
2. The means of implementing the Camera Surveillance Requirements was by virtue of Section 33(1) of the Liquor Act, which states: "the Commission may, from time to time by notice in writing, vary the conditions of the licence held by a Licensee.
3. The Licensing Commission duly informed this identified licensed premises, by a letter dated 9 January 2004, of its intention to impose as a condition on their licence, namely the Camera Surveillance Requirements.
4. Licensed premises affected by this decision could accept the condition, advise the Licensing Commission that they did not believe they came within the criteria, or seek an exemption from the Camera Surveillance Requirements, by virtue of Requirement 2(d).
5. However, by letter dated 5 January 2004 (first letter), the Licensee sought to restrict the trading hours of the area formerly known as the Circles Bar, change the name of the area and also the nature of its use to a function room rather than for the provision of live entertainment.

6. In another letter dated 29 January 2004 (second letter), Licensee wrote to the Licensing Commission seeking an exemption from the Camera Surveillance Requirements on the grounds the area to which the condition would apply, no longer came within the criteria of Requirement 2(a).
7. At the time of writing the second letter, the licence that applies to the premises had not been altered to reflect the requests contained in the first letter. The licence was not altered until 12 February 2004 when it was altered to reflect the first letter requests of the Licensee to:
 - restrict trading to 2.00am each day;
 - change the name from Circles Bar to the Litchfield Room; and
 - change the purpose - "...to persons participating in a pre-arranged function, meeting, business seminar or trade convention."
8. The reason for this hearing is in response to the second letter.

Legal considerations

9. In view of the fact the licence alteration request was accepted and came into effect on 12 February 2004, the licence is able to be regarded as prima facie evidence that the premises no longer falls within the criteria of Requirements 2(a) and (c) of the Camera Surveillance Requirements. This notion is supported by the Director of Licensing.
10. That being the case, there is no need for an exemption to be sought pursuant to Requirement 2(d). This was also supported by the Director of Licensing.

Decision

11. The Commission is satisfied that at the time of this hearing, the premises previously identified as being subject to the Camera Surveillance Requirements no longer falls within the criteria and therefore, the requirements do not apply.
12. It should be understood that this will only apply while the current Licensee remains the Licensee for the premises and the premises continues to operate in its current format. In addition, the Commission reserves the right to impose the Camera Surveillance Requirements pursuant to Requirement 2(b), if it considers necessary.

Craig Spencer
Presiding Member