

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

PREMISES:	MALATHI'S
LICENSEE:	Coprax Pty Ltd
LICENCE NUMBER:	80805090
COMPLAINTS:	Complaint Pursuant to Section 48(2) of the <i>Liquor Act</i> Lodged by the Director of Licensing
HEARD BEFORE:	Mr Richard O'Sullivan (Chairman)
DATE OF HEARING:	25 June 2007
DATE OF DECISION:	25 June 2007
APPEARANCES:	Mr Wayne Sanderson for Director of Licensing and Mr Sean Stewart for the Licensee Ms Malathi Stewart

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- 1) On 4 September 2006 a Licensing Inspector requested Malathi's produce surveillance footage for the night of 1 September 2006 and for the early hours of 2 September 2006. This footage has not been provided as required under licence conditions of Malathi's Alice Springs.
 - 2) Further on 1 September 2006 camera surveillance equipment at Malathi's Alice Springs was not operational. This again is a breach of the licence conditions operated by Malathi's.
 - 3) Legal Counsel for Malathi's stated that the licence had been in operation since August 1997 and in that time Malathi's had not been subject to any breach of its licence conditions. The security system at Malathi's was installed in the year approximately 2000 at a cost of \$16,000 to \$17,000. From information provided at the hearing, it is evident that the camera surveillance equipment had ceased to fully function as of July 2006 when an inspection of the premises evidence that only three (3) out of the five (5) cameras were fully functional.
 - 4) Legal Counsel pointed out that Malathi's had made numerous attempts after September 2006 when Malathi's could not provide to the Licensing Inspector the required camera surveillance equipment, to have the initial installer of the equipment inspect and deal with the faults.

- 5) In November / December 2006 an electronics engineer casually employed at Malathi's inspected the surveillance system and subsequently he reported that the equipment was inoperative and unable to be fixed. At this time the Licensee of Malathi's had taken a decision to apply for relocation of the bar and restaurant and was therefore disinclined to undertake investment necessary to install a new system at the present location. To conform with licensing requirements at this time, Malathi's applied for and received approval for reduced trading hours to midnight seven (7) days a week so as to overcome the camera surveillance licensing requirements.
- 6) In relation to the requirement for footage of 1 and 2 September 2006 Legal Counsel advised that they are now aware that a complainant approached Racing, Gaming & Licensing over an alleged incident at this time. The hearing was advised that Malathi's had security present at the time of the alleged incident and that the complainant had not approached staff or security present in relation to the matter. Security are employed to deal with such situations.

DECISION

- 7) Mr Wayne Sanderson, on behalf of the Director of Licensing submitted that failure to meet camera surveillance conditions of the licence was regarded as a serious breach. He stated that the camera surveillance equipment was not working properly in July 2006 and by September 2006 the equipment was totally inoperative. He sought a suspension of one (1) day trading as an appropriate penalty.
- 8) Legal Counsel for the Licensee admitted to the breach and submitted that the one (1) day's suspension be fully suspended for a period of twelve (12) months and only invoked if further breaches of licence conditions occurred during that period.
- 9) Mr Wayne Sanderson, on behalf of the Director of Licensing agreed to the one (1) day's suspension of the licence being fully suspended for twelve (12) months.
- 10) I order a penalty of one (1) day of suspension of trading for Malathi's Alice Springs on a day to be determined by the Director of Licensing but that that this penalty be fully suspended for twelve (12) months and not triggered unless there is a proven breach of licence conditions during this period.

Richard O'Sullivan
CHAIRMAN

25 June 2007