

Decision No. PH 690/2007

IN THE MATTER

of the Sale of Liquor Act 1989

AND

IN THE MATTER

of an application by  
ROSCOMMON LIQUOR LIMITED  
for an off-licence pursuant to s.31  
of the Act in respect of premises  
situated at 8/255 Browns Road,  
Manurewa, Manukau City, known  
as "Roscommon Liquor"

BEFORE THE LIQUOR LICENSING AUTHORITY

Chairman: District Court Judge E W Unwin  
Members: Ms J D Moorhead  
Mr P M McHaffie

HEARING at AUCKLAND on 25 July 2007

APPEARANCES

Mr G Singh and Mr A Singh – representing applicant  
Mr P A Radich – Manukau District Licensing Agency Inspector – in opposition  
Sergeant G J Campbell – NZ Police – to assist  
Mr M J Bowden – Social Tonics Association of New Zealand – in support  
Mr J D Turner – for Energy Products Limited – in support  
Mr D Newman – objector

ORAL DECISION OF THE AUTHORITY

[1] Before the Authority is an application by Roscommon Liquor Limited hereafter called ("the company") for an off-licence in respect of premises situated in Browns Road, Manurewa to be known as "Roscommon Liquor". The application follows a change of ownership of the business.

[2] The business itself is a medium sized bottle store which is part of a small retail area. The site has been operated as a bottle store for approximately 10 years. One of the directors of the company, Mr Gurdip Singh, was involved with the previous owners. The company is presently trading on a temporary authority.

[3] The application stems from a new partnership formed between Mr Gurdip Singh and Mr Aurvinderjit Singh both of whom are directors and shareholders of the applicant company.

[4] The documentation to support the application is in order. In particular there is a certificate from the Manukau City Council confirming that the proposal to sell liquor from the premises meets the requirements of the Resource Management Act 1991.



[5] The public hearing results in part from an objection from Daniel Newman and Angela Dolton, both residents of Manurewa. Although the suitability of the company was referred to, the main purpose behind the objection was the answer that had been given by the company to the question "Is the applicant engaged or intending to be engaged in the sale or supply of any goods other than liquor and food or in the provision of any services other than those directly related to the sale or supply of liquor and food?" The answer was "Yes, party pills, cigarettes, and tobacco". It was the sale of party pills which attracted the objection from the two objectors.

[6] The District Licensing Agency Inspector in his report also referred to the issue. Accordingly the matter was set down for a public hearing. Prior to the hearing taking place, the Authority received an application from the law firm of Chen and Palmer on behalf of the Social Tonics Association of New Zealand (STANZ). The letter requested that the Association be given the opportunity to attend any hearing and make submissions in accordance with s.108 of the Act.

[7] By letter dated 24 May 2007, the solicitors were advised that the Authority had granted permission but that pursuant to the Act, the permission would not carry the right of cross-examination.

[8] Prior to the hearing our decision in the case of *Catherine Ann Pirivano v Surreal Bar Limited* LLA PH 109/2006 was released. In that decision we made some comment on the association between the sale of liquor and the sale of party pills.

[9] At paragraph 42 it was stated:

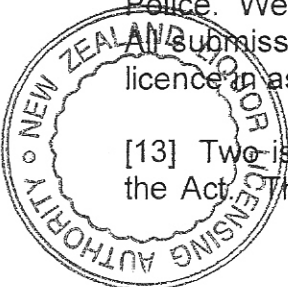
*"It is in our view irresponsible for a licensee to act as a vendor of party pills in conjunction with the sale of liquor. For Ms Stadler to continue to do so would in our view show a lack of suitability. The issue is about raising standards in the industry and keeping them high. We would not be prepared to make an enforcement order at this time but would hope that the licensee will take into account what has been said."*

[10] Accordingly, the District Licensing Agency Inspector and the Police researched the matter in greater detail. Both appeared at the hearing in opposition to the application.

[11] At the hearing we heard from Mr G Singh and it became apparent that there were other off-licences in the Manurewa area, the licensees of which were selling party pills. Mr Singh said that he was keen not to lose any commercial advantage to competitors. On the other hand he acknowledged that the sale of party pills was a very small percentage of the company's total turnover.

[12] The Authority heard fully researched submissions from Mr Paul Radich as the District Licensing Agency Inspector, and Sergeant G Campbell representing the Police. We also heard from Mr Newman on behalf of himself and his fellow objector. His submissions were on the issue of the desirability of allowing the grant of an off-licence in association with the sale of party pills.

[13] Two issues in particular were raised in relation to the criteria set out in s.35 of the Act. The first was the suitability of the applicant company. It was the general



submission of the objectors, that in the light of the Cabinet decision to change the status of party pills, then the issue of the suitability of the company was very much before us. The second relevant criterion was s.35(1)(e)(i) of the Act. In making a decision, we must have regard to whether the company is to be engaged in the sale and supply of any goods besides liquor.

[14] In accordance with our earlier determination, Mr M J Bowden, the Chairman of STANZ was given the opportunity to make a submission setting out the Association's views on the desirability of party pills being sold from off-licensed premises.

[15] Mr J D Turner had entered an appearance on behalf of his client Energy Products Limited. Prior to the hearing he had filed submissions in support of the application. Mr Turner advised us that his client company was a member of STANZ, and supplied the applicant company with party pills. Mr Turner sought permission under s.108(f) of the Act to have the submission read to the hearing, as well as for the company to be heard on the issue.

[16] As we had heard in detail from Mr Bowden, and since Energy Products Limited was a member of STANZ, and as it was simply a supplier to the company, we determined that we had not been satisfied that Mr Turner's company had an interest in the proceedings apart from any interest in common with the public. In making this ruling we agreed that prior to any reserved decision being made, the written submissions would be read. As it happens, the company's decision to change its business plan made the reading unnecessary.

[17] We then received a closing comment from Mr G Singh to the effect that his main business was the sale of liquor. He stated that if there was a chance that his licence would not be granted, then he wanted us to understand that there might be a change of heart. Mr Singh was advised that there was a real chance that the application would not be granted.

[18] As a consequence of the final interchange, Mr Gurdip Singh and Mr Aurvinderjit Singh, the directors of the company have now signed an undertaking. This undertaking reads as follows:

*"We the applicant and directors of Roscommon Liquor Limited trading as Roscommon Liquor hereby undertake to remove all products that can be referred to as party pills before our licence is granted by the Liquor Licensing Authority. We also undertake that there will be no sale or supply of these products while the licence is in force and understand that any breach of this undertaking will result in applications being filed with the Liquor Licensing Authority for the cancellation of the company's licence and will make us unsuitable as managers or directors of the company."*

[19] On the basis of that undertaking and taking into account the criteria set out in s.35 of the Act, Mr Newman formally withdrew any opposition to the application, as did the District Licensing Agency Inspector and the Sergeant of Police.

[20] In those circumstances the application is now granted. There being no opposition the licence may issue immediately subject to our receiving a report from the Inspector confirming that the first part of the undertaking has been carried out.



DATED at WELLINGTON this 1<sup>ST</sup> day of AUGUST 2007

B M Holmes  
Deputy Secretary

