



Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Thursday 25 September 2014 at 10.30 am at Ground Floor Meeting Room G10 - 160 Tooley Street, London SE1 2QH

PRESENT: Councillor Renata Hamvas (Chair)
Councillor Dora Dixon-Fyle MBE
Councillor Adele Morris

OTHERS PRESENT: Candido Rodrigues, representative from Banana's Bar
Philip Durant, legal representative for Banana's Bar
Adelono Louenco, witness for Banana's Bar
Ian Clements, Metropolitan Police Service
Keith Dempster, Metropolitan Police Service

OFFICER SUPPORT: Debra Allday, legal officer
Dorcas Mills, licensing officer
Andrew Weir, constitutional officer

1. APOLOGIES

There were none.

2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

5. LICENSING ACT 2003: BANANA'S BAR, 374 WALWORTH ROAD, LONDON SE17 2NF - REVIEW

This was a reconvened meeting from 22 September 2014.

The licensing officer advised that the manager of the premises had provided a written statement for the sub-committee to consider. This was circulated to all parties.

The Metropolitan Police Service representative addressed the sub-committee. Members had questions for the Metropolitan Police Service representative.

The legal representative for the premises addressed the sub-committee and advised that the applicant wished the sub-committee to view CCTV footage as evidence. The sub-committee agreed to view the CCTV footage. The representatives from the premises and their legal representative made further submissions following the viewing of the CCTV. Members had questions for the representatives from the premises.

The licensing sub-committee went into closed session at 1.40pm.

The licensing sub-committee resumed at 3.39pm and the chair read out the decision of the sub-committee.

RESOLVED:

That the council's licensing sub-committee, having had regard to the application by Metropolitan Police for a review of the premises granted under the Licensing Act 2003 to Candido Rodrigues and Abilio Rodrigues, in respect of the premises known as Banana's Bar, 374 Walworth Road, London SE17 and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to revoke the licence.

Reasons

This was a reconvened meeting of the licensing sub-committee from 22 September 2014. The meeting of 22 September 2014 was adjourned to allow the representatives from Banana's Bar to submit further evidence and bring witnesses, which they advised they would rely on.

The licensing sub-committee heard from the applicant for the review, the Metropolitan Police representative, on 22 September 2014, who stated that on 24 August 2014 at approximately 23.32 a fight took place involving four males with bottles taking place within the premises. One male received a serious head wound, which required 12 stitches. Another received serious wounds to his hands. The premises were cleaned up by members of staff and the crime scene was not preserved, mopping up the blood and glass and discarding the weapon, being a bottle, in a glass recycling bin. The sub-committee were shown CCTV footage of the staff from the premises cleaning up the crime scene. This was time stamped as 23.34.

The licensing sub-committee heard from the representatives from Banana's Bar at the reconvened meeting on 25 September 2014. CCTV footage was produced by the premises from the incident of 24 August 2014. The sub-committee saw footage from two

of the cameras, one from the inside and one from the outside. The premises informed the sub-committee that it was their belief that the original CCTV footage had been wiped by the police for all the internal cameras pre 00.00. The internal CCTV footage had a time stamp of 23.34 at which point part of the dance floor within the premises had been cleaned. Members of staff could clearly be seen walking across the dance floor and not preserving the crime scene. There was no glass or Champagne bottle preserved in the area as suggested by Banana's Bar.

Concerning the external CCTV footage, this had a time stamp of 23.28 and it was accepted that the footage started prior to the incident. The primary victim was seen leaving the premises at 23.34 holding his head. It was clear from the footage that the victim had sustained a serious head wound which was bleeding heavily. The police were seen to arrive at 23.44.

The sub-committee heard from the manager of the premises, Mr Louenco, who stated that only ice cubes and water, not blood, were cleared within the premises. However, on the internal CCTV footage Mr Louenco was seen walking over the blood stained area within the premises. Mr Louenco produced a written statement dated 24 September 2014 in which he confirmed that he had not arranged for SIA security officers to be present, contrary to the licensing condition 290. He also stated that nobody saw or heard the incident, stressing that the incident took place next place to the DJ.

It is accepted by all parties, including the sub-committee that there was an approximately 20 minute delay in real time and the time stamp on all CCTV footage. The sub-committee found it concerning that the premises, for whatever reason, neglected to maintain their CCTV system in good working order (condition 288 of the licence). The premises were cleaned up at 23.34 and the police arrived at 23.44. This contradicted the premises contention that the premises were cleaned up when the police were in attendance.

The manager, Mr Louenco, said that nobody, including staff saw the incident because it happened so quickly and that there were no broken bottles involved. However, the police conceded that a call was made by a member of staff from a mobile phone (number ended in 813). In that call the individual stated "fight going on....bottles and glasses being thrown...no security" and "fight at location one male has bleeding head and one has bleeding hand wound – lots of glass being thrown at location causing injury", as reported by the London Ambulance Service. The sub-committee therefore were not satisfied with Mr Louenco's argument that nobody was aware of the incident. The sub-committee rejected Mr Louenco's written statement that the incident occurred between approximately 22.30 and 23.30 and were extremely concerned that he was unable to specify exactly when the incident took place as this should have been recorded in an incident/accident book. Mr Louenco's estimate of the time that the incident took place was at least 20 minutes prior to the actual time of the incident (being 23.54 as detailed in the single incident printout, incident number 9968:24AUG14).

There was considerable discussion concerning the licensing conditions 290 and 291, which the premises stated were confusing. However, it transpired through the discussion that condition 290 (That on Fridays, Saturdays and Sundays SIA staff supervisors shall be employed at all times after 22.00 until the terminal hour....etc") was proposed by the premises as part of their variation application, dated 16 March 2010. As part of the conciliation process in this application, the premises subsequently offered a further condition which forms condition 291 (That SIA registered supervisors shall be employed

after 22.00 until the terminal hour...etc”) that would take into account circumstances when the premises applied for temporary event notices. The premises were therefore well aware of the two conditions and how they both operated. The premises failure to employ SIA staff on 24 August 2014, was therefore deemed to be a blatant disregard to the licence conditions.

The sub-committee disregarded the police evidence concerning the incident on 10 April 2014 as the police were unable to confirm whether the matter had been prosecuted and/or its outcome or whether no further action had been taken.

On 1 October 2013, Southwark’s licensing sub-committee revoked the premises licence under the grounds of crime and disorder. This is subject to appeal at the magistrates’ court. There was an incident on 24 August 2014 where serious crime and serious disorder took place, which warranted a certificate being issued under 53A (1)(b) of the Licensing Act 2003 by a police superintendent. On 27 August 2014, the premises licence was suspended as an interim step. The incident that took place was serious and a prosecution is ongoing, which has had limited, if any cooperation from the premises. Forensic evidence had been destroyed and the manager has yet to provide a statement to the police. This licensing sub-committee is of the view that it was right to revoke the licence on 1 October 2013 and impose interim steps on 27 August 2014. This incident is so serious and the premises failings so great that there can be no alternative but to revoke the licence.

Appeal rights

This decision is open to appeal by:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application.

Such appeal must be commenced by notice of appeal given by the appellant to the justices’ clerk for the magistrates court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

The interim steps imposed on 27 August 2014 remain in place and the licence is suspended. The premises holder may make representations against interim steps imposed and a hearing to consider the representations will be held within 48 hours of receipt of the representation. Any representation should be in writing to licensing@southwark.gov.uk between 9am and 4pm, Monday to Friday.

The meeting closed at 3.50pm.

CHAIR:

DATED: