

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 10 MAY 2018

**SECTION 34 LICENSING ACT 2003: FOOD & WINE, 4 CAMBERWELL CHURCH STREET,
LONDON SE5 8QU**

1. Decision

The licensing sub-committee having considered the objection notice submitted by the Southwark Police Licensing Office relating to the application submitted by Somasundram Ariyaratnam to transfer a premises licence under section 42 of the Licensing Act 2003 in respect of the premises known Food & Wine, 4 Camberwell Church Street, London SE5 8QU has refused the transfer application.

2. Reasons

The licensing sub-committee heard from the Metropolitan Police Service representative who objected to the transfer application. The officer advised that the premises had been subject to an application for the review of the premises licence which had been submitted by Southwark's trading standards team. Following the review hearing and considering all the facts, the licensing sub-committee decided it was appropriate and proportionate to revoke the premises licence. This decision was the subject of an appeal by the premises licence holders, due to heard at Camberwell Green Magistrates' Court on 29 June 2018. On the 19 March 2018 the applicant had submitted the transfer application to take immediate effect.

The representative for the police called an officer from trading standards as a witness. The trading standards officer outlined the details of the review application that resulted in the revocation of the licence. The officer also stated that on 27 March 2018, officers conducted a test purchase at the premises. The person in charge of the shop at the time made an underage sale of cigarette's without challenging the young person. Enquiries were made with the person in charge at the time as to the identity of the current premises licence holder, who stated that it was her husband and produced an unsigned management agreement to the same effect. On 6 April 2018, trading standards officers attended again and the applicant was present and stated that it was his intention to purchase the business.

Furthermore, during the course of investigations, trading standards officers seized the premises training records and identified the details of two individuals that were involved in another premises which has also had its premises licence revoked.

The licensing sub-committee then heard from the applicant's representative, who advised that her client was unable to attend as he was required to run the shop. The representative stated that the transfer application was genuine and that she had been contracted by the applicant in December 2017. Since January 2018 the applicant had been working at the premises, without pay, to ascertain whether it was an economically viable business. Ultimately, the applicant wanted to run the premises a family business.

The reason why the applicant was not identified as the owner of the business on 27 March was because until he was sure that he wanted to but the business, he did not want to upset the dynamics of the business, until necessary. All the misdemeanours and non-compliance was under the previous premises licence holders watch, and the applicant should not be denied the transfer because of it.

The licensing sub-committee considered all written and oral representations before it. Section 42(6) of the Licensing Act 2003 and Section 182 of the Licensing Act 2003 guidance (April 2017) allows the police, in exceptional circumstances, to object to a transfer of a licence when the police believe the transfer may undermine the crime prevention objective. The premises licence was revoked following a trading standards review on 15 June 2017, when the licensing sub-committee found a catalogue of breached licence conditions, a number of criminal offences committed and an illegal worker working for the previous licence holder.

The licensing sub-committee were guided to paragraphs 89 and 90 of the Soutwark's statement of licensing policy and the practice of transfer applications being submitted immediately following an application for a review. Where, such applications are made, the transfer applicant's are expected and required to provide documentary proof of transfer of the business an lawful occupancy of the premises to support the contention that the business is under new management control. No such documentation was provided by either the applicant or his representative.

The licensing sub-committee also have concerns of continued breaches of licence in addition, staff known to be involved in the management of other similar style premises that had its premises licence revoked. Given the very serious history at the premises, as a matter of due diligence, the applicant would be expected to ensure the legitimacy of stock, to ensure that all transfer of the business/lawful occupation documentation was complete and demonstration of sufficient distance from the previous poor management practices, including the removal of all previous staff.

This licensing sub-committee is satisfied that the evidence presented provides sufficient exceptional circumstances to reject this application and considers it necessary for the promotion of the crime prevention objective to do so.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

3. Appeal rights

The applicant may appeal against any decision:

- a) To refuse the application to transfer the premises licence
- b) To refuse the application to specify a person as premises supervisor.

Any person who submitted a relevant objection in relation to the application who desire to contend that:

- a) That the application to transfer the premises licence ought not to be been granted or
- b) That the application specify a person as premises supervisor ought not to be been granted

may appeal against the decision.

Any appeal must be made to the magistrates' court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Issued by the Constitutional Team on behalf of the Director of Law and Democracy.

Date: 10 May 2018