



Licensing Unit
Direct Line: 020 7525 5767
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Our Ref: INU: 086055

11th September 2019

Dear Mr

RE: PACE INTERVIEW INVITE - Viet Quan, 320-322 Old Kent Road, London, SE1 5UE

The Licensing Act 2003
Health Act 2006
Food Safety and Hygiene (England) Regulations 2013
Consumer Protection from Unfair Trading Regulations 2008
Companies Act 2006
Weights and Measures Act 1985

On Saturday 7th September 2019 between 22:55 and 23:45, Licensing Enforcement and Trading Standards Enforcement Officers, accompanied by the Metropolitan Police (Licensing Division) attended the premises to carry out an inspection of the premises licence number 867491.

You, Mr Le, were present at the time and are notably the Designated Premises Supervisor and the Director of the Premises Licence Holder, B&H Property Limited.

The ground floor restaurant had customers being provided with hot food and alcohol. In addition, the basement was being used for what you personally described as being 'a function'. In the basement, there are three karaoke rooms, two of which were in use. In one room, there were 18 males, the majority of which Officers believed to be underage. They were consuming bottles of Budweiser beer and the air was thick with cannabis smoke, no food was being consumed. There were further remnants of cannabis on a table. Another room hosted a dinner with patrons being provided with hot food.

No full licence was available for inspection, neither was there a premises licence summary mounted in the public area available for inspection. This is in breach of Sections 57(2) & (3) of the Licensing Act 2003.

Officers witnessed multiple breaches of the premises licence:

- **305** Signs shall be displayed requesting patrons to respect the neighbours and behave in a courteous manner.

There was no signage.

- **4AA** The premises shall operate an agecheck "Challenge 25" policy whereby customers purchasing alcohol who look or appear to be under 25 years of age will be asked for an approved form of proof to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Proof of Age London (PAL) card.

You did not understand what was meant by "Challenge 25", plus all attending Officers believed that there were children consuming alcohol on the premises.

- **4AB** All staff involved in the sale of alcohol shall attend a recognised training scheme which will include training in the agecheck "Challenge 25" policy. They must obtain a certificate of competence. A record of their training, including the dates that each member of staff is trained, shall be available for inspection at the premises on request by the council's authorised officers or the police.

You did not understand "Challenge 25", nor were there staff training records.

- **4AC** Agecheck or "Challenge 25" signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an agecheck "Challenge 25" policy applies and proof of age may be required.

There was no signage.

- **342** All refusals of the sale of alcohol shall be recorded. The register shall be available for inspection at the premises on request by the council's authorised officers or the police.

There was no refusals register.

- **844** That a written dispersal policy is provided to the licensing authority and shall be kept at the premises and made immediately available for inspection by the police and authorised council officers.

There was no dispersal policy available for inspection.

- **845** That the premises will install a CCTV system and maintain this system in good working order, the system will be of evidential quality in all lighting conditions and should be able to capture a clear facial image of all persons that enter the venue. All public areas will be covered including the bar and smoking areas. All CCTV footage will be kept for a period of thirty one (31) days and shall, upon request, be made immediately available for inspection to officers of the police or the council.

You able to show me that there was real-time CCTV operating via your mobile phone, but you were unable to operate it, or show that it was even recording, for any period of time. You were unaware of how long CCTV recordings were retained.

Further, on Tuesday 10th September 2019, the Metropolitan Police returned to the premises to request a copy of the CCTV and found that it was not recording on the ground floor at all (and it was not installed in the basement), which is a further offence.

- **846** *That there shall be at least one member of staff on duty at all times the premises are in operation under its licence trained and proficient in the operation of the CCTV system capable of operating and retrieving footage on request of the police or other authorised officer.*

Mr Le was not able to operate the CCTV, nor were there any persons available on the premises that could operate it.

- **848** *That all staff concerned in the sale or supply intoxicating liquor undergoes a training scheme for such duties. Records of such training will be kept and made available for inspection, immediately on request by police or other authorised officer.*

There were no training records available for inspection.

- **849** *That all incidents of violence and or disorder that result in an injury to another will be reported to the police as soon as practicable. The reasoning behind any delayed report will be recorded in the incident report book. This report book will be made available for inspection immediately by any authorised officer from the police or council.*

There was no incident report book available for inspection.

- **851** *That two SIA registered door supervisors will be engaged when the premises are in operation. They will be employed Thursday, Friday, Saturday and Sunday after 20:00 until the end of business and all patrons have vacated the premises. They will be engaged to monitor admission and re-admission to the premises, security, protection, screening, dealing with conflict and ensure that conditions related to the use of the outside area are adhered to and that the dispersal policy for the premises is implemented.*

There were no SIA registered door staff, nor did you understand that there was a need or legal requirement for them to be there.

- **852** *That SIA when engaged at the premises will be issued mechanical counting devices to ensure that the maximum accommodation limit of the premises is not exceeded.*

There were no SIA staff, let alone 'clickers'.

- **860** *That intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals and for consumption by such persons as an ancillary to their meal or waiting to be seated for a table meal within the designated bar area with a maximum of 30 persons at any time.*

The males in the karaoke room did not have any food.

The plans lodged with the Authority do not reflect the layout of the premises, nor has a variation application been applied to amend them. The ground floor is the only floor stated on the current plans; however, the basement is not. The basement cannot therefore be used for licensable activities. As long as the plans remain unchanged; this is an offence.

Patrons were consuming alcohol and being provided with hot food. The premises licence does not have 'off-sales', therefore alcohol cannot be supplied to the basement area, nor can hot food after 23:00hrs, otherwise an offence is committed.

Karaoke requires licensing permissions for regulated entertainment, both 'films' for the music videos and for 'live' and 'recorded' music. Unlicensed karaoke was taking place in the basement and cannot continue to happen unless a licence or a Temporary Events Notice is in place at the venue. The premises licence does not allow for regulated entertainment, though it is noted that there is a large screen and a stage on the licensed ground floor. Unlicensed regulated entertainment is a further offence.

I would advise you that the above is a potential breach under Section 136 (1) (a) of The Licensing Act 2003, which states that:

"A person commits an offence if -

(a) He carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation;
or

(b) knowingly allows a licensable activity to be so carried on.

A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or an unlimited fine.

In addition, patrons were permitted to smoke on the premises. It is the duty of any person who controls or is concerned in the management of smoke-free premises to cause a person smoking there to stop smoking. Businesses can be fined up to £2,500 if they don't stop people smoking in the workplace under Section 8 of the Health Act 2006.

Further, the food business undertaking currently carried out at the premises at 320-322 Old Kent Road, is not registered with the Council's Food Safety Team. Article 6 of Regulation (EC) No. 852/2004 requires the food business operator of all food businesses to register that food business establishment with the local Authority Food Team where the business is based. Registration should be done

at least 28 days before the business commences trading and this service has no record of a completed application form for the registration of food business establishment being received in respect of the food business being carried out at the address.

Failure to register the business is breach of the specified EU provision is an offence under Regulation 19 of the Food Safety and Hygiene (England) Regulations 2013. A person guilty of an offence under this legislation is liable on summary conviction to imprisonment for a term not exceeding two years or a £5,000 fine.

Finally, it was noted that the pricing of food and drink on the premises were on menus which gave prices for the food but nothing relating to any of the alcoholic beverages. It is an offence under the Consumer Protection from Unfair Trading Regulations to make a misleading omission that would affect the transactional decisions of the average consumer; which failing to display the prices of the drinks would do, contrary to Regulation 6, which carries an unlimited fine and a maximum prison sentence of 10 years.

The premises was lacking a notice stating that whisky, gin, vodka and rum are sold in multiples of 25ml or 35ml is an offence, contrary to the Weights and Measures Act 1985, which carries the same penalties.

The ownership details of the business were not displayed, contrary to Section 1205 of the Companies Act 2006 which carries a potential fine of £5,000.

This council is currently considering the appropriate action to be taken in respect of the above matter and this may involve the instigation of legal proceedings (including prosecution). In order to pursue these matters, I wish to invite you to a formal tape-recorded interview at these offices to be held under the Police and Criminal Evidence Act (PACE) to be held in:

Room G04, 160 Tooley Street, London, SE1P 5LX at 12:00 midday on Wednesday 18th September 2019.

The offences you may be charged with are criminal offences and therefore you must be cautioned in accordance with The Police and Criminal Evidence Act Code of Practice that:

- you are not under arrest
- you are not obliged to make any response
- it may harm your defence if you do not mention something which you later rely on in court
- you are advised to seek legal advice

Accordingly you may have a solicitor or other authorised representative with you at the time of the interview.

If you do not attend the interview or contact me prior to the interview in regards to your availability to attend the interview I will assume that you do not wish to respond. I shall then progress this matter without the benefit of

your comments. If I do not hear from you within 7 days I will assume that you have no comments and may instigate legal proceedings.

You are not obliged to respond to this letter and you have a legal right to consult or seek advice from a solicitor before doing so, the cost of which is a matter for you to arrange with the solicitor. You may be entitled to free independent legal advice and should contact the Legal Aid Agency who can be contacted on 0300 200 2020.

You are also entitled to be accompanied by a solicitor during your interview, again, the cost of which is a matter for you to arrange with the solicitor. This interview will be a formal way of discussing these matters and provide you with an opportunity to give your version of events.

Yours sincerely,

Andrew Heron
Principal Licensing Officer
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