



**The Licensing Unit
Floor 3
160 Tooley Street
London
SE1 2QH**

**Metropolitan Police Service
Licensing Office
Southwark Police Station,
323 Borough High Street,
LONDON,
SE1 1JL**

Tel: 020 7232 6756

Email: SouthwarkLicensing@met.police.uk

Our reference: MD/21/200/20

Date: 7th January 2020

Dear Sir/Madam

Re:- Viet Qoan 320-322 Old Kent Road SE1 5UE

Police are in possession of an application from the above for a new premises licence 871298. The application describes the premises predominantly as restaurant providing Karaoke in private basement rooms.

The premises is located in a residential area as defined by Southwark's statement of licensing policy. The recommended closing times for restaurants in this area is 2300 each day of the week. It is recognised that the premises sits on a very busy thoroughfare with a number of other bars and restaurants in fairly close proximity. However directly behind the premises are a number of residential dwellings.

It is also recognised that the premises currently benefits from a premises licence 867491. The latest terminal hour on that licence is 0100. This is significantly greater than the recommended policy hours. The new application seeks to open the premises until 0300 on Saturday nights 0100 on Friday and 0000 on all other days of the week.

The previous operation of the premises gave rise to a significant number of complaints from local residents with regard to noise from patron's dispersing from the premises in the early hours of the morning. It should be noted that since the reduction in the hours of operation for this venue these complaints have also reduced significantly.

To allow the premises to operate until 0300 on a Saturday night would in my opinion not be suitable for this particular location and could impact on the lives and wellbeing of local residents. On the grounds of the prevention of public nuisance I object to the increase in operating hours on Saturday nights.

The application also seeks to remove the provision for the employment of SIA door supervisors as per the current licence. Although this application restricts the operation to that of a Restaurant with Karaoke I feel that this control measure is entirely appropriate for this type of operation.

On the 7th September 2019 Police and officers from Southwark's licensing team visited the premises. A number of significant breaches of the premises licence were found, in addition to evidence that cannabis and un regulated consumption of alcohol was taking place in the basement Karaoke rooms.

The current DPS and the proposed DPS for this application was present at the time of the visit and was complicit with these illegal activities. It should also be noted that one of the breaches of the premises licence found during the visit on the 7th September related to the lack of any SIA door supervisors as required by the premises licence. I understand that further enforcement action is being considered regarding this incident.

There are serious concerns with the current operation of the premises, any increase in licensable activities in my opinion is likely to have a negative impact on the prevention of crime, public nuisance and the protection of Children from harm licensing objectives.

It is for these reasons that I object to this new premises licence application.

Submitted for your consideration.

Yours Sincerely
PC Ian Clements 2362AS
Licensing Officer

From: Moore, Ray
Sent: Wednesday, January 08, 2020 5:07 PM
To: Regen, Licensing; [REDACTED]
Cc: Tear, Jayne; 'Graham.S.White@met.police.uk'; 'Ian.Clements@met.police.uk'; Heron, Andrew; Gander, Paul; Bourne, Matt
Subject: RE: Reps with respect to the application for a premises license in respect of "Viet Quan", 320-322 Old Kent Road, SE17 2AQ: Application Reference Number 1354902

As a responsible authority under the Licensing Act 2003, Trading Standards are in receipt of an application from Viet Qoan Ltd for a new premises licence in respect of the above address and respond accordingly with representations made under the Licensing Objectives. Trading Standards are objecting to this new application on the basis of the licensing objectives "the prevention of crime and disorder" and "the protection of children from harm."

The following is the background to these representations.

On Saturday 7th September 2019 Ray MOORE, a principal trading standards officer was working with Andrew HERRON, a principal licensing officer and PC Jon DUCKER, a police officer from the Night Time Economy Team. At about 23:00 hours they went to a restaurant at the above address trading under the name "Viet Quan". It should be noted that this is the time that alcohol should no longer be served. They introduced themselves and spoke with the owner, Mr Bing LE. They sat down and went through the license conditions to confirm whether they were being complied with. The premises had previously been a pub that has had quite a number of incarnations in recent years but it was familiarly known as the "Thomas A Beckett", a famous local landmark on the Old Kent Road. The premises license holder for this business was/is, B & H :Property Ltd and Mr Bing Van LE is the director of that company. The designated premises supervisor was /is Mr Bing Van LE.

I produce a copy of the companies house record for this business as exhibit Viet1 pdf attached

The restaurant had a number of tables that were occupied by parties of people having dinner. However, every so often some younger south east Asian males would come up the stairs leading to the basement of the premises. There are two sets of internal stairs in the restaurant that lead to the basement area. One near to the front doors and the other towards the back near the kitchen area. We went down the stairs and I took a look in a store room before being called over by Andrew HERRON to a "Karaoke Disco Room". The room was full of what appeared to be south east Asian teenagers, some who appeared to be much younger than 18 years of age and one male afro caribbean man possibly in his late 30s. There was thick smoke in the room with an aromatic smell of cannabis. There were also bottles of budweiser lager about the room and a couple of cases of this under a table. Mr Andrew HERRON asked everyone in the room if they had any ID and they indicated that they hadn't and immediately started to leave. Andrew stated that he had seen one of them with a very large bag of cannabis. On one of the tables in the room there was bits of green vegetable matter, a grinding machine and some packaging and loose papers. I took pictures of the room and PC Jon DUCKER took the grinder away along as well as writing out a section 19 closure notice.

I produce pictures of this room as exhibit Viet2 pdf attached

It should be noted that there were no SIA registered door staff at the premises and access to the basement Karaoke room is only through the stair cases in the restaurant. In the other two rooms there was a group of people eating in one of them and some young looking women / girls in the other. Mr LE said that these rooms were hired out and that they bring their own alcohol.

Mr HERRON wrote a letter to Mr LE outlining the alleged offences on the night of the visit and asking that Mr LE come in for a formal interview under caution about the alleged criminal offences. These included offences relating to the breaches of license conditions including those relating to the prevention of under age sales of alcohol.

I produce a copy of this letter as an exhibit Viet3 pdf attached

This interview was eventually arranged for Wednesday 9th October 2019 with Mr LE using a local solicitor as his licensing agent, Mr Chris NIXON, is based with Knight Training in Lancaster.

Mr LE produced a written statement that was read out at the start of the interview and then proceeded to do a no comment interview.

I produce a copy of this statement as an exhibit Viet4 pdf attached

I produce a copy of the interview transcript as an exhibit Viet5 pdf attached

During the interview I asked if Mr LE would be prepared to sign a simple caution for the issues for which he agreed that were wrong in the written statement. He and his solicitor took a break and came back to say that he would.

I am still in the process of getting this caution agreed and signed.

The new application is for another license for this premises where a company called Viet Quan Ltd would be the premises license holder and Mr Bing LE would be the Designated Premises Supervisor. Mr LE is also the sole director of this company.

I produce a copy of the companies house record of Viet Quan Ltd as an exhibit Viet6 pdf attached

In the application it seeks to remove certain conditions and include the basement in the licensed area. It also seeks to increase the opening hours.

At the "general description of the premises" in the application it states the following:-

"This is an application for a new premises license for Viet Quan at 320-322 Old Kent Road, London, SE1 5UE. The premises currently benefits from a premises license: 867491 for Rock Island, Thomas A Becket 320-322 Old Kent Road. The premises license does not fit with the current operation of the premises which is a restaurant with karaoke dining rooms. For example, the premises license requires the presence of 2 x SIA door supervisors, Thursday to Sunday which is not in keeping with a restaurant premises. This application seeks to rectify those issues so that a premises license that is appropriate and proportionate to the style of premises in operation can be issued. The premises is split over two levels – the ground floor is a large open plan restaurant with a small rear courtyard. The basement is comprises back of house and three private karaoke rooms."

Given what was witnessed at the premises by Ray MOORE; Andrew HERRON and PC Jon DUCKER on Saturday 7th September 2019 it would not appear that this premises has been well run by Mr LE.

All options are open to the Licensing Sub Committee including refusing the application; modification to the hours, conditions etc. If the panel were to grant this license then Trading Standards would ask that it was conditional on the old license being surrendered..

Exhibit pdfs to follow:

Ray MOORE

Principal Trading Standards Enforcement Officer

Southwark Council | Environment & Leisure | Regulatory Services

Post: 3rd Floor Hub 2, PO Box 64529 | London SE1P 5LX

Direct line 020 7525 0816 | Fax 020 7525 5735 | Call Centre 020 7525 2000

B&H PROPERTY LIMITED

Company number 07640565

Follow this company File for this company

Viet 1

• **Company Overview for B&H
PROPERTY LIMITED (07640565)**

- Filing history for B&H PROPERTY LIMITED (07640565)
- People for B&H PROPERTY LIMITED (07640565)
- Charges for B&H PROPERTY LIMITED (07640565)

Registered office address

59a West Street, Fareham, PO16 0AT

Company status

Active

Company type

Private limited Company

Incorporated on

19 May 2011

Accounts

Next accounts made up to **31 March 2019**
due by **31 December 2019**

Last accounts made up to **31 March 2018**

Confirmation statement

Next statement date **1 January 2020**
due by **15 January 2020**

Last statement dated **1 January 2019**

Nature of business (SIC)

- 96020 - Hairdressing and other beauty treatment

Previous company names

Previous company names

Name	Period
BH NAILS & BEAUTY LTD	19 May 2011 - 28 Jul 2015

Filter officers

Filter officers

Current officers

Apply filter

2 officers / 1 resignation

LE, Bing Van

Correspondence address

Role Active

Director

Date of birth

Appointed on

19 May 2011

Nationality

Country of residence

United Kingdom

Occupation

Nail Technician

NGUYEN, Huong Thi

Correspondence address

Role Resigned

Secretary

Appointed on

19 May 2011

Resigned on

30 November 2013

B&H PROPERTY LIMITED

Company number **07640565**

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- **Company Overview for B&H
PROPERTY LIMITED (07640565)**

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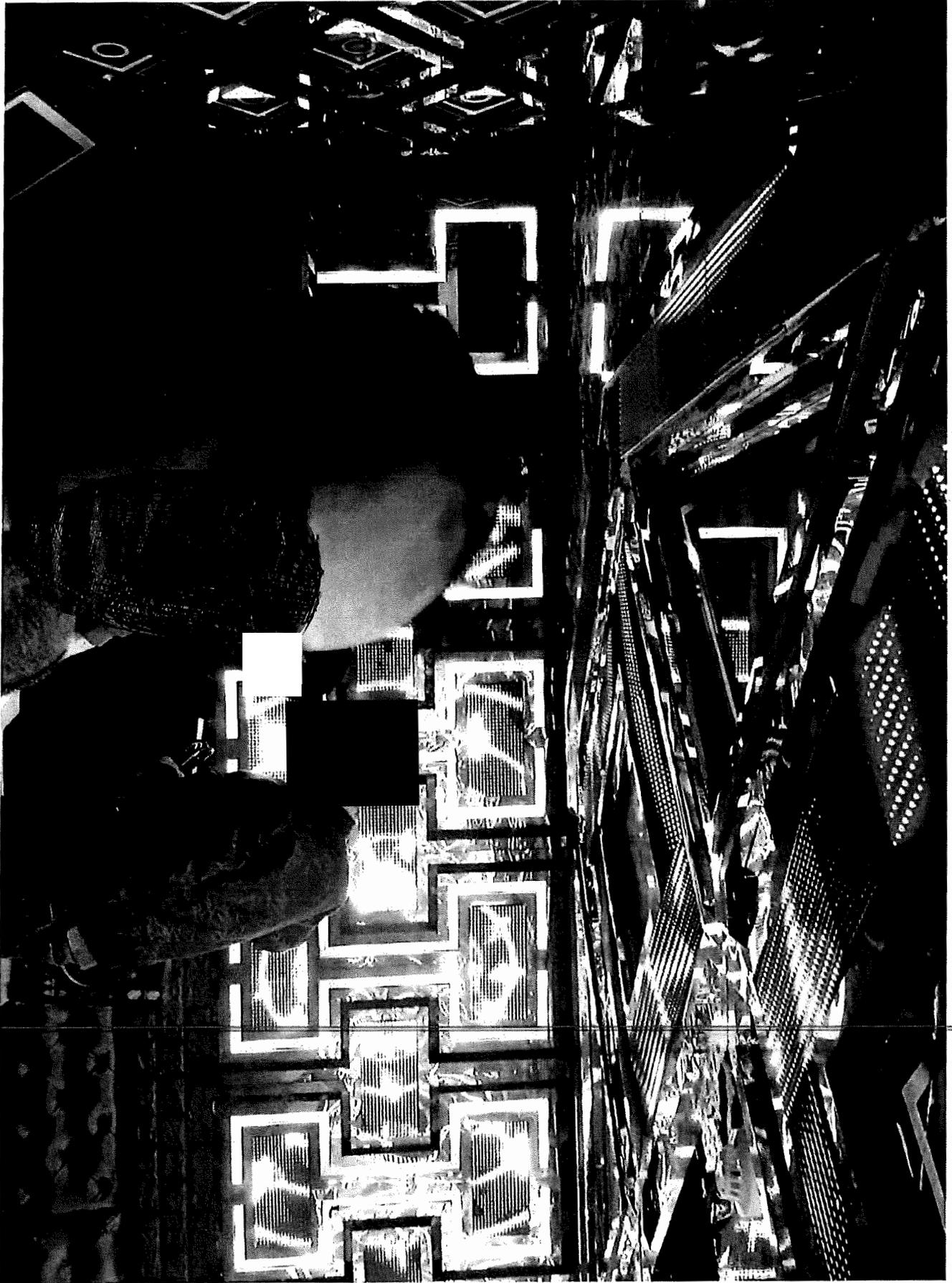
- 96020 - Hairdressing and other beauty treatment

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Name	Period
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Viet 2



Filter officers

Filter officers Current officers Apply filter

2 officers / 1 resignation

LE, Bing Van

Correspondence address

Role Active

Director

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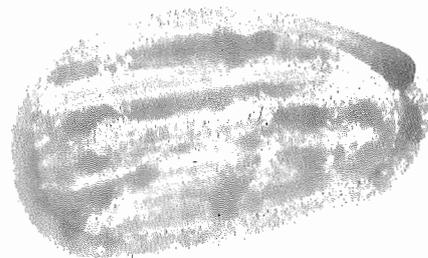
Secretary

Appointed on

19 May 2011

Resigned on

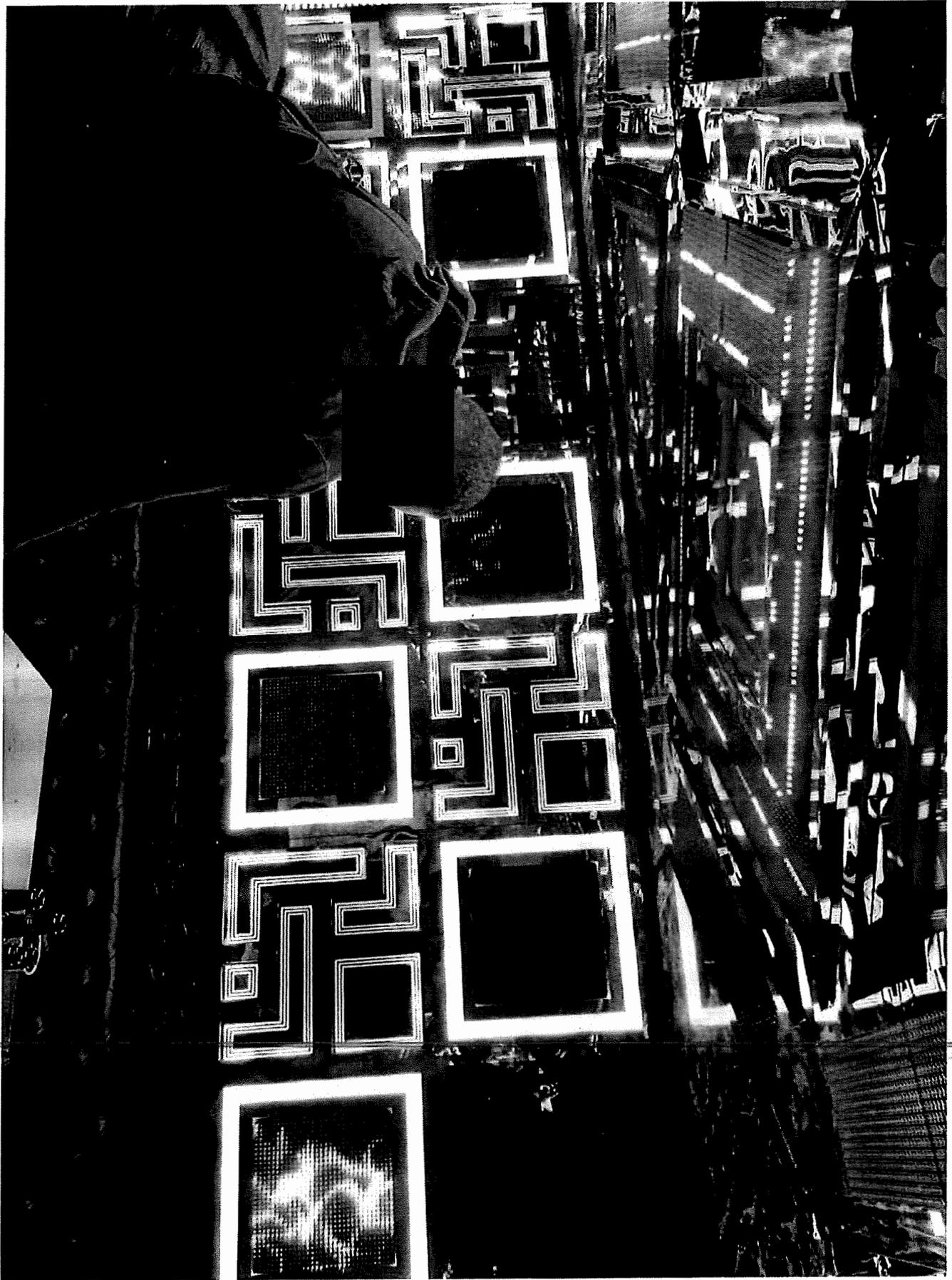
30 November 2013



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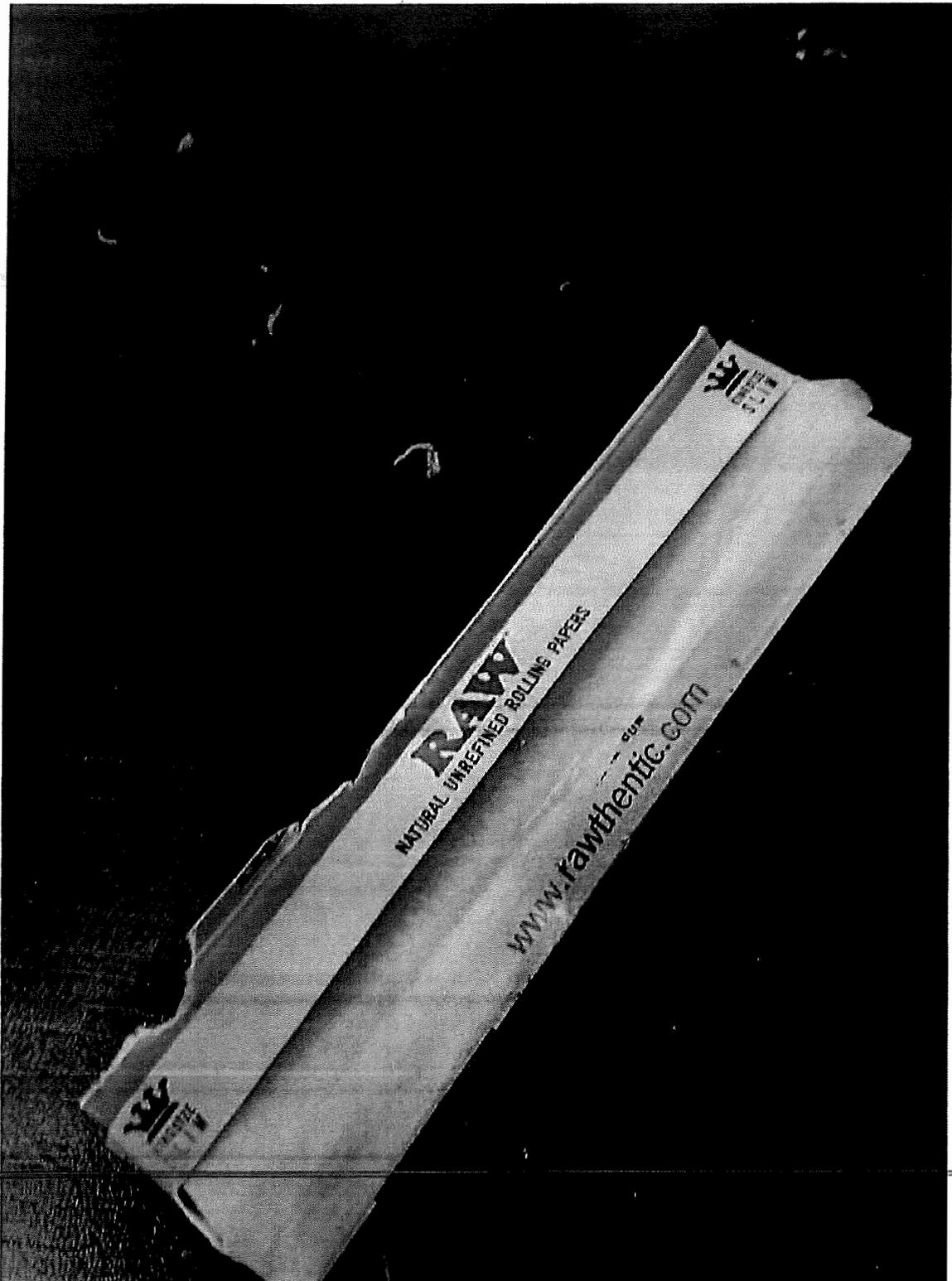










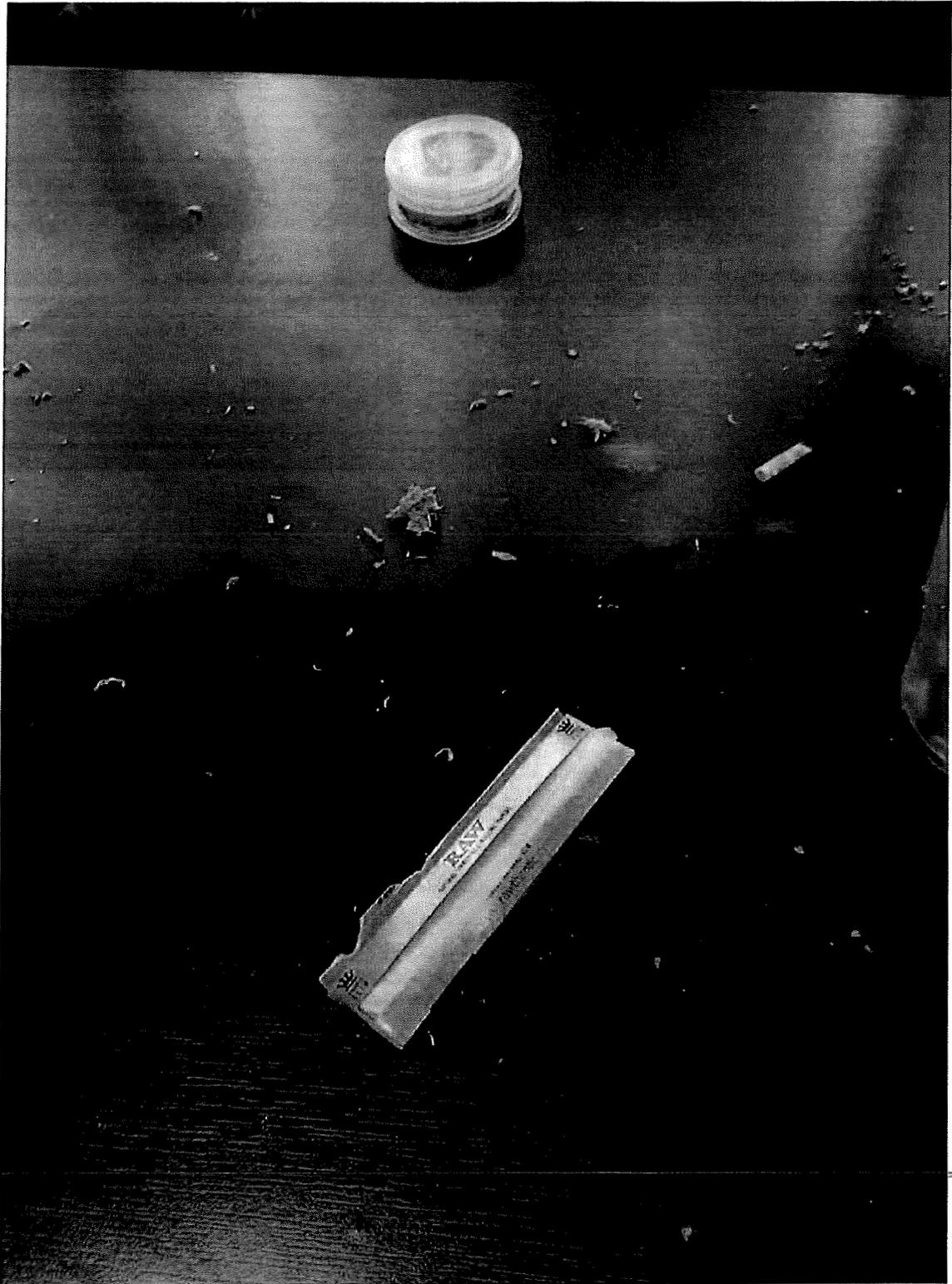


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Viet 3



B&H Property Limited
Viet Quan
320-322 Old Kent Road
London
SE1 5UE

Licensing Unit
Direct Line: 020 7525 5767
Direct Fax: 020 7525 5705
Our Ref: INU: 086055

11th September 2019

Dear Mr Bing Van Le,

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
andrew.heron@southwark.gov.uk

Viet &

STATEMENT OF WITNESS

(Criminal Procedure Rules, r. 27.2;

Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)

STATEMENT OF Mr Bing Van Le

Age of witness (if over 18, enter "over 18"): Over 18

This statement (consisting of 11 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

1. My name is Mr Bing Van Le. I am the Director of B&H Property Ltd ("the Company").
2. The Company is the Premises Licence Holder at Viet Quan, 320 - 322 Old Kent Road, London SE1 5UE ("the Premises").
3. The Premises benefits from a Premises Licence (premises licence number 867491) ("the Premises Licence"). I exhibit a copy of the Premises Licence as **BVL/1**.
4. I make this witness statement in response to the allegations contained in the letter from Mr Andrew Heron, Principal Licensing Officer for the London Borough of Southwark ("the Officer") dated 11 September 2019 ("the Letter").
5. I make this statement in lieu of attending an Interview Under Caution ("IUC").
6. I understand that the Officer has refused to supply my legal representatives with a copy of the questions he would like to put to me. I further understand that the Officer has refused to provide my legal representatives with pre-interview disclosure.
7. The Letter makes a number of allegations and I shall endeavour to address them one by one.

ALLEGATIONS

No premises licence available for inspection/no premise licence summary on display contrary to section 57 (2) and (3) of the Licensing Act 2003

8. I accept that there a copy of the Premises Licence was not available on the evening of 7 September 2019.
9. I further accept that no copy of the summary of the Premises Licence was on display.
10. On behalf of the Company I apologise.
11. It does not excuse the fact that a copy of the Premises Licence was not available/no copy of the summary of the Premises Licence was on display on the evening of 7 September 2019 but the Premises has undergone significant refurbishment recently and we simply had not got round to re-instituting the various notices that we are required to display.
12. I confirm that this situation was rectified by 10 September 2019. I confirm that a copy of the Premises Licence is kept on site under the control of the General Manager on duty at the time. I confirm that the Company

displays a notice to this effect in the Premises. I exhibit as BVL/2 and BVL/3 two photographs of the Premises Licence Summary on display.

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

13. I accept that signs requesting patrons to respect the neighbours and behave in a courteous manner were not on display on the evening of 7 September 2019.
14. On behalf of the Company I apologise.
15. It does not excuse the fact that the notices were not on display on the evening of 7 September 2019 but the Premises has undergone significant refurbishment recently and we simply had not got round to re-instituting the various notices that we are required to display.
16. I confirm that this situation was rectified by 10 September 2019. I confirm that notices requesting patrons to respect the neighbours and behave in a courteous manner are displayed at both exits from the Premises. I exhibit a copy of the notices on display as BVL/4 and BVL/5.

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.

17. I refute the allegations that I do not understand what Challenge 25 means and that there were persons under the age of 18 consuming alcohol at the Premises.
18. In relation to my understanding of Challenge 25, I understand Challenge 25 to be a means of verifying the age of customers when they are purchasing or attempting to purchase age restricted products, in this case alcohol. I understand that if a customer looks under the age of 25 then he or she must be asked for identification to prove that he or she is over the age of 18. I understand that only certain forms of ID will suffice and that they are:
 - a. A driving licence;
 - b. A passport; or
 - c. A PASS approved proof of age card.
19. I am not sure why the Officer says I do not understand Challenge 25. It is fair to say that English is not my first language. It is also fair to say that I was taken aback by the nature of the visit. Everything happened very quickly and I was caught off guard.
20. In relation to the allegation that persons under the age of 18 were consuming alcohol on the Premises this is factually incorrect for two reasons.
21. First, the basement at 320 - 322 Old Kent Road, London SE1 5UE does not form part of the Premises.
22. Second, I have been provided with no evidence to corroborate the belief of the Officer and officers that the persons in the basement were under the age of 18. The Officer and officers believe they were. I do not believe that is the case.

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.

23. I confirm that all staff involved in the sale of alcohol have attended a recognised training scheme including training in Challenge 25.
24. I exhibit as **BVL/6** and **BVL/7** copies of certificates confirming the same.
25. I accept that on the evening of 7 September 2019 records of staff training were not available for inspection at the Premises.
26. On behalf of the Company I apologise.
27. It does not excuse the fact that the records were unavailable on the evening of 7 September 2019 but the Premises has undergone significant refurbishment recently. Training records were taken off-site and have been misplaced. We had simply not gotten around to having our staff re-take the training so that new records could be created.
28. I confirm that this situation was rectified on 12 September 2019. I can confirm that the following staff who are involved in the sale of alcohol undertook a recognised training scheme (which included Challenge 25). I exhibit a copy of the Premises age verification policy as **BVL/8**.
29. I confirm that training records are kept at the Premises and will be made available for inspection by Responsible Authority officers.

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.

30. I accept that Agecheck or "Challenge 25" signage was not displayed at entrances to the premises, at areas where alcohol is displayed for sale and at points of sale to inform customers as per the condition of the Premises Licence.
31. On behalf of the Company I apologise.
32. It does not excuse the fact that the signage was not displayed on the evening of 7 September 2019 but the Premises has undergone significant refurbishment recently. Signage was taken down as part of the refurbishment and we had simply not got around to replacing it.
33. I confirm that this situation was rectified by 10 September 2019. I exhibit as **BVL/9** and **BVL/10** photographs of the notices in situ.

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.

34. I accept that there was no "refusals register" available on the evening of 7 September 2019.
35. On behalf of the Company I apologise.

36. It does not excuse the fact that the register was not available on the evening of 7 September 2019 but the Premises has undergone significant refurbishment recently. The refusals register was taken off-site and has been misplaced. We had simply not gotten around to creating a new one as it had not been necessary to refuse a sale.

37. I confirm that this situation was rectified on 10 September 2019. I can confirm that there is a refusals register which is kept at the Premises. I exhibit as **BVL/11** a copy of the 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.

38. I accept that there was no written dispersal policy immediately available for inspection on the evening of 7 September 2019.

39. On behalf of the Company I apologise.

40. Now feels like an appropriate time to highlight what I consider to be a divergence between the Premises Licence we have and what the Premises is.

41. The Premises is a Vietnamese restaurant. It operates with a full menu of Vietnamese food and alcohol as you would expect a restaurant to do.

42. I understand that the Premises has previously proved problematic for the council and that this may be where some of the conditions come from.

43. I do not believe that they are appropriate and proportionate conditions for a restaurant. I accept, however, that whilst the Premises trades under the current licence that the conditions must be complied with.

~~44. On behalf of the Company I will be looking to make an application to the Licensing Authority for a premises licence that doesn't contain these conditions and instead contains conditions appropriate and proportionate to a restaurant.~~

45. In any event, this situation was rectified 10 September 2019 and a dispersal policy is now in place at the Premises. I confirm that a copy of the dispersal policy has been served on the Licensing Authority pursuant to the condition. I exhibit a copy of the dispersal policy as **BVL/12**.

46. I also confirm that a copy of the dispersal policy is kept at the Premises for inspection by the Responsible Authorities.

845 - That the premises will install a CCTV system and maintain this system in good working order, the system will be 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 in 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.

47. I confirm that there is a CCTV camera system at the Premises and that is maintained in good working order.

48. I confirm that the CCTV camera system covers all public areas of the Premises. The basement is not presently a public area as it does not fall within the licensed area.

49. As far as I am aware, a Premises Licence does not require a Premises Licence Holder (or its staff) to be able to recite verbatim the conditions of the Premises Licence.

50. I accept that I should have known how long recordings are to be kept for. I was not able to answer that question on the evening of 7 September 2019 however, that is not a criminal offence. On behalf of the Company I apologise.

51. I confirm that recordings are kept for 31 days in accordance with the condition.

52. As part of the refurbishment works at the Premises we have installed a new, improved CCTV system. We are currently in the process of getting to grips with this system and making sure it ticks the relevant boxes in terms of being of evidential quality. It is fair to say there have been some teething problems with the new system not least that the hardware responsible for storing the recordings became damaged and corrupted and required replacing. I can confirm that the hardware has now been replaced.

53. I will deal with the Officer's comments regarding my ability to use the CCTV system under the appropriate heading below.

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.

54. I disagree with the Officer's comments that I am unable to operate the CCTV system.

55. As I mention above, we have installed a new CCTV system at the Premises. The evening of 7 September 2019 was the first time I have been asked, under pressure, to access the CCTV system. I accept that I could and should have been better equipped to do so. Personally, and on behalf of the Company, I apologise.

56. I can confirm that I have refreshed my understanding of the CCTV system and how it works. I can confirm that I am able to show officers footage upon request. I am also mindful of my duties as a data controller within the meaning of the Data Protection Act 1998 and the General Data Protection Regulation (GDPR). I note that the CCTV condition requires me to disclose footage "immediately" which is incompatible with data protection principles.

57. In any event, should a future request for CCTV be necessary I will be able and willing to help subject to the overriding data protection duties placed upon me.

848 - That all staff concerned in the sale or supply of 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.

58. I consider that this condition duplicates the provisions of 4AB.

59. I confirm that all staff involved in the sale of alcohol have attended a recognised training scheme including training in Challenge 25.

60. I accept that on the evening of 7 September 2019 records of staff training were not available for inspection at the Premises.

61. On behalf of the Company I apologise.

62. It does not excuse the fact that the records were unavailable on the evening of 7 September 2019 but the Premises has undergone significant refurbishment recently. Training records were taken off-site and have been misplaced. We had simply not gotten around to having our staff re-take the training so that new records could be created.

63. I confirm that this situation was rectified on 12 September 2019. I can confirm that the following staff who are involved in the sale of alcohol undertook a recognised training scheme (which included Challenge 25). I also exhibit as **BVL/6** and **BVL/7** copies of the certificates issued to the staff members who undertook the training.

64. I confirm that training records are kept at the Premises and will be made available for inspection by Responsible Authority officers.

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.

65. This is another condition that I consider is inconsistent with restaurant use. The condition is more appropriate to a bar or nightclub.

66. Notwithstanding this, I accept that on the evening of 7 September 2019 no such incident report book was available at the Premises.

67. On behalf of the Company I apologise.

68. It does not excuse the fact that the report book was not available on the evening of 7 September 2019 but the Premises has undergone significant refurbishment recently. The report book was taken off-site and has been misplaced. We had simply not gotten around to creating a new one as it had not been necessary to refuse a sale.

69. I can confirm that we have not had an incident of violence and/or disorder during the time that the Premises Licence Holder has operated the Premises.

70. I confirm that this situation was rectified on 10 September 2019. I can confirm that an incident report book is kept at the Premises and I exhibit a copy of the incident report register as **BVL/13**.

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 readmission 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.

71. This is another condition that I consider is inconsistent with restaurant use. The condition is more appropriate to a bar or nightclub.

72. Notwithstanding this, I accept that on the evening of 7 September 2019 no SIA door supervisors were engaged at the Premises.

73. On behalf of the Company I apologise.

74. As I have mentioned above I will be making an application to the Licensing Authority to obtain a premises licence that is free from conditions such as this. SIA door supervisors are clearly not appropriate or proportionate at a restaurant premises.

75. I confirm that since 7 September 2019 I have engaged SIA door supervisors as per the condition but this is going to be impractical for me to comply with, even in the short term.

76. I would welcome a discussion with the Licensing Authority as to whether this condition could be 'waived' provided that the Premises operates as a restaurant and other conditions of the Premises Licence are adhered to.

77. In these difficult times and having refurbished the premises, two SIA door supervisors from Thursday to Sunday is a cost the Premises just cannot bear.

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.

78. This is another condition that I consider is inconsistent with restaurant use. The condition is more appropriate to a bar or nightclub.

79. Notwithstanding this, I accept that on the evening of 7 September 2019 no SIA door supervisors were engaged at the Premises and as such they were not issued with counting devices.

80. On behalf of the Company I apologise.

81. As I have mentioned above I will be making an application to the Licensing Authority to obtain a premises licence that is free from conditions such as this. SIA door supervisors are clearly not appropriate or proportionate at a restaurant premises.

82. I confirm that since 7 September 2019 I have engaged SIA door supervisors as per the condition but this is going to be impractical for me to comply with, even in the short term.

83. I would welcome a discussion with the Licensing Authority as to whether this condition could be 'waived' provided that the Premises operates as a restaurant and other conditions of the Premises Licence are adhered to.

84. In these difficult times and having refurbished the premises, two SIA door supervisors from Thursday to Sunday is a cost the Premises just cannot bear.

860 - That intoxicating liquor shall not be sold or supplied in 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.

85. In relation to the "Premises" this condition was being complied with.

86. In relation to the basement I say as follows:

- a. It is permissible to provide hot food in the basement until 23:00 hours but not thereafter. This is what was happening on 7 September 2019;
- b. There is nothing to stop customers bringing their own alcohol with them and consuming it in the basement. This is what was happening on 7 September 2019;

- c. I accept that Karaoke is generally accepted as the performance of Live Music. I do not necessarily agree that it also requires permissions for Films and Recorded Music however as noted above I will be making an application to licence the basement area for the provision of Karaoke.
87. I accept that we must make an application to the Licensing Authority in order to provide Karaoke. On behalf of the Company I apologise. We will be making such an application.
88. I accept that the plans of the Premises do not reflect the layout of the Premises as currently constructed. I will be making a minor variation application to remedy the plans of the ground floor of the Premises and will be making an application for a Premises Licence to rectify the licensing situation with reference to the Premises as a whole.
89. The Premises Licence is not fit for purpose for the type of business that I would like to run, which is as follows:
- a. Ground floor - a Vietnamese restaurant; and
 - b. Basement - back of house and three private dining rooms with the capability to provide karaoke.
90. I would like to work with the Licensing Authority and my legal representatives to sort this mess out.

Health Act 2006

91. I disagree that patrons were permitted to smoke in the basement of the Premises. I was unaware and my staff were unaware that the individuals using one of the Karaoke rooms were smoking until we visited the room with you.
92. I was shocked to find that the individuals using that room had been smoking. This was communicated to them.
-
93. Smoking in the basement has not been permitted before or since and I have instructed staff to conduct regular checks when the Karaoke rooms are in use to make sure this does not happen again.

Food Business Operator Registration

94. I accept that the notification provision to register as a Food Business Operator had not been completed.
95. As I have mentioned above the Premises underwent a significant period of refurbishment prior to reopening. The registration should have been completed before the Premises reopened. It wasn't and on behalf of the Company I apologise.
-
96. I can confirm that an application to register as a Food Business Operator will be made to Southwark Council for the Premises.

Consumer Protection from Unfair Trading Regulations

97. I am disappointed that the Officer has chosen to include this within his letter as he did not interrogate our menu with anything like the rigor needed to make this allegation.
98. As a business we have a number of menus and price lists and this includes both food and drink menus.

99. The officer looked at one food menu, saw that it did not contain prices for drinks and had jumped to the conclusion that no such price list exists. It does and did at the time of the Officer's visit.

100. I exhibit as BVL/14 - BVL/20 copies of our menus and drinks price list.

101. I trust that this deals with the allegation that drinks prices were not available.

Weights & Measures Act 1985

102. I accept that this notice was not on display on the evening of 7 September 2019.

103. On behalf of the Company I apologise.

104. I confirm that this was rectified on 10 September 2019 and that a notice in the requisite format is now on display at the Premises.

Companies Act 2006

105. I fear the Officer is not familiar with the Companies Act 2006. I don't expect that he should be as he is a Licensing Officer. I am advised by my legal representatives that:

106. Section 1205 of the Companies Act 2006 deals with the criminal consequences of failing to make a required disclosure. Section 1204 sets out the requirements and I have set those out below for ease of reference:

1204 Disclosure required: business premises

(1) A person to whom this Chapter applies must, in any premises—

(a) where the business is carried on, and

(b) to which customers of the business or suppliers of goods or services to the business have access, display in a prominent position, so that it may easily be read by such customers or suppliers, a notice containing the information required by this Chapter.

(2) The Secretary of State may by regulations require that such notices be displayed in a specified form.

(3) Regulations under this section are subject to negative resolution procedure.

107. Section 1200 deals with the application of chapter 2 of the Companies Act 2006 and states:

1200 Application of this Chapter

(1) This Chapter applies to an individual or partnership carrying on business in the United Kingdom under a business name.

References in this Chapter to "a person to whom this Chapter applies" are to such an individual or partnership.

(2) For the purposes of this Chapter a "business name" means a name other than—

(a) in the case of an individual, his surname without any addition other than a permitted addition;

(b) in the case of a partnership—

(i) the surnames of all partners who are individuals, and (ii) the corporate names of all partners who are bodies corporate, without any addition other than a permitted addition.

(3) The following are the permitted additions—

(a) in the case of an individual, his forename or initial;

(b) in the case of a partnership—

(i) the forenames of individual partners or the initials of those forenames, or

(ii) where two or more individual partners have the same surname, the addition of "s" at the end of that surname;

(c) in either case, an addition merely indicating that the business is carried on in succession to a former owner of the business.

108. Section 1200 of the Companies Act 2006 makes it clear that the chapter applies to an individual or a partnership conducting business. Neither is correct in respect of the Premises as the Company is the entity conducting business.

109. I have to say at this juncture that this feels very much like the Officer seeking to 'throw the kitchen sink' at me and the Company and to make more of the situation than is necessary.

110. There are a number of breaches of the Premises Licence that have been rightly identified and rectified. I can only apologise that things were not in place as they should have been.

111. We are a new business and it is fair to say that we are learning as we go. I have now had the benefit of some advice from my legal advisors and will be making certain changes to the Premises and the way it operates moving forwards. I set these out below.

FUTURE PLANS

112. I am an investor in premises rather than an operator. It was convenient for me to act as the Designated Premises Supervisor whilst the Premises was undergoing refurbishment but I see that that cannot continue now the Premises is trading.
113. I will be making an application (through my legal representatives) to vary the Designated Premises Supervisor to the general manager at the Premises.
114. As noted above in the short-term I will be making (through my legal representatives) a minor variation application to replace the plans held by the Licensing Authority with plans that accurately show the layout of the Premises as constructed.
115. I will also be making an application (through my legal representatives) for a premises licence that reflects how the Premises will operate moving forwards. This application will include the three karaoke rooms at basement level and will contain appropriate and proportionate conditions. I look forward to discussing that application with the Responsible Authorities when it is made.

CONCLUSION

116. On behalf of the Company I would like to apologise to the Officer and the Licensing Authority.
117. It is clear from the many allegations the officer sets out in his letter that compliance fell below standard on this occasion. In some instances that was due to the refurbishment work that has been taking place. In others it was due to a divergence between the nature of the business as it is now and the Premises Licence, which is for a completely different kind of undertaking.
-
118. Nearly all of the issues that were capable of immediate rectification have been rectified.
119. Other issues, for example the layout of the Premises, will be rectified as soon as applications have been made and are approved following their statutory consultation period.
120. I expect that the future of the Premises and the premises licence application will be resolved, I hope, amicably, moving forwards.
121. I would like to work with the Licensing Authority and the other Responsible Authorities to ensure future compliance.
-

Si

..... (witness)

Date: 26/09/19

VIET QOAN LTD

Company number **11729349**

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Registered office address

■ 203 West Street, Fareham, Hampshire, United Kingdom, PO16 0EN

Company status

Active

Company type

Private limited Company

Incorporated on

17 December 2018

Accounts

First accounts made up to **31 December 2019**
due by **17 September 2020**

Confirmation statement

Next statement date **1 December 2020**
due by **15 December 2020**

Last statement dated **1 December 2019**

Nature of business (SIC)

- 56101 - Licensed restaurants

VIET QOAN LTD

Company number **11729349**

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VAN LE, Bing

Correspondence address

203 West Street, Fareham, Hampshire, United Kingdom, PO16 0EN

Role Active

Director

Date of birth

Appointed on

17 December 2018

Nationality

Vietnamese

Country of residence

United Kingdom

Occupation

Director

MEMO: Licensing Unit

To	Licensing Unit	Date	8 January 2020
Copies			
From	Jayne Tear	Telephone	020 7525 0396
Email	jayne.tear@southwark.gov.uk		

Subject Re: Viet Quan, 320-322 Old Kent Road, London, SE1 5UE
- Application for a premises licence

I write with regards to the above application for a premises licence submitted by Viet Quan Limited under the Licensing Act 2003, which seeks the following licensable activities:

- Films (indoors) on Sunday to Thursday from 11:00 to 00:00, Friday from 11:00 to 01:00 the following day and on Saturday from 11:00 to 03:00 the following day
- Live music (indoors) on Sunday to Thursday from 23:00 to 00:00, Friday from 23:00 to 01:00 the following day and on Saturday from 23:00 to 03:00 the following day
- Recorded music (indoors) on Sunday to Thursday from 23:00 to 00:00, Friday from 23:00 to 01:00 the following day and on Saturday from 23:00 to 03:00 the following day
- Anything of a similar description to live music, recorded music and performance of dance (indoors) on Sunday to Thursday from 11:00 to 00:00, Friday from 11:00 to 01:00 the following day and on Saturday from 11:00 to 03:00 the following day
- Late night refreshment (indoors) on Sunday to Thursday from 23:00 to 00:00, Friday from 23:00 to 01:00 the following day and on Saturday from 23:00 to 03:00 the following day
- Supply of alcohol (on the premises) on Sunday to Thursday from 11:00 to 00:00, Friday from 11:00 to 01:00 the following day and on Saturday from 11:00 to 03:00 the following day
- Overall opening times shall be on Sunday to Thursday from 11:00 to 00:00, Friday from 11:00 to 01:00 the following day and on Saturday from 11:00 to 03:00 the following day

The premises is described as *'This application for a new premises licence for Viet Quan at 320-322 Old Kent Road SE1 5UE. The premises currently benefits from a premises licence (number 867491) for Rock Island, Thomas A Becket 320-322 Old Kent Road. The premises licence does not fit with the current operation of the premises which is a restaurant with Karaoke private dining rooms. For example, the premises licence requires the presence of 2 x SIA door supervisors Thursday to Sunday which is not in keeping with a restaurant premises. This application seeks to rectify those issues so that a premises licence that is appropriate and proportionate to the style of the premises in operation can be issued. The premises is split over two levels – ground floor is a large open plan restaurant with a smaller rear courtyard. The basement is comprises back of house and three private dining/karaoke rooms'*.

My representation is submitted under the prevention of crime and disorder and the prevention of public nuisance licensing objectives and has regard to the Southwark Statement of Licensing Policy 2019 - 2021

The premises is situated in a residential area and under the Southwark Statement of Licensing policy 2019 - 2021 the appropriate closing times for restaurants; cafes, public houses, wine bars or other drinking establishments is 23:00 daily.

This application is seeking hours in excess of that which is recommended for a restaurant or bar in this area within the licensing policy however the premises currently holds a premises licence, (No.870429 albeit only for the ground floor only), which has generous hours outside of the policy hours recommended.

The existing license hours/and licensable activities are as follows:

The opening hours of the premises

Sunday to Thursday from 07:00 - 00:00
Friday and Saturday from 07:00 – 01:00

Late Night Refreshment – Indoors

Sunday to Thursday from 23:00 - 23:30
Friday and Saturday from 23:00 - 00:30

Sale by retail of alcohol to be consumed on premises

Sunday to Thursday from 11:00 - 23:30
Friday and Saturday from 11:00 - 00:30

On 26/03/2019 Bin Van Le became the DPS on the existing premises licence.

On Saturday 07 September 2019 a licensing officer, trading standards officer and the NTET police visited the premises and witnessed the basement being used for unlicensed activities as well as other criminal activity taking place in the basement. Further to this there were also breaches of the licence conditions concerning the licensed area on the ground floor of the premises. Enforcement action is currently being considered and I may submit further evidence regarding this at the LSC hearing.

I have serious concerns regarding the ability of the Licensee Company Viet Quan Limited to adhere to the conditions put upon the premises licence or to promote the licensing objectives should this licence be granted. Bin Van Le is the sole director of the company and will also be the DPS at the premises should this application be granted. I Therefore I recommend that this application is refused.

I may submit further evidence to this representation at a later stage.

Southward's Statement of Licensing Policy 2019 – 2021 can be found on the following link:
<https://www.southwark.gov.uk/business/licences/business-premises-licensing/licensing-and-gambling-act-policy>

Jayne Tear
Principal Licensing officer
In the capacity of the Licensing Responsible Authority