

Licensing Act 2003 Premises Licence

APPENDIX F



Regulatory Services
Licensing Unit
Hub 1, 3rd Floor
PO Box 64529
London, SE1P 5LX

Premises licence number

869693

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
Pasaje Primavera Arch 146, Eagle Yard Re-Instate Issued (Licensing) SE1 6SP	
Ordnance survey map reference (if applicable), 532056178732	
Post town London	Post code SE1 6SP
Telephone number	

Where the licence is time limited the dates
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Licensable activities authorised by the licence
Recorded Music - Indoors Facilities for Making Music - Indoors Late Night Refreshment - Indoors Sale by retail of alcohol to be consumed on premises

The opening hours of the premises
For any non standard timings see Annex 2
Monday 06:00 - 01:00
Tuesday 06:00 - 01:00
Wednesday 06:00 - 01:00
Thursday 06:00 - 01:00
Friday 06:00 - 03:00
Saturday 06:00 - 03:00
Sunday 06:00 - 01:00

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies
Sale by retail of alcohol to be consumed on premises

The times the licence authorises the carrying out of licensable activities

For any non standard timings see Annex 2 of the full premises licence

Recorded Music - Indoors

Monday	06:00 - 00:00
Tuesday	06:00 - 00:00
Wednesday	06:00 - 00:00
Thursday	06:00 - 00:00
Friday	06:00 - 00:00
Saturday	06:00 - 00:00
Sunday	06:00 - 00:00

Facilities for Making Music - Indoors

Monday	06:00 - 00:00
Tuesday	06:00 - 00:00
Wednesday	06:00 - 00:00
Thursday	06:00 - 00:00
Friday	06:00 - 00:00
Saturday	06:00 - 00:00
Sunday	06:00 - 00:00

Late Night Refreshment - Indoors

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 02:30
Saturday	11:00 - 02:30
Sunday	11:00 - 00:00

Sale by retail of alcohol to be consumed on premises

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 02:30
Saturday	11:00 - 02:30
Sunday	11:00 - 00:00

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

RINCON COSTENO LIMITED

████████████████████
████████████████████
████████████████████

Registered number of holder, for example company number, charity number (where applicable)

11689338

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Segundo Vicente Gualavisi Carlosama

██
██████████
██████████

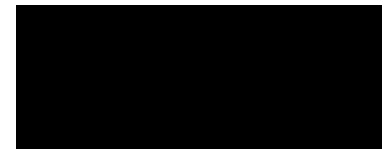
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence No. ██████████

Authority

L B of Lambeth

Licence Issue date 30/08/2019



Head of Regulatory Services
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PO Box 64529
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020 7525 5748
licensing@southwark.gov.uk

Annex 1 - Mandatory conditions

100 No supply of alcohol may be made under the Premises Licence -

(a). At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or

(b). At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

101 Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.

485 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require, encourage, individuals to -

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional poster or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; and

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

487 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

488 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either

- (a) a holographic mark; or
- (b) an ultraviolet feature.

489 The responsible person shall ensure that -

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or

supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) Beer or cider: 1/2 pint;
- (ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) Still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available,

491 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purpose of the condition set out in paragraph (1):

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula

$$P = D + (D \times V),$$

where-

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence:

- (ii) the designated premises supervisor (if any) in respect of such a licence; or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (iv) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (v) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax;
- (2) the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the operating Schedule

4AA The premises shall operate an age check '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 of age to verify their age. Approved forms shall include a driving licence, passport or a PASS approved proof of age card such as the Southwark Proof of Age (SPA) card.

255 That fire extinguishers shall be kept at the premises and kept in unobstructed and easily accessible locations.

288 That a CCTV system shall be installed at the premises and shall be maintained in full working order and be continually recording at all times that the premises is in use under this licence. The CCTV system must be capable of capturing an image of every person who enters the premises.

289 That all CCTV footage shall be kept for a period of thirty one (31) days and shall be made immediately available to officers of the police or council on request.

293 That staff shall be trained in regards to all aspects of public safety at the premises.

298 That clearly legible signs shall be prominently displayed to the satisfaction of the council stating "Drug Free Zone".

309 That no electronically amplified instruments shall be played in the premises.

310 That after 21:00 hours the front entrance doors shall be kept closed when regulated entertainment is taking place.

311 That clearly legible signs shall be prominently displayed to the satisfaction of the council requesting that customers leave the premises in a quiet and orderly manner.

332 That all persons under 18 years old attending the premises must be accompanied by a parent, guardian or responsible adult at all times.

340 That a fire alarm system shall be installed at the premises and shall be maintained in full working order and be in operation at all times that the premises is in use under this licence.

341 Maximum persons to be allowed at any one time including staff to be 80.

342 A fire risk assessment and a evacuation plan will be implemented in case of fire or other emergencies.

343 The management will ensure that all staff receive appropriate training and development to carry out their job in an effective manner - to ensure that all the policies including health & safety are consistently maintained.

344 No bottles or glasses shall be taken off the premises.

345 A specified time between last sales and the close of the premises shall be displayed.

346 A display will set out conditions of entry to the premises in the vicinity of any entrance to the premises. a secure deposit box will be kept on the premises for the retention of confiscated items and ensure

that the police are informed of any item which require safe disposal.

347 Windows and doors will always be kept closed acoustically treated ventilation/air conditioning will be utilised.

348 Management will ensure that staff, DJs and artists understand the noise control requirements, and regularly monitor noise levels during operating hours.

349 A complaints and incidents book would be held on the premises to record details of any complaints received from neighbours for inspection by council officers.

4AB All staff will receive documented training in relation to the licensing act 2003, and the 'Challenge 21' policy and the training shall be repeated every six months. Records of this training and written policies relating to it will be kept and made available to police or council officers on request.

4AG That the premises adopts the 'challenge 21 scheme' whereby any person that appears under 21 year of age has to prove they are 18 or over by providing identification bearing their photograph, date of birth and a holographic mark and/or ultraviolet feature. examples of appropriate identification include passport, photo card driving licence, military ID and proof of age card bearing the pass hologram.

350 A Refusals Log be kept and maintained and be available to Police or Council Officers on request.

Annex 3 - Conditions attached after a hearing by the licensing authority

840 That substantial food to be served at all times that alcohol is supplied on Fridays and Saturdays after 00:00;

841 That a minimum of one SIA licensed door supervisors shall be on duty at the premises at all times when the premises are open between 00:00 and 03:00;

842 That patrons admitted after midnight must have been invited;

843 That there shall be no more than 80 patrons shall be present on the premises between 00:00 and 03:00;

844 That no more than six patrons may use the outside smoking area at any one time. No drinks may be taken into this area;

845 That no alcohol may be taken off the premises.

846 That Mr Ian Gualavisi (Person A) and Mr Ronalo Palacios (Person B) be excluded from the premises.

847 All staff to receive conflict management training with 28-days.

848 All staff are retrained in the use of CCTV and their obligations in respect of Conditions 288 and 289 of the premises licence within 28-days

Annex 4 - Plans - Attached

Licence No. 869693

Plan No. 221102(lic)01

Plan Date May 2011

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 10 AUGUST 2021 (RECONVENED FROM 5 AUGUST 2021)

SECTION 53C LICENSING ACT 2003: PASAJE PRIMAVERA, ARCH 146, EAGLE YARD, HAMPTON STREET, LONDON SE1 6SP

1. Decision

That the council's licensing sub-committee, having considered the application made under Section 53C of the Licensing Act 2003 by the Metropolitan Police Service for the review of the premises licence issued in respect of the premises known as Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP and having had regard to all other relevant representations, has decided it necessary for the promotion of the licensing objectives to:

- **Revoke the premises licence.**

2. Reasons for the decision

This was an application made by the Chief of Police for the Metropolitan Police Service for the review of the premises licence known as Pasaje Primavera, Arch 146, Eagle Yard, Hampton Street, London SE1 6SP. The application was made under Section 53C of the Licensing Act 2003.

The licensing sub-committee heard from an officer from the Metropolitan Police Service who advised that on Saturday 10 July 2021, at approximately 02:40, calls were received by the police stating that a fight was taking place in or near Rincon Costeno, Arch 146 Eagle Yard. The premises are also known as Pasaje Primavera.

Shortly after the police received the calls, a call from the London Ambulance Service (LAS) was received, stating they were dealing with a male victim, named Ian Gualavisi who had significant head injuries and a possible machete wound to his back. Police arrived on scene to speak with the victim, who was uncooperative and saying he could not remember where or how he received his injuries and wanted the matter forgotten. For the avoidance of all doubt, Ian Gualavisi is the victim in the incident that took place on 10 July 2021. Ian Gualavisi is also the son of the designated premises supervisor (DPS).

The incident took place at 146 Eagle Yard, SE1 6SP. When police attended the premises, they found it to be locked and secure with no staff or patrons inside. A key holder attended the premises and allowed Police access. Inside the Police found a significant amount of blood, tables and chairs turned over and smashed glass over the floor. No calls were made to emergency services from the premises or staff at the premises.

The police accessed the CCTV from the premises, which showed between six and eight persons inside sat at a table drinking bottles of beer. The son/victim was also in the premises. He bent down behind the bar area and the suspect crept up behind him and smashed a glass bottle across the back of his head. A fight then ensues. The other people inside the premises attempted to break up the fight.

Ian Gualavisi was attended to by the ambulance service outside Elephant & Castle tube station and was taken to hospital for further treatment.

The officer informed the sub-committee of an incident that occurred on 18 December 2018 when police witnessed a fight outside the premises at 146 Eagle Yard. This incident triggered a summary review of the premises licence. The suspect on this occasion was Ian Gualavisi, the son of the premises licence holder. At the full review on 16 January 2019 the licensing sub-committee permanently barred Ian Gualavisi from the premises. A condition was also imposed that SIA door supervisors would be employed on Friday and Saturday nights when the premises operated after midnight. No SIA were employed at the premises on 10 July 2021.

The police officer advised that as a direct result of the breaches of the licence conditions of the premises licence, a serious assault was committed inside the premises against the son/victim and no calls were made by the premises to emergency services from the premises, staff or even the son/victim. After hearing from the licence holder's legal representative, the officer stated he had no confidence in the management of the premises and recommended that the licence be revoked.

The licensing sub-committee heard from an officer from the council's health and safety team who expressed concern that the incident demonstrated a lack of management control of the premises, required under the Health and Safety at Work Act 1974 and the Management of Health and Safety at Work Regulations 1999. The management of the premises failed to call an ambulance and failed to contact the police. Although the victim did not wish to pursue the matter with the police, the premises was still required to inform the Health and Safety Executive and these failures amounted to prosecutable offences.

The licensing sub-committee heard from the officer representing licensing as a responsible authority whose representation was submitted under the prevention of crime and disorder, prevention of public nuisance, public safety and protection of children from harm licensing objectives. The officer also had regard to the Southwark statement of licensing policy 2021–2026.

The officer advised of that the premises was previously subject to an expedited review and at the final hearing on 16 January 2019, the licensing sub-committee modified the premises licence. One of the conditions added to the licence was that Mr Ian Gualavisi (condition 846) be excluded from the premises.

The officer fully supported the police review and advised that the review in 2019 gave the licensee and DPS a chance to improve the operation at the premises by applying robust conditions as the licensee and DPS had not taken their responsibilities to promote the licensing objectives seriously.

The officer advised that allowing Mr Ian Gualavisi into the premises was a breach of condition 846. Condition 841 (that a minimum of one SIA licensed door supervisors shall be on duty at the premises at all times when the premises are open between 00:00 and 03:00) was also breached.

No one from the premises attempted to call the police or ambulance service at the time of the incident. The officer stated that this confirmed a complete lack of understanding as to the requirements in managing a licensed premises, a disregard for the conditions imposed and a failure in promoting the licensing objectives. The officer recommended that the premises licence should be revoked in order to promote the objectives.

The licensing sub-committee noted the representation of one other person who was not present at the meeting.

The licensing sub-committee then heard from the legal representative for the premises who advised that on 10 July 2021 the kitchen closed at approximately 20:00 and after cleaning, the kitchen staff left at 21:30, leaving the DPS and his wife at the premises.

At this point there were eight customers made up of two tables of four. At approximately 22:00 six new customers arrived and purchased a bucket of beer. They then purchased another bucket of beer at 23:00. This was the last order that was taken by the DPS.

The DPS felt ill and both he and his wife were tired having worked a 16 hour shift. The DPS and premises licence holder's son offered to assist his parents by finishing the evening for them and to then lock up the premises once the customers left the premises.

After the son/victim was assaulted, he left the premises and contacted his sister to attend the premises to lock up. As far as the premises licence holder and DPS were concerned, the premises closed at midnight. It was accepted by them that their son had sold alcohol after they had left the premises, against their instructions. A spreadsheet detailing the transactions for 10 July 2021 was referred to, but the exact times of the sales had not been included. The licence holder's representative advised that the last sale was made at approximately 02:00.

During the discussion stage of the meeting, the legal representative advised that after the son had been assaulted, he left the premises and telephoned his sister (the daughter of the DPS and premises licence holder) and requested that she attend the premises to lock up. No real explanation was given why the daughter could not be contacted in the first instance to finish and lock up in the son/victim's place.

When the DPS was asked to explain Challenge 25, the DPS was unable to do so. The legal representative explained that the DPS had held a personal licence for seven years and knew what was expected of him. The premises licence had conditions prohibiting under 18s to enter the premises. The legal representative advised that the DPS may not recognise the term Challenge 25, but the aim relating to the under 18 policy was the same.

The premises licence holder and DPS stated that they recognised the six customers that entered the premises at 22:00 hours, but did not know their names. None of these customers were the other named individual who was banned from the premises in condition 846. Licensable activities had taken place after the licence holder and DPS had left the premises. However, they were of the view that the premises were closed and pursuant to the licence conditions, did not need any SIA door supervisors.

In determining this review application, the sub-committee had the choice to

- i. Remove the designated premises supervisor;
- ii. Modify the premises licence by altering, omitting or adding any condition
- iii. Suspend the premises licence;
- iv. Exclude a licensable activity from the scope of the licence
- v. Revoke the premises licence.

Pasaje Primavera (also known as Rincon Costeno) is a family run restaurant. The premises licence holder is Rincon Costeno Limited. The director of the company is Rocio Del Pilar Chango Mullo. Rocio Del Pilar Chango Mullo is the wife of the DPS. The licensing sub-committee found the DPS's knowledge and understanding of the Licensing Act 2003 and the conditions attached to the premises licence inadequate. Despite being assisted with translation by his niece, the DPS's account was inconsistent and questionable. The sub-committee found that the DPS was wholly unfit to hold a personal licence.

It was felt that it would be inappropriate to remove the DPS due to the nature of the operation of the restaurant being a family business. Even if the DPS were removed, it was likely that he would still somehow be involved in it. The premises licence had already been modified in 2019 to include robust conditions, which were not complied with so a further modification of the licence could not guarantee compliance. A suspension of the licence was also considered. Members again did not feel this could guarantee the future compliance of the licence. Similarly, this was members' conclusion when considering the removal of licensable activities.

The DPS and his wife trusted their son to ensure that the table of six patrons left in a timely manner and to lock up. Instead, the son sold alcohol, a fight ensued and the premises was subsequently abandoned and left empty and open for anyone to enter. Had the premises had complied with the premises licence conditions this incident would not have occurred. The licensing sub-committee had no confidence in the management of the premises and felt there to be no other option but to revoke the premises licence.

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

This decision is open to appeal by either:

- 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.

This decision does not have effect until either

- a) The end of the period for appealing against this decision; or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

4. Review of interim steps pending appeal

At the conclusion of the review hearing the licensing sub-committee reviewed the interim steps to determine which interim steps were appropriate for the promotion of the licensing objectives, pursuant to section 53D of the Licensing Act 2003. The sub-committee concluded that these interim steps were appropriate:

- **To suspend the premises licence.**

The licensing sub-committee were satisfied that these modified interim steps are more appropriate and proportionate to promote the licensing objectives to modify the interim steps, as detailed above

The interim steps are open to appeal by:

- a) The chief officer of police for the police area in which the premises is situated; or
- b) The holder of the premises licence

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.

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

Date: 10 August 2021