

Decision No. **1993/78**

IN THE MATTER

of the Sale of Liquor Act 1989

AND

IN THE MATTER

of an application by  
COPPERHEAD ROAD  
LIMITED pursuant to s.18 of the  
Act for renewal of an on-licence in  
respect of premises situated at 14  
Brecon Street, Queenstown,  
known as "Lone Star Cafe & Bar"

BEFORE THE LIQUOR LICENSING AUTHORITY

Quorum:

Deputy Chairman: Judge F G Paterson

Member: Mr R J S Munro

HEARING at QUEENSTOWN on 31 August and 1 September 1998

APPEARANCES

Mr P Egden for applicant

Mrs K Lemaire-Sicre - objector

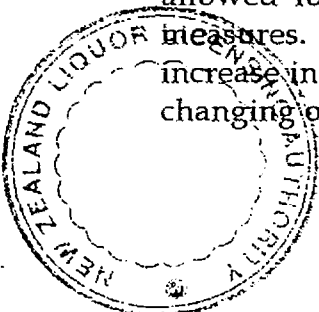
Ms L Ferrier - District Licensing Agency Inspector

Sergeant F Wielemaker - NZ Police - to assist

DECISION

The application is for renewal of an on-licence in respect of premises known as "Lone Star Cafe" and for a variation by way of extension of hours authorised for the sale of liquor.

The application was publicly notified and attracted an objection from adjacent residential neighbours, Mr and Mrs Lemaire-Sicre and also from a District Licensing Agency Inspector. It was therefore set down for public hearing which was held before us at Queenstown on 31 August and 1 September 1998. The licence was renewed in LLA Decision 1709/96, the term being limited to that of twelve months from the date of the decision of 5 September 1996 and the hours for liquor sales were confined to 7.00 am to 1.30 am the following day. The limited term took into account the total effective renewal term of four years from the previous expiry date and allowed for further reports on the effectiveness of the applicant's sound limiting measures. We also said it would be open to the applicant to make application for an increase in trading hours in the event of the zoning of Mrs Lemaire-Sicre's property changing or the property being sold for non-residential use.



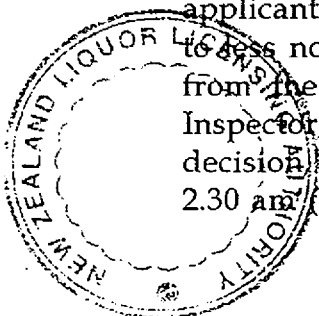
The essence of the current application is that the applicant presses us to allow the hours for permitted liquor sales to extend to 2.30 am the following day and if it would assist its case, it would accept a renewal for less than three years. As reported to us by Linda Ferrier, Licensing Inspector, the current use and zoning of Mr and Mrs Lemaire-Sicre's property remains residential. Mrs Lemaire-Sicre told us that she and her husband have two young children and they use their dwelling as a "homestay" as well. They have no present intention of taking advantage of the resource consent they were granted in January 1998 to use their dwelling for the purpose of business offices.

We have again taken the opportunity to "take a view" and we note not only the proximity of the applicant premises and the dwelling house of the objector, but that the latter is situated above the restaurant and clearly exposed to any noise emission.

At this hearing Mr Egden for the applicant has told us that on specialist advice following the 1996 renewal hearing, the applicant has taken the following steps to alleviate noise objections, namely:

1. There are now no live bands on the premises, the band stage has been removed and replaced with two pool tables.
2. A sound limiting device was installed in December 1996. The sound levels from music and crowd noise are monitored by staff and if the level exceeds that set out in the Council guidelines, a green light shines and the applicant then ensures that the music is turned down. He says that the green light shines only on rare occasions. In any event staff are under strict instructions to ensure that music levels do not exceed the guidelines. Doors to the outside balcony close at 10.00 pm. He concedes it is difficult to control "customer noise".
3. The windows along the east wall of the premises have been removed. That area and the exterior walls to the premises have been plastered and skylights have been double glazed.
4. The kitchen ventilation unit has been turned so that it discharges away from the objector's property and the unit and the air-conditioning units have been encased with an approved sound absorption material.
5. The upstairs bar (Rattlesnake room) has a more relaxed and static atmosphere contributing to a reduction in noise.
6. These measures have been completed at a cost of over \$20,000.

Mrs Lemaire-Sicre asks that there be no extension of hours decided in the 1996 renewal decision. She is concerned at the number of special licences granted to the applicant and the noise emissions which have ensued. The reduced hours have led to less noise problems, less pub-crawling, less vandalism and a reduction of noise from the premises. Our advice from Linda Ferrier, District Licensing Agency Inspector, is that despite the steps which the applicant has taken following our 1996 decision, the closing time for liquor sales remain at 1.30 am and not be extended to 2.30 am (despite the urgent, mainly economic, pleas of the applicant). Her ground



for that advice is that the neighbouring land is in close proximity to the applicant's premises; that it remains residential both in terms of existing zone and use, and that she notes the objection from Mrs Lemaire-Sicre who resides in a neighbouring dwelling.

We note the applicant's evidence that there are other nearby licensed premises with extended hours, including one which shares a common fire wall with the applicant. We also accept there is only one residential objector whereas there are other residential occupiers nearby. However, this case does concern the situation as between the applicant's premises and the objector's home and we do not accept that the objector has a fixation or is being unreasonable. We accept her as being genuinely concerned and disturbed for herself, her family and her homestay and other guests. The steps the applicant has undoubtedly taken at considerable expense were needed if the applicant was to retain its licence in that situation, but it does not warrant any extension of hours beyond those which we set following the 1996 hearing.

The application for renewal of licence is granted for a period of three years from the date of this decision, with existing conditions including hours for liquor sales remaining at 7.00 am to 1.30 am the following day.

We record that we have since the hearing received and considered the final submissions in writing from the applicant's counsel, Mr Egden.

DATED at WELLINGTON this 8th day of October 1998



Judge F G Paterson  
Deputy Chairman

