

IN THE MATTER of the Sale of Liquor Act 1989

AND

IN THE MATTER an application pursuant to s.132 of the Act for cancellation of on-licence number 054/ON/12/97 and off-licence number 054/OFF/11/97 issued to CATHERINE LEAH RYALL and HENRY BOYD RYALL in respect of premises situated at 40 - 42 Palmerston Street, Westport, known as "Larsens Tavern"

PAUL JOHN SAMPSON
(Police Officer of Westport)

Applicant

CATHERINE LEAH RYALL
and HENRY BOYD RYALL

Respondents

BEFORE THE LIQUOR LICENSING AUTHORITY

Quorum:

Chairman: District Court Judge J P Gatley

Member: Mr R J S Munro

HEARING at WESTPORT on 26 and 27 April 1999

APPEARANCES

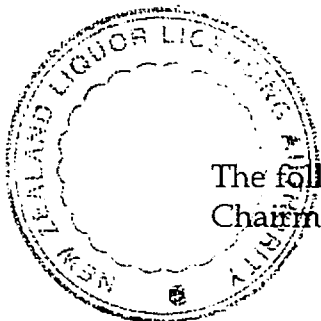
P B McMenamin - for C L and H B Ryall

Sergeant M J Ewen - NZ Police - applicant

B B Brown - Buller District Licensing Agency Inspector - to assist

DECISION

The following is a minute of the decision of the Authority delivered orally by the Chairman on 27 April 1999:-



"We have before us an application by the Police pursuant to s.132 of the Act for cancellation of the on and off-licences held by Mr and Mrs H B Ryall in respect of premises situated at 40 - 42 Palmerston Street, Westport, known as 'Larsens Tavern'. The application is made pursuant to section 132(3)(c) of the Act, that is on the grounds that the licensed premises are being used in a disorderly manner so as to be obnoxious to neighbouring residents or to the public.

The application dated 11 November 1998 was lodged by Constable P J Sampson on instructions from Sergeant J Canning, Police Officer-in-Charge, Westport. We were informed that Sergeant Canning was in Christchurch for personal reasons. It would obviously have been of assistance to the Authority if he had been able to be present at the hearing.

Evidence was adduced by six Police witnesses of a number of incidents of assault occurring inside and outside Larsens Tavern, mainly outside, over the 12 months ending on 8 November 1998. One of the worst incidents on Sunday 8 November last was described by Constable Sampson of involving a crowd of 40 or 50 people around 2.45 am on the footpath outside the tavern in a very angry and agitated state. The Constable said that he had been stationed in Westport for about 15 years and he had never witnessed such a display of public disorder as he had on this occasion.

There was very little direct evidence linking the incidents of assault to intoxicated patrons who had been allowed to enter or remain on the Larsens Tavern premises. We were told of the 'northern drift' where on a Friday or Saturday night people will drink at a succession of licensed premises in Palmerston Street, culminating in their arrival at Larsens any time after 1.00 am. However, there was no direct evidence of intoxicated patrons being allowed to enter Larsens Tavern.

We were told that Police staff resources limit enforcement of the requirements of the Sale of Liquor Act in Westport. In particular, the Police in Westport turn a blind eye to hotels and taverns selling liquor on a Sunday to patrons who are not present for the purpose of dining.

Mr B B Brown, District Licensing Agency Inspector recorded an appearance to assist the Authority. On being asked by the Authority whether he supported the Police application for cancellation he said he did not. The Inspector said that he had been present at Larsens Tavern at 3.00 am with patrons in a happy state but not intoxicated. There had not been any untoward incidents. Mr Brown said Sergeant Canning had not discussed the application with him. The Inspector said that he did not see the manner of operation of Larsens Tavern as being so different from that of other hotels and taverns in Westport as to warrant cancellation of the licences.

At the conclusion of the Police case briefs of witnesses to be called by Mr McMenamin, as counsel for the licensees, were handed to the Authority to read. At that stage the Authority indicated that an oral decision would be given without the Authority hearing from the licensees, or from other witnesses proposed to be called in support of the licensees.



The Authority's conclusion and reasons

Repeated incidents of assault in the vicinity of Larsens Tavern obviously disclose an unsatisfactory situation. On the other hand no evidence was adduced by the Police from neighbouring properties or the public that the premises are being used in a disorderly manner so as to be obnoxious to neighbouring residents or to the public. The briefs of evidence of neighbouring witnesses to be called in support of the licensees included evidence that the licensees operate the premises in a responsible manner without inconvenience to their neighbours.

In the course of the hearing it became obvious to the Authority that there is in Westport a lack of liaison between the Police the District Licensing Agency Inspector and licensees. We were told that no regular meetings of those parties are held. Such meetings are obviously desirable.

The fact that we chose not to hear from the licensees and their witnesses indicates that we are not persuaded that the grounds of the Police application have been established to a sufficient degree to satisfy us that an order should be made cancelling the on and off-licences. We are, however, satisfied that there are problems that need to be addressed by the licensees in conjunction with the enforcement agencies.

We have concluded that the Police application should be adjourned pursuant to subsection (7) of section 132 of the Act for a period of six months to allow the licensees to satisfy the Authority that the manner of operation of the premises is such that repeated incidents of assault do not occur. We ask the Police and the Inspector to both let our Secretary have written reports by 30 October next as to the manner in which the licensees of Larsens Tavern have conducted the sale and supply of liquor pursuant to the licences in the intervening period. Depending on the nature of those reports the hearing will be reconvened or we will issue a decision on the papers dismissing the Police application."

DATED at WELLINGTON this *30th* day of *April* 1999

J P Gatley
 Judge J P Gatley
 Chairman

