

**IN THE MATTER** of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER** of an application pursuant to section 100 of the Act by Masse Incorporated for a **Club Licence** in respect of premises situated at 76-80 Princes Street Hawera to be known as "**Masse Hawera**"

**BEFORE THE SOUTH TARANAKI DISTRICT LICENSING COMMITTEE AT HAWERA**

**Chairperson:** Cr. I.J. Wards

**Members:** Cr. K.V. Bourke

Cr. S Mackay

**HEARING** at Hawera on the 12<sup>th</sup> day of **February** 2018

**APPEARANCES:**

Mr J.D Young - Counsel for the applicant

Mr Bernard Endres General Manager and Secretary of Masse Inc.

Mr Doug Scott – South Taranaki District Senior Licensing Inspector – to assist

Mr Mark Superfine - Licensing Inspector South Taranaki District Council

**Introduction:**

- [1] Before the Committee is an application for an Club licence in respect of premises situated at 76-80 Princes Street Hawera to be known as "**Masse Hawera**" The hours sought being Monday to Sunday 8.00 a.m. to 1.00 a.m.
- [2] The application was received on 24<sup>th</sup> August 2017. The applicant seeks the issue of a Club Licence in terms of Section 21 of the Sale and Supply of Alcohol Act 2012.
- [3] The Club provides its members and other authorised customers ( who are guests of members, or members of Clubs that have reciprocal rights) a venue to play cue sports.
- [4] The owners of the premises have given their permission for the premises to be used for the sale and supply of alcohol.

- [5] The building has a certificate of compliance with the Building Act 2004 and a Compliance assessment under the Resource Management Act 1991.
- [6] The previous business at the address, 76 – 80 Princes Street Hawera was the Secret 7 Bar and Grill which traded on an On Licence.
- [7] The Applicant is a 'not for profit' organisation incorporated in 1991. The applicant has other branches in Glen Eden, New Lynn, Pukekohe and Hamilton.
- [8] Neither the Police or Medical Officer of Health reported opposition to the granting of a Club licence.
- [9] The Licensing Inspector Mr Mark Superfine in his report stated that "*there is no reason to believe the Masse Hawera is not a suitable applicant to hold a liquor licence.*" However he noted some concern that due to the ease of membership Masse' Inc could be operating a licence more similar to a Tavern style licence.
- [10] Following submission from the Senior Inspector Mr Scott expressing similar concerns to that of Mr Superfine the DLC concluded that there were natural justice implications involved if the DLC made a decision on the application without affording the applicant a right to respond to matters raised by the Inspectors. A hearing was then ordered.

**Applicant Evidence:**

- [11] Mr J D Young, Counsel for the applicant addressed the committee in support of his client.
- [12] Mr Young pointed out that there was no formal opposition to the application. However the Inspector had raised a potential concern about the possibility of the premises operating as a tavern.
- [13] Mr Young stated that the Applicant is a very experienced and responsible club operator that takes great pride in the premises that it operates. He stated that Mr Endres evidence would further address this.
- [14] Mr Young provided several examples of case law to support his submission. He submitted that there was only one issue being contested, that being the free one year non renewable membership fee.
- [15] Mr Young submitted that there was a vast difference in administration and how Masse' was run from that of Pockets 8 Ball Club which had been the subject of some adverse findings by the Authority.

- [16] Mr Young explained the membership process that includes membership applications being posted on a club notice board for two weeks for members to consider and object if they wished.
- [17] He stated that some applications are declined.
- [18] Mr Bernard Endres General Manager and Secretary of Masse' Incorporated was sworn in and gave extensive evidence of the Masse' Club operation, administration and focus on the promotion of cue sports
- [19] Mr Endres stated that all branches of the club except Hawera have magnetic swipe cards to gain admission to the premises
- [20] He stated that design work was currently being undertaken to implement the same admission control at Hawera which would be in place within 12 to 18 months
- [21] Mr Endres stated that membership could not be gained with ease, and gave examples of applicants being rejected from membership
- [22] Mr Endres stated that the Bronze membership was introduced to encourage people to play cue sports and proceed to full financial membership. He stated that some prefer not to take advantage of all the club has to offer, and only play on a casual basis but wish to play on quality tables
- [23] Mr Endres gave extensive detail of the investment that Masse has made in sponsorship for youth attending international competitions
- [24] Concluding his evidence Mr Endres stressed that Masse is an organisation that is focussed on the advancement of cue sports and work extremely hard to provide quality premises and facilities

#### **REPORTING AGENCIES**

- [25] Neither the Police nor Medical Officer of health offered any objection to the issue of a Club Licence to the applicant.
- [26] Neither agency appeared at the hearing

#### **District Licensing Inspector Report**

- [27] Senior Inspector Mr Doug Scott made submission to the committee stating that the concern with the application was with the apparent ease of gaining Bronze membership that in his opinion could lead to operating much like a tavern where anyone could walk in, sign up, and operate the class four gaming machines and purchase alcohol.

- [28] The reporting Inspector Mark Superfine was concerned with the ease of obtaining membership and the free membership. In all other respects he had no concerns
- [29] Mr Superfine stated that if people could just walk in of the street and sign up at no cost the club would be little different to a Tavern
- [30] When questioned Mr Superfine confirmed that he had no objection to the issue of a licence to Masse'


#### **Reserved Decision of the South Taranaki District Licensing Committee**

- [31] In making this decision the committee has had regard to the matters of relevance to the issue of a Club Licence as set out in the Sale and Supply of Alcohol Act 2012
- [32] The application gave no concern to the Police or Medical Officer of Health
- [33] The only matter of concern raised by the Inspector was that of the cost of membership to join Masse' Inc. Otherwise Mr Superfine had no objection to the issue of a Club Licence
- [34] The committee determined that the only issue in regard to the application were the matters concerning the Inspectors, namely the free membership, and apparent ease of obtaining membership.
- [35] Masse' Inc is incorporated under the Incorporated Societies Act 1908 and has appropriate rules for a club of its type. We accept the evidence of Mr Endres that the club is well run and maintains a professional standard of administration.
- [36] We accept the statements of Mr Endres and the submission of Mr Young that Masse' is a very different club to that of Pockets 8 Ball in terms of club rules and administration. Therefore the Authorities decision on that case has somewhat reduced relevance to this application
- [37] We accept Mr Endres evidence that the Bronze membership is annual and cannot be renewed. And that it is a marketing strategy designed to give people an opportunity to try the club before proceeding to a higher level of membership. We are aware that some sports clubs sometimes offer free membership as a marketing tool
- [38] The Inspectors concern that free membership means the club would be operating more as a tavern than a club. This is a relevant consideration, but is largely negated by the club rules for vetting membership applications. Adherence to those rules for vetting applications for membership is a matter we would expect the inspectors to pay particular attention to over the first year

[39] **The Application is granted subject to the following conditions, along with those imposed by the Act:**

1. Alcohol may be sold or supplied for consumption on the premises only on the following days and hours: **Monday to Sunday 8.00 a.m. to 1.00 a.m.**
2. Drinking water is to be provided to patrons free of charge from a water supply prominently situated on the premises.
3. *PURSUANT to Sections 21 and 64 of the Sale and Supply of Alcohol Act 2012, Masse Inc is authorised to sell and supply alcohol on the premises situated at 76 – 80 Princes Street Hawera, and known as Masse Hawera, to any person who-*
  - (a) is a member of the Club; or*
  - (b) is on the premises at the invitation of, and is accompanied by, a member of the club; or*
  - (c) is a member of some other club with which the club has an arrangement for reciprocal visiting rights for members.*
4. While the premises are open for the sale and supply of alcohol no BYO alcohol may be consumed on the premises.
5. The Licensee must have available for consumption on the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low-alcohol beverages.
6. At all times the premises are open for the sale and supply of alcohol a range of substantive food must be readily available. A minimum of three types of food should be available.
7. The Licensee must provide information, advice and assistance about alternative forms of transport available to patrons from the licensed premises.
8. The Licensee must display:
  - a. At every point of sale, signs detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons;
  - b. A copy of the licence attached to the inside of the premises so as to be easily read by persons using the premises.
9. The club must have a secretary at all times.

10. Within 10 days of the appointment of a new secretary, the club must inform the Secretary of the District Licensing Committee of the name of the new club secretary.
11. All proceeds from the sale of alcohol must belong to the club.
12. A properly appointed certificated or Acting or Temporary Manager must be on duty at all times when the premises are open for the sale and supply of alcohol and their full name must be on a sign prominently displayed on the premises
13. A swipe card or similar membership identification system at the entry to the premises is to be installed within 9 months of this decision
14. The area/s of the premises are undesignated

  
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8<sup>th</sup> March 2018

**I.J. Wards**

**Chairman**

**South Taranaki District Licensing Committee**