

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

AND

IN THE MATTER of an application by Stacey Hauwhenua Laison
for a Managers Certificate pursuant to s.219 of
the Sale and Supply of Alcohol Act 2012

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 Ninth day of December 2016

APPEARANCES:

Stacey Hauwhenua Laison - Applicant

Mr Doug Scott – Regulatory Services Manager, Chief Inspector South Taranaki District
Licensing – In opposition

Sergeant A Russ – NZ Police Hawera – In Opposition

RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE

Introduction:

- [1] Before the Committee is an application for Managers Certificate pursuant to s.219 of the Sale and Supply of Alcohol Act 2012
- [2] The application is dated 16th August 2016. The application must be considered under the Sale and Supply of Alcohol Act 2012 and in accordance with the criteria set forth in s. 219 of the Act.
- [3] Ms Laison has applied for a Managers Certificate to work as a duty manager at the premises known as Opunake Surf Inn
- [4] Ms Laison previously held a General Managers certificate issued by the Tauranga District Licensing Agency between 21 March 2013 and 15th February 2016
- [5] Ms Laison has successfully completed an approved course relating to Managers in connection with all aspects of the Sale and Supply of Alcohol Act 2012 and holds the Licence Controller Qualification and the Licence Controller Qualification Bridging Certificate

- [6] The Police opposed this application on the grounds of suitability on 22nd August 2016 due to convictions incurred between 2012 and 2015
- [7] The Licensing Inspector has also opposed the application on the grounds of suitability
- [8] Ms Laison had failed to attend an interview with the Licensing Inspector and after re-scheduling an appointment still did not attend. No explanation was offered.
- [9] **Applicant Evidence:**
- [10] Ms Laison explained that she applied for a General Managers Certificate in August 2016 and failed to fill out the section relating to past convictions. Questioned on this she stated that she took advantage of the fact that she held a previous Managers Certificate and did not believe that omitting the convictions made her a dishonest person.

REPORTING AGENCIES

Chief District Licensing Inspector

- [11] Mr Scott stated the details of appointments for interviews that were made that Ms Laison did not attend and no explanation was offered.
- [12] Mr Scott questioned Ms Laison on her suitability to hold a Manager's Certificate, her knowledge of the legislation and issues around honesty and criminal history. During this questioning Mr Scott cited several pieces of case law in relation to ARLA for the Committee members' information.
- [13] Mr Scott stated that due to Ms Laison not completing the application fully that there was an attempt to be dishonest. Mr Scott sought Ms Laison's comments. Ms Laison replied that she did not complete this part of the application as her criminal convictions were not alcohol related, and the convictions had been dealt with.
- [14] Mr Scott asked if Ms Laison believed that a suitable person to hold a Manager's Certificate would have criminal convictions including a conviction of serious harm. Ms Laison replied that because of the situations she was in at the time that was just what happened.
- [15] Mr Scott asked how long Ms Laison had been employed at Opunake Surf Inn. Ms Laison replied she had been working at the hotel for seven months and had a good understanding of the hotel's operations. Mr Scott asked if the hotel held a current licence and if so where was it displayed. Ms Laison said the hotel held both an off licence and on licence. The on licence operates between 11am to 1am and the off licence operates between 11am to 10pm seven days per week. These licences were displayed at the different doors (entrances).

- [16] Mr Scott asked what the object of the licence was. Ms Laison explained that the licence was to minimise harm from excessive consumption of alcohol in patrons 18 years and older.
- [17] Mr Scott asked what the designation on the licences meant. Ms Laison said that the Surf Inn was considered a restricted area where minors had to be accompanied by a legal guardian and the hotel was a supervised area where under 18s were not allowed.
- [18] Mr Scott asked what the role of the Manager was. Ms Laison responded that the Manager was responsible for overseeing the supply and sale of liquor and minimise harm to patrons. Mr Scott asked Ms Laison how she achieved this. Ms Laison said she watches patrons that stagger and was aware of what was around her, she carried on to say she had been a manager before and recognises the signs of alcohol abuse. If someone was under the influence she talks to them and communicates with them in an un-aggressive manner and no longer serves them alcohol.
- [19] Mr Scott asked if the hotel had a Host Responsibility Policy and if so what its purpose was. Ms Laison replied that the hotel did have a Policy however she had not read it, and noted the purpose of the Policy was to take care of everyone on the premises.
- [20] Mr Scott asked Ms Laison what offences she had committed in relation to her convictions. Ms Laison advised assault, wilful damage, obstruction and breach of a protection order. Mr Scott cited case law and explained to the Committee that two serious offences required a minimum stand down period of five years and in Ms Laison's case there had been five.
- [21] Ms Laison believed that she could look after the community and the establishment and because she had already held a Manager's Certificate previously proved she was responsible enough to hold a Certificate again.

Police Evidence

- [22] Sergeant Russ referred to the criminal convictions Ms Laison had been charged with and asked her to clarify the time frame in which these occurred. Ms Laison said the convictions had occurred within the last two to three years.
- [23] Sergeant Russ asked if any of these events occurred while Ms Laison or any other people involved were affected by alcohol. Ms Laison confirmed that she had not been affected by alcohol but others had been.
- [24] Sergeant Russ asked if Ms Laison believed that when you drink alcohol that you can make poor decisions. Ms Laison replied that she did not believe she was a criminal.
- [25] Sergeant Russ noted that Ms Laison had received two charges of obstruction and resisting Police and asked if this was suitable behaviour for someone that holds a

Manager's Certificate. Ms Laison agreed that this was not suitable and explained the circumstances regarding her conviction of obstructing Police.

- [26] Sergeant Russ asked if a similar situation arose if Ms Laison would behave in a similar manner. Ms Laison answered that it would depend on the situation however she would not get arrested.
- [27] Sergeant Russ asked if Ms Laison's failure to complete the application fully was her intention to deceive the process. Ms Laison replied, no, her intention had been to take advantage of the fact that she had held a Manager's Certificate before. She hadn't meant anything by leaving out this information.
- [28] Councillor Bourke referred to the Licensing Report where Ms Laison had failed to attend a second scheduled interview, without an explanation of why. Councillor Bourke asked Ms Laison why she had not attended. Ms Laison advised situations arose that took priority over this, and confirmed she had not phoned to let them know she would be unable to attend.
- [29] Councillor Bourke noted Ms Laison's comment that although she had five convictions she did not consider herself a criminal. Ms Laison believed criminals caused harm to others and she was not a criminal.
- [30] Councillor Bourke commented that Ms Laison would have completed an application for her previous Manager's Certificate and sought further clarification as to why Ms Laison did not believe she needed to complete it this time. Ms Laison reiterated that it was because she had held a Manager's Certificate previously and that was why she didn't need to complete that section of the application. "I left it blank but I knew I did have convictions."
- [31] Councillor Bourke referred to the incident that occurred in relation to her criminal conviction and asked Ms Laison how she could convince the Committee that a similar situation would not occur again. Ms Laison believed that holding her Manager's Certificate again would allow her to think more and she wouldn't put herself in that position again. Councillor Bourke noted that Ms Laison missed her interview due to a situation that had occurred and believed that Ms Laison had contradicted herself. Ms Laison did not agree.
- [32] Councillor Mackay referred to Ms Laison's convictions and asked if these were related to one occasion or several occasions. Ms Laison answered that two were related to one person and another was related to a separate person a year and a half later.

District Licensing Committee Decision and Reasons

- [33] Based on the evidence of Sergeant Russ and Chief Inspector Scott we agree that due to her convictions and failure to attend interviews that Ms Laison is not a suitable person to hold a Managers Certificate

- [34] Adding to the difficulties brought on by her previous convictions Ms Laison has made matters worse for herself by failing to demonstrate a responsible attitude to her quest to obtain a Managers Certificate by not attending required interviews, and failing to provide a reason for non attendance
- [35] We concur with the view expressed in other cases that the holding of a Managers Certificate is a privilege, not a right
- [36] We acknowledge that in response to questioning in the hearing Ms Laison demonstrated that she has a good understanding of the roles and responsibilities of a Manager and legislation relating to that role
- [37] While we are of the opinion that Ms Laison does not currently meet the standard of suitability required of a holder of a Managers Certificate we would not preclude the possibility that through diligent application to obtain higher standards she could again reach the required standard to obtain a Managers certificate
- [38] However we would be unlikely to entertain a further application from Ms Laison before two years has elapsed after this decision

The application by Stacey Hauwhenua Laison for a Managers Certificate pursuant to s.219 of the Sale and Supply of Alcohol Act 2012 is hereby refused

I.J. Wards

Chairperson

South Taranaki District Licensing Committee