

**Decision Number 60C [2014] 2733**

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

**AND**

**IN THE MATTER** of an application by  
PERSIAN KITCHEN LTD  
for an On Licence pursuant to  
s99 of the Act in respect of premises  
known as Persian Kitchen  
situated at 325 Stanmore Road,  
Christchurch.

**BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE**

**Chairman:** Mr R.J.Wilson

**Members:** Mr A.J.Lawn

Mr P.R.Rogers

**Hearing** at Christchurch 1 December 2014

**Appearances:** Mr G. Trainor Counsel for the applicant

Mr H. Coskun Applicant

Mr M.Ferguson Senior Licensing Inspector

Snr Sgt G.Spite, NZ Police

**DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE**

This is an application by Persian Kitchen Ltd for an On Licence for premises known as Persian Kitchen situated at 325 Stanmore Road, Christchurch. The general nature of the business is that of a restaurant.

The application relates to premises that were previously licensed. Unfortunately the applicant inadvertently failed to apply for a renewal of his licence and it lapsed on 30 August 2014. An application for a new licence therefore became necessary and was lodged on 26 September 2014. The applicant Mr Coskun was warned by both the Licensing Inspector and the Police not to sell alcohol until his new licence was granted but it seems he decided to take the risk rather than disappoint or lose customers and was caught. He appeared in the Christchurch District Court on 12 November 2014 on a charge of allowing unlicensed premises to be used for the sale of alcohol and was fined \$500.

The reporting agencies initially objected to the granting of the license but withdrew their objections when the matter had been dealt with by the Court. At the hearing today both the NZ Police and the Licensing Inspector referred to the applicant's previous good record and reiterated their view that a licence should be granted.

The Committee explained to Mr Coskun that it took a different view which was the reason for the public hearing today. In the Committee's view the matter of the application for a licence and the prosecution for selling alcohol without a licence had to be seen separately. While Mr Coskun had been dealt with by the Court, the Committee still had a duty to consider his application for a new licence against the criteria set out in s105 of the Act. Specifically the Committee is required to determine the suitability of the applicant pursuant to s105(1). There was agreement that other matters were not contested, the sole issue being one of suitability.

### **Evidence of Mr H.Coskun**

Mr Coskun was sworn and gave evidence that when he found that his licence had expired he hoped that it would be possible to obtain a new licence within a few days. He had a number of bookings for meals at the restaurant and was reluctant to tell customers that they were unable to be supplied with alcohol. He decided to take the risk and sell alcohol without a licence. He acknowledged that he was warned not to do so by both the Licensing Inspector and the Police. Unfortunately for him an inspection visit by the Police found customers drinking alcohol which led to the Police prosecution. Since then Mr Coskun says he has put up signs that he cannot sell alcohol and has informed intending diners accordingly. While his customers come primarily to dine most want a glass of wine or beer with their meal. Not being able to serve them has led to a significant loss of custom and income. This has been very stressful to him and also to his wife who is unwell and not able to cope with customer contact at present. This is a busy time of year and he faces financial difficulties if he is unable to obtain a licence quickly. In particular he was very worried about a group of 30 which had been booked in for the following night. He had not had the heart to tell them that he was not currently able to serve alcohol.

The Committee observed that Mr Koskun was genuinely distressed at the situation he found himself in. Mr Trainor in his submissions confirmed that the experience had been very bad for both Mr Koskun and his wife. The prospect of repeat offending was extremely remote. Given his previous good history the Committee was urged to grant the licence just as soon as was possible. The Senior Licensing Inspector submitted that if the Committee had a mind to give a verbal decision then he could ensure that the licence was issued immediately.

### **Decision**

The Committee is satisfied that all the matters it is required to consider have been addressed. The only issue before this hearing was that of the suitability of the applicant given the recent prosecution for selling alcohol while he did not hold a licence. The Committee is now satisfied on this point. The whole matter has cost Mr Coskun and his wife dearly both in terms of significant financial loss and in the loss of customers. We are satisfied that we can consider that

matter as a one off breach. Accordingly we grant the applicant an On Licence pursuant to s104(1) with immediate effect. The licence may issue forthwith provided the required fees have been paid. The licence will have a term of one year.

The applicant's attention is drawn to s259 of the Act which makes it an offence to fail to comply with certain requirements and restrictions imposed by or under this Act specifically ss 46 to 63.

The licence will be subject to the following conditions:

Compulsory Conditions -s110(2)

- (a) No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day or before 1 pm on Anzac Day to any person who is not present on the premises to dine.
- (b) Alcohol may only be sold or supplied on the following days and during the following hours when the business is being operated as a restaurant.
  - Monday to Sunday 11 am to 11 pm
- (c) Water will be freely available to customers while the premises are open for business.

Discretionary Conditions – s110(1)

- (a) The following steps must be taken to ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed:
  - Display of appropriate signs adjacent to every point of sale detailing the statutory restrictions on the sale of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (b) The following steps must be taken to ensure that the provisions of the Act relating to the management of the premises are observed:
  - Alcohol must only be sold, supplied and consumed within the area marked on the plan submitted with the application.
- (c) The following steps must be taken to promote the responsible consumption of alcohol:
  - The licensee must implement and maintain the steps proposed in its Host Responsibility Policy aimed at promoting the reasonable consumption of alcohol.
- (d) The premises are undesignated.

Other Restrictions and Requirements to be noted on the licence :

s50 One way door restriction if included in a Local Alcohol Policy to be complied with  
s51 Non-alcoholic drinks to be available  
s52 Low alcohol drinks to be available

s53 Food to be available

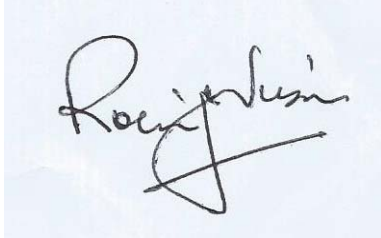
s54 Help with information about transport to be available

s56 Display of signs

s57 Display of licences

s214 Manager to be on duty at all times and responsible for compliance

**DATED** at Christchurch this 1<sup>st</sup> day of December 2014

A handwritten signature in black ink on a light blue background. The signature is cursive and appears to read 'R.J. Wilson'.

R.J. Wilson

Chairperson

**Christchurch District Licensing Committee**