
Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Contravention of the <i>Liquor Act 2019</i>
LICENSEE:	Sandpalms@Bynoe Pty Ltd
VENUE:	Sandpalms Tropical Motel
LEGISLATION:	Section 293 of the <i>Liquor Act 2019</i>
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	25 JUNE 2024

BACKGROUND

1. Sandpalms@Bynoe Pty Ltd is the licensee for liquor licence number #81215590, trading as Sandpalms Tropical Motel situated at Fog Bay Road, Dundee Forest NT 0840.
2. Mr Thomas Abdo and Mrs Julie Abdo are the nominees.
3. On 11 November 2023, NT Police advised the Licensee permitted two (2) 1% Hells Angel Bikers, (wearing their colours) on the licensed premises.
4. On 16 November 2023, CCTV footage was requested from the Licensee of Sandpalms Tropical Hotel for the hours of 10:00 to 23:59 hours on 11 November 2023. The Licensee failed to provide the requested footage.
5. On 2 February 2024, a complaint was accepted by the Delegate of the Director of Liquor Licensing pursuant to Section 160(1) (b) of the Act. The licensee was informed of the complaint on the same day.
6. On 5 February 2024, the licensee provided a response to the complaint.

PARTICULARS OF COMPLAINT

Allegation 1

7. It is alleged that on 16 November 2023, the licensee contravened section 314(1) (b) of the Act.

Details of Offence

8. On 16 November 2023, Inspector Franchi by written notice requested the licensee provide records and documents, namely CCTV Footage for 11 November 2023 between 10:00 hours to 23:59 hours.

Allegation 2

9. It is alleged that on 11 November 2023, the licensee contravened section 293(1) of the Act.

Details of Offence

10. It is alleged that on 11 November 2023, the licensee permitted two (2) 1% Hells Angel Bikers wearing T-Shirts with the words Hells Angels clearly written across the front and the back in large letters. One of the males had a leather vest draped over his arm.

Licensee's response

11. On 5 February 2024, Mr Abdo responded to the complaint and in summary stated:

- a. Due to the power fluctuations in the area (experienced during build up and wet season), the CCTV system goes down occasionally. Already this year we have had over ten power outages. When the power goes out, there is no CCTV, and there is no recording for the time requested;
- b. Two (2) customers wearing Hells Angels insignia came into Sandpalms to order meals. They were asked to remove their 'colours' as requested. However, their under garments also had Hells Angels insignia on them. They were then asked to turn their shirts inside out. They complied with this request. However, one (1) of them had more insignia on the inside of the cuff of his t-shirt;
- c. The two (2) customers were asked to go to the motel area, being off the licensed premises, and wait for their meals. The two (2) customers complied with this request and there were no issues;
- d. At no time did they order any alcohol;
- e. It is unfortunate that we have no CCTV footage to verify the sequence of events; and
- f. I believe the staff on the day of the incident did their best to comply with the regulations in place.

Investigation of Complaint

12. Inspector Franchi commenced an investigation into the complaint noting the obligations of the licensee pursuant to the Act.

13. The investigation was based on the following documentation:

- a. The statutory declaration of Detective Senior Constable Gerbicz-Fisher;
- b. The statutory declaration of Detective Senior Constable Spencer;
- c. A search of the Power and Water Website did not record any power outages on the 11 November 2023 for the area where the licensed premises is located;
- d. The licensee's response to the complaint;
- e. A search of APMS Data identified that the BDR system installed at the had 23 online sales between 1000 to 2010 hours on 10 November 2023 and 17 online sales between 1005 to 2330 hours on 11 November 2023 with no BDR offline recorded;
- f. On 12 September 2012, pursuant to section 33 of the *Liquor Act 1978*, the Northern Territory Licensing Commission determined to issue notices to all licensees of a condition that: "A Licensee or employee of a Licensee, shall exclude or remove from licensed premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang)."

- g. On 7 August 2013, the Northern Territory Licensing Commission amended its decision of 12 September 2012 to remove the Bikie Gang licence condition from all licensed premises with only a takeaway licence. The condition remained for all licensees with on premise consumption.
 - h. On 23 July 2013, the Northern Territory Licensing Commission sent a letter to the licensee advising of its amended decision and that the Bikie Gang condition would become a condition of its licence.
14. On 23 February 2024, during the investigation, Mr Abdoo advised Licensing NT that the CCTV UPS installed at the licensed premises had failed and it would be replaced.
15. On 13 April 2024, Mr Abdoo passed away on his property at Sandpalms.

Analysis of Evidence

16. In making this determination I have relied on the following facts:
17. On 13 November 2023, Northern Territory Police attended the licensed premises and requested the licensee provide CCTV footage for 11 November 2024. Mrs Abdoo stated to Police that there had been power issues and could not provide CCTV footage for that day.
18. Mrs Abdoo informed Police that there had been power issues at the location which effects the 'Wi-Fi' and the recording of the CCTV.
19. On 16 November 2023, Inspector Franchi requested the licensee provide CCTV footage the hours of 10:00 to 23:59 hours, 11 November 2023.
20. On 19 November 2023, Mr Abdoo advised there is no CCTV recording for the time requested.
21. It has been established that the CCTV system installed at the premises failed and that the licensee could not provide any CCTV recording from midnight 10 November through 13 November 2023.
22. There is no record of the licensee advising the Director of Liquor Licensing that the CCTV system installed at the premises had failed.
23. Due to the lack of CCTV footage, the licensee's version of events are unable to be verified against the statutory declarations of Detective Senior Constable Gerbicz-Fisher and Detective Senior Constable Spencer.
24. The licensee has replaced the faulty UPS, placed a second camera over the Banned Drinker Register and created a CCTV Logbook and CCTV Plan.
25. At the request of the licensee, the two (2) customers removed their insignia and left the licensed premises.

Compliance history of the Licensee

26. On 7 February 2021 NT Police provided information that they had attended the premises and warned the licensee for permitting two (2) members wearing club insignia of an outlaw motorcycle gang, namely the president and prospect of the Hells Angels Motorcycle Club to be on the premises is contrary to their licence conditions.

DECISION

27. There is sufficient evidence to find the licensee contravened section 293(1) of the Act by not maintaining the CCTV system within the licensed premises.
28. There is sufficient evidence to find the licensee has contravened section 293(1) of the Act by not excluding or removing from licensed premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang prior to them making a purchase.
29. I have taken into consideration the licensee's response to the complaint and the measures it has taken to remedy the situation and with the licensee having no adverse compliance history, I have determined to give the licensee a formal warning.

REVIEW OF DECISION

30. Section 27(1) of the *Liquor Act 2019* provides that an affected person for a delegate decision may apply to the Director for a review of the decision.
31. Section 27(2) of the *Liquor Act 2019* sets out the procedures for applying for a review of a delegate decision. Such application must be made within 28 days after written notice of the delegate decision is given to the affected person unless the Director extends the time allowed for making an application.
32. The affected person in this matter is the licensee of the Sandpalms Tropical Motel.



Bernard Kulda
Delegate of the Director of Liquor Licensing