

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

IN THE MATTER of an application by **Ashburton Food Limited**
in respect of s. 136 of the act for a second
Temporary Authority for the premises
situated at 300 East Street, Ashburton, known
as **Indian Minar Restaurant and Bar**.

Existing Licence No. 62/ON/06/15

BEFORE THE DISTRICT LICENSING COMMITTEE AT ASHBURTON

Chairperson: I.J. Burgess

Members: A. Lawn
R, Kilworth (Mrs)

A Hearing at the Ashburton District council on June 27th 2016

APPEARANCES

Mr Manpreet Singh	Applicant
Mr. Sahil Sareen	In support
Mr. Manjinder Singh	In support
Mrs Helene Faass	District Licensing Inspector-in opposition/to assist

Sergeant Mylen Hamilton for the New Zealand Police was unable to be attend, but furnished a letter stating that Police do not support the application in its present form.

Objectors: There are no objections from the Community.

DECISION OF THE DISTRICT LICENSING COMMITTEE

- (1) The application is for a second Temporary Authority to carry on the sale and supply of alcohol for a period not exceeding three months or until a substantive On Licence is granted, whichever happens first.
- (2) The premises which are being leased by the applicant as a going concern are located at 300 East Street, Ashburton, in the heart of Ashburton C.B.D.
- (3) The nature of the business for which this order is sought is a Restaurant and Bar.
- (4) The hours sought by this application during which alcohol may be sold are Monday to Sunday as per the existing licence are 10.00am – 12.00 Midnight.

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- (5) The reason for the application for a second Temporary Authority is listed as the application for a substantive licence was not lodged in sufficient time for the application to be processed.
- (6) The concerns of the Licensing Inspector and the New Zealand Police are that of the management structure, in that with the present qualified persons employed, it would be difficult, if not impossible, to cover the hours the restaurant is operating with qualified Duty Managers, and there would be periods where it would be illegal for the restaurant to supply alcohol to the patrons.

Evidence of the Parties.

- (7) Mr. Manpreet Singh who is the sole Director of Ashburton Food Limited, who at this time resides in Auckland and has travelled down for this hearing. Mr. Singh who has to date taken a hands-off role in the management of the business gave in his evidence his thoughts of how this situation might be remedied but appeared to have no concrete plans for the immediate relief of the situation, and indeed appeared to be asking for guidance.
- (8) The Licensing Inspector Mrs Faass gave evidence of visiting the restaurant on May 20th with Police and Health and as part of a district wide monitoring programme and finding there was no suitably qualified duty manager on the premises. On arrival they spoke with Manjinder Singh who explained that the person listed as the Duty manager Sahil Sareen was out doing takeaway deliveries. Mr Singh claimed he was not selling alcohol, but wine was noted on the tables of diners.
- (9) Mrs Faass told of revisiting the premises on May 24th at the evening opening time. Working at the front of house again was Manjinder Singh. There was no Duty Manager sign up and Mr. Singh explained that he was not selling alcohol as there was no manager available tonight. There was a small sign available in a small font to this effect which Mrs Faass thought was insufficient. Mrs Faass further advised that the alcohol in the cooler should be covered up.
- (10) On Monday May 30th a meeting was held with Mr. Sareen, seemingly the only qualified manager employed by the restaurant at that time, to discuss the management issues. Present with Mrs Faass were representatives of the NZ Police, and Health. It was suggested that it was inappropriate to place Mr Singh in charge of the restaurant while Mr Sareen made deliveries as Mr Singh had only 6 weeks experience working for Indian Minar, and had not previously worked in licensed premises. Mr. Sareen explained that Mr. Singh intended to sit his unit standards within the next two weeks and thereafter could be made a temporary manager in order to gain experience. It was pointed out that he, Mr. Singh, would still need guidance from an experienced manager.
- (11) Mr Sareen further explained that another manager Mr Monu Kumar was expecting to be working for Indian Minar in the near future. Mr Kumar has a current certificate which expires on the 24 february 2018, and he has previously worked for Indian Minar under the previous owner.

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Mr Kumar is presently working through some visa issues which do not allow him to work in New Zealand at this time. Another prospective person in discussions is Mr Bittu Rana who is currently working in an off licence. When Mr Rana received his certificate he gave an undertaking that he would only work in off licences as he has no experience within on licensed premises.

- (12) Mr Sareen then took the stand in support of the application and explained in answer to questions from the panel and the Licensing inspector his thoughts on the proposed management structure which were similar to those outlined at the meeting and as outlined above. Mr Sareen told the hearing that he works 5 days weekly at Indian Minar and also works a late shift at Burger King 3 to 4 nights per week. Mr Sareen claims there is no conflict in these arrangements. Mr Sareen further stated that their thrust is the sale of Indian Food, and that they do not actively promote the sale of alcohol.
- (13) Questions were asked of the witnesses by the panel which on at least two occasions reminded the applicant that it is an offence under the Sale and Supply of Alcohol Act 2012 to sell or supply alcohol unless there is a suitably qualified Duty manager on the premises at all times when alcohol might be sold. Further the name of the Duty Manager is to be listed on a suitably sized notice so that it is easily accessible to patrons.
- (14) Mr Sareen is presently the manager in charge, and it was suggested by the panel that as rosters are developed those rosters should be supplied to the Licensing Inspector. Further it was that the applicant might consider advertising for an experienced licensed person to be retained on a short term contract in order to cover the obvious shortfall in available Duty Managers.
- (15) Before the meeting adjourned Mr Manpreet Singh was asked if he would be willing to consider undertakings which might give the panel more confidence in the application. He replied in the affirmative.

The meeting was then adjourned and the panel retired to consider their decision.

- (16) When the panel returned it was stated that a positive decision had been reached subject to an acceptance of undertakings to be agreed by the applicant. The conditions are as follows:
 - (a) At any time when a Duty Manager is not present no alcohol may be sold or supplied.
 - (b) A sign informing patrons of same should be at the front door and behind the bar. The sign to be to the satisfaction of the Licensing Inspector.
 - (c) At any time when a Duty Manager is not available, all alcohol is to be covered from view.
 - (d) The director of Ashburton Foods Limited is to sit the LCQ within two months.

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- (e) Servewise Online Training modules must be sat by all staff and the Licensing Inspector must be provided with the certificates within Seven days.
- (f) An experienced manager must be employed within three weeks. Information on this appointment to be provided to the Licensing Inspector.
- (g) A roster of management and staff must be provided to the Licensing Inspector by the close of business day on July 1st 2016.

Accordingly we grant an order authorising the sale and supply of alcohol on the premises situated a 100 East street, ASHBURTON and known as "Indian Minar" to any person for consumption on the premises and to let people consume alcohol there, for three months from 28/06/2016 and authorise the issue of the order.

The applicant's attention is drawn to s.136 of the Act obliging the holder of the Order to:

1. Ensure that the on-licence remains in force for the term of the order.
2. Comply with the same duties, obligation and liabilities as required by the current on licence.

Dated at Ashburton this 28th day of June 2016



IJ Burgess
Chairperson

Ashburton District Licensing Committee



ASHBURTON DISTRICT LICENSING COMMITTEE

Temporary Authority No: 62/TA/11/16

Temporary Authority to Carry On Business under Licence *Section 136 Sale and Supply of Alcohol Act 2012*

In the matter of the Sale and Supply of Alcohol Act 2012 and the Ashburton District Licensing Committee and an application made under section 136 of the Act for an On Licence Temporary Authority for Ashburton Food Limited to carry on the sale and supply of liquor from the premises known as Indian Minar, situated at 300 East Street ASHBURTON.

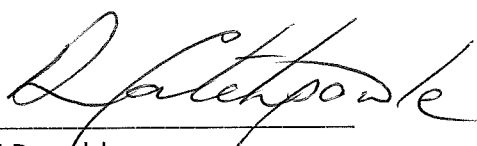
THE ASHBURTON LICENSING COMMITTEE has resolved that:

Temporary Authority under Section 136 of the Act be issued authorising Ashburton Food Limited to carry on the Sale and Supply of liquor from the premises for a period not exceeding three (3) months.

This Temporary Authority shall commence on 28/06/2016 and expire on 28/09/2016, subject to the above.

Note that under section 136 the holder of a Temporary Authority shall have the same duties, obligations and liabilities as the holder of the On Licence, number 62/ON/06/15 to which the Temporary Authority relates, and is authorised to conduct the business under the terms and conditions *within* that Licence.

DATED at Ashburton this 28th day of June 2016


J Donaldson
Secretary
Ashburton District Licensing Committee

