

Document 7  
Statements - Trevor  
Scrase - Senior  
Licensing Officer

HASTINGS BOROUGH COUNCIL

STATEMENT OF WITNESS

The Magistrates' Courts [Forms] Rules 1981 as amended by the magistrates' Courts [Forms] [Amendment] Rules 1997  
CJ Act 1967 S 9; MC Act 1980, ss5A [3][a] and 5B; MC Rules 1981 R 70  
MC [Witnesses Addresses] Rules 1990

Statement of: ... Trevor Charles SCRASE.....

Age of Witness [if over 18 enter 'over 18']: ... Over 18.....

Occupation of Witness: ... Senior Licensing Officer.....

This statement [ consisting of page[s] each signed by me] is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in anything which I know to be false or do not believe to be true.

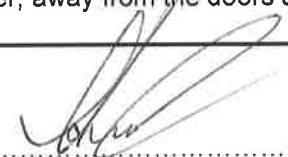
Date: 3rd March 2014. Signature: 

I am employed as a Senior Licensing Officer for Hastings Borough Council, based at Aquila House, Breeds Place, Hastings, TN34 3UY. I have held this position since June 2006, previously I was the Licensing Development Officer from November 2004. Prior to employment with Hastings Borough Council, I was a police constable in Sussex Police, completing thirty years service in November 2004.

I am the holder of the BIIAB National Certificate for Personal Licence Holders certificate, which is an accredited qualification. I am also the holder of a personal licence number 08 / 00276 / LAPER issued by Rother District Council on 19<sup>th</sup> April 2008.

I am also the holder of a BIIAB National Certificate for Licensing Practitioners of the Licensing Act 2003, which is an accredited qualification.

During the month of September 2013, I became aware of a number of licensed premises located in Hastings town centre, who appeared to be breaching the conditions of their East Sussex County Council Highways Permits in leaving their tables and chairs outside of their premises beyond the 23.00 hours, terminal hour of the highways permit. This meant their tables and chairs remained available for customers to use instead of having been stacked away and making then unavailable for use. It is an agreement supported by the police, that the barriers around their tables and chairs area, as required by the highways permit are retained to allow the door staff to keep customers waiting to enter, away from the doors and to retain the former tables and chairs area as a controlled

Signature:  Witnessed by: .....



HASTINGS BOROUGH COUNCIL

Continuation of Statement: ..... Trevor Charles SCRASE.....

smoking area after 23.00 hours. In the course of my enquiries one of the premises apparently breaching the permitted hours of use of their highways tables and chairs permits was Bar Moda, 206, Queens Road, Hastings, TN34 1QP. As part of the enquiry I requested dvd's be recorded of various town centre premises during the course of the normal programmed phasing of the camera operation, not specifically directed at any particular premises. I subsequently obtained dvd's of the outside area of Bar Moda, 206 Queens Road for the 5<sup>th</sup> October 2013, 11<sup>th</sup> October 2013, 12<sup>th</sup> October 2013, between 23.00 hours until the cctv room staff went off duty at 23.59 hours. The images available on each of these dates were recorded under URN HBC / 374 / 2013 and are as follows:- for 5<sup>th</sup> October 2013, from 23.00 hours shows the barriers still out around the tables and chairs site subject of the highways permit. Contained within the site were two large red square umbrellas with the tables and chairs still placed out available for use with some customers still seated. The camera remained covering this area until 23.44 hours with customers still making use of the tables and chairs which had not been taken out of use by being stacked away. At 23.45 hours the camera programme caused the camera to go off the tables and chairs area outside Bar Moda and when it relocated that area was out of camera view, ceasing recording at 23.59 hours. I produce a copy of the dvd as item TCS / 1 (exhibit number                      ). On the dvd for the 11<sup>th</sup> October 2013, The camera view at 23.00 shows the barriers out but only relocates to view the area at 23.15 hours when it shows 3 customers seated at tables, covered by umbrellas, with drinks clearly visible on the tables. The tables and chairs were all still available for use not being stacked away and out of use as is required. The camera relocates at 23.16 then returns to the area at 23.25 and the customers have now gone but the tables and chairs remained all set out and available for use, not stacked away and unusable as required. At 23.36 a male a female can be seen standing beside a table in the area, with drinks on the table. The dvd then re locates and ceases at 23.59 hours without any further coverage. I produce a copy of the dvd as item TCS / 2 (exhibit number                      ). On the 12<sup>th</sup> October 2013 between 23.00 to 23.59 hours the camera shows the umbrellas out within the barriered table and chairs area, all set out and available for use. The camera phasing shows the area between 23.10 to 23.11 then programmed cover again from 23.24 to 23.25. I produce a copy of the dvd as item number TCS / 3 (Exhibit number                      ). The premises licence for Bar Moda, contains a condition in the operating schedule under the licensing objective Public Safety, 'To allow no drinks to be taken outside the premises when the tables and chairs are not in use,' also 'To remove he tables and chairs daily in line with the highways licence.' In respect of the use of tables and chairs, beyond the 23.00 terminal hour of the highways permit and the breach of that licence

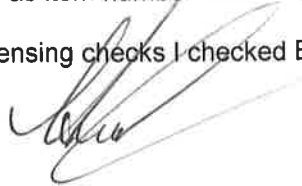
Signature: .....  ..... Witnessed by: .....



HASTINGS BOROUGH COUNCIL

Continuation of Statement: ..... Trevor Charles SCRASE.....

(permit), this condition of the operating schedule has also been breached. I am aware of the various complaints received with environmental services regarding excessive noise. I am aware of the series of complaints regarding Bar Moda and as a result of these engage with the Environmental Noise Pollution Officer. There is a specific condition on the premises licence operating schedule of Bar Moda, under the Prevention of public nuisance that states, 'Noise from the premises shall not be audible in Russell Street, being the closest residential area to the premises. (Minor variation May 2010)'. At 23.11 hours on Saturday the 19<sup>th</sup> October 2013, I was engaged on late night licensing checks when I checked Bar Moda. The tables and chairs were still placed out with four customers standing near a table with drinks, a couple were seated at a table with drinks. The remainder of the tables and chairs were still placed out and available for use with the umbrellas up. I checked the noise from Russell Street but the noise was not audible from a position in Russell Street at the time of my check at that time and date. I produce a copy of the premises licence as item number TCS / 4 (Exhibit number ). On Saturday the 23<sup>rd</sup> November 2013, whilst on late night licensing checks I checked Bar Moda at 23.30 hours and it was all quiet with the tables and chairs packed away.



Signature: ..... Witnessed by: .....



**HASTINGS BOROUGH COUNCIL**

**STATEMENT OF WITNESS**

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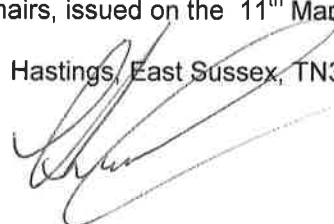
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Date: 3rd March 2014 Signature: 

This statement is additional to my earlier statement dated the 3<sup>rd</sup> March 2014. As a result of enquiries made on the 3<sup>rd</sup> March 2014, with East Sussex County Council Highways, I have obtained a copy of the current Highways Permit for tables and chairs, issued on the 11<sup>th</sup> March 2013, to Ms K Martin, of 'Bar Moda', Moda Leisure Limited, 205-206 Queens Road, Hastings, East Sussex, TN34 1QP. I produce this document as item TCS / 5 (exhibit number      ).



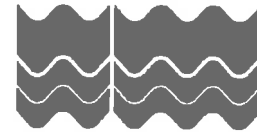
Signature: ..... Witnessed by: .....





Dated this 11<sup>th</sup> day of March 2013

**East Sussex**  
County Council



**EAST SUSSEX COUNTY COUNCIL**

- and

**Ms K Martin  
Of  
'Bar Moda'  
Moda Leisure Limited  
205-206 Queens Road  
Hastings  
East Sussex  
TN34 1QP**

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**Section 115 LICENCE**

**To place tables and chairs on the highway**

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THIS LICENCE is made on the 11<sup>th</sup> day of March 2013 BETWEEN EAST SUSSEX COUNTY COUNCIL of County Hall, Lewes, East Sussex BN7 1UE acting by the officer who has signed this document (hereinafter called "the Council") of the one part and Ms K Martin (hereinafter called "the Licensee") of the other part.

#### WHEREAS

- (1) The Council is the highway authority for the County of East Sussex for the purposes of Section 115E and Section 115F of the Highways Act 1980 ("the 1980 Act") and is the local authority for the purposes of Section 111 of the Local Government Act 1972 ("the 1972 Act").

The Licensee, the owner and designated premises supervisor of the premises known as Bar Moda ("the Premises"), has sought permission from the Council to situate tables and chairs on part of the highway adjoining the Premises for the purposes of their business as carried out at the Premises and the Council is minded to grant a licence for the same subject to the conditions appearing hereunder.

#### WITNESSETH

1. IN consideration of the covenants appearing hereunder and pursuant to Sections 115E - 115F of the 1980 Act and Section 111 of the 1972 Act the Council HEREBY PERMITS the Licensee to situate tables and chairs on the public highway adjoining the Premises within the area shown edged red on the attached plan ("the Licence Area").
2. THE Licensee hereby agrees to comply with the following conditions with respect to:-
  - (a) The licensee shall at all times keep his tables and chairs within the area bounded by the line. The line to be no more than 1.5m from the face of the building at any point.
  - (b) The area within which the tables and chairs are to be placed shall be protected at each end by a hard continuous barrier, to give warning to partially sighted and blind pedestrians. The barrier shall be removed when the tables and chairs are not in place.
  - (c) As the tables and chairs are in connection with trading, the tables and chairs shall be maintained in position only when trading is carried on.
  - (d) The licensee shall permit full access to the area within which tables and chairs are to be placed for the following:-
    - Maintenance of the highway including street sweeping
    - All activities in connection with Statutory Undertakers plant and apparatus
    - All activities approved by the highway authority
  - (e) The Highway Manager may, giving reasonable notice, require the licensee temporarily to remove the table and chairs for any purpose in connection with (d) above and the licensee shall not be entitled to

any claim for loss of trade or business in connection with removal of the tables and chairs.

- (f) The licensee shall fully and completely release and indemnify and keep continuously indemnified the Council from and against all actions, suits, claims, costs, expenses, damages and demands whatsoever arising out of or in connection with the use of the License Area and/or the granting of this License.
- (g) The Licensee shall continuously effect insurance in respect of the risks set out in (f) above for a minimum sum of £5,000,000 and to the satisfaction of the Director.

3. IT IS HERBY AGREED AND DECLARED:-

- a) Subject to conditions herein this License shall expire on 10<sup>th</sup> of March 2015. Unless the Director has given prior written agreement to the extension of the same.
- b) This License is granted to the above named Licensee only and to no other person or body unless otherwise agreed by the Director
- c) The Council reserves the right to revoke this License at any time (provided that where practicable not less than 28 days notice will be given) and in doing so will not be liable for any consequential costs or losses whatsoever and the Licensee shall have no right of appeal or right to compensation in respect of such revocation.
- d) This licence shall be limited to the tables and chairs placed within the designated area, and shall apply only between the hours of 10:30AM and 23:00PM daily.
- e) Please note this license does not include any freestanding advertising boards
- f) The expression " the County Council" shall include any successor authority which may be designated the highway authority for the area in which the Licence Area is situated,
- g) The licence shall be limited to tables and chairs placed within the designated area as set out on the attached plan

SIGNED BY:



LICENSING AND ENFORCEMENT MANAGER EAST SUSSEX COUNTY COUNCIL

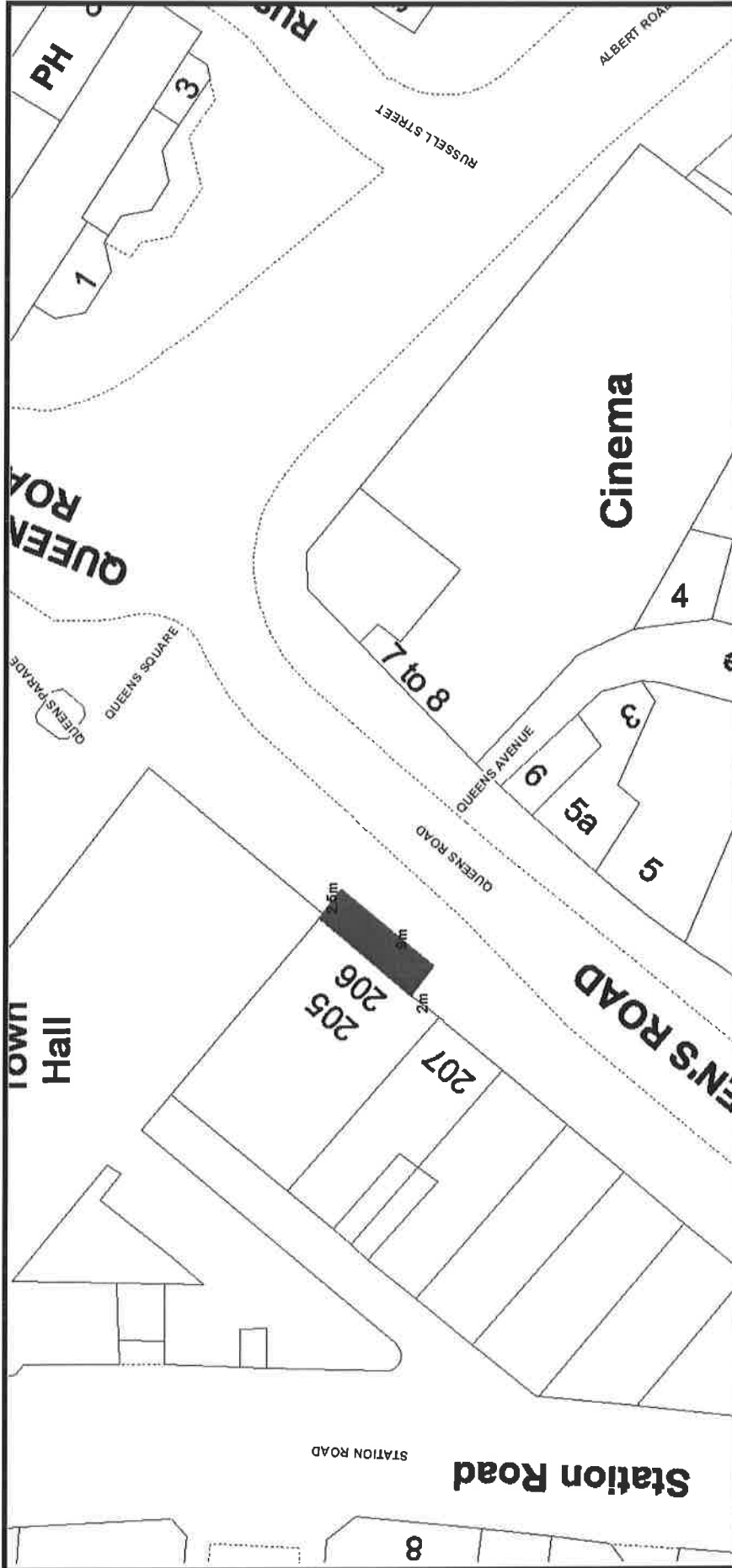
DATE: 11.03.2013

SIGNED BY

THE LICENSEE

DATE:





East Sussex  
County Council



**Bar Moda Tables and Chairs Licence Plan**  
205-206 Queens Road, Hastings, East Sussex, TN34 1QP  
11 March 2013

*Not to Scale*

