

Strictly Private and Confidential



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06 January 2021

Our Ref: 330-486

Dear Sirs,

Re: Our Client - Four Seasons Hastings Ltd – review of premises licence

We write to make representations on behalf of Four Seasons Hastings Ltd ('Our Client'), at 68 - 70 Bohemia Road, St. Leonards on Sea, TN37 6RQ, on the above matter. For the reasons that follow, we submit that it is neither necessary nor proportionate to revoke the premise licence and ask that the Licensing Authority consider other, more appropriate and proportionate actions.

1. Further to section 52(4) of the Licensing Act 2003 ('the Act'), there are a number of steps the Licensing Authority may take as it considers appropriate. Of those steps listed, revocation of the licence may be the most draconian, and will lead to the most serious consequences for people's livelihoods. In reported cases where the court has upheld the decision to revoke the licence, the actions conducted by the respondents, and thus the reasons for revocation, were much more serious than the actions and reasons relevant to our Client. In the case of *East Lindsey District Council v Abu Hanif [2016] EWHC 1265* the respondent was found to be employing an individual who did not have the right to work or live in the UK, paying the employee cash in hand wages under the minimum wage, and failing to keep PAYE records. According to Mr. Justice Jay, "*the respondent exploited a vulnerable individual*".
2. The principle of proportionality is directly applicable. Paragraph 9.43 of the Revised Guidance issued under section 182 of the Licensing Act 2003 ('the Guidance') states that the authority's determination should be "*justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve*". We submit that steps less serious than revocation of the licence will have the desired effect of promoting the licensing objectives. Our Client's shop ceased selling the relevant wines when a customer said that it tasted odd. An informal warning and recommendations for improvement under paragraph 11.17 of the Guidance would motivate Our Client to be more

organised regarding the stock, make improvements, and seek to ensure that the causes that instigated the review do not happen again, which will effectively promote the licensing objectives.

3. Should the Licensing Authority wish to take more stringent actions, we urge the Licensing Authority to consider paragraph 11.20 and 11.21 of the Guidance:

“11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.”

We submit that revocation of the licence would be contrary to this guidance as it would amount to a disproportionate and inappropriate response to address the causes of concern.

4. As the events leading to the application for review of a premise licence occurred whilst Mr Paramaguru Inthirakumar was the Designated Premises Supervisor (‘DPS’), we submit that an appropriate and proportionate course of action would be to remove Mr Paramaguru Inthirakumar as DPS and install Mrs Thushya Inthirakumar, the Director of our Client, in his stead.

We trust this clarifies our position.

Do confirm safe receipt of this correspondence and its enclosures and in the meantime, we look forward to hearing from you shortly. Should you have any further questions then please do not hesitate to contact our offices.

Yours sincerely,



ALIAN T LAW