



Decision Number: 048/2024/HCDLC/024

IN THE MATTER of section 219 of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER of an application by Kevin Lao of 352 Oxford Terrace, Avalon, Lower Hutt for a new Manager's Certificate

BEFORE THE LOWER HUTT DISTRICT LICENSING COMMITTEE

Chair: Cr Simon Edwards

HEARING Made on the papers

DECISION OF THE DISTRICT LICENSING COMMITTEE

Decision

[1] The Lower Hutt District Licensing Committee (the Committee) acting pursuant to the Sale and Supply of Alcohol Act 2012 **DECLINES** the application for a new Manager's Certificate for Kevin Lao of 352 Oxford Terrace, Avalon, Lower Hutt.

Introduction

- [2] Kevin Lao ("the Applicant") applied for a new Manager's Certificate in accordance with section 219 of the Sale and Supply of Alcohol Act 2012 ("the Act"). The application was lodged on 17 March 2023.
- [3] The Applicant is intending to be a manager at Flint Social, 205 Jackson Street, Petone.
- [4] The Applicant was initially interviewed at the Hutt City Council office on 9 May 2023 where concerns were noted about his understanding of the Act, host responsibility and the licence conditions for the premises that he intends to use the Manager's Certificate if granted.
- [5] A second interview was undertaken on 5 July 2023 and the Applicant again showed a lack of understanding of the Act, host responsibility and the licence conditions.
- [6] The Applicant was granted a third interview but did not book a date to do this.
- [7] The Manager of Flint Social contacted the Licensing Inspector in September 2023 to arrange an interview time for the Applicant. Before this could be arranged, Flint Social had closed down.

- [8] Two further attempts were made to contact the Applicant to see if he wished to pursue the application. No response was received.

The Applicant

Suitability

- [9] The Applicant was interviewed twice and at both interviews showed a lack of understanding of the Act, host responsibility and licence conditions he intended to use the Manager's Certificate for. The Applicant then failed to book for a third interview.
- [10] A number of attempts to contact the applicant have been unsuccessful.

Reporting Agencies

- [11] A copy of the application was sent to the New Zealand Police on 21 March 2023. The Police responded stating that they had no matters of opposition to the granting of a Manager's Certificate for this applicant.

District Licensing Inspector

- [12] The Committee received a detailed written report from the Licensing Inspector which provided good background to the application.
- [13] The Licensing Inspector raises concern about the Applicant's lack of understanding of the Act, host responsibility and the licence conditions he intended to use the Manager's Certificate for.
- [14] It is the view of the Licensing Inspector that the applicant is not a suitable person to hold a Manager's Certificate.

Committee's Overall Finding of the Licensing Inspector's Evidence:

- [15] The Committee agrees with the recommendation of the Licensing Inspector.
- [16] The Applicant showed a lack of understanding of the Act, host responsibility and the licence conditions he intended to use the Manager's Certificate for. He has not made himself available for a third interview to discuss his suitability and understanding of the Act.
- [17] The Committee notes that the premises where the Applicant intended to use a Manager's Certificate has closed.
- [18] There has been no communication received from the Applicant despite repeated attempts by the Licensing Inspector to contact him.

Legislation

Sale and Supply of Alcohol Act 2012

Section 3

[19] The general purpose of the Act is for the benefit of the community as a whole and is to put in place a new system of control over the sale and supply of alcohol.

Section 4

[20] The object of the Act is to ensure that alcohol is sold and supplied safely and responsibly, and that any harm caused by the excessive or inappropriate consumption of alcohol is minimised.

Section 219

Applications for Manager's Certificates

- (1) *Every application for a manager's certificate must –*
 - (a) *be made in the name of the person who will hold the certificate if the application is granted; and*
 - (b) *be made in the prescribed form and manner; and*
 - (c) *contain the prescribed particulars; and*
 - (d) *be accompanied by the prescribed fee.*
- (2) *An application must be filed with the following licensing committee:*
 - (a) *where the applicant intends to be the manager of any particular licensed premises, the licensing committee with which the application for the licence was filed; or*
 - (b) *in any other case, the licensing committee for the district in which the applicant is residing.*

Section 222

Criteria for Manager's Certificates

In considering an application for a manager's certificate, the licensing committee or licensing authority, as the case may be, must consider the following matters:

- (a) *the applicant's suitability to be a manager;*
- (b) *any convictions recorded against the applicant;*
- (c) *any experience, in particular recent experience, that the applicant has had in controlling any premises for which a licence was in force;*
- (d) *any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under [section 218](#);*
- (e) *any matters dealt with in any report made under [section 220](#).*

Case Law

I further refer to [Re Jessica Vold et al \[2014\] NZARLA 215-217](#) and [Re Sam William Bailey at al \[2014\] NZARLA 2018-220](#)

When the matters were called there was no appearance by or on behalf of any of the applicants. We take the inference, therefore, that the applicants have lost interest in pursuing their applications.

We are unable to be satisfied as to the matters to which we must have regard in s.121(1) of the Act and, as a matter of law, the applications must be refused.

District Licensing Committee Discussion, Findings, Decision and Reasons
Section 222 Criteria and Suitability of the Applicant

- [21] The Committee finds that the suitability of the Applicant has not been met.
- [22] The Applicant has not made himself available for a final interview to discuss his suitability and understanding of the Sale and Supply of Alcohol Act 2012.
- [23] There has been no communication from the Applicant despite repeated attempts to contact him.

Conclusion

- [24] Having considered the application and relevant criteria under ss219 and 222 of the Act, and the purpose and object of the Act, the Committee is satisfied that the considerations fall against the granting of a new Manager's Certificate to Kevin Lao of 352 Oxford Terrace, Avalon, Lower Hutt. This refusal to approve the new Manager's Certificate is effective from the date of this decision, namely 31 January 2024.

Dated at Lower Hutt this 31st day of January 2024

Signed



Cr Simon Edwards
Chair, Lower Hutt District Licensing Committee