

Decision No: 45/041/2019

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Mehul and Hemlata Patel pursuant to Section 136 of the Act for a Temporary Authority Order in respect of premises situated at 50 Marine Parade, Paraparaumu Beach, known as 'Marine Parade Eatery'.

BEFORE THE KAPITI COAST DISTRICT LICENSING COMMITTEE

Chairperson: Fiona Vining
Members: Fraser McInnes
Michael Dodson

HEARING at Paraparaumu on 5 June 2019

PROCEDURAL MATTERS

In accordance with Section 136 of the Act, the Committee chose to hear and determine the application without notice.

INTRODUCTION

This is an application by Mehul and Hemlata Patel for a Temporary Authority Order to operate an On-Licence in respect of premises situated at 50 Marine Parade, Paraparaumu Beach, known as 'Marine Parade Eatery'.

DECISION

The Applicants are natural people who are purchasing an existing business. Neither of the applicants have a current Managers Certificate and there is no information before the Committee regarding their experience in licensing matters other than that Hemlata Patel intends to undertake the LCQ qualification.

An application for a Temporary Authority is made under section 136 of the Act. That section allows a Committee to grant a Temporary Authority for a period of up to three months. The holder of a Temporary Authority is subject to the same obligations as the underlying licence holder and the Committee may apply additional conditions as it sees fit. Specific criteria for granting the application are not set out in section 136.

The Committee considers that the criteria in section 105 for granting a licence are relevant. In terms of this application the Committee has noted that there may be an issue as to whether the Applicants have sufficient staff for the proposed licence. We note that the Applicants have agreed to reduced hours for the Temporary Authority, being 8am to 5pm Monday to Sunday. They have advised that one staff member is remaining to work at the café. Another duty manager will remain until 7 July 2019.

The Committee is satisfied that there are sufficient staff for the reduced hours until 7 July 2019, however, it is unclear what the Applicants intend after this date. If Hemlata Patel obtains a manager's certificate prior to this date there would be no issue, but it is not clear whether this will occur.

In the event, that Ms Patel has not obtained a manager's certificate by this date, then another duty manager will be required.

We note that Ms Patel may be appointed an Acting Manager under section 230 of the Act. However, for this to occur, Ms Patel must apply for a manager's certificate within two working days of being appointed an Acting Manager. This will require her to have completed the LCQ qualification prior to this.

We note that the Licensing Inspector has referred to Ms Patel being appointed a Temporary Manager while her application for a manager's certificate is processed. However, the view of the Committee is that the appropriate appointment would be as an Acting Manager rather than a Temporary Manager.

The Applicants will need to make sure that they comply with sections 231 and 232 of the Act requiring notification of the appointment of an Acting Manager and for appropriate records to be kept.

If Ms Patel does not meet the criteria for being appointed an Acting Manager, then the Applicants will need to employ another staff member with a manager's certificate to ensure that there are sufficient staff or apply for the Temporary Authority to be amended.

We grant the applicant a Temporary Authority Order to operate On-Licence number 45/ON/045/2016, at premises known as Marine Parade Eatery, 50 Marine Parade, Paraparaumu Beach, under the existing terms and conditions of the licence, which expires on 22 November 2019, such terms and conditions being amended as follows:

- The hours for the Temporary Authority are to be from 8am to 5pm daily,
- The Temporary Authority is granted with the condition that an application for an On-Licence is to be made by 7 September 2019.
- There are to be at least two Duty Managers (which may include a validly appointed Acting Manager) available to work in the business

The Temporary Authority will expire on 7 September 2019.

DATED at Paraparaumu on 7 June 2019



Fiona Vining
Chair
Kāpiti Coast District Licensing Committee

