

Northwest Territories Liquor Licensing Board

IN THE MATTER of Yellowknife Racquet Club, Licensed Premises, and Licence # 2013-D-16

AND IN THE MATTER of the *Liquor Act* S.N.W.T. 2007, c.15 ("the Act") and the *Liquor Regulations*, R-069-2008 ("the Regulations");

AND IN THE MATTER of a hearing before the Liquor Licensing Board;

REGARDING:

YELLOWKNIFE RACQUET CLUB

Licence Holder

and

YELLOWKNIFE RACQUET CLUB

Licensed Premises

The Liquor Licensing Board, having conducted a hearing on the 26TH day of April 2013 in the City of Yellowknife, has ordered:

ORDER

IT IS HEREBY ORDERED pursuant to section 11 of the Act:

1. The application for the expansion of the licensed area is denied.
- 2.

Dated at the City of Yellowknife, this 6th day of May 2013.



Colin Baile, Chairperson, on behalf of and with the concurrence of the other panel members.

Northwest Territories Liquor Licensing Board

IN THE MATTER of Yellowknife Racquet Club, Licensed Premises, and Licence #
2013-D-16

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Liquor Regulations, R-069-2008 ("the Regulations");

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Reasons for Decision

Liquor Licensing Board Case #: 177-2

Heard at Yellowknife, NT on the 26th day of April, 2013 via teleconference

Appearances:

Documentary

Panel Board Members:

Colin Baile
Wayne Smith
Stanley Jones
Albert Monchuk

Background Summary

On April 8, 2013, the Liquor Licensing Board (“the Board”) received a request from the Licence Holder seeking an increase in the licensed premises’ area and occupancy load. Presently the licensed premises includes the bar, bleachers, deck, and games room at the Yellowknife Racquet Club. The Licence Holder seeks the licensed area to include the “Studio room”.

The present licensed areas allow for an occupancy load of 134 persons; specifically, 108 in the bar, bleachers, and deck area and an additional 26 persons in the games room. The occupancy load for the Studio room was determined by the Fire Marshal to be 70 persons.

In the Licence Holder’s email of April 8, 2013, the Studio room was described as:

“This room a (sp) multi purpose room- fitness, studio, special events room. It is not currently licensed which is the reason for asking to have it taken care of – we have applied for a special occasion permit in the past to use this room.”

Legislation

Section 5 of the Regulations establishes four classes of premises licences, they being:

- Class A (liquor-primary),
- Class B (food-primary),
- Class C (mobile), and
- Class D (liquor-incidental)

Section 9 of the Regulations outlines the four types of Class D licence holders. For this matter, section 9(c) applies:

9. A Class D (liquor-incidental) licence authorizes

(c) the licence holder, who operates a facility that provides community, recreational or cultural activities, to purchase, sell, possess, transport and use liquor for its authorized patrons;

Section 1 of the Regulations defines “community, recreational or cultural activity” as:

"community, recreational or cultural activity" means a benevolent, philanthropic, charitable, religious, scientific, artistic, musical, literary, social, educational, recreational, sporting or other like activity

There is no question “*recreational, sporting*” applies to the case at hand.

Section 13(8) of the Regulations speaks to the eligibility for a Class D licence. It also provides two criteria for the issuance of such a licence.

13(8) To be eligible for a Class D licence in respect of a facility that provides a community, recreational or cultural activity, an applicant must own or operate the facility and satisfy the Board that the licence will benefit one of those activities.

The criteria noted are that the facility be own by the applicant and the licence will benefit the activity. While s.13(8) is intended to address the issue of eligibility, these criteria can also be appropriately applied to an application such as the one before us.

Analysis

Specific to this case, a liquor-incidental license is intended for an operator of a recreational or sporting facility to sell and serve liquor “incidentally” to its authorized patrons. It must also be shown, to the satisfaction of the Board, such a license will benefit these activities.

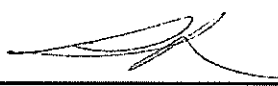
The Board finds these criteria are not met.

The Licence Holder presently has a large and varied area authorized under its liquor license. Expansion of the licensed area would exceed the “incidental” nature of this license. All of the presently licensed areas within the facility are areas intended for non- sports activities. The “studio room”, while defined as a multi-use space, is in part, used for fitness activities.

The legislation clearly draws a distinction between a liquor-primary and a liquor-incidental classification. We find the expansion of the licensed area would exceed the “incidental” nature of the license and would not benefit the primary activity of the facility. As noted by the Licence Holder, the studio room has been used for special events, for which a special occasion permit has been obtained. Such an arrangement allows for the licensing of the studio room for special events without permanently licensing that area.

The application is denied.

Dated at the City of Yellowknife, this 4th day of May 2012.



Colin Baile, Chairperson, on behalf of and with the concurrence of the other panel members.