

Northwest Territories Liquor Licensing Board

IN THE MATTER of an application for a Class A (Liquor Primary) Licence from NWT Brewing Company Ltd for the proposed Establishment "Woodyard Brewhouse & Eatery".

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 an application hearing before the Liquor Licensing Board;

REGARDING:

NWT Brewing Company Ltd

Applicant

Carrying on business as

Woodyard Brewhouse & Eatery

Proposed Licensed Premises

The Liquor Licensing Board conducted a hearing on May 29, 2015 under section 11(1) of the Act.

Application Decision

Heard at: Yellowknife, NT

Appearances:

Miranda Stevens

Fletcher Stevens

Panel Board Members:

Colin Baile, Wayne Smith, Albert Monchuk, Adelle Guigon

The Applicant seeks a Class A (Liquor Primary) licence. Supporting documents required for this application were received by the Board beginning on April 1, 2015. Additional required documents were received on April 7th, 8th, 10th, 14th and 27th, 2015.

Two newspaper notices regarding the hearing appeared in the *Yellowknifer* on April 24th and May 1st, 2015. These notices were required under section 9 of the Act and section 18 of the Regulations. The Applicant requested the notice requirement be waived. This request was denied. In doing so, we considered the application was for a new establishment in an area of Yellowknife without any previous Class A establishments. The surrounding area has several single-family residences and is one of the oldest neighborhoods in the city. We are of the view the surrounding residents, and the community generally, should be given an opportunity to voice any concerns or objections.

Objections

Section 10 of the Act provides for objections to a liquor licence application to be received and considered by the Board.

In this case, one written submission was received. The submission, from a neighborhood resident, voiced concerns about noise coming from the proposed outdoor area after 11:00 P.M.

In answer to this submission, the Applicant advised they were seeking the outdoor area be open until 2 A.M. Several actions were noted as intended safeguards to unreasonable noise levels. The Applicant's representatives stated they would:

- Post signs in the outdoor area advising patrons of the need to not make excessive noise;
- Post signs advising departing patrons they are in a residential neighborhood and to be mindful of that fact;
- A "Doorman" will be in place to assist in controlling noise levels.

Application

At hearing, the Applicant's representatives advised they were not ready to open their establishment. They are also in the process of obtaining a Manufacturing Licence (Brewery) and wanted to wait, if possible until that licence is in place, to open the Class A establishment. They may be ready to open sometime in July, however a fixed date could not be provided.

Consideration of Application

We shall address the application, then the issue of the outdoor area.

We find there is no impediment to the issuance of a Class A (Liquor Primary) licence. We do however have a concern regarding the undefined opening date of the establishment and we are reluctant to issue a Liquor Licence without a definitive date of opening. As such, the licence shall issue, however it will not take effect until the Applicant provides the Board with at least five days' notice of its intended opening. In so doing, we are mindful of sections 3(3) and 49 of the Regulations. Upon providing the date of opening, the Applicant shall also provide the proposed days and hours of operation.

The licence must take effect before October 1, 2015. The Board is not prepared to hold the licence in abeyance for any longer without additional submissions from the Applicant. The Licensed Premises shall be permitted an occupancy load of 112 persons.

Outdoor Area

The Applicant also seeks a licensed outdoor area with an occupancy load of 35 persons and for the same hours as the licence, that being until 2 A.M.

We must consider the surrounding area in considering the operating hours of an outdoor area. While the Board is not bound by its previous decisions, we must consider similar past applications. In the past, the Board has allowed outdoor areas to operate until 2 A.M. where the Class A establishment is not located within or adjacent to residential areas. The Board has restricted outdoor hours of operation to 11 P.M. or earlier where the Class A establishment is located in or adjacent to residential areas. We are also cognizant of the City of Yellowknife's Bylaw concerning noise and that Bylaw's 11 P.M. limit.

We have considered the Applicant's proposed efforts to limit noise, the location of the proposed establishment, the Board's previous decisions for outdoor operating hours, and the one public submission on this issue. In doing so, we find the proper balance between the Applicant's requested hours of operation and the Public Interest is to allow the proposed establishment an outdoor area as requested with operating hours between 10 A.M. and 11 P.M. Signs are to be posted in the outside area reminding patrons they are in a residential neighborhood.

Decision

The Class A (Liquor Primary) Licence shall issue as requested with the following terms and conditions:

- The Licence shall not take effect until the Applicant opens the establishment.
- The Applicant must provide at least 5 days notice to the Board of the opening date.
- At the time of the notice mentioned above, the Applicant shall provide the Board with the proposed days and hours of operation.
- The Licence must take effect no later than October 1, 2015, after which the Applicant is required to provide the Board with a request and reasons for an extension of the abeyance.
- An outdoor area shall be included at the licensed premises with the following conditions:
 1. The hours of operation are between 10 A.M. and 11 P.M.
 2. Signs must be posted in the outdoor area advising patrons they are in a residential area and to be mindful of noise levels.

Dated this 2nd day of June 2015.



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