

Northwest Territories Liquor Licensing Board

IN THE MATTER of **After 8 Pub**, Licensed Premises, and Liquor Licence #**2017-A-01-25**;

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

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

REGARDING:

AFTER 8 PUB INCORPORATED

Licence Holder

and

AFTER 8 PUB

Licensed Premises

ORDER

The Liquor Licensing Board, having found the Licence Holder guilty of permitting a greater number of persons within the Licensed Premises than is authorized by the Liquor Licence, contrary to subsection 55(4) of the *Liquor Regulations*, hereby orders the following penalties:

1. Pursuant to subsection 30(d) of the *Liquor Act*, the Licence Holder must pay a compliance penalty in the amount of \$1,000.00 (one thousand dollars) on or before December 28, 2017.
2. Pursuant to subsection 30(e) of the *Liquor Act*, the Licence Holder's Liquor Licence #2017-A-01-25 will be suspended for 1 (one) day to be executed on Friday, December 1, 2017. The Licence Holder must post a notice provided by the Liquor Licensing Board on all entrances to the Licensed Premises for the duration of the suspension.

Dated at the city of Yellowknife in the Northwest Territories this 29th day of November 2017.



Adelle Guigon, A/Chairperson

On behalf of and with the concurrence of the other panel members

Northwest Territories Liquor Licensing Board

IN THE MATTER of **After 8 Pub**, Licensed Premises, and Liquor Licence #**2017-A-01-25**;

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

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

REGARDING:

AFTER 8 PUB INCORPORATED

Licence Holder

and

AFTER 8 PUB

Licensed Premises

REASONS FOR DECISION

Date of Inspection: April 21, 2017

Date of Hearing: November 28, 2017

Place of Hearing: Yellowknife, Northwest Territories

Panel Board Members: Adelle Guigon
Linda Martin
Heather Bourassa

Appearances: Jana Shoemaker, Counsel for Liquor Enforcement
Jack R. Williams, Counsel for the Licence Holder

Reasons for Decision

After 8 Pub Incorporated holds a Class A (Liquor Primary) Liquor Licence for its establishment operating as After 8 Pub located in Yellowknife, Northwest Territories. Liquor Licence #2017-A-01-25 was issued January 25, 2017, with an expiry date of March 31, 2018. Due to a change in ownership of the Licence Holder, the Liquor Licence was transferred effective March 1, 2017, maintaining the expiry date of March 31, 2018. The Liquor Licence establishes the maximum occupancy load at 133 persons.

Agreed statement of facts

At hearing, Counsel for Liquor Enforcement submitted an agreed statement of facts, which Counsel for the Licence Holder acknowledged. The parties agreed to the following facts:

On Friday, April 21, 2017, the Licence Holder was hosting a Chase the Ace fundraising event within the Licensed Premises. A Liquor Inspector attended the Licensed Premises at 8:31 p.m., noting a significant number of patrons inside the establishment. He conducted two independent head counts, finding in excess of 200 occupants. The Liquor Inspector notified the doorman of his findings and ordered the doorman not to permit any more patrons to enter, after which they conducted another head count together. The third head count found 217 and 214 occupants.

The Liquor Inspector announced the findings to the bar staff, including the owner of the establishment, closing the bar until the number of occupants was reduced to the licenced occupancy load. The bar staff and owner were fully cooperative and immediately took actions to have patrons who were not drinking to leave the premises.

A second Liquor Inspector was called in to assist in confirming the number of occupants was reducing. The second Liquor Inspector arrived at 8:55 p.m. His first head count found 170 occupants and his second head count found 140 occupants. Once the number of occupants was confirmed at or below the licensed occupancy load of 133 the bar staff were cleared to open service again.

The primary Liquor Inspector completed his Inspection Report #6056 at 9:08 p.m., which the establishment owner signed.

Board findings

Subsection 55(4) of the *Liquor Regulations* states:

No holder of a premises licence shall allow the number of persons in the licensed premises to exceed the occupant load determined by the Board.

The Liquor Licensing Board (the Board) finds the charge of non-compliance with occupancy load limits is made out. The Board accepts the events of April 21, 2017, are as described in the agreed statement of facts and accepts the Licence Holder's admission of guilt.

Penalties

The number of occupants in excess of the licenced occupancy load for the Licensed Premises was significant, creating a serious safety issue for the establishment which cannot be ignored. However, mitigating factors to this offence are the positive and cooperative response to immediately resolve the over-occupancy issue, the Licence Holder's efforts to learn from the incident and implement better procedures to manage occupancy loads during popular events, and the Licence Holder's recognition of the seriousness of the offence. Also taken into account are the facts that the owner of the establishment is a new Licence Holder and this is his first offence.

Counsel for Liquor Enforcement recommended a \$1,000 compliance penalty and a one-day suspension of the

Liquor Licence as an appropriate consequence to the offence. Counsel for the Licence Holder agreed to the recommendation. After a brief deliberation, the Board also agreed the recommended penalty was appropriate under the circumstances.

Orders

An order will issue requiring the Licence Holder to pay a \$1,000 compliance penalty within 30 days (on or before December 28, 2017).

An order will issue suspending the Licence Holder's Liquor Licence for one day to be executed on Friday, December 1, 2017. The Licence Holder is also required to post a notice provided by the Board on all entrances to the Licensed Premises for the duration of the suspension.

Dated at the city of Yellowknife in the Northwest Territories this 29th day of November 2017.



Adelle Guigon, A/Chairperson

On behalf of and with the concurrence of the other panel members