



## Application to Renew a Premises Licence

### Northwest Territories Liquor Licensing Board

IN THE MATTER of an application for the renewal of a Premises Licence,  
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");

Regarding:

#### **AFTER 8 PUB INCORPORATED**

Licence Holder

Carrying on Business as

**After 8 Pub**

Licensed Premises

Heard via Teleconference on the 23rd day of March 2018.

Hearing Panel: Sandra Aitken, Adelle Guigon, Michael Hansen, Linda Martin, Wayne Smith and Heather Bourassa.

Appearances: None

In accordance with both subsection 13(6) of the *Liquor Act* and paragraph 12(3)(b) of the *Liquor Regulations*, the Board considered an application for the renewal of a Premises Licence.

#### **REASONS FOR DECISION**

The process of licence renewal is outlined in section 13 of the *Liquor Act*. In the normal course, a Licence Holder may apply for the renewal of a licence. The Board's Registrar, acting as the Board's Executive Secretary, considers such an application and approves the application if it is properly filed and the fees are paid. The *Act* does not give the Executive Secretary the authority to deny an application for a licence renewal.

Subsection 13(5) of the *Liquor Act* authorizes the Executive Secretary to refer a renewal application to the Board where the Executive Secretary considers it advisable to do so.

The Licence Holder submitted its renewal application for a premises licence on March 16, 2018. One of the owners, who is also the on-site manager, has pending charges under a law of Canada, namely a criminal driving offence, currently set for trial at a later date.

Subsection 5(2) of the *Liquor Act* states that a licence may not be issued to a person who has been charged with an offence established under a law of Canada, and subparagraph 5(3)(a)(ii) of the *Liquor Act* states that a licence may not be issued to a person if the person's on-site manager has been charged with an offence established under a law of Canada. Paragraph 12(1)(c) of the *Liquor Regulations* establishes that an offence under the *Criminal Code* is an offence within the meaning of subparagraph 5(3)(a)(ii) of the *Liquor Act*.

Given these provisions the Licence Holder was not eligible for a renewal of their liquor licence on the materials filed. However, paragraph 12(3)(b) of the *Liquor Regulations* allows an applicant to apply to the Board for an exemption. The Executive Secretary referred the renewal application to the Board. The Board may exempt an offence described above if satisfied that issuing the licence will not create an undue risk of harm to the public. The Board invited the Licence Holder to make an application for an exemption, and to address in that application how issuing the licence would not create an undue risk of harm to the public.

The Licence Holder applied to the Board on March 19, 2018 for an exemption. The Licence Holder provided details of the alleged infraction, and acknowledges the seriousness of the allegations.

The Board considered the exemption application and determined that as the Licence Holder is only charged at this point, not convicted, and is under the laws of Canada presumed innocent until proven guilty, that conditions could be imposed on a renewed licence to ensure that the public is not at risk while the charges are pending before the Court. The Board will review the matter again once the outcome of the charges is known. The Licence Holder must advise the Board of the outcome of the charges within ten calendar days of their disposition, and if found guilty, the Licence Holder must apply for an exemption under paragraph 12(3)(b) of the *Liquor Regulations* within ten calendar days of the finding of guilt. The Licence Holder must provide a transcript of the court's decision if found guilty, and the Board will then convene a hearing to determine if the licence should be cancelled or if the Licence Holder should be given an exemption which would permit the renewed licence to stand. To ensure the public is not at risk while the charges are pending, the Licence Holder is ordered to take alcohol server training no later than May 1, 2018.

## ORDER

Pursuant to both subsection 13(6) of the *Liquor Act* and paragraph 12(3)(b) of the *Liquor Regulations*, the Board orders as follows:

1. The application for an exemption is approved.
2. The application to renew Class A Premises Licence 2017-A-01-25 issued to After 8 Pub Incorporated and located at 5001 Forrest Drive in Yellowknife NT, is approved on the following terms and conditions:
  - i) J.S. is required to attend Alcohol Server training through Liquor Enforcement. The Licence Holder shall provide confirmation to the Board no later than May 1<sup>st</sup>, 2018.
  - ii) The Licence Holder shall provide, within ten calendar days after the matter is concluded, written evidence of the result by providing a certified copy of the court record.
3. If there is a finding of guilt, the Licence Holder will be required:
  - i) to apply for an exemption to the Board within ten calendar days after the finding of guilt.
  - ii) to provide the Board with a transcript of the reasons for the court decision.

Dated at the City of Yellowknife, this 23<sup>rd</sup> day of March 2018.



Sandra Aitken, Chairperson, on behalf of and with the concurrence of the other panel members