

Northwest Territories Liquor Licensing Board

IN THE MATTER of an Application for a Class 2 – Resale Special Occasion Permit and Application for Minors in a Licensed Premises from The Racquet Club;

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*”) as amended;

AND IN THE MATTER of an Application for a Special Occasion Permit and Application for Minors in a Licensed Premises, on May 10th, 2017, the Liquor Licensing Board’s decision of May 17th, 2015 ;

REGARDING:

THE RACQUET CLUB

Applicant

For the event

2017 Territorial Squash Championships

Event

The Liquor Licensing Board met via Teleconference May 17th, 2017 to consider Applications for Special Occasion Permits and Applications for Minors in a Licensed Premises for a 2017 Territorial Squash Championship Events to be held at The Racquet Club on May 29th to June 4th, 2017, in Yellowknife, NT.

Overview

The Racquet Club serves alcoholic beverages under a Class D Premises Licence in Yellowknife. The Applicant seeks to provide licenced service on the new upper and lower outdoor deck (the ‘Outdoor Deck’).

On May 10th, 2017 the Board office received Special Occasion Permit applications from the Applicant for an event taking place May 29th to June 4th, 2017, in Yellowknife. The Board office records show that the Applicant was advised that day that the applications were incomplete and advised of the additional information that was required. On May 11th, 2017 the Board office received the additional information from the Applicant. The Members of the Board met on May 12th, 2017 to give preliminary consideration of the Applications. At that time further information from the Applicant was requested. That information was also received and then the completed application was reviewed by the Members of the Board in their teleconference May 17th, 2017.

Outdoor Event Sketch¹

There are the concerns arising from the applications:

- As the photographs show the Outdoor Deck is/was under construction. It is unknown to the Board if the construction has been completed. The apparent incomplete condition of the Outdoor Deck poses concerns for the health and safety of patrons.
- While this may be as a result of the state of construction, there is currently no gate at the public entrance. The absence of a gate is a concern regarding adequate supervision and the prevention of liquor being transported outside the proposed licensed area.
- There is a significant flight of stairs between the upper and lower patio area that poses health and safety concerns for patrons who may be under the influence of alcohol.
- The Board is unaware of any other jurisdiction in Canada which allows for the liquor licensing of a hot tub. There are many known dangers associated with hot tubs and alcohol and the Board is of the opinion that the consumption of alcohol should not be permitted in such an area.
- In addition, the hot tub area is not, or will not be, fenced off in any permanent way from other areas of the deck. As such, if a permit or licence were to be granted, the hot tub would not be permitted to be in use during the hours of service under any permit or licence due to health and safety concerns.
- At this time, the fencing on portions of the deck are inadequate to prevent the passing of alcoholic beverages out of the licenced area.
- The Outdoor Deck was part of the licenced area of the Racquet Club prior to it being completely replaced. Structural renovations to a licensed premises requires Board approval prior to making any structural additions or alterations, including complete replacement, to the licensed premises under s.62 of the *Liquor Regulations*. Such authorization was not applied for by the Applicant prior to construction commencing and had only been brought to the attention of the Board as a result of these applications².
- In addition, the Board has been advised in writing by the City of Yellowknife's Building Inspector that the Outdoor Deck is an unauthorized structure. That is, it was constructed without the necessary permits and inspections being obtained/conducted. The Applicant is still in the process of bringing the new structure into compliance with the City's Bylaws.
- The Applicant obtained a letter of support from the City of Yellowknife Administration in support of the applications. This letter was dated prior to the date of the written communication from the City's Building Inspector. In the circumstances, the letter of support is accepted by the Board as a conditional letter of support. That is, it is conditional upon the Outdoor Deck being brought into compliance with the City's Bylaws. Once the structure is in compliance with those

Bylaws, the Building Inspector will be in a position to consider issuing an Occupancy Certificate for the Outdoor Deck. While there is an Occupancy Load certificate from the Fire Marshall, there is not an Occupancy Certificate from the City.

- Without the necessary building inspections having been completed and a passing mark being received, the Applicant is unable to show that the Outdoor Deck is safe to hold an event, which is a prerequisite to the Board's granting of the applications³.

As the Board is unable to confirm the unauthorized structure as meeting both liquor and building regulations, the potential risks to public safety are unknown to the Board at this time.

The Liquor Licensing Board must consider the public interest and safety above all else. In administering the *Liquor Act* and *Liquor Regulations*, the Board is bound by the law in its consideration of the public interest and safety. This duty cannot be transformed by the inconvenience that may be caused an Applicant; particularly when it is the Applicant who is solely responsible for the cause of that inconvenience.

It is for these reasons the Board denies these applications. This decision does not affect the Applicant's current liquor licence and the conditions attached to that licence for the service of alcohol under that licence.

Dated this 18th day of May 2017 at the Town of Hay River, NT.



Michael E. Hansen
Acting Chairperson

Chairperson Colin Baile and Vice-Chairperson Adelle Guigon both declared a conflict and did not participate in any way in the review of these applications.

¹Section 87(3) of the *Liquor Regulations*

²Section 62 of the *Liquor Regulations*

³Section 90 of the *Liquor Regulations*