

Liquor Commission of Western Australia
(*Liquor Control Act 1988*)

Applicant: AM

Respondent: Commissioner of Police
(represented by Mr Luke Villiers of State Solicitor's Office)

Commission: Mr Jim Freemantle (Chairperson)

Matter: Application seeking review of a barring notice issued pursuant to section 115AD of the *Liquor Control Act 1988*

Date of Determination: 24 December 2014
(on papers)

Date of reasons of Determination: 27 January 2015

Determination The application is refused.

Background

- 1 On 12 November 2014, the applicant was served with a notice pursuant to sec 115AA of the *Liquor Control Act 1988* ("the Act") prohibiting him from entering licensed premises in Western Australia except those licensed under a liquor store licence for a period of 3 months.
- 2 The incident giving rise to the issue of the barring notice took place in the public bar of the White Horse Hostel in Leonora where it is stated by the Commissioner of Police ("the Police") that having been barred from the premises, the applicant returned in an intoxicated state and was verbally abusive to staff and continued to be so as he was escorted from the premises.
- 3 On 24 November 2015, the applicant applied for a review of the barring notice pursuant to section 115AD of the Act.
- 4 On 24 December 2015, the Liquor Commission ("the Commission") refused the application.

Submissions on behalf of the applicant

- 5 The applicant did not challenge the veracity of the facts as set out by the Police.
- 6 The applicant claimed the he and his family have been under considerable stress following the illness and subsequent death of the applicant's mother.
- 7 He also claims he did not properly understand the nature of the original barring by the licensee and its implications.
- 8 The original barring was a result of a misunderstanding and when he requested CCTV footage he was advised it had already been recorded over.
- 9 The applicant concedes his record is not good and that he was unwise to return to the hotel under the influence of alcohol.

Submissions on behalf of the Commissioner of Police

- 10 The incident and material facts are not in dispute.
- 11 There was no provocation or justifiable motive for the applicant's behaviour.
- 12 The circumstances of the incident demonstrate that there is a risk of the behaviour of the applicant being repeated.

Determination

- 13 The Police comprehensively set out the law relevant to the issue of barring notices and the alternatives open to the Commission on review and I do not believe any purpose is served by repeating it at length.

- 14 Of particular relevance is section 115AA(2) of the Act which authorises the Commissioner of Police to issue a notice to a person prohibiting that person from entering specified licensed premises and a specified class of licensed premises for a period of up to 12 months if the Commissioner believes on reasonable grounds that the person has on licensed premises:
- a) been violent or disorderly;
 - b) engaged in indecent behaviour;
 - c) contravened a provision of the written law.
- 15 The provision is clearly designed to protect the public and the staff of licensed premises from people who engage in disorderly or offensive behaviour on licensed premises. Whilst there is a penal element in preventing a person from enjoying the social intercourse that licensed premises provide it is not the primary focus.
- 16 It was stated by the Minister for Racing and Gaming during the parliamentary debate on the amendments to section 115AA of the Act that *“the whole idea is to protect the general public, the licensee which is pretty important and also the person”* (my emphasis).
- 17 The last phrase of the Minister’s statement is particularly relevant in this matter. The applicant clearly by his own admission and from the submission made by his father, has personal problems exacerbated by alcohol. He has had to deal with the illness and subsequent death of his mother which obviously affected him deeply.
- 18 He has a supportive father and other members of the community, from the material supplied, are also giving him support.
- 19 I have formed the view that notwithstanding his father’s concern that barring his son from the principal social venue in Leonora may have an adverse effect on his son overcoming his social problems, barring him from licensed premises will give him time to pause and reflect on the effect of alcohol on his behaviour.
- 20 Furthermore I am not satisfied that, given the applicant’s history, he may not behave in a similar manner if the same or similar circumstances arose.
- 21 I have taken into account the excellent personal references supplied by the respondent, all of which impressed me as honest and credible but the 3 month barring period is appropriate in the circumstances.
- 22 The application is therefore refused.



JIM FREEMANTLE
CHAIRPERSON