

JURISDICTION : SUPREME COURT OF WESTERN AUSTRALIA

TITLE OF COURT : THE FULL COURT (WA)

CORAM : PIDGEON J
WALLWORK J
ANDERSON J

HEARD : 11 FEBRUARY 1999

DELIVERED : 1 APRIL 1999

FILE NO/S : APPEAL FUL 132 of 1998

BETWEEN : LIQUORLAND (AUSTRALIA) PTY LTD
Appellant (Objector)

AND

AUSTIE NOMINEES PTY LTD
Respondent (Applicant)

AND

FILE NO/S : APPEAL FUL 133 of 1998

BETWEEN : BERBAR NOMINEES PTY LTD
ERSKINE PTY LTD
GOLDSOUTH PTY LTD
M L WORDSWORTH PTY LTD
Appellant (Objector)

AND

AUSTIE NOMINEES PTY LTD
Respondent (Applicant)

Catchwords:

Liquor and licensing - Liquor store licence - Application - Whether reasonable requirements of the public cannot be provided for by existing licensed premises - Test - *Liquor Licensing Act 1988*, s38(1), s38(2b)

Words and phrases - Liquor licensing - "Reasonable requirements of the public for liquor" - "Cannot be provided for" - *Liquor Licensing Act 1988*, s38(2b)

Representation:

FUL 132 of 1998

Counsel:

Appellant : Mr C L Zelestis QC & Mr P D Evans
Respondent : Mr M J McCusker QC & Mr M H Zilko

Solicitors:

Appellant : Freehill Hollingdale-Page
Respondent : Jackson McDonald

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Counsel:

Appellant : Mr W S Martin QC
Respondent : Mr M J McCusker QC & Mr M H Zilko

Solicitors:

Appellant : G D Crockett & Co
Respondent : Jackson McDonald

Case(s) referred to in judgment(s):

Baroque Holdings Pty Ltd v Aljohn (1982) Pty Ltd & Ors, unreported; FCt SCt of WA; Library No 920441; 28 August 1992

Charlie Carter Pty Ltd v Streeter & Male Pty Ltd (1991) 4 WAR 1

Halson Nominees Pty Ltd v Winthrop Cellars Pty Ltd & Ors, unreported; FCt SCt of WA; Library No 940563; 12 October 1994

Lincoln Bottle Shop Pty Ltd v Hamden Hotel Pty Ltd (No 2) (1981) 28 SASR 458

Liquorland (Australia) Pty Ltd v Austie Nominees Pty Ltd, unreported; FCt SCt of WA; Library No 980601; 19 October 1998
Liquorland v Hawkins (1997) 16 WAR 325
Papadopoulos v The Opal Inn Pty Ltd (1972) 3 SASR 348
Pearce v Lake View & Star Ltd [1969] WAR 84
South Eastern Hotel Pty Ltd v Woolies Liquor Stores Pty Ltd (1998) 71 SASR 402
Tomley Investment Co Pty Ltd v Victoria (Tapley's Hill) Pty Ltd (1978) 17 SASR 584
Woolies Liquor Stores v Carleton Investments & Ors, unreported; SCt of SA; Library No S6602; 15 May 1998
Woolworths (WA) Ltd v Liquorland (Australia) Pty Ltd & Ors, unreported; FCt SCt of WA; Library No 940553; 7 October 1994

Case(s) also cited:

Australian Broadcasting Tribunal v Bond (1990) 170 CLR 321
Australian Gas Light Co Ltd v Valuer-General (1940) 40 SR (NSW) 126
Collector of Customs v Agfa-Gevaert Ltd (1995-1996) 186 CLR 389
Collector of Customs v Pozzolanic Enterprises Pty Ltd (1993) 43 FCR 280
Costopolous v Petona Pty Ltd, unreported; SCt of WA; Library No 7724; 23 June 1989
Federal Commissioner of Taxation v Broken Hill South Ltd (1941) 65 CLR 150
Hope v Bathurst City Council (1980) 144 CLR 1
Life Insurance Co of Australia Ltd v Phillips (1925) 36 CLR 60
Lovell v New World Supermarket Pty Ltd (1990) 53 SASR 53
New South Wales Associated Blue-Metal Quarries Ltd v Federal Commissioner of Taxation (1956) 94 CLR 309

Library Number : 990160A

PIDGEON J:

I have read in draft the reasons to be published by Anderson J. I agree with those reasons and the orders proposed.