

April 2014

Thomas & Thomas E News

A drink without food – something to ‘stress’ about?

West End operators will be familiar with Westminster’s “stress area” policy. Due to the “cumulative impact” of existing premises, the policy creates a presumption to refuse all new licences for pubs and bars in particular.

Restaurants will ancillary bars pose their own issue. Westminster’s view is that the bar should only be used for diners, and not persons drinking without food. This position was successfully challenged in the Magistrates’ court.

Thomas & Thomas have recently assisted an operator in allowing alcohol to be sold to non-diners at their restaurant’s bar in the stress area.

Shadow Licences

A shadow licence is a Premises Licence held in respect of a premises that is already licensed. Shadow licences are sometimes held by landlords wishing to protect the value of their property in the event their tenant’s licence is reviewed or lapses. They can be a prudent safeguard where the value of the Licence is paramount; for example a bar or late Licence held in Westminster’s stress area. A number of landlords are applying for shadow licences following a recent High Court decision, which verified a landlord’s entitlement to hold a shadow licence.

Funky Mojo – Procedural Defects in Review Proceedings

The High Court has recently clarified a long disputed issue – do procedural defects in a licence review render the proceedings invalid?

The case involved Funky Mojo, a South Woodford nightclub of “The Only Way is Essex” ‘fame’. The Premises Licence holder contended the proceedings were invalidated, since the blue notice used to advertise the review at the premises was defective in two respects:

1. It failed to state the grounds for review.
2. The final three lines of the notice were printed in size 14 font rather than size 16 as specified in the regulations

The High Court held: *“The submission from the Claimant that the process should be invalidated solely because of two minor errors on a notice is entirely without merit”.*

The case does not mean Councils can ignore procedures required by the Licensing Act. However, where there has been no prejudice resulting from a minor defect, it is likely the proceedings will not be invalidated.

Licensing Law Developments: Quick Update

- London late-night levies – Islington have decided to proceed with their late-night levy after midnight, the City of London are now considering their consultation responses to do the same. For a quick reminder on late-night levies please refer to our [August 2012](#) e-news.
- Further deregulation of regulated entertainment – the Government are continuing their trend to de-regulate regulated entertainment. The latest good news is expected to confirm amplified live music can be before audiences of up to 500 (currently 200) before a Licence is required.
- Personal licences – the future of Personal Licences has been much debated in recent months. Many are up for renewal in 2015. The latest news indicates Personal Licences will not be abolished and they will need to be renewed next year.
- World Cup Extension – the Government has approved an automatic extension to Licence hours during England matches, but only for a maximum of four hours beyond kick off. This means hours will be extended until midnight for the Uruguay match; no extension for the Costa Rica match (it starts too early); and 1.00 am for all other England matches. For the optimistic fans amongst you, if England make the final, the hours should be extended to midnight.

Hemming and Licensing Fees

Operators may remember fondly reading news about the Hemming Sex Shop case. A group of sex shop owners successfully challenged Westminster for over-charging Sex Establishment Licence fees. The Court of Appeal found that the Council charged a disproportionate and unlawful amount for the annual fee and could not recover the cost of enforcing non-licensed premises. However, Westminster have recently received permission to challenge the decision in the Supreme Court.

Licensing fees have remained unchanged since 2005. The Government are currently consulting on new locally set fees. This would permit local authorities to set their own licence fees.

Thomas & Thomas Annual Licensing Seminar 28th May 2014

Our annual seminar co-sponsored with the Westminster Property Association will take place at 6pm on the 28th May. at the House of St Barnabas. Spaces are limited so please RSVP quickly.

If you have any queries in respect of the above or any other matter, please contact one of the partners

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