

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **A & J Hy Limited** for
the renewal an on licence pursuant to
s.127 of the Act in respect of premises
situated at **13-15 Bank Street,
Whangarei** known as **“Sun Wah
Restaurant ”**

BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE

Chairman: Councillor John Williamson
Member: Paul Dimery
Member: Mark Vincent

DECISION (ON THE PAPERS)

This is an application by A & J Hy Limited dated 17 February 2014, for the renewal of an on licence (002/ON/19/2011) in respect of premises situated at 13-15 Bank Street, Whangarei, known as “Sun Wah Restaurant”. The general nature of the business is that of a restaurant.

The premises

Sun Wah Restaurant is located at 13-15 Bank Street in the Central Business District of Whangarei. The premises consists of a restaurant, takeaway outlet and large kitchen. The restaurant is fully licensed and is the subject of this renewal application. The takeaway outlet is not licensed. An On licence (002/ON/19/2011) was first granted to A & J Hy Limited trading as “Sun Wah Restaurant” by the Whangarei District Licensing Agency in 2007, and this licence authorises a restaurant operation.

Restaurants are defined under the Act as *premises that are not a conveyance; and are used or intended to be used in the course of business principally for supplying meals to the public for eating on the premises.*

Management of the premises

The applicant is a private company incorporated on 1 February 2001. Alex Cong Sau Hy and Jenny Amui Hy are directors and shareholders of the applicant company. Guangfu Xu is also a shareholder of the applicant company. Alex Cong Sau Hy is the holder of a General Manager’s Certificate and the Principal Manager of the business. Additional duty managers are Monique Somers (002/GM/115/2009) and Yuemin Zhang (002/GM/100/2013).

The applicant company, A & J Hy Limited, has met all licensing conditions in its seven years of operation.

Public notice

The applicant publically notified the application in accordance with the Act, by placing two advertisements in the Northern Advocate. The first notice was published on 13 January 2014 and the second on 20 January 2014. It is a requirement of the Sale and Supply of Alcohol Act 2012 to place public notification within 10 working days **after** filing the renewal application with the Whangarei District Licensing Committee. These public notifications were made before the applicant filed their renewal application to Whangarei District Council on 17 February 2014.

Notice of the application was also attached to the premises as required by the Act. This was confirmed during a visit to the premises on 28 February 2014.

The applicant however has applied for a waiver under Section 208 of the Sale and Supply of Alcohol Act 2012.

Section 208 provides as follows:

“where any person has neglected or omitted to do any act or thing in the precise manner or within the precise time prescribed by this Act, the licensing authority or (as the case may require) the licensing committee or the chairperson, if satisfied that the neglect or omission was not wilful, may waive the same on such terms as they think equitable.”

The applicant has mistakenly advertised the public notifications outside the required time frame and the licensing hours as Monday to Sunday 11.30am to 2.30pm and 5pm to 9.30pm instead of “Monday to Sunday – 11.00am to 1.00am the following day”.

No public objections to the application were received.

Statement by the applicant as to compliance with Fire Service Act 1975.

The applicant has provided a statement that the building complies with fire safety requirements.

Section 131 Criteria for the renewal of licences

In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:

- (a) the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1):*
- (b) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:*
- (c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:*
- (d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.*

DECISION

The committee has received reports on the application from the Police, the Medical Officer of Health and the Licensing Inspector and none have raised matters in opposition. The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly we deal with the matters on the papers.

We are satisfied as to the matters to which we must have regard as set out in s.131 of the Act and we renew the on licence for a further period of 3 years on the conditions presently attached to it but with a change required by section 110 of the Act relating to the provision of drinking water the condition worded as follows:

- drinking water is to be freely available to customers while the premises are open for business from the bar counter and throughout the premises.

DATED at Whangarei this 1st day of April 2014

Chairman
Whangarei District Licensing Committee