

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Kitty O'Shea's Irish Bar Café and Nightclub and The Rox Bar and Nightclub
Licensee:	JDM Hotel Management Pty Ltd
Licence Number:	80300296
Complainant:	Director of Licensing
Hearing:	Complaint pursuant to Section 48(2) of the <i>Liquor Act</i> -Failure to comply with conditions of liquor licence
Heard Before:	Ms Brenda Monaghan (Presiding) Mrs Jane Large Mr Ian O'Reilly
Date of Hearing:	13 September 2006
Date of Decision:	13 September 2006
Appearances:	Complainant-Ms D'Alessandro for Director of Licensing Ms Sue Porter (De Silva Hebron) for Licensee

This is a transcript of Reasons for Decision (with some minor amendments) handed down by the Northern Territory Licensing Commission on 13 September 2006.

- 1) This hearing relates to breaches by the Licensee of three (3) specific liquor conditions as follows:
 - a) The first breach relates to the selling of alcohol to a patron outside trading hours on one (1) occasion.
 - b) The second breach relates to a failure by the licensee to ensure that there was adequate security on the premises. The evidence was that there was no security on premises during trading hours for eleven (11) out of nineteen (19) days.
 - c) The third breach is that the Licensee allowed patrons to remain on the premises after the times stipulated on the Section 104(3)(g) Certificate and that this breach occurred on one (1) occasion.
- 2) Whilst there were no admissions made with respect to liability for these breaches, Ms Porter, Counsel for the Licensee, restricted her submissions to penalty and mitigation. We have therefore based our decision on whether or not the complaints are proved on the evidence provided to us in the written Brief. On the basis of this evidence, we uphold the complaints referred to in paragraph 1) above and find those breaches proved.
- 3) We now look specifically to the question of penalty. We note the detailed submissions put forward by Ms Porter on penalty and mitigation and we take those matters into account. We also take note of the comments put forward by Ms D'Alessandro on behalf of the Director of Licensing.
- 4) We acknowledge that the wording of the written licence variation was rather complex but the Licensee's ignorance of his licence conditions because of a failure to properly read the licence variation is no excuse.

- 5) The complaint regarding the failure to provide adequate security on the premises particularly concerns us. We do note that no security issues arose during these periods but this does not make that failure to provide security acceptable. Licensees must comply with their licence conditions particularly where patron safety is at stake.
- 6) Taking all these matters into account, we intend to impose a one (1) day suspension of the whole of the licensed premises on the Licensee, that suspension is to be served within the next thirty (30) days on either a Friday or a Saturday night. The specific date of that suspension to be advised to the Commission by close of business Thursday 14 September 2006.

Brenda Monaghan
Presiding Member

25 September 2006