

Northern Territory Licensing Commission

Decision on whether Objection will proceed to Hearing

Premises:	Virginia Tavern
Licensee:	Solloc Pty Ltd
Licence Number:	80317472
Nominee:	Mr Ian Short
Objector:	Mr and Mrs Page
Date of Decision:	10 October 2006
Legislation:	Sections 47F, G & I of the <i>Liquor Act</i>

Background:

- 1) An application has been made by Mr Ian Sloan, Nominee of the Licensed Premises, for a variation of the licence conditions to extend trading hours to midnight seven (7) days a week.
- 2) The application was advertised in the proper form on 16 and 18 August 2006. Objectors are given thirty (30) days under the *Liquor Act* to forward their objections to the Director of Licensing. As the thirtieth (30th) day was Sunday 17 September 2006, the *Interpretation Act* allows objections to be received at the latest on Monday 18 September 2006.
- 3) One (1) signed objection was received from the Darwin Boomerang Motel & Caravan Park on 28 September 2006 - some ten (10) days outside the objections period. In all other respects, the objection is valid. The proprietors of the Park, Mr and Mrs Page advise that they were aware that the variation application was to be made but that they did not object within the time limit prescribed by the *Liquor Act* for the following reasons:
 - a) Despite "perusing the NT News for months now", they did not see the newspaper advertisements;
 - b) They question whether the Green Sign was displayed in a prominent position at the premises stating that neither themselves nor their co-workers saw it; and
 - c) They state that the Nominee was going to tell them when the application for variation was made and he failed to do so.
- 4) The written response on behalf of the Licensee queries the veracity of this information. It is submitted in that response that :
 - a) Mr Sloan personally advised Mr and Mrs Page on the day he made the variation application that he had done so;
 - b) Mr Sloan explained the application process to Mr and Mrs Page; and
 - c) On two (2) separate occasions, staff from the Darwin Boomerang Motel and Caravan Park were seen reading the Green Sign.
- 5) I reach no conclusion on the conflicting evidence referred to above from the objector and the licensee (it being of more relevance to an extension of time issue). I do note, however, the further advice provided by Licensing Inspector Mitchener that he and other

departmental staff attended on the premises and satisfied themselves that the sign was in fact displayed in a prominent position at the front of the premises.

- 6) S47F(4)(d) gives the clear time limit for the lodgement of an objection as thirty (30) days. The objection from the Darwin Boomerang Motel and Caravan Park, whilst compliant on issues of form and content, is ten (10) days late and therefore is not considered a valid objection.
- 7) The Commission has the power under s.127 of the *Liquor Act* (the Act) to save this objection by retrospectively extending the time for lodging the objection to 28 September 2006. To my knowledge, there is precedent for the Commission extending time for very short periods such as one day but not for such a long period as ten (10) days in circumstances similar to these.
- 8) In an attempt to streamline matters, I referred the matter to a Commission of three (3) for them to consider whether or not they should grant an extension of time. On 10 October 2006, the Commission considered this matter and refused to grant an extension of time.

Decision

- 9) As the member of the Commission appointed to consider the objections to this application for a new liquor licence, I consider that the objection from Mr and Mrs Page of Darwin Boomerang Motel and Caravan Park is out of time. The Commission has refused an extension of time and in these circumstances, the objection is dismissed. Pursuant to Section 47I(4) of the *Act* I direct the Director to inform Mr and Mrs Page that the objection has been dismissed.
- 10) The fact that there are no objections in no way means that the Commission now simply “rubber stamps” the licence variation. Instead, when the application to approve the licence variation comes before them, the Commission will consider the Objects of the *Act* and will take account of advice and recommendations from the Director of Licensing on the variation. They will also make any other enquiries they consider reasonable and necessary to ensure that the right decision is made.

Brenda Monaghan
Legal Member

10 October 2006