



OTOROHANGA DISTRICT LICENSING COMMITTEE

Application 018-0063

IN THE MATTER of the Sale and Supply of Alcohol Act 2012

AND of an application by

IN THE MATTER Mavis Nellie Kari Tahī
for a manager's certificate
pursuant to section 219 of the Act

OTOROHANGA DISTRICT LICENSING COMMITTEE

Chairperson: Mrs S Grayson
Members: Mr R Murphy, Dr M Cameron

HEARING at the Otorohanga District Council Chamber 4 May 2018

APPEARANCES

Miss Tahī – Applicant
Ms P Tane – Manager, Otorohanga Club
Mr G Hazeldon, Executive Member, Otorohanga Club
Mrs M Fernandez - Licensing Inspector
Sergeant J Kernohan - Police

DECISION OF THE OTOROHANGA DISTRICT LICENSING COMMITTEE

1. The application for a manager's certificate is adjourned until 12 November 2018.
2. Police are to provide a supplementary report to the secretary of the licensing committee on or before Friday 9 November 2018 advising whether Miss Tahī has received any further convictions. If there is no adverse report from Police, the manager's certificate may be granted on 12 November 2018.
3. If there is an adverse report from Police, the application must be set down for a further hearing in front of the same District Licensing Committee members.



Reasons

1. This application by Miss Tahī for a manager's certificate was received on 7 February 2018. Miss Tahī previously held a manager's certificate and has worked as a duty manager at Smokies Pool and Gaming Lounge, a premises that was part of the Lawrenson Group in Hamilton. However, the manager's certificate lapsed after Miss Tahī left Hamilton. Since then Miss Tahī has worked at Curly's Bar in Waitomo. When Curly's Bar ceased trading she began working at the Otorohanga Club on 24 September 2017 and continues to work there as a bar staff member.
2. The Liquor Licensing Inspector opposes the application on the grounds that Miss Tahī advised that she was convicted of being drunk in charge of a vehicle in 2017. Accordingly, the application was set down to be considered at a public hearing (s 202(1)). Police did not oppose the application and failed to report on the conviction. Sergeant Kernohan attended the hearing and could not explain why this happened but indicated it was likely to be an oversight.
3. In considering an application for a manager's certificate the licensing committee must consider the following questions (s 222):
 - a) Is the applicant suitable to be a manager?
 - b) Have any convictions been recorded against the applicant?
 - c) Does the applicant have any recent experience in controlling any premises for which a licence was in force?
 - d) Has the applicant undertaken appropriate training and completed relevant qualifications under section 218?
 - e) Have the Inspector and Police raised any relevant matters in their reports?
4. Miss Tahī holds the required qualification and has a considerable amount of experience. She has the full support of her employer. Club Manager, Pauline Tane, states that "she is very capable of controlling the premises, and willing to attend the regular training sessions in house, during her shifts here at the club. She communicates with the members and guests which is a great advantage and likes to go the extra mile to ensure they are receiving the service they expect."
5. Therefore, the licensing committee is satisfied that Miss Tahī has appropriate training, qualifications and experience to hold a manager's certificate. The only issue of concern is the recent excess breath alcohol conviction and whether this impacts on her suitability to hold a manager's certificate.

Is Miss Tahī suitable to be a manager given the excess breath alcohol conviction?

6. Miss Tahī explained that the incident happened on 12 November 2016. She had been hanging out with the wrong crowd. She got intoxicated on home brew at a family party. She left the venue after being involved in a fight. She was driven home and was then assaulted by her brother. In a distressed state she then drove a car while intoxicated without a valid driver's licence.
7. Sergeant Kernohan confirmed that Miss Tahī was moderately intoxicated, and her breath alcohol level of 484mcgs was just over the 400mcgs per litre of breath level required for a charge. Miss Tahī was convicted on 8 December 2016 and received a fine of \$484.00 and court costs of \$130.00. She was disqualified from driving for six months from 8 December 2016.
8. Miss Tahī states that she has moved to Otorohanga to start a fresh and move away from negative influences. She does not drink now and wants to further her hospitality career by making the most of the great deal of knowledge she has built up over the years. She does not want to waste the



hospitality qualifications she has gained. Miss Tahī sees working in hospitality as being like hosting on a marae and looking after people. She has enjoyed the training that Otorohanga Club has given her about how to manage the club by upholding the law and keeping everyone safe. Miss Tahī says that she uses the SCAB Intoxication Assessment Tool to assess whether patrons are affected by alcohol or intoxicated. She is aware that if a person is intoxicated they cannot stay on the premises and she assists them by helping to arrange transport home

9. A Duty Manager is responsible for ensuring compliance with the Sale and Supply of Alcohol Act 2012 and with the specific conditions of the licence for the premises they are managing. A prospective Duty Manager must be able to demonstrate high standards of behaviour both on and off-duty. This is discussed in the Liquor Licensing Authority decision *Henry v Strange* 1632/96. Responsible consumption of alcohol is particularly important given the requirement of a Duty Manager to minimise harm caused by excessive or inappropriate consumption of alcohol (s 4 of the Act).
10. The decision by the Liquor Licensing Authority in the case of *GL Osborne NZLAA 2388/95* provides guidance that in a situation involving an isolated excess breath alcohol conviction, an applicant needs to have a two-year period free of any serious conviction, or any conviction relating to or involving the abuse of alcohol, before making an application for a manager's certificate. The Licensing Authority has since confirmed that the two-year period runs from the date of the offence.
11. In *Police v Manson* [2015] NZARLA 590, the Licensing Authority explained that the purpose of the "stand down period" is in order for the "applicant to be able to establish an incident free period, thereby ensuring that standards are upheld. The ultimate aim being that of achieving the object of the Act". The Licensing Authority went on to say that the guideline in *Osborne* should not be departed from lightly and only where justified by the circumstances.
12. The licensing committee has formed the view that Miss Tahī has all of the necessary qualities to be a very good duty manager. In particular she has a significant amount of experience, a very supportive employer and a good attitude. Miss Tahī has only one alcohol related conviction and she has taken steps to remove herself from any situation that may lead to this happening again.
13. However, there is no reason to depart from the *Osborne* guidelines, therefore the application will be adjourned until 12 November 2018. Police are to provide a supplementary report to the secretary of the licensing committee on or before Friday 9 November 2018 advising whether Miss Tahī has received any further convictions. If there is no adverse report from Police, the manager's certificate may be granted on 12 November 2018. If there is an adverse report from Police, the application must be set down for a further hearing in front of the same District Licensing Committee members.

Dated this 1st day of June 2018



Sara Grayson
Commissioner
Otorohanga District Licensing Committee

