

LICENSING PANEL MINUTES

30 OCTOBER 2012

Chairman: * Councillor Mano Dharmarajah

Councillors: * Husain Akhtar * Phillip O'Dell

* Denotes Member present

139. Appointment of Chairman

That Councillor Mano Dharmarajah be appointed Chairman of the Licensing Panel Hearing.

140. Declarations of Interest

RESOLVED: To note that the following interest was declared:

Agenda Item 6 – Application for a Review of the Premises Licence held in respect of Monique Bar and Club, 59 High Street, Edgware, Middlesex, HA8 7DD

Councillor Husain Akhtar declared a non pecuniary interest in that he had seen the advocate for the Premises Licence Holder when he visited the Civic Centre when he was young. He would remain in the room whilst the matter was considered and voted upon.

141. Minutes

(See Note at conclusion of these minutes).

142. Public Questions, Petitions and Deputations

RESOLVED: To note that no public questions were put, or petitions or deputations received at this meeting under the provisions of Committee Procedure Rules 17, 15 and 16 (Part 4B of the Constitution) respectively.

143. Licensing Procedures

The Chairman asked the Panel Members, officers, Responsible Authorities and other attendees at the meeting to introduce themselves. The Legal Adviser then outlined the procedure for the conduct of an oral hearing, which was set out in the agenda.

RESOLVED ITEMS

144. Application for a review of the premises licence held in respect of Monique Bar and Club, 59 High Street, Edgware, Middlesex, HA8 7DD

In attendance:

Legal Adviser:	Paresh Mehta
Legal Observer:	Bob Huffam
Democratic Services Officer:	Miriam Wearing
Licensing Officer:	Bernadette Forde Amit Kandecia
Relevant Representations:	Puthrasingam Sivashankar – Licensing Authority Pei Zhen Tsui - Objector
Present:	Sergeant John Crump, Metropolitan Police G Grant, Advocate for Premises Licence Holder Richard Le-Brun Team Leader, Health and Safety, Harrow Council M Rahman, Designated Premises Supervisor S Waites, Solicitors acting for Premises Licence Holder

RESOLVED: That in order to promote the licensing objectives, the premises licence held by SV Design and Development Limited for Monique Bar and Club, 59 High Street, Edgware, HA8 7DD be revoked.

REASONS:

The licensing panel carefully considered all the relevant information including:

- Written and oral representations by all the parties
- The Licensing Act 2003 and the steps that are appropriate to promote the licensing objectives
- The Guidance issued under section 182 of the Licensing Act 2003
- Harrow Council's Licensing Policy
- Human Rights Act 1998

The Panel was extremely concerned at how this premises had been run for some time, and that some of the licensing objectives had been severely undermined. The Panel heard and read evidence about several breaches of

conditions on the premises licence during this year and the very poor management of the premises. These breaches were not challenged and indeed Counsel for the Licence Holder made no attempt to play down the activities of Mr Enus.

The Panel noted that the current premises licence holder had the licence transferred to it in September 2012 but the Panel also had significant evidence before it about the interconnections between the current licence holder and the previous one (Monique PL Ltd) including the directors of those companies. Indeed Counsel for the respondent, Mr Grant, also confirmed there were close connections between Mr Enus, one of the directors of Monique PL Ltd, and SV Design and Development Ltd and Mr Rehman, the new Designated Premises Supervisor (DPS) for the premises. Counsel confirmed that Mr Rehman was the nephew of Mr Enus and that Mr Enus retained a commercial interest in this business as a silent partner. The Panel did not believe that Mr Enus having any interest in the business promoted the licensing objectives in view of his clear and unchallenged breaches of the terms of the licence and licensing law.

Counsel for the respondent stated that the Panel might consider that Mr Enus was not fit to run or work at this premises, a view that the new premises licence holders took, and that he should not play any part in managing or working at the premises. The Panel strongly agreed with this.

The Panel heard that Mr Rehman was a personal licence holder with around 3 years experience in the restaurant and off licence trade, and also heard from Mr Rehman himself as to his intentions about running the premises, if the business was allowed to continue.

The Panel heard the video footage taken by the Licensing Service Manager on a visit to the premises on 26 October 2012 which had appeared to show a lack of proper management of the premises on the night. The Panel accepted that Mr Rehman might have been at the premises prior to the visit that night but Mr Enus had also told the officers that Mr Rehman usually came in to the premises around the time of their visit.

In addition, from the video evidence, there were concerns about who, if anyone, was managing the bar as there was an indication that there was no barman, although a person was afterwards found behind the bar. These concerns were echoed by Mr Rehman to the Panel, when he expressed shock about the person who was found to be behind the bar. In addition, Mr Enus was the person who had then told the officers visiting the premises that it was now going to close and asked the officers to leave and had started taking the necessary steps to conclude the evening. There was no indication that this was on instruction from Mr Rehman or anyone else.

The events on the night of 26 October 2012 had occurred some time after the premises licence was transferred to the current holders, and after the application to make Mr Rehman the DPS. It appeared that Mr Rehman had assumed the DPS role since September, albeit not that long ago, and he would have been aware that a review of the premises licence was pending, but from the evidence of the visit on 26 October 2012, it had not appeared

that the operation of the premises had changed despite his involvement in the business.

Counsel for the respondent offered up several conditions for the Panel to consider, including that there be no performance of dance as a licensable activity and that Mr Enus should not be involved in the day to day management of the premises nor be allowed to work at the premises. The Panel considered that this would not go far enough.

The Panel considered that the premises had developed a certain ethos/reputation which appeared to have become quite embedded and had doubts that the current licence holder and Mr Rehman, as DPS, would be able to turn this premises around, particularly given the close links with Mr Enus. Mr Rehman indicated that he would be running/controlling the premises, and it appeared to the Panel that the premises licence holders would leave him to it to do so. The Panel had doubts that Mr Rehman had the necessary experience in running such a premises and more significantly that the inextricable links between him, Mr Enus, and the premises licence holders were such that Mr Enus was likely to influence the operation and therefore the Panel doubted that the premises would be managed appropriately. While Mr Rehman did hold the necessary qualifications to become a DPS, the Panel had to consider these particular premises, and the difficulty that the Panel believed that he would have in operating the business in the way that he might wish when Mr Enus still had an interest in it, and when the premises had the reputation as previously stated. This was supported by the events on the night of 26 October 2012. The Panel considered that conditions to exclude Mr Enus from working or being involved in the management of the premises would not go far enough because of Mr Enus's commercial interest in the premises.

Additionally, the Panel heard about the difficulties experienced by licensing officers with regard to the application(s) to make Mr Rehman the DPS of the premises such as in contacting Mr Rehman', and whilst not taking any view on the issue of signatures on the application, the Panel was concerned that Mr Rehman could have, and should have, done more to contact and engage with the officers and this did raise some concern about how he may respond to and work with the licensing officers in the future.

Although Counsel for the respondent stated that the police had confirmed that since February 2012 they did not have any reports of crime or disorder and that there had been no complaints about noise to the local authority in the last 6 months, the Panel considered that this did not necessarily mean that the objectives pertaining to the prevention of crime and disorder and public nuisance had not been undermined. Indeed the Panel considered that the crime prevention objective had been undermined based on the evidence before the Panel about breaches of the licence conditions.

As to the public nuisance objective, the Panel had evidence before it from two residents that lived opposite the premises who had complained of noise nuisance. However, the Panel noted the oral evidence, also mentioned in her letter, of one of the residents that some of the noise disturbance had occurred some three years ago and so the Panel attached little weight to this. The

other resident's representation about noise disturbance was not challenged by Counsel for the respondent. Counsel for the respondent also spoke about the council being asked to recalibrate the noise limiter at the premises and offered conditions to add to the licence to control noise disturbance. The Panel was not satisfied that any such conditions would be upheld in view of the continued involvement of Mr Enus.

The Panel believed that revocation of the premises licence was appropriate and proportionate in the circumstances to promote the licensing objectives pertaining to the prevention of crime and disorder, and the prevention of public nuisance.

(Note: The meeting, having commenced at 7.30 pm, closed at 9.50 pm).

(Signed) COUNCILLOR MANO DHARMARAJAH
Chairman

[Note: Licensing Panel minutes are:-

- (1) approved following each meeting by the Members serving on that particular occasion and signed as a correct record by the Chairman for that meeting;
- (2) not submitted to the next panel meeting for approval.

Reasons: The Licensing Panel is constituted from a pooled membership. Consequently, a subsequent Panel meeting is likely to comprise a different Chairman and Members who took no part in the previous meeting's proceedings. The process referred to at (1) above provides appropriate approval scrutiny].