

IN THE MATTER

of the Sale of Liquor Act 1989

AND

IN THE MATTER

of an application by **PETER TIMBS MEATS LIMITED** pursuant to s.41 of the Act for the renewal of an off-licence in respect of premises situated at 70 Edgware Road, Christchurch known as "Peter Timbs Meats – Edgware"

BEFORE THE ALCOHOL REGULATORY AND LICENSING AUTHORITY

Chairman: District Court Judge J D Hole

Member: Mr D E Major

HEARING at CHRISTCHURCH on 17 July 2014

APPEARANCES

Mr C P Timbs –for the applicant

Mr P J T Spang – Christchurch District Licensing Inspector – in opposition

Constable S J Joy – NZ Police – to assist

RESERVED DECISION OF THE AUTHORITY

[1] The applicant has held an off-licence in respect of the premises since 1994. It seems that the premises referred to in the licence consist of the retail area only and do not include an adjoining factory.

[2] The application for the renewal of the off-licence was opposed by the Inspector as he was not convinced that the business carried on by the applicant constituted the type of premises in respect of which an off-licence could be granted. It was accepted that in terms of s.36(2)(b) of the Act that the sale of liquor was an appropriate complement to the kind of goods sold on the premises. However, it was considered that s.36(4) of the Act precluded the issue of an off-licence in this case.

[3] The range and type of products sold in the premises are very similar to those referred to at paragraph [6] of the reserved decision of this Authority in *Le Traiteur Limited* [2013] NZARLA PH 1079. Further, as in the case of *Le Traiteur*, the premises occupied by the applicant are shortly to undergo significant renovations. As a result the retail area will be increased and the range of products will also increase. The Authority concludes that as in the case of *Le Traiteur*, the applicant is not entitled to hold an off-licence by virtue of s.36(2)(b) of the Act. It is precluded from doing so by virtue of s.36(4) of the Act.

[4] As in the case of *Le Traiteur*, consideration has been given as to whether the premises may come within the definition contained in s.36(1)(d)(ii) of the Act. The question that arises is whether the premises are "a grocery store". In this case, it is arguable that a person could purchase all his food grocery requirements from these

premises. The Authority does not answer this issue categorically one way or another because the nature of the business is likely to alter as a result of the modifications shortly to be undertaken to the premises.

[5] As was the case in *Le Traiteur*, the evidence of the Inspector and the Police is that the applicant's business does not produce any alcohol abuse problems. Indeed, the directors of the applicant are conscientious in insisting that the wine sold in the premises should complement good food.

[6] As was the case in *Le Traiteur*, an off-licence has been issued in respect of the premises for many years. It would be unreasonable in terms of s.4 of the Act to require the applicant to stop selling wine on an interim basis. The situation is similar to that described in *C H & D L Properties v Christchurch District Licensing Agency*, CIV 2009-409-002906 where the High Court recognised that steps could be taken, if appropriate, to alter the nature of the business so that it qualified in the future. As in the case of *Le Traiteur*, reorganising this business may take some time.

[7] In these circumstances the application is granted. The off-licence is renewed for a term of two years expiring on 2 December 2015. During the intervening period the applicant will need to give serious consideration as to what will be required in terms of reconfiguring its business if it wishes to have an off-licence issued in terms of the Sale and Supply of Alcohol Act 2012.

DATED at WELLINGTON this 30th day of July 2014

A E Cannell
Deputy Secretary