

Decision N° **OF0030**

In the Matter

of the Sale and Supply of Alcohol Act 2012

And

In the Matter

of an application by **K D Mander Holdings Limited** pursuant to s.136 of the Act for a Temporary Authority Order

Before the Kaipara District Licensing Committee

Chair: Mr Peter Winder

Members: Mr Gordon Lambeth and Mr Mark Farnsworth

In Attendance: Governance Support Officer: Sean Mahoney
General Manager Planning and Regulatory: Fran Mikulicic
Chief Licensing Inspector: Rachel Sheppard

Decision (From the Hearing)

This is for an application for a Temporary Authority Order by K D Mander Holdings Limited in order to carry on the sale and supply of alcohol through the Off licence at the premises known as the 'Molesworth Four Square', situated at 3 Wood Street, Mangawhai Heads, Kaipara District under the authority of Licence number 003/OFF/10/2007 currently in force.

Section 136 of the Act provides as follows:

"A licensing committee may, on the application of a person who appears to the committee to have any right, title, estate, or interest in any premises, or any business conducted in any premises, for which an on-licence is in force, make an order authorising the applicant (or some suitable person nominated by the applicant) to carry on the sale and supply of alcohol for a period, not exceeding 3 months, stated in the order."



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The Applicant

The applicant is purchasing the business known as Molesworth Four Square with a settlement and possession date of 29 February 2016. K D Mander Holdings Limited is a private company with one director and three shareholders. Mr Mander holds a current Manager's certificate issued by Auckland Council in November 2015.

The applicant presented a sale and purchase agreement that confirms that it has a "right, title, estate or interest" in the premises known as Molesworth Four Square. Pursuant to s.136 of the Act the Committee may consider the application for a Temporary Authority Order.

Agencies Reports

The application was referred to the Police and Inspector as relevant agencies for comment. No matters in opposition have been raised. The application was referred to the Kaipara District Council District Licensing Committee for a full hearing.

The Decision

On consideration of all matters placed before them, the Kaipara District Licensing Committee grants the application for a Temporary Authority Order by K D Mander Holdings Limited, to enable it to carry on the sale and supply of alcohol through the Off licence at the premises known as Molesworth Four Square situated at 3 Wood Street, Mangawhai Heads, Kaipara, under the authority of licence number 003/OFF/10/2007 currently in force.

The Order is issued on the following condition:

"That drinking water be freely available to all customers at all times that the premises are offering complimentary tastings of alcohol. Signage directing people to drinking water must be prominently displayed on the premises at that time. 'Freely available' to customers, in relation to water, means –

- (a) Supplied free in clean drinking vessels on request; or*
- (b) Available free in larger containers from which it may be easily poured or drawn by customers, together with clean drinking vessels that are also available free nearby; or*
- (c) Available free from a tap to which customers have easy access, together with clean drinking vessels that are also available free nearby."*

Reasons for the Decision

The Committee is satisfied as to the matters to which they must have regard as set out in s.136 of the Act. We are satisfied that the applicant has established tenure of the premises and that a licence is currently in force. It is considered that the applicants are suitable to hold a licence in order to fulfil the purpose and object of the Act.



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The Temporary Authority Order is effective from the purchase date of 29 February 2016 and is granted for a period not exceeding three months from that date.

The applicants attention is drawn to s.43(1)(b) of the Act whereby no alcohol is to be sold outside of the default maximum trading hours. Under the current base licence this means that any Off licence sales within the licenced premises are restricted to maximum trading hours of between 07.00am and 10.00pm, Monday to Sunday. The applicants attention is drawn to s.43(2) whereby no alcohol may be sold on Anzac Day morning, Good Friday, Easter Sunday and Christmas day.

The applicants attention is drawn to s.214 of the Act whereby a manager to be on duty at all times and responsible for compliance.

"214 Manager to be on duty at all times and responsible for compliance

(1) Except as provided in section 215, a manager must be on duty at all times when alcohol is being sold or supplied to the public on any licensed premises.

(2) A manager on duty on any licensed premises is responsible for—

(a) the compliance with and enforcement of—

- (i) the provisions of this Act; and*
- (ii) the conditions of the licence in force for the premises; and*

(b) the conduct of the premises with the aim of contributing to the reduction of alcohol-related harm.

(3) At all times while a manager is on duty on any licensed premises, the full name of the manager must be prominently displayed inside the premises so as to be easily read by people using the premises; and the person named as manager at any time is to be treated for the purposes of this Act as the manager at that time.

(4) At all times when alcohol is being sold or supplied on licensed premises the licensee must take all reasonable steps to enable the manager to comply with this section"

DATED at Mangawhai this 09th day of February 2016

Peter Winder

Chair

Kaipara District Licensing Committee

