

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 26 JANUARY 2010

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Motin Uz-Zaman (Chair)

Councillor M. Shahid Ali
Councillor Clair Hawkins

Officers Present:

Kathy Butler	– (Acting Principal Licensing Officer)
Zakir Hussain	– (Solicitor)
Nick Kemp	– (Licensing Officer)
Simmi Yesmin	– (Senior Committee Officer)

Applicants In Attendance:

Ian Mosely	Trading Standards Officer
Alan Cruickshank	Metropolitan Police

Objectors In Attendance:

Huseyin Eren	Elegant Food Market
Kamil Guven	Guven Supermarket

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest made.

3. RULES OF PROCEDURE

The rules of procedures were noted.

4. UNRESTRICTED MINUTES

The minutes of the Licensing Sub Committee held on 17th December 2009 were agreed as a correct record of proceedings.

5. ITEMS FOR CONSIDERATION

5.1 **Application to Review the Premises Licence for Elegant Food Market, 430 Hackney Road, London E2 6QL (LSC 044/910)**

The Chair welcomed everyone to the meeting, ensured that introductions were made and then briefly outlined the procedure of the meeting.

At the request of the Chair, Kathy Butler, Acting Principal Senior Licensing Officer introduced the report which detailed the review application for Elegant Food Market, 430 Hackney Road, London E2 6QL. It was noted that review had been triggered by Trading Standards.

At the request of the Chair Mr Ian Mosely, Trading Standards Officer explained that staff at Elegant Food Market on two occasions had sold alcohol to young people below the age of eighteen undertaking test purchasing exercises with the Trading Standards Service. Quantities of counterfeit Durex trade marked condoms had also been seized from the premises on three occasions. He then gave a detailed chronology of the events which took place;

On 25th November 2007, Trading Standards staff visited the premises and found a quantity of counterfeit Durex trade marked condoms. These were seized under the provisions of the Trade Marks Act 1994 and a written warning was issued in respect of this seizure and was sent to the owner.

On 11th March 2009 a supervised test purchase attempt in relation to tobacco products was correctly refused.

On 29th May 2009 Trading Standards staff visited the premises and found another quantity of counterfeit Durex trade marked condoms and action on this occurrence was pending. On 21st June 2009 Trading Standards staff visited the premises and found a further quantity of counterfeit Durex trade marked condoms, action on this occurrence was also pending.

On 18th August 2009 Mr Hussein Eren, the Designated Premises Supervisor sold a bottle of Kingfisher Beer to a person under the age of eighteen acting under the instruction of an Inspector of Weights and Measures. As a result of this Mr Eren was given and signed a formal caution for an offence under the provisions of Section 146 of the Licensing Act 2003.

On 26th October 2009 a similar test purchase was refused however there had been concerns that the observing officer may have been identified a further test purchase attempt was made on 28th October 2009 and a volunteer under the age of eighteen was sold a can of Fosters lager by Mr Ali Celik. Mr Celik was issued a Police fixed penalty notice for this offence.

Mr Mosely then referred to a tabled document, an enforcement notice given to Mr Eren in relation to the Fire safety regulations. Mr Mosely stated that in

cases where sales were made they could have been avoided by the seller asking the test purchaser his/her age and for him/her to produce a recommended proof of age card and the apparent lack of day to day control in the premises had prompted this review. He then concluded by referring to the proposed conditions on page 39 of the agenda.

At the request of the Chair, Mr Hussein Eren explained that when the first set of counterfeit condoms were seized, half the condoms were taken and half were left on the shelf and management/staff had assumed that those left on the shelf were original Durex trade marked condoms. However when Trading Standards came the second time round they seized the remaining condoms which had been left behind from when they previously seized the counterfeit condoms, it was noted that since then Mr Eren had brought Durex trade marked condoms directly the wholesaler. Mr Eren also stated that the counterfeit condoms were part of the stock left by the previous owner of the premises.

Mr Eren accepted the incident which occurred on 18th August 2009 when he sold alcohol to a person under the age of eighteen and apologised for his mistake. He stated that the shop was very busy during the time of the sale, and he was unable to see the customer's face as the customer had left in a hurry.

In response to Members questions Mr Eren confirmed that in general he served 100 customers a day and on average refused the sale of alcohol 10-15 times a day. Members also sought clarification about the repeated incidents of the sale of alcohol and the stock of counterfeit goods.

Members asked Mr Mosely to explain the process for test purchase exercises, what actions are usually taken, and how counterfeit products are identified.

The Chair advised that the Sub Committee would at 6.45pm adjourn to consider the evidence presented. The Members reconvened at 7.08pm, the Chair reported that the Sub Committee had;

RESOLVED

That the review application for the premises license for Elegant Food Market, 430 Hackney Road, London E2 6QL be **GRANTED** with the removal of Mr Huseyin Eren as the Designated Premises Supervisor and with the following conditions;

Conditions

1. Any supply of alcohol can only be made by the Designated Premises Supervisor (DPS) or a Personal License Holder.
2. That the premises introduce a strict 'Challenge 21' policy and 'No ID, No Sale' policy which is supported by signage at all entrances and in the serving area.

3. Only documents which include a photograph of the purchaser are acceptable to prove that person's age, eg. Passport, new style driving licence and only PASS approved age cards, e.g. Portman card, Citizens Card.
4. A Refusals book is maintained, which documents the date and time a refusal of sale is made, the reason for the refusal and the member of staff refusing the sale. The Licensee of the Designated Premises Supervisor should monitor the Log on a regular basis and sign it to show it has been done.

5.2 Application to Review the Premises Licence for Guven Supermarket, 7 Calvert Avenue, London, E2 7JP (LSC 045/910)

At the request of the Chair, Nick Kemp, Licensing Officer introduced the report which detailed the review application for Guven Supermarket, 7 Calvert Avenue, London E2 7JP. It was noted that review had been triggered by Trading Standards.

At the request of the Chair Ian Mosely, Trading Standards Officer explained that the review had been raised in relation to the licensing objectives of; prevention of crime and disorder and the protection of children from harm.

It was noted that staff at the premises on two occasions had twice sold alcohol to young people below the age of eighteen undertaking the test purchase exercises with the Trading Standards Service and on two occasions counterfeit alcohol had been found on the premises.

Mr Mosely explained that in January 2003 a bottle of counterfeit and under strength vodka was found exposed for sale in the premises. A prosecution was initiated and Mr Guven was fined £300 for offences under the Trade Marks Act 1994. Again in May 2006 3 bottles of counterfeit Smirnoff Vodka were found on the premises. On that occasion Mr Guven provided details of his supplier, the matter was left on file and Mr Guven was warned about his behaviour.

On 18th August 2009 Mr Huseiyn Guven, an employee sold a bottle of WKD Iron Bru to a person under the age of eighteen acting under the instruction of an Inspector of Weights and Measures. It was also noted that the premises did not display the alcohol license summary as required by the Licensing Act 2003. As a result of this the premises was given a high risk status pending a possible review.

On 26th October 2009 a similar test purchase was refused however there were concerns that the observing officer may have been identified a further test purchase exercise was made on the 28th October 2009 and a volunteer under the eighteen was sold a can of Fosters larger by Mr Husseyin Guven. Mr Guven was issued a police fixed penalty notice for the offence.

Mr Mosely referred to the tabled document in relation to the application which detailed a witness statement from a Trading Standards Officer who had seized counterfeit condoms from the premises on 19th January 2010.

Mr Mosely stated that in cases where sales were made they could have been avoided by the seller asking the test purchase his/her age and for him/her to produce a recommended proof of age card. He expressed the concern that the controls and supervision at the premises were not sufficiently robust. He then concluded by referring to the proposed conditions set out in page 104 of the agenda.

At the request of the Chair Mr Alan Cruickshank referred to pages 125-128 of the agenda pack highlighting the anti social behaviour linked to the premises and the local area. Mr Cruickshank stated that he supported Trading Standards in their review and the conditions proposed, however also proposed that the hours the venue is permitted to sell alcohol is reduced by two hours each day. He concluded by stating that he had based this on evidence provided in the statements and the timings that the youths congregate outside the venue and cause anti social behaviour and that a reduction in hours would be a deterrent for youth congregating outside the venue and disturbing the local residents.

At the request of the Chair Mr Kamel Guven, Premises License Holder explained that he could not tell people outside his premises what to do as this would cause fights and problems with him and his business. He explained that that he faces trouble all the time with the local youth who congregate outside his store and did not wish to make things worse. He then explained that the counterfeit goods had been brought because they were cheaper and would mean a greater deal of profit. He further explained that the occasions when his brother Mr Husseyin Guven sold alcohol to customers under the age of eighteen was during the time he had been at the wholesalers, he explained that his brother had been on the mobile phone during the time of the sales.

In response to questions he explained that the youth that cause anti social behaviour lived in the area and he reiterated that he could not tell them what to do. He also stated that alcohol was readily available from supermarkets and other shops in the local area.

In response to a question in relation to counterfeit goods Mr Guven stated that the main wholesalers who sold counterfeit goods should be stopped as they were the main source rather than local shop keepers like himself. In response to a question Mr Guven confirmed that the antisocial behaviour in the area is sometimes related to alcohol.

The Chair advised that the Sub Committee would at 7.35pm adjourn to consider the evidence presented. The Members reconvened at 7.52pm, the Chair reported that the Sub Committee had;

RESOLVED

That the review application for the premises license for Guven Supermarket, 7 Calvert Avenue, London E2 7JP be GRANTED with the revocation of the sale of alcohol licence.

Reason for Decision

After hearing representations from Trading Standards, Metropolitan Police and subsequently hearing submissions from the Licensee, members felt that they could not be satisfied that the Licensee would promote the licensing objectives of crime and disorder.

Members felt that they heard no reassurances from the Licensee to satisfy them that the appropriate steps would be taken and followed. Therefore Members felt that there was no other option but to revoke the sale of alcohol license.

The meeting ended at 8.05 p.m.

Chair, Councillor Motin Uz-Zaman
Licensing Sub Committee