

JEFFREY

GREEN

RUSSELL

Solicitors

Waverley House

7-12 Noel Street London W1F 8GQ

Fax: +44 (0) 20 7339 7001 Web: jgrweb.com DX: 44627 MAYFAIR

Tel: +44 (0) 20 7339 7000

Direct Email: gbh@jgrlaw.co.uk
Direct Fax No: 020 7307 0252
Direct Dial No: 020 7339 7012

Attention: Mr David Tolley
Head of Consumer and Business Regulations Service;
and

27 November 2013

All Council Members
London Borough of Tower Hamlets
Mulberry Place
PO Box 55739
5 Clove Crescent
London E14 1BY

Our Ref: GBH/SECLIC1/14970.00001

Dear Mr Tolley and Councillors

Adoption of the Sexual Entertainment Licensing Regime, Policing and Crime Act 2009

We note that the Council has now been asked to adopt the provisions of Local Government (Miscellaneous Provisions) Act 1982 in respect of Sexual Entertainment Venues which we understood had been rejected by the Licensing Committee at its meeting in October 2013. Notwithstanding that decision, officers have chosen to bring this matter back to full Council and we would ask the Council to adopt the same view as its delegated Licensing Committee.

We would make the following points about the Report submitted to the full Council meeting, whilst relying on all those points made in our previous letter of 7 October 2013 which was before the Licensing Committee.

1. Fees

- 1.1. It is still not clear that fees have been properly calculated either mathematically or in accordance with law. The figures set out at 3.9 of the Report to Council are based upon one establishment and add up to £9,000. However, it is not made clear why a licensing officer should take 105 hours to process an application at a cost of £2,625. 105 hours to administer an application for a sexual entertainment venue licence seems excessive and extreme. Further, it is not made clear as to why it is suggested that a further £2,625 is required under the heading "Compliance Visits and Costs". It is suggested at paragraph 3.10 that certain test purchasing monies are required to pay for lap dancing session for licensing officers. The average cost of a 3 minute dance from a dancer is about £20 so it is difficult to see how a licensing

officer visiting such a premises would require 130 lap dances before deciding whether there was compliance with or breach of licensing conditions.

- 1.2. As we made clear in our previous letter to the Licensing Committee in October 2013 the recent case of Hemings v Westminster City Council (2013) makes clear that the costs of paying for enforcement are not recoverable by way of a licence fee.
- 1.3. It is hard therefore, to see how there can be such a dramatic difference in licence fees under the Licensing Act 2003 as those which Tower Hamlets are seeking to impose under the Local Government (Miscellaneous Provisions) Act 1982. The difference is that between what is currently a £600 fee for a premises licence to that which is proposed of a £9,000 fee for an SEV licence.
- 1.4. The Licensing Committee expressed grave concern over the level of fees and before they rejected the adoption of the Act in their area had asked for a review to be carried out of the fee rates. In our submission, this has not been answered by paragraphs 3.9-3.11.

2. The Consultation

- 2.1. With regard to the consultation we make the same points that we made in our letter of 7 October 2013 referring to paragraph 3.7, 3.8 and 3.9 of the Licensing Committee Report and would invite the Council to adopt that reasoning.
- 2.2. In essence, it is inappropriate for Council officers to refer to the fact that the participation in the democratic process has somehow "undermined the consultation". Anyone in the United Kingdom has the right to canvass for support for a particular proposition which stands to be decided in front of a Council Committee or for that matter Parliament. There has certainly been a coordinated campaign run by members of Object and the Fawcett Society society to adopt the provisions of the Act and it was entirely open to those who wished to support the adoption of the Act to themselves canvass local residents to ascertain their views. In this particular incident a decision was taken by the very concerned operators of establishments which have been located in this Borough for many years to conduct a door to door campaign to see how people felt about the adoption of the Act. They obtained responses and submitted these responses with the agreement of all parties to the Council as part of the process.
- 2.3. A point was raised in the Licensing Committee that 4,973 respondents opposing the policy was a fraction of the total population of Tower Hamlets, and whilst this may have been true it is a fraction which is far in excess of the miniscule total in comparison that supported the adoption of the Act, namely 108 people.

- 2.4. It is totally denied, therefore, that the inappropriate remarks contained within the Report about a campaign which has produced a significant number of people opposed to the policy which officers seek to introduce has somehow skewed the process. In our submission it should inform the process and the nearly 5,000 people who oppose the adoption of the Act within the London Borough of Tower Hamlets will clearly be monitoring the Council Committee meeting to see if their views are taken into account. The officers within paragraph 3.15 seek to compare a consultation on the adoption of the Act within the London Borough to a consultation which took place on the adoption of the Policy. However, that consultation was evenly split and give or take the differentials could have resulted in a majority against the adoption of the Policy.
- 2.5. It should be pointed out that the individual operators within Tower Hamlets carried out the same exercise with regard to the adoption of the Policy as they did with regard to the adoption of the 1982 Act. It is interesting to note that officers do not suggest that the results have somehow been skewed in that particular case which appears to be inconsistent thinking.
- 2.6. In any event, a survey on the adoption of the Policy is a very different survey to one on the adoption of the Act. It might be assumed that people thinking about the adoption of the Policy may already assume that the Act has been adopted and that therefore there would have to be a policy of some nature operating underneath that Act. It is then open for people to say that if there has to be a Policy because the Act has been adopted then there will be a greater percentage of support for that Policy given that some form of policy is to be introduced in any event.
3. Further reason for Licensing Committee Decision
- 3.1. There is a singular omission in the Report to Council Committee which is that there was a third reason why the Licensing Committee chose not to adopt the 1982 Act and that is that members were concerned, by a majority, that there was still no guarantee that the existing operators, many of whom have been in the Borough for decades, would retain their licences under the new system.
- 3.2. Whilst officers make clear in the Report that existing operators will not be subject to the "Nil" Policy that is no guarantee that Sexual Entertainment Venue Licences will be granted to those operators. It merely exempts them from one part of the policy. This was of significant concern to some of the members on the Licensing Committee and it was this that eventually led to the dismissal of the option to adopt.
- 3.3. Accordingly, paragraph 2.5 of the Report to Council is misleading when it suggests that the Policy "supports the continued operation of existing premises including The White Swan." The Policy singularly does not support the continued operation of

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the existing premises but merely indicates that they should be exempt from the "Nil" Policy. That is not, a guarantee of their continued existence under the new regime. Given that this is a significant risk the operators for which this firm acts would oppose the adoption of the Act within the Borough.

- 3.4. It is clear that to date the premises for which this firm acts, namely Majingos and Metropolis, have operated without any issues or intervention from the Police or the Local Authority in many years, and that they are well controlled by way of conditions under the premises licence already in existence granted to them under the Licensing Act 2003.

This completes the further submissions that we would make on behalf of our clients in respect of the adoption of the 1982 Act by full Council, and we would ask that members take these matters into account as well as those which we still seek to rely upon set out in our letter of 7 October 2013, a copy of which is also attached.

We would respectfully ask that this letter be placed before members prior to the meeting of Full Council on 27 November 2013.

Kind regards.

Yours sincerely



GARETH HUGHES
Barrister and Director
for Jeffrey Green Russell Limited

Enclosure(s)