

Liquor Commission of Western Australia
(Liquor Control Act 1988)

Complainant: City of Rockingham
(represented by Mr Gavin Crocket of GD Crocket & Co)

Respondent: Tocoan Pty Ltd T/A Zelda's Nightclub
(represented by Mr Ashley Wilson of Frichot & Frichot Lawyers)

Commission: Mr Jim Freemantle (Chairperson)
Ms Helen Cogan
Mr Greg Joyce

Matters: Directions hearing in respect of a complaint for disciplinary action pursuant to section 95 of the *Liquor Control Act 1988* and a complaint pursuant to section 117 of the Act.


Date of Directions Hearing: 5 July 2011

Date of Determination: 5 July 2011

Determination:

1. The Commission does not have the jurisdiction to decide on the threshold issue of the interest of the licensee in the licence as it can find no empowering provisions in the *Liquor Control Act 1988*.
2. In view of the above the Commission consequently will not issue the subpoenas requested by the Complainant.
3. Orders 1 and 2 made by Commissioner Watling on 26 October 2010 are quashed and the three outstanding matters being, section 95 complaint lodged by Commissioner of Police, and section 95 complaint lodged by City of Rockingham and the section 117 complaint lodged by City of Rockingham will be heard separately and in the following sequences:
 - a) Section 95 – Commissioner of Police;
 - b) Section 95 – City of Rockingham; and
 - c) Section 117 – City of Rockingham.

4. No further evidence will be taken and submissions from the parties must be received 14 days prior to hearing dates.
5. Parties to these proceedings are required to provide their available dates by close of business Friday, 15 July 2011.
6. On the basis that the Applicant's solicitor has advised that he is unable to provide a copy of all the relevant CCTV footage to the Respondent and the Commission and with the agreement of parties to this proceeding, CCTV footage will not form part of the evidence in respect of the City of Rockingham section 95 and section 117 complaints.

A handwritten signature in black ink, consisting of a cursive 'J' followed by 'F' and 'M', with a horizontal line underneath.

JIM FREEMANTLE
CHAIRPERSON