

Liquor Commission of Western Australia
(*Liquor Control Act 1988*)

Applicant: BM

Respondent: Commissioner of Police
*(represented by Mr Brendyn Nelson of State
Solicitor's Office)*

Commission: Mr Jim Freemantle (Chairperson)

Matter: Application seeking review of a barring notice
issued pursuant to section 115AD of the *Liquor
Control Act 1988*

Date of Determination: 24 December 2014
(on papers)

**Date of reasons of
Determination:** 27 January 2015

Determination: The application is refused.

Background

- 1 On 15 October 2014, the applicant was served with a notice under section 115AA of *Liquor Control Act 1988* (“the Act”) barring the applicant from any licensed premises in Western Australia except premises licensed under a liquor store licence for a period of 12 months.
- 2 A series of incidents at Crown Casino Complex, Burswood on 2 August 2014, led to the issue of the barring notice. Charges pursuant to sections 203(1)(a) and 313(1)(b) of the *Criminal Code* (the circumstances of which are contained in the statement of material facts supported by CCTV footage of the incidents) relate to an indecent act and an assault.
- 3 On 11 November 2014, the applicant lodged an application for a review of the barring notice pursuant to section 115AD of the Act.
- 4 On 24 December 2014, the Liquor Commission (“the Commission”) refused the application.

Submissions of the applicant

- 5 The applicant does not dispute the statement of material facts which states:
 - a) the applicant exposed his genitals on more than one occasion in the Merrywell area of the Crown Casino Complex;
 - b) the applicant refused to obey staff who asked him to leave, resisted the restraint put on him and bit a security staff member.
- 6 The case the applicant makes is that he has changed his life for the better and has attended counselling and therapy sessions at Palmerston Drug and Alcohol Centre.
- 7 A further consideration is that his family was visiting from Queensland at Christmas and he wanted to be able to join them at licensed premises and sporting venues as tickets had been already booked and paid for.

Submissions on behalf of the Commissioner of Police

- 8 The respondent made a comprehensive submission on the relevant law governing barring notices and their imposition as well as the principles to be observed in the review process. In my view there is nothing to be gained by repeating this material here however I do draw attention to the comments of the Minister for Racing, Gaming and Liquor in his second reading speech when introducing the relevant Bill incorporating changes to section 115 wherein he stated: *“the whole idea of the legislation is to protect the general public, the licensee, which is pretty important and also the person”* (my emphasis).
- 9 The statement of material facts is not disputed and give proper grounds for the issue of a barring notice.

Determination

- 10 I gave considerable weight to the character references supplied, particularly that provided by the applicant's employer.
- 11 From these references and from the applicant's personal submissions I formed the opinion that the applicant was a good worker and generally of good character who has a history of binge drinking which he is taking positive steps to overcome.
- 12 In refusing the application I gave no weight to the inconvenience this might cause the applicant and I do not consider it a valid ground on which to grant or vary the terms of the barring notice.
- 13 I did consider whether the term of the notice might be longer than necessary but concluded that given the applicant's history of binge drinking and the nature and circumstances of the incidents that the term of the barring notice was appropriate.
- 14 Given the considerable effort and positive steps taken by the applicant to curtail his drinking, the period of the barring notice will in my view assist the applicant in this regard and is consistent with the purpose of section 115 of the Act.
- 15 I also formed the view that there was still a real possibility that the applicant may reoffend if under the influence of alcohol.
- 16 The application is therefore refused.



JIM FREEMANTLE
CHAIRPERSON