

Decision No. PH 1324/2009

**IN THE MATTER**

of the Sale of Liquor Act 1989

**AND**

**IN THE MATTER**

of an application by **HANA GRACE BROWN** pursuant to s.118 of the Act for a General Manager's Certificate

**BEFORE THE LIQUOR LICENSING AUTHORITY**

Quorum: Ms J D Moorhead  
Mr P M McHaffie

**HEARING** at AUCKLAND on 28 October 2009

**APPEARANCES**

Mrs H G Brown – applicant  
Mr A C Phillips – Auckland District Licensing Agency Inspector – in opposition  
Constable S G Cox – NZ Police - in opposition

**RESERVED DECISION OF THE AUTHORITY**

[1] Before the Authority is an application by Hana Grace Brown for a General Manager's Certificate.

[2] The application was received by the Auckland District Licensing Agency on 27 May 2009. It was supported by a copy of the Licence Controller Qualification and a reference from the manager of the "Milestone Bar" in Otahuhu where the applicant was working.

[3] The matter comes before the Authority by way of a public hearing as a result of opposition from the District Licensing Agency Inspector and the Police. The opposition is twofold. Firstly, the Police oppose the application on the ground that the applicant has a violence related conviction. Mrs Brown declared a conviction for 'common assault' on the application form. Secondly the Inspector opposed the application on the basis that the applicant failed to show a satisfactory knowledge of the Act and of her responsibilities, at an interview.

[4] Constable Patricia Hickey is an Alcohol Harm Reduction Officer. One of her duties is to vet applications for managers' certificates. She produced a criminal and traffic history list for the applicant confirming that she had last been convicted in the Manukau District Court on 22 April 2009 for an offence of assaulting a person with a blunt instrument. She was sentenced to 75 hours community work and nine months supervision with special conditions.

[5] The summary of facts was also produced and shows that the assault took place on 31 January 2009 at her home in Mangere. An argument broke out over family issues and Mrs Brown struck the victim, her mother, in the forehead with a glass bottle. A concerned member of the public telephoned the Police. When the Police

arrived Mrs Brown was found to be highly intoxicated and uncooperative. She also struck her partner across the cheek in the presence of the Police. Her explanation given at the time was that she was angry.

[6] Mrs Brown is 36 years old. She has previously been the holder of a General Manager's Certificate which has since expired. She left the industry for a time to raise her family and has now returned to work on a part time basis. She is currently working at the "Milestone Bar" in Otahuhu on Thursdays and Fridays during the day. She has worked there previously and returned in June of this year.

[7] Mrs Brown accepted that she has had a problem with alcohol. She said that she has not driven since an earlier disqualification some 13 years ago. In relation to the recent conviction she said that she has completed the community service but is still under supervision and waiting to start an anger management course. During her interview with the Inspector she was unable to answer questions in relation to the object of the Act, but did somewhat better before us.

[8] Patrick Francis Williams is the owner of the "Milestone Bar". He has known the applicant since she first worked at the bar nine years ago. As an employee he thought that she did an extremely good job in the environment of Otahuhu. He said that she does not drink on the premises while working and that he had not seen evidence of such behaviour at work. He found her to be courteous and honest. There are a number of other General Manager's Certificate holders available for the premises, including himself.

[9] The matters that we must consider in determining such an application are set out in s.121 of the Act as follows:

- (a) **The character and reputation of the applicant:**
- (b) **Any convictions recorded against the applicant:**
- (c) **Any experience, in particular recent experience, that the applicant has had in controlling any premises or conveyance in respect of which a licence was in force:**
- (d) **Any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under section 117A:**
- (e) **Any matters dealt with in any report made under section 119.**

[10] The issues here are that of the conviction, which to some extent also reflects on character and reputation, and the matters raised in the Inspector's report.

[11] The guideline decision in relation to previous convictions is that of *G L Osborne* LLA PH 2388/95 in which it was stated:

*"Without fettering ourselves in this or other applications, it may be helpful if we indicate that we commonly look for a five year period free of any serious conviction or any conviction relating to or involving the abuse of alcohol or arising in the course of an applicant's duty on licensed premises."*

[12] The Authority also went on to say in that decision that less serious convictions are also weighed, giving as an example an isolated excess breath conviction where a stand down period of two years might result in subsequent favourable consideration.

[13] In our view the time has not yet come for this application to be granted. The incident leading to the conviction took place less than a year ago and Mrs Brown is still completing the requirements imposed on sentencing. The application is

therefore refused. This need not however, prevent her from applying again in the future, especially if she continues to have the support of her employer.

**DATED** at WELLINGTON this 2<sup>ND</sup> day of December 2009

B M Holmes  
Deputy Secretary

Hana Grace Brown.doc