

Decision No. PH 1335/2009

IN THE MATTER

of the Sale of Liquor Act 1989

AND

IN THE MATTER

of an application by **SUZUKI SHINODA** 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 27 October 2009

APPEARANCES

Ms S Shinoda – applicant
Mr D Thomson – Auckland District Licensing Agency Inspector – in opposition

ORAL DECISION OF THE AUTHORITY

[1] This is an application by Suzuki Shinoda for a General Manager's Certificate.

[2] The application was received by the Auckland District Licensing Agency on 27 July 2009. The application was supported with a copy of the Licence Controller Qualification issued on 21 April 2009 and references were provided including one from the "Narita Japanese Restaurant".

[3] There was no opposition from the Police, but at an interview with an Inspector on 12 August 2009, Ms Shinoda failed to satisfy the Inspector as to her knowledge of the Sale of Liquor Act and her responsibilities under the Act. The interviewing Inspector also had concerns about the applicant's limited understanding of English.

[4] Accordingly a second interview was scheduled for 2 September 2009 with another Inspector, Mr Thomson. Mr Thomson appeared and gave evidence that he also was not satisfied as to Ms Shinoda's knowledge of her responsibilities under the Act. He also was concerned as to the applicant's understanding of English.

[5] Ms Shinoda appeared and said that she had worked for the company that operates "Narita Japanese Restaurant" for 10 months, initially on the North Shore, then the Takapuna branch, and was currently at the city branch, which opened in June of this year. She works there five days a week. Prior to this she worked for the "Skyline Restaurant" in Rotorua for one year. Her role to date has been as a waitress. She said that she had not yet been appointed as a temporary manager.

[6] She was able to answer as to what the object of the Sale of Liquor Act is and what that means in the position that she hopes to carry out as a manager. She agreed that it was a responsible position. It was noted that Ms Shinoda was hesitant

in some of her answers, which perhaps is not unusual since English is her second language.

[7] The criteria that we must consider in determining the application are set out in s.121 of the Act as follows, and include:

- (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.**

[8] It is the experience of the applicant, as well as the Inspector's report, that are the issues in this case. In the Authority's decision *Mojo Group Limited* LLA PH 406-407/2003 it was said that an applicant who cannot demonstrate an ability to communicate in English and thus demonstrate to the relevant Authority that they can understand and uphold the law is unlikely to be suitable to hold a General Manager's Certificate.

[9] Accordingly the Inspectors were correct to be concerned with the applicant's understanding of English and her knowledge of the Act. It may be however, that if some time were to elapse, Ms Shinoda's English may be improved. It is fair to say that we were reasonably impressed with some of the answers that she gave in the witness box. Rather than refusing the application at this time, we are prepared to adjourn the application for a period in order to enable her to have more time in developing her use of the English language, and also in order for her to obtain some experience controlling licensed premises.

[10] We note however that she is in New Zealand on a work permit that is due to expire on 6 December 2009. We understand that she has applied to renew that work permit but has not yet heard the result. Accordingly that is another matter of concern given that the expiry date is only some six weeks away.

[11] We propose to adjourn the application for a period of six months. Ms Shinoda can be appointed as a temporary manager for the last three months of that adjourned period (assuming she has a current work permit and that the provisions of the Act in relation to temporary or acting managers are complied with). After that time we would expect a further public hearing to be held. At that hearing the status of her visa would need to be clarified and we would also need to hear in person from her employer.

[12] Accordingly the application is adjourned on those terms.

DATED at WELLINGTON this 3RD day of December 2009