



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (5)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** Committee held on **Thursday 2nd March, 2017**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Peter Freeman (Chairman), Heather Acton and Aziz Toki

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 ICHI BUNS, 22 TO 22A (INCLUDING THE 1ST FLOOR OF 24), WARDOUR STREET, W1

LICENSING SUB-COMMITTEE No. 5

Thursday 2nd March 2017

Membership: Councillor Peter Freeman (Chairman), Councillor Heather Acton and Councillor Aziz Toki

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Presenting Officer: Sumeet Anand-Patel

Relevant Representations: Metropolitan Police and Environmental Health.

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Ms Sankay Ko , Mr Neil Dostemedes and Mr Benjamin Goldhorn (Applicant Company), Mr Dave Nevitt (Environmental Health) and PC Sandy Russell (Metropolitan Police).

**Ichi Buns, 22A Wardour Street, W1
16/12567/LIPN**

1. Late Night Refreshment (Indoors & Outdoors) – Ground Floor & Basement

Monday to Sunday 23:00 to 02:00

Amendments to application advised at hearing:

Mr Thomas, representing the Applicant, confirmed at the hearing that it was proposed that the take away service of food or drink for immediate consumption would conclude at 01:00. It was proposed that deliveries of hot food or hot drink would be available until 02:00.

Decision (including reasons if different from those set out in report):

At the initial hearing of this application at the Sub-Committee meeting on 2 February 2017, the Applicant applied for an additional two hours for the sale of alcohol until 02:00 every day of the week with a two hour reduction for late night refreshment including takeaway from 04:00 until 02:00 every day of the week. This related solely to the ground floor and basement of the premises. Members of the Sub-Committee were aware that the premises licence for the ground floor and basement did not have the Council's model restaurant condition attached and the Applicant was not keen to have it attached in its entirety in view of the fact that a takeaway service after 23.00 was critical to its operating model. The Applicant's Representative asked for an adjournment to look at his client's options and this was agreed by the Sub-Committee.

Due to the application having been part heard in February, the new hearing had been scheduled for when the three Members who had heard the original evidence were next available. The new hearing took place on 2 March 2017.

In a letter provided to the Sub-Committee prior to the hearing on 2 March 2017, the Applicant offered food in the form of substantial table meals prepared on the premises, that take away service of food or drink for immediate consumption would conclude at 01:00 (deliveries of hot food and hot drink would conclude at 02:00 as originally applied for) and that the sale of alcohol would be to customers who would be seated and served by waiter or waitress where the consumption of that alcohol would be ancillary to the taking of a substantial meal.

Mr Thomas, representing the Applicant was content for the Sub-Committee to hear initially from Environmental Health and the Metropolitan Police who had made representations in respect of the application. Mr Nevitt spoke on behalf of the Responsible Authorities. He stated that they had looked at the existing licence for the premises in comparison to what was being applied for now. They had wanted to make sure that conditions on the existing licence transferred to any new licence in the event it was granted. The Responsible Authorities were keen that the basement, ground and first floor areas were run as restaurants.

Potentially they would accept that the ground floor and basement areas were not fully in keeping with all of the requirements of the Council's model restaurant condition, MC66. However, they took the view that customers should be seated, with alcohol being ancillary to a substantial table meal and served by waiter or waitress. Whether customers used knives or forks or not was not a concern.

Mr Nevitt stated that the Responsible Authorities believed that there was some benefit from the proposals set out in the application, which had been amended in the Applicant's letter prior to the hearing. There were conditions which it was proposed would be transferred across from the existing premises licence to the new licence, in the event it was granted. These would ensure that the model restaurant condition was in place for the first floor and that in respect of the ground floor and basement areas, customers were seated and alcohol would be ancillary to a substantial table meal. As a result of the Applicant cutting back the hours of late night refreshment, including takeaway for immediate consumption to 01:00 for the ground floor and basement areas, Environmental Health and the Police took the view that Ichi Buns was less likely to be a destination venue. The existing licence enabled patrons of nearby drinking establishments such as O'Neills in Wardour Street to move on to 22A Wardour Street and remain in the West End Cumulative Impact Area until 04.00.

Mr Nevitt added that Environmental Health and the Police were keen to retain the condition proposed that off-sales would cease at 23:00 Monday to Saturday and 22:30 on Sundays. There were two aspects that particularly concerned the Responsible Authorities. These were the provision of hot food / takeaway and off sales of alcohol until late. The hours for hot food / takeaway were being cut back and there were restricted hours for off-sales.

PC Russell provided the Sub-Committee with the additional information that there were issues with crime in relation to the pub across the street from Ichi Buns so the Police would appreciate patrons not being able to obtain hot food or hot drink from 22A Wardour Street at 03:00. Patrons would become vulnerable at that hour, particularly when they had consumed large amounts of alcohol. The Police were content with the Applicant's proposals.

Mr Nevitt was asked about the Applicant's proposal to provide deliveries until 02:00. He replied that in terms of the overall package being offered by the Applicant, a terminal hour of 02:00 for deliveries was not a major cause of concern providing they were not undertaken using a noisy motorbike in a quiet residential street. He believed there was likely to be far greater impact if the Applicant was able to supply hot food and drink until 04:00. PC Russell concurred with this view.

The Sub-Committee then heard from Mr Thomas. He made the point that normally Members would expect the model restaurant condition to be applied if alcohol was sought until 02:00. However, in this instance, his client was offering a 'trade off', reducing the proposed hours in the West End Cumulative Impact Area for take away service of hot food and hot drink for immediate consumption from 04:00 to 01:00 and deliveries of hot food and hot drink from 04:00 to 02:00. Mr Thomas referred to his proposed condition in the letter which he described as an amended form of MC66. In addition to takeaway for immediate consumption

being reduced to 01:00, the premises would operate as a restaurant and Japanese or Chinese take-away with customers being shown to their table, food being provided in the form of substantial table meals prepared on the premises with alcohol being ancillary to the consumption of these meals. Mr Thomas had not included in the condition set out in the letter that customers would be seated and served by waiter or waitress. However, he confirmed he was content for this to be added in the event that the Sub-Committee was minded to grant the application.

Mr Thomas advised that the takeaway counter was small and it was not a large part of the Applicant's business. The Sub-Committee asked roughly what proportion of the business involved takeaway. Ms Ko replied that based on the business plan, it would be less than 10% of the business. Mr Thomas clarified that the counter would not be used after 01:00.

The Sub-Committee asked the representatives of the Applicant Company what their arrangements were for deliveries. The representatives were made aware that the Council is very keen that noisy, air polluting vehicles are not used and that those making the collections or deliveries should be encouraged to use electric vehicles, bicycles or walk. Mr Goldhorn replied that it was intended that the delivery service would be via Uber Eats or Deliveroo. He added that he did not want pollution and noise emanating from vehicles. The Sub-Committee decided not to condition the licence regarding the delivery service but wanted their concerns about the potential for noise nuisance from delivery vehicles to be noted. Being made aware of those concerns, it was for the applicants to ensure that the delivery service was operated in such a way as to avoid such nuisance, failing which they would be at risk of an application for review being made.

Mr Wroe asked Mr Thomas whether he was still willing to offer non-disposable crockery for the ground and basement floors which had previously been offered by the Applicant. Mr Thomas replied that given the concessions already offered and the view of the Responsible Authorities that the use of knives and forks was not a significant aspect for them in respect of the application this was no longer being proposed. Mr Thomas referred to the benefits of the application as referred to by Mr Nevitt.

Ms Ko and Mr Goldhorn advised that the containers and the utensils used for the takeaways were recyclable and biodegradable products. Mr Goldhorn also described the nature of the operation. He stated that the food being provided was Wagyu and not low end as was often associated with takeaway. Substantial dishes were being provided. The packaging would be well put together and recyclable. If there was crockery provided to customers at the premises the Tokyo vibe would be lost.

The Sub-Committee, in granting the application, attached the Applicant's proposed condition for the ground floor and basement with the additional wording agreed by Mr Thomas that customers would be seated and served by waiter or waitress. Members shared the view of the Responsible Authorities that when taking into account all the aspects offered by the Applicant as part of the application, it would promote the licensing objectives and would not add to cumulative impact. On sales of alcohol would be sold until 02:00 on the ground

	<p>floor and in the basement areas but they would be ancillary to substantial table meals. Off-sales would cease at 23:00 Monday to Saturday and 22:30 on Sundays. Takeaway for immediate consumption would be reduced from 04:00 to 01:00 which would reduce the potential for the premises being a destination venue and deliveries of hot food and hot drink would be reduced to 02:00. The Applicant had given an indication that noisy or air polluting vehicles would not be used for deliveries.</p> <p>The Sub-Committee noted that the first floor would remain a restaurant operating to Core Hours and there were no proposed changes to this area from the existing premises licence. In respect of the first floor area, the Council's model restaurant condition, MC66 was being transferred from the existing premises licence to the new premises licence.</p> <p>Members of the Sub-Committee had been reassured that the nature of the food being provided indicated that the food offer on the ground floor and in the basement areas would be in keeping with a restaurant and not a fast food premises.</p>
2.	Late Night Refreshment (Indoors & Outdoors) – First Floor
	<p>Monday to Thursday 23:00 to 23:30 Friday and Saturday 23:00 to 00:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below. There were no proposed changes to this area in terms of hours or conditions from the existing premises licence.</p>
3.	Recorded Music (Indoors & Outdoors) – Ground Floor & Basement
	<p>Monday to Saturday 10:00 to 02:00 Sunday 12:00 to 02:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p>

	Granted, subject to conditions as set out below. It is noted that the playing of recorded music was unrestricted on the existing premises licence.
4.	Recorded Music (Indoors & Outdoors) – First Floor
	Monday to Thursday 10:00 to 23:30 Friday and Saturday 10:00 to 00:00 Sunday 12:00 to 22:30
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below. There were no proposed changes to this area in terms of hours or conditions from the existing premises licence.
5.	Sale by retail of alcohol (On and Off) – Ground Floor & Basement
	Monday to Saturday 10:00 to 02:00 Sunday 12:00 to 02:00
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below (see reasons for decision in Section 1).
6.	Sale by retail of alcohol (On and Off) – First Floor
	Monday to Thursday 10:00 to 23:30 Friday and Saturday 10:00 to 00:00 Sunday 12:00 to 22:30
	Amendments to application advised at hearing: None.

	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below. There were no proposed changes to this area in terms of hours or conditions from the existing premises licence.</p>
7.	Hours premises are open to the public - Ground Floor & Basement
	<p>Monday to Saturday 10:00 to 02:00 Friday and Saturday 12:00 to 02:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>
8.	Hours premises are open to the public – First Floor
	<p>Monday to Thursday 10:00 to 00:00 Friday and Saturday 10:00 to 00:30 Sunday 12:00 to 23:00</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below. There were no proposed changes to this area in terms of hours or conditions from the existing premises licence.</p>
9.	Seasonal variations / Non-standard timings
	<p><u>Late Night Refreshment (Indoors & Outdoors) – Ground Floor & Basement, Late Night Refreshment (Indoors & Outdoors) – First Floor, Recorded Music (Indoors & Outdoors) – Ground Floor & Basement, Recorded Music</u></p>

	<p><u>(Indoors & Outdoors) – First Floor, Sale by retail of alcohol (On and Off) – Ground Floor & Basement, Sale by retail of alcohol (On and Off) – First Floor, Hours premises are open to the public - Ground Floor & Basement & Hours premises are open to the public – First Floor</u></p> <p>From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day.</p> <p><u>Late Night Refreshment (Indoors & Outdoors) – Ground Floor & Basement, Recorded Music (Indoors & Outdoors) – Ground Floor & Basement, Sale by retail of alcohol (On and Off) – Ground Floor & Basement & Hours premises are open to the public - Ground Floor & Basement</u></p> <p>An additional hour when British Summer Time commences.</p> <p><u>Late Night Refreshment (Indoors & Outdoors) – First Floor, Recorded Music (Indoors & Outdoors) – First Floor & Sale by retail of alcohol (On and Off) – First Floor & Hours premises are open to the public – First Floor</u></p> <p>Sundays before Bank Holidays until 00:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below. The seasonal variations / non-standard timings applied for were permitted under the existing premises licence.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.	(1) The responsible person must ensure that staff on relevant premises do

not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible

person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,

- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

9. The ground floor and basement shall only operate as a restaurant and japanese or chinese take-away:
- (i) in which restaurant customers are shown to their table,
 - (ii) which provide food in the form of substantial table meals that are prepared on the premises;
 - (iii) which do not provide any take away service of food or drink for immediate consumption after 01:00, and
 - (iv) where alcohol shall not be sold, supplied, or consumed on the premises otherwise than to persons seated and served by waiter/waitress service who are bona fide taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

10. The first floor shall only operate as a restaurant:-
- (i) in which customers are shown to their table,
 - (ii) where the supply of alcohol is by waiter or waitress service only,
 - (iii) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery,
 - (iv) which do not provide any take away service of food or drink for immediate consumption,
 - (v) which do not provide any take away service of food or drink after 23.00, and
 - (vi) where alcohol shall not be sold or supplied for consumption on the premises, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine or sake supplied ancillary to their meal.

11. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
12. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed: -
- Ground Floor 40
 - Basement 60
 - First Floor 60
13. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
15. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the

structure of the premises which gives rise to a nuisance.

16. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
17. All windows and external doors shall be kept closed after 23:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
18. All sales of alcohol for consumption off the premises shall be in sealed containers and ancillary to a take-away meal, save for alcohol to be consumed by persons who are seated in an area appropriately authorised for the use of tables and chairs on the highway and bona fide taking a substantial meal there, and where the consumption of alcohol by such persons is ancillary to taking such a meal, and where the supply of alcohol is by waiter or waitress service.
19. All tables and chairs shall be removed from the outside area by 23.00 each day.
20. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
21. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
22. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
23. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
24. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
25. A Challenge 21 or Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
26. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder

- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service.

27. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
28. No deliveries to the premises shall take place between 23.00 and 08.00 on the following day.
29. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
30. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
31. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
32. There shall be no self-service of alcohol on the premises.
33. There shall be no draught beer on the premises.
34. The sale of alcohol for consumption off the premises shall cease at 23:00 Monday to Saturday and 22:30 Sunday.
35. No licensable activities shall take place at the premises until the premises has been assessed as satisfactory by the Environmental Health Consultation Team at which time this condition shall be removed from the Licence by the licensing authority.
36. No licensable activities shall take place at the premises until premises licence 16/03459/LIPT and 16/06865/LIPN (or such other number subsequently issued for the premises) have been surrendered and are incapable of resurrection.