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Licensing Service
City of Westminster
64 Victoria Street
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25 March 2019

Dear Sirs

Licensing Act 2003
48 Albemarle Street, London W1
Licensing Sub-Committee, 28 March 2019

We act for the applicant in the above matter and refer further to the letter from TLT Solicitors dated 15th March 2019. The Applicant disagrees with all of its contents and the alleged legal basis of the assertions set out therein.

We enclose, for the committee's assistance:

1. Supporting Note, attached to the Application.
2. Screenshot of the licensing register.
3. Application submitted by TLT Solicitors dated 9th July 2018.
4. Application submitted by TLT Solicitors dated 6th July 2017.
5. Application submitted by TLT Solicitors dated 8th March 2018.
6. R (on the application of D&D bar Services Ltd) v Romford Magistrates' Court [2014] EWHC 344 (Admin).

We refer to these attachments by their page number in the Supplemental Bundle e.g. (p 15).

The applicant respectfully agrees with the email responses made by Kevin Jackaman on behalf of the Licensing Authority to TLT's submissions. These are contained at pages 104-106 of the agenda papers and are dated 1st March 2019 and 27th February 2019.

Designated Premises Supervisor

In their latest letter, TLT repeat the assertion that the application is invalid by reason of the fact that no DPS has been identified in the application form.

The applicant wholly disagrees with this submission for the reasons already identified in our letter of 25th February 2019 (page 93). Similar points were taken in *R (on the application of D&D bar Services Ltd) v Romford Magistrates' Court [2014] EWHC 344 (Admin)*, an extract of which was included in our letter of the 25th February.

Even if, (which is not accepted), the Applicant and the Licensing Authority are wrong about it being a mandatory requirement, what the representation complains of are minor irregularities in our submission.

There must be substantial compliance with the statute. Tizzola Properties Ltd has, in our submission, substantially complied with the requirements of the statute by indicating that at present there is to be no DPS. Circumstances may arise, such as in the present case, where it is impossible to identify the DPS at the time that the application is made (see further below as regards the application by TLT in July 2018).

This is particularly so in the case of a shadow licence where the application is made by the landlord in order to protect the licence held by the tenant. In other cases, the proposed DPS may not yet have obtained his personal licence, and so cannot be the DPS named on the form. These, we say, are minor matters, if irregularities at all. Safeguards are built into the statute in any event, as Mr Jackaman points out, because the landlord is unable to trade the licence until a DPS has been appointed.

TLT have singularly failed to indicate any substantial prejudice or injustice that has arisen in respect of what he alleges are fundamental flaws in the application which he suggests deny the LSC its jurisdiction to hear the application.

It is a matter of some irony that TLT has **itself** applied for a licence in identical circumstances to the present application. The Licensing Sub Committee is referred to TLT's application made in July 2018 in respect of The Flying Pie at 10 New Row, WC2N 4LH (**p 3**). The applicant has indicated (**p 17**), in the box where the name of the DPS is to be identified that:

"TBC. Operator to undertake personal licence application process (see covering letter of application)".

That application also states in the Declaration at (**p 22**), that the 'DPS' (not that there is one) is entitled to work in the UK. In those respects, their application mirrors (or shadows) the current application in the sense there is no DPS and it is respectfully submitted that this demonstrates an acceptance by TLT of the practice, in certain circumstances, of not identifying the DPS at the time that the application is made and the lack of prejudice it causes.

We next refer to an application submitted by TLT on behalf of The Gazelle Bar Ltd on the 6th July 2018 (**p 28**). In that application, the identity of the designated premises supervisor ("DPS") has been redacted, one would assume by the licensing authority for reasons of GDPR. If one accepts the principle that the purpose of having a DPS is so that members of the public can identify who that person is and establish their fitness for carrying out licensable activities i.e. the sale of alcohol, has prejudice been caused by the omission of those details in the original application?