

LICENSING COURT OF SOUTH AUSTRALIA

HOPE INN HOTEL

JURISDICTION: S 120 – Complaint for Disciplinary Action

FILE NO: 633 of 2011

HEARING DATES: 12 April 2011

JUDGMENT OF: His Honour Judge WD Jennings

DELIVERED ON: 15 April 2011

REPRESENTATION:

Counsel:

Applicant: Sgt R Kronitis

Respondent: Mr P Hoban

Solicitors:

Applicant: Commissioner for Police

Respondent: Wallmans Lawyers

- 1 The complaint before the Court is two-fold. The first count relates to the fact that when the Police visited the Hotel on 21 May 2010 at approximately 10.25pm they noticed that a fire exit was locked; the door was locked by a key operated deadlock. Patrons could not have opened the door in the case of an emergency.
- 2 The duty manager's explanation at the time was that it was his responsibility to unlock the door which he does at the start of his shift, however on this occasion he was busy and did not get around to unlocking it. He understood the door was required to be unlocked at all times. The door is the closed exit point for patrons in the dining area and beer garden.
- 3 The second count concerned the failure to display its liquor licence. The duty manager said he had looked at the licence, knew that it had to be displayed but did not realise a page was missing.
- 4 Sgt Kronitis indicated that the prosecution was seeking a fine in relation to count 1 but that that a reprimand was in order in relation to count 2.
- 5 Mr Hoban appeared for the Hotel and made the following submissions:
- 6 As to count 2, he said that the licence comprises of five pages and that page 2 was not displayed. The matter was remedied as soon as it was brought to the attention of the licensee.
- 7 The Fassina family who own the Hotel have been involved in the licensing industry since the mid 70s conducting some 70 to 80 licensed premises. They currently own two hotels and eight liquor stores and they have an unblemished record. Mr Fassina attended in court.
- 8 From Exhibit A1 and the plan contained therein it is clear that patrons from the public bar and the dining room area in particular were the only people who would have needed to have used the exit that was locked. As far as the public bar patrons are concerned they had an alternative exit from that area which was open, so that it was not an issue for them.
- 9 Mr Hoban advised that at the time the Hotel was undergoing renovations and that the dining area was effectively not being used, the kitchen was closed and the only form of meals being served was toasted sandwiches.
- 10 In answer to a question of mine as to how many people were in the Hotel at the time, he said approximately 30 – 40, the majority of whom were in the gaming area. He said that because of the fact that the dining room was effectively not being used, the offending closed exit had slipped the mind of the person responsible for opening it.

- 11 He said that in a follow-up inspection by the Police everything was in order.
- 12 The Fassina group no longer operate the licence.
- 13 In all the circumstances whilst he recognised the seriousness of an exit being blocked he asked me to contemplate whether a reprimand would be more appropriate than is a fine.
- 14 As to count 1, I agree that it is a sufficient penalty to issue a reprimand and I order accordingly.
- 15 As to count 2, in all the circumstances having taken into account Mr Hoban's submissions and bearing in mind that it is highly unlikely that any persons in the Hotel were at risk as a result of the locked door, and further taking into account the unblemished record of the Fassina family and that this locked door was a "one-off", I am prepared to issue a reprimand in this matter.
- 16 I should point out for the benefit of licensees generally that this is quite an exceptional and unique case and that where exits from licensed premises are blocked and there are safety issues and the potential for injuries to patrons in emergencies, that convictions and fines, and quite often substantial fines, will almost invariably be imposed.