

Northwest Territories Liquor Licensing Board

IN THE MATTER of an application for a Class 3 – Fundraising Special Occasion Permit from NWT SPCA;

AND IN THE MATTER of the Liquor Act S.N.W.T. 2007, c.15 (“the Act”) and the Liquor Regulations, R-069-2008 (“the Regulations”) as amended;

AND IN THE MATTER of request to reconsider, on May 11, 2015, the Liquor Licensing Board’s decision of May 5, 2015 ;

REGARDING:

NWT SPCA

Applicant

For the event

Warrior Strong & Fivestar Fight League

Event

The Liquor Licensing Board, having considered a request to reconsider the denial of a Class 3 – Fundraising Special Occasion Permit make the following decision:

Decision of the Board

The Board’s decision of May 4, 2015 to deny the application for a Class 3 Special Occasion Permit is affirmed. This application is denied.

Overview

On April 28, 2015, the Liquor Licensing Board (“the Board”) received an incomplete application for a Class 3 – Fundraising Special Occasion Permit from NWT SPCA. The application is for the sell and service of liquor at a Warrior Strong & Fivestar Fight League event on May 16, 2015. The event is to take place at the Yellowknife Arena, Yellowknife NT. The additional documents required to complete the application were submitted to the Board on May 5, 2015. The application was denied the same day.

The Board received an undated written request from the Applicant for reconsideration on May 6, 2015.

We shall firstly address the Board’s authority to reconsider its decision, then address each application requirement considered by the Board.

Reconsideration

The Act states every decision or order of the Board is final.¹ The Act however provides the Board with authority to reconsider its decisions.² It is under this authority the Board reconsidered its decision in this matter.

We shall next address each of the requirements for the issuance of this requested Special Occasion Permit and how the requirements were evaluated.

Application Requirements

There are several application requirements not met by the Applicant.

The application stated 800 people were expected in the permitted area of the event. Based upon this estimate, the Liquor Regulations require that:

1. Filing Time - The application be made at least 45 days before the event;³
2. Financial Sponsor - The Applicant is the financial sponsor and coordinator of the event or has the Board's authorization to waive this requirement;⁴
3. Pre event advertising - The event not advertise the sale of liquor prior to having a Special Occasion Permit;⁵

Filing Time – The Application form for this Permit was received on April 28, 2015. The Application was incomplete, as it did not include an Occupancy Load Certificate issued by the NWT Fire Marshall. The Certificate is required by the Board to determine the number of people that can safely be in the regulated area at one time. The Board considers any application incomplete without the Occupancy Load Certificate. The Board's Registrar informed the Applicant on May 4, 2015 an Occupancy Load Certificate was required in order to complete the Application. The Certificate, dated May 5, 2015, was received from the Applicant the same day.

The Applicant, in its request for reconsideration, states being unaware of the filing time and takes full responsibility for this oversight. There is evidence the Applicant was in fact informed by a local Permit Issuer of the filing requirements well in advance of that deadline.

There is a sliding scale for application filing times. The greater the number of people expected to attend, the longer advance filing time is required. This regulation is, in part, intended to allow for appropriate notification to be given to Liquor Enforcement and the RCMP in a time frame allowing for adequate oversight and policing. The *Liquor Regulations* require a Special Occasion Permit application be made at least 45 days in advance of an event with more than 500 people expected to attend.

¹ Section 26(1) of the *Liquor Act*

² Section 23(4) of the *Liquor Act*

³ Section 88(c) of the *Liquor Regulations*

⁴ Section 86(3) of the *Liquor Regulations*

⁵ Section 107(2) of the *Liquor Regulations*

The complete application presently before the Board was filed May 5, 2015. The event was scheduled for May 16, 2015 or eleven days in advance of the event. This time frame falls well short of the statutory filing time.

The Board does have the authority under the *Liquor Regulations* to waive or reduce the required filing time for permit applicants.⁶ This authority is subject to the Board being satisfied it would not create any “special concern” for the Board.

The Board does have concerns; of a nature that led us to conclude waiving the filing time would not be in the public interest. The event is scheduled for a long weekend; the first of the summer season. Territorial campgrounds open that weekend. This is normally a weekend requiring enhanced policing activity. The event in question is considered by the Board as a high-risk event from the perspective of liquor enforcement and policing. Similar events in the past have seen numerous physical altercations amongst patrons.

When the *Liquor Regulations* were amended in 2008, the RCMP was consulted about the appropriate time required for it to ensure appropriate policing of events. The present application filing timelines resulted, in part, on these consultations. The Board is not satisfied appropriate policing could be provided on such short notice.

Financial Sponsor – The Regulations, at section 86(3) require for an event of more than 500 people, the Permit Applicant must also be the financial sponsor and coordinator. The Board has heard from a Yellowknife business, Warrior Strong Fight League. That business and not the Applicant is the sponsor/coordinator of the event. The sponsor of the event is not entitled to a Class 3 Fundraising Special Occasion Permit as it does not qualify under section 86(2) of the Regulations. The Applicant does qualify, however is not the financial sponsor and coordinator. No applicant or reason have been provided by which the Board could consider waiving this requirement.

Pre Event Advertising - The Regulations, at section 107 prohibits a permit holder from advertising an event as licensed or authorized to sale or service liquor. The exception to this regulation is for a holder of a Class 3 – Fundraising permit after the permit has been issued.

On April 15, 2015 a full-page advertisement appeared in the Yellowknifer newspaper for this event. Ticket prices were given including “Beer Garden Tickets”. The event coordinator was contacted by the Board’s Registrar shortly thereafter and informed of the Regulations in this regard. All advertisements after that date did not include the reference to Beer Gardens.

The Board must take note of this breach. It contributes to the overall lack of adherence to the liquor regulations.

⁶ Section 110 of the *Liquor Regulations*

The Liquor Licensing Board must consider the Public Interest and Public Safety above all else. In administering the entrusted sections of the *Liquor Act* and *Liquor Regulations*, the Board is bound by the law in its consideration of the Public Interest. This duty cannot be altered by the perceived consequences of our decisions.

It is for these reasons the Board affirms its previous decision to deny this Permit Application.

Dated this 11th day of May 2015.

A handwritten signature in black ink, appearing to be 'Colin Baile', written in a cursive style.

Colin Baile,

Chairperson, on behalf of and with the concurrence of the other Board Members.