

**Liquor Commission of Western Australia  
(Liquor Control Act 1988)**

**Applicant:** Ms V P

**Respondent:** Commissioner of Police  
*(represented by Mr John Carroll of State Solicitor's Office)*

**Commission:** Mr Seamus Rafferty (Chairperson)

**Matter:** Application seeking review of a barring notice pursuant to section 115AD of the *Liquor Control Act 1988*.

**Date of lodgement of Application:** 8 December 2017

**Date of Determination:** 12 January 2018

**Determination:** The application for review is dismissed.

1. This is an application for the review of a Barring Notice pursuant to section 115AD of the *Liquor Control Act 1988* (“the Act”) made by Ms V P (“the applicant”). The history of the matter is as follows:
  - **26 August 2017:** Alleged incident at [REDACTED];
  - **21 September 2017:** Inspector M.H. Longman of the Western Australia Police signs a Barring Notice pursuant to section 115AA(2) of the Act on behalf of the Commissioner of Police;
  - **6 December 2017:** The applicant is served with a copy of the Barring Notice;
  - **7 December 2017:** The applicant applied to the Liquor Commission of Western Australia for a review of the Barring Notice pursuant to s.115AD of the Act.
  
2. The Commission has been provided with the following materials to determine the application:
  - a) Barring Notice dated 21 September 2017;
  - b) Application for Review dated 7 December 2017;
  - c) Statement of [REDACTED] dated 29 December 2017;
  - d) Responsive submissions from the applicant dated 5 January 2017;
  - e) Reference of [REDACTED] dated 17 July 2016;
  - f) Undated reference of [REDACTED];
  - g) Respondent’s Outline of Submissions dated 19 December 2017;
  - h) WAPOL Incident Report 260817 1830 14931;
  - i) [REDACTED] Incident Report dated 26 August 2017;
  - j) Statement of Material Facts for previous offending;
  - k) Criminal History of the applicant dated 21 September 2017
  - l) [REDACTED] CCTV footage;
  - m) Footage shot by the applicant on her mobile telephone.
  
3. The Commission has determined that the matter can properly be dealt with on the papers.

## **STATUTORY FRAMEWORK**

4. The Commissioner of Police (“the Commissioner”) has the power to ban people from licensed premises pursuant to s.115AA of the Act if he believes on reasonable grounds that the person has, on licensed premises:

- a) Been violent or disorderly; or
  - b) Engaged in indecent behaviour; or
  - c) Contravened a provision of any written law.
5. The Commissioner may delegate the power conferred by s.115AA of the Act on any member of the Police Force of or above the rank of Inspector pursuant to s.115AB of the Act.
6. The underlying purpose of a Barring Notice is not to penalise an individual but to act as a protective mechanism.<sup>1</sup>

### **BASIS OF THE APPLICATION**

7. In her written application dated 7 December 2017, the applicant effectively argues that the Barring Notice should not have been issued on the basis that:
- a) She did not instigate the incident;
  - b) She left the restaurant believing that her dining companion was settling the bill;
  - c) After leaving the restaurant and being asked to return to settle the bill, she asked to see the bill but none was presented;
  - d) She then left the licensed premises when asked;
  - e) Requests for copies of the receipt for payment were denied;
  - f) No harm was caused to any person;
  - g) She did not behave in a disorderly manner.

### **FACTUAL FINDINGS**

8. Having considered all of the materials before the Commission, I am satisfied of the following salient matters:
- a) On 26 August 2017, the applicant and Mr Marchant dined at [REDACTED];
  - b) Mr Marchant paid for his portion of the bill and left the licensed premises;
  - c) The applicant then left the premises without paying her portion of the bill;

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<sup>1</sup> *Van Styn v Commissioner of Police* (LC19/2011)

- d) The applicant was then approached by staff who requested that she settle the account;
  - e) The applicant became violent towards the staff of the licensed premises;
  - f) The applicant re-entered the premises and behaved in a belligerent manner, recording staff and Mr Marchant, who was trying to settle the bill, on her mobile telephone;
  - g) The applicant behaved aggressively towards various staff members, striking at least two of them;
  - h) Staff members were forced to remove the applicant from the premises due to her violent and belligerent behaviour;
  - i) The applicant attempted to re-enter the licensed premises but was prevented by staff from doing so.
9. Where there is a dispute between the applicant's evidence and the evidence relied upon by the respondent, I have preferred the evidence relied upon by the respondent. The basis for doing that is:
- a) The CTV footage generally matches up with what appears on the [REDACTED] [REDACTED] Incident Report prepared by a member of staff;
  - b) The CCTV footage shows the appalling behaviour of the applicant and the attempts by staff to calm her;
  - c) Based on her criminal record, the applicant has clearly behaved in a similar manner previously.
10. The applicant's criminal history reveals the following relevant prior convictions, namely:
- a) 2/12/2010 – remain on licensed premises;
  - b) 2/12/2010 – obstructing public officers;
  - c) 2/12/2010 – fail to comply with requirement to give personal details to police;
  - d) 2/10/2010 – common assault;
  - e) 7/9/2011 – disorderly conduct;
  - f) 28/9/2013 – obstruct public officers;
  - g) 28/9/2013 – fail to obey move on notice;
  - h) 15/1/2016 – remain on licensed premises.
11. The Commission cannot consider the applicant to be a person of prior good character notwithstanding the character references that she has relied upon. In fact, the incident

on 26 August 2017 appears to be part of an ongoing issue that the applicant has when she attends upon licensed premises.

12. Based on all of the evidence, I am satisfied that the applicant behaved in a disorderly manner whilst at the [REDACTED], which is a licensed premise on 26 August 2017.

## **DETERMINATION**

13. I am satisfied that there was a proper basis for the delegate of the Commissioner to exercise the power conferred by s.115AA of the Act on the basis that there were reasonable grounds to conclude that the applicant had, on licensed premises engaged in disorderly conduct.
14. The basis upon which the applicant contends that the Barring Notice should be quashed is not compelling. To the contrary, the only basis upon which the Commission can consider her application is a number of subjective assertions that are purely self-serving in nature and some footage recorded on her mobile telephone that is nowhere near as compelling as the CCTV footage from the licensed premises. For the reasons outlined, where there is a dispute between an assertion of the applicant as to a material event and the staff members who were involved in this incident, I do not accept the version given by the applicant.
15. Section 5(1)(b) of the Act sets out that one of the primary objects of the Act is to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor. In the absence of any specific statutory criteria that sets out the basis upon which a review of a Barring Notice should be determined, I consider that section 5(1)(b) of the Act is the primary criteria upon which this review is to be determined.
16. The issuing of the Barring Notice was in accordance with the primary object of the Act referred to in that it will protect other members of the public from being subjected to the same type of behaviour by the applicant whilst on licensed premises. This specifically relates to staff of licensed premises. Those staff at licensed premises should feel safe to go about their business without being subjected to the type of behaviour in which the applicant engaged. Physicality and aggression towards staff will never be tolerated and there is a strong public interest in those who engage in such behaviour, such as the applicant, being barred from licensed premises.

17. I note that the barring notice expires on 20 March 2018. Having regard to the behaviour of the applicant on 26 August 2017 and her prior record of offending, I am of the view that the duration of the barring notice was extremely lenient.

18. The application for review is dismissed.



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**SEAMUS RAFFERTY**  
**CHAIRPERSON**