

The Highland Licensing Board

Meeting - 1 October 2013

Agenda Item	10.1
Report No	HLB/118/13

Premises Licence Review Application

Premises: Miami (formerly Bakoo), Baron Taylor Close, 39 High Street, Inverness IV1 1HT

Licence Holder: Corrdon Limited, 126 West Regent Street, Glasgow G2 2BH

Report by the Clerk to the Licensing Board

Summary

A premises licence review application in terms of section 36 of the Licensing (Scotland) Act 2005 has been received from Police Scotland and the Board must accordingly hold a hearing to determine the application.

1. Background

The premises to which the review application relates is known as Miami, Baron Taylor Close, 39 High Street, Inverness IV1 1HT.

The premises comprise an entertainment premises serving food with a dance club, bar areas and various types of entertainment provided. It is located in High Street, Inverness with an entrance from Baron Taylor Close and is in a mixed domestic and commercial area. On sales are sold Monday to Saturday 11.00 to 03.00hrs the next day. Sundays 12.30 to 03.00 hrs. Late Opening and Local Conditions apply.

2. Legislation

2.1 In terms of section 36(1) of the Licensing (Scotland) Act 2005 (the "Act") any person may apply to the Board, in respect of any licensed premises in relation to which a premises licence has effect, for a review on any of the following grounds:-

- (a) That one or more of the conditions to which the premises licence is subject has been breached, or
- (b) Any other ground relevant to one or more of the licensing objectives

3. Premises Licence Review Application

A premises licence review application dated 12 September 2013 has been submitted to the Board by Police Scotland and is attached to this Report as Appendix 1.

The application alleges that there has been a breach of the licensing objectives relating to prevention of crime and disorder, securing public safety and protecting children from harm.

4 Review Hearing

- 4.1** Section 38(1) of the Act provides that where the Board receives a premises licence review application it must hold a hearing for the purposes of considering and determining the application.
- 4.2** Section 38(4) of the Act provides that the Licensing Standards Officer must, before the review hearing, prepare a report on the application which the Board must take into account. This report dated 20 September 2013 is attached as Appendix 2.
- 4.3** A copy of this Report and appendices have been sent to the Premises Licence Holder, Corrdon Limited, 126 West Regent Street, Glasgow G2 2BH, who have been invited to attend the Hearing.
- 4.4** A representative of Police Scotland has also been invited to attend the Hearing.

5. Board's powers on review

- 5.1** In terms of section 39 of the Act the Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review application considered at the Hearing), take such of the steps listed below as it considers necessary or appropriate for the purposes of any of the licensing objectives:
- (a) issue a written warning to the licence holder,
 - (b) make a variation of the licence,
 - (c) suspend a licence for such period as the Board may determine,
 - (d) revoke the licence.

On making a variation under 4 (b) the Board may provide for the variation to apply only for such period as they may determine.

- 5.2** In terms of section 84 of the Act where, in the course of a review hearing in respect of a premises licence, the Board makes a finding in relation to the personal licence holder who was working in the licensed premises that the personal licence holder concerned acted in a manner which was inconsistent with any of the licensing objectives, then the Board must hold a further hearing.

4. Recommendation

The Board is invited to determine the premises licence review application by way of a review hearing.

Designation: Clerk of the Highland Licensing Board
Date: 19 September 2013
Ref: HC/INBS/267

Background Papers: The Licensing (Scotland) Act 2005

Appendix 1: Letter from Police Scotland dated 12 September 2013

Appendix 2: Report from Ian Cox, Licensing Standards Officer, dated 20 September 2013

Appendix: Letter from Police Scotland dated 12 September 2013

12 September 2013

Our Ref: NN13135/13 & N17793/13



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Dear Sir

REQUEST FOR REVIEW OF LICENCE: MIAMI (formerly Bakoo), BARON TAYLOR CLOSE, 39 HIGH STREET, INVERNESS, IV1 1HT.

As agent for the Chief Constable I am moved to request a review of the aforesaid premises licence which is held by Corrdon Limited, 126 West Regent Street, Glasgow, G2 2BH. The grounds for review centre on three of the licensing objectives i.e. preventing crime and disorder, securing public safety and protecting children from harm, being adversely affected, as a consequence of incidents which occurred on the premises.

The premises licence holder is George Macleod, 3 Slackbuie Park Mews, Inverness, IV2 6BH.

Miami is a popular licensed premise in the City of Inverness, forming part of the premises is a bar called "Aces", which is covered by the same premises licence.

The following information relates to the previously alluded to incidents within Miami;

During the morning of Saturday 11 May, 2013, Police Scotland, Highland & Islands Division, received a report from the father of a seventeen year old female, reporting that his daughter had been the victim of a serious sexual assault within Miami, during the early hours of that same date.

Police enquiry was then commenced, revealing the circumstances as follows;

In the late evening of Friday 10 May 2013, the victim and several friends entered Aces Bar, before entering Miami. In the early hours of Saturday 11 May 2013, the victim was the subject of a serious Sexual Assault within an area of Miami called 'The North Beach VIP Area'. This area is not open on Friday nights, when closed a line of chairs is placed across the area to prevent patrons in the establishment gaining access. When this area is closed, no lighting is on, leaving the area in total darkness.

At 0300hours, same date, the premises was checked by SIA, security staff and secured.

At about 0400hrs, same date, the victim awoke to find herself within Miami. On discovering that she was alone, she managed to exit the premises, making her way home. The sexual assault was then reported to Police.

Enquiry revealed that the victim had purchased alcohol within Miami and had had alcohol purchased for her by others.

The above incident is still under police investigation, I am therefore unable to comment further.

On Saturday 15 June 2013 a fifteen year old female went missing from her home address in Croy. On Monday 17 June 2013, the missing fifteen year old was traced by police in Beaulieu. She was subsequently interviewed when she alleged she had been the victim of a serious sexual offence at an address in Beaulieu.

Enquiry was commenced into this incident by Police Scotland who established that the missing fifteen year old she had been within Miami during the night of Saturday 15 June 2013. She was in the company of several adult males, who had paid her admission fee, then proceeded to purchase her alcohol. When she left Miami in the early hours of the following morning this fifteen year old female was described by witnesses as being drunk.

In addition to the above incidents at about 0200hours on Sunday 9 December, 2012, an unprovoked Assault occurred within Miami. The male accused was subsequently detained and charged with Assault. The assault consisted of the accused head butting the male victim on the nose, causing the victim's nose to bleed. The victim attended Accident & Emergency, Raigmore Hospital, Inverness, but did not require medical attention.

Enquiry revealed that at the time of the incident a seventeen year old female witnessed the assault.

This case has been reported to the Procurator Fiscal, Inverness, and has yet to be concluded.

The fundamental aspect underlying the whole ethos of the Licensing Scotland Act 2005 is the five Licensing objectives, which include

- Preventing Crime and Disorder
- Securing Public Safety
- Protecting Children from Harm

As per the foregoing narrative, the three listed objectives that have been breached.

I respectfully request that the Board give consideration to this request for a premises licence review.

Yours faithfully,

 Colin Gough
Chief Inspector



Highland Licensing Board Meeting – Tuesday, 1st October, 2013

Review Hearing in terms of the Licensing (Scotland) Act, 2005 Section 38 (1)

Premises: Miami (formerly Bakoo), Baron Taylor Close, 39 High Street, Inverness, IV1 1HT.

Report by Licensing Standards Officer

1.0 Summary:

1.1 This Report has been prepared in response to notification from the Clerk to the Highland Licensing Board in terms of Section 38(3)(b)(ii) of the Licensing (Scotland) Act, 2005 that a review hearing is to be held in respect of the Premises Licence for the Miami Nightclub, 39 High Street, Inverness, IV1 1HT (Premises Licence HC/INBS/267).

2.0 Licensing History:

2.1 A Premises Licence for Miami (formerly Bakoo) was granted by the Highland Licensing Board, under transitional arrangements, on 1 September 2009 to Eileen MacIver. The Licence was the subject of a subsequent transfer to Corrdon Ltd, for which Mrs MacIver's husband Mr Don MacIver is the Connected Person.

2.2 At present the Premises are leased out. Mr George Macleod who is the Premises Manager is in partnership with others and is the tenant. The Premises trade as a successful and busy nightclub within the Inverness City Centre.

George Macleod has been the premises manager since 14 April, 2011.

3.0 Legislation:

3.1 The premises licence is subject to:-

- Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act 2005;
- Late Opening Conditions in accordance with Section 27(3) & (4) of the Licensing (Scotland) Act 2005;
- Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007;
- Local Conditions attached by the Highland Licensing Board in accordance with Section 27(6) of the Licensing (Scotland) Act 2005.

4.0 Description of premises:

4.1 The premises are situated in a central location within the City Centre of Inverness. The Premises has entrances on High Street and Baron Taylors Street, Inverness. On the ground floor, "Aces" Bar provides a large lounge bar area, on the second floor is Miami Night Club where the majority of live entertainment is provided to customers.

4.2 The Premises have a Late Hours Licence and are allowed to operate until 03.00 hrs, 7 nights per week. The Premises seek to attract a number of well-known and current acts and these are pro-actively marketed through a number of media avenues. The Premises and their entertainment portfolio appeal to the younger element.

5.0 Synopsis:

5.1 On 16 September, 2013 I received notification from A H Mackenzie, Clerk to the Highland Licensing Board, that an application for a review of the premises licence had been received from the Chief Constable, Police Scotland in respect of the above premises. The circumstances of the review being in three separate and unrelated incidents that underage persons were present in circumstances on the Premises where they were potentially exposed to the risk of harm. Details of the incidents are contained within a Police Report detailed at Appendix 2 to the Clerk's Report.

5.2 I have in the past carried out a number of pro-active compliance visits to the Premises. I have found them to be compliant in terms of their attention to the mandatory conditions particularly in relation to stewarding. The Premises also on the occasions of my visits appeared to have effective door management and scrutiny in place. In respect of the Police Report it does not say how these underage persons secured entry to the Premises, if by presentation of faked or borrowed Identity Documents or simply through lack of diligence in ensuring that the required Age Verification Policy was adhered to.

5.3 In terms of the Operating Plan within the current Premises Licence, unless attending either a specific Under 18 Disco, or a private function, Children and Young persons should not be on the Premises after 9 pm. Without doubt the Premises in terms of their style of entertainment will appeal to young persons and ensuring the proof of age requirements are enforced will be a constant challenge to their staff. In addition the Premises actively pursue a cut price drinks policy with pro-actively marketed price promotions, there is nothing illegal in the way that they conduct these but in doing so they run the ever present danger of attracting persons underage.

6.0 Measures taken by Licence-holder

6.1 The operators employ an SIA registered firm of professional door stewards, Moray Security, to provide stewarding at the venue. When checks have been made by the LSO there has always been a strong presence of uniform security personnel. Staff training records have been checked in the past and these have been compliant with the Training Regulations.

7.0 Supplementary information:

7.1 The Premises have an ambitious approach to putting on high profile and current personalities and acts which will appeal to a wide age range of customer, but will include teenagers.

7.2 The entertainment is pro-actively marketed through Facebook, external posters and personnel distributing advertising leaflets in the City Centre. It is noticeable that cut price drinks promotions are very much a pro-active marketing tool over all these advertising mediums.

7.3 The Premises have demonstrated compliance with all the mandatory and local conditions relating to Late Hours Premises. The Premises belong to the local Inverness City Centre Pub Watch.

8.0 CONCLUSION:

- The Premises in terms of its décor and entertainment will appeal to teenagers and undoubtedly there will be an ever present risk of underage people seeking to obtain access. In fairness to the Operators they are alive to this.
- A marketing strategy which seeks to attract trade through cut price drinks is legal but only adds to the risk element of attracting underage patrons.
- The key to ensuring that the Proof of Age requirements are met relies strongly on the diligence of door staff and bar staff in ensuring that the requirements of Age Verification (Challenge 25) are being met. It is this area of diligence that LSO have reservations as to how well it is being done.

Ian Cox.

Licensing Standards Officer

20 September, 2013

**CONDITIONS ATTACHED TO PREMISES LICENCE IN RESPECT OF
MIAMI, HIGH STREET, INVERNESS.**

- (1) Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act 2005.**
- (2) Late Opening Licence Conditions as follows:**
 1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1:00 am (on any day when the premises are open at that time) until whichever is the earlier of-
 - (a) the time at which the premises next close; and
 - (b) 5:00 am.
 2. A designated person who is the holder of a personal licence must be present on the premises from 1:00am (on any day when the premises are open at that time) until whichever is the earlier of –
 - (a) the time at which the premises next close; and
 - (b) 5:00 am or such other time as the Licensing Board may specify.
 3. There must be written policies in existence concerning-
 - (a) the evacuation of the premises; and
 - (b) the prevention of the misuse of drugs on the premises.
 4. A CCTV system must be installed on the premises to the satisfaction of the appropriate chief constable and must be kept in good working order.
 5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
 6. A person who holds a licence granted under section 8 of the Private Security Industry Act 2001 (a) must be positioned at every entrance to the premises from 1:00am (on any day when the premises are open at that time) until whichever is the earlier of-
 - (a) the time at which the premises next close; and
 - (b) 5:00 am or such other time as the Licensing Board may specify.

(3) Local Conditions (these conditions were granted by the Inverness, Nairn Badenoch and Strathspey Division of the Highland Licensing Board):

1.	After 9.00 pm alcoholic and non-alcoholic drinks shall be sold or served in plastic or polycarbonate glasses. (<i>This will only apply to premises opening after 1.00 am in accordance with the Licensing Board's' Policy Statement</i>).
2.	Any music or live performances will cease at 2.45 am.
3	The Premises Licence Holder of Premises open after 1am shall have available a selection of hot and cold foods
4.	After 9 pm (or any other time as may be specified by the Licensing Board), the Premises Licence Holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the Premises and within the premises.
5.	The Licence Holder shall ensure the provision of an effective means of recording the capacity during the Premises hours of operation.
	Additional Specific Conditions are attached to the Licence in respect of Under 18 events.