

IN THE MATTER of the Sale and Supply
of Alcohol Act 2012

AND

IN THE MATTER of an application by
HOI YEUNG CHAN pursuant to s.219 of
the Act for a Manager's Certificate.

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

Chairman: Mr E W Unwin

Members: Mr L A Cocks

Mr J M Mann

**FINAL DECISION OF THE QUEENSTOWN LAKES DISTRICT LICENSING
COMMITTEE**

Introduction.

[1] Before the Committee is an application by Hoi Yeung Chan for a Manager's Certificate. The application was received in January 2015, and came before us at a public hearing on 18th May 2015. Our reserved decision (QLDC 0008/15) was released approximately 30 days later. The primary opposition to the application being granted was that Mr Chan had acquired two convictions for driving with excess blood/breath alcohol with the last offence occurring on 18th December 2012. Furthermore he had failed to disclose the convictions in his application.

[2] At the hearing Mr Chan advised that his primary reason for seeking a certificate was to assist with the management of a restaurant in Te Anau that he had recently acquired. However he also stated that he intended to work as manager from time to time of the family restaurant known as "Mandarin" in Queenstown. It was on that basis that the Committee accepted jurisdiction to decide the matter. He had filed a work reference showing that he had been employed by his father and step-mother at the "Mandarin" in a bar service role since late 2013.

[3] In the event we were not convinced that Mr Chan was ready for the level of responsibility needed for a certificated manager, and we adjourned the application for twelve months allowing Mr Chan to operate as a temporary manager for up to six weeks. We also stated that Mr Chan needed to sign an undertaking in the standard form that if

and when he was granted a certificate, it would only be used at the two nominated restaurants in which he had an interest. We indicated that if subsequent reports supplied after twelve months were satisfactory, we would grant the application on the papers. If not, we would convene a further public hearing.

Developments that have taken place over the past fifteen months.

[4] After the twelve months had elapsed, the Agency staff ascertained that Mr Chan was now based in Te Anau and did not work at the “Mandarin” restaurant any more. This was confirmed by him in a phone conversation on 4th July 2016, and also by a phone call from Mr Chan's step-mother. Mr Chan was booked for a licensing interview in July and asked to bring a reference concerning his employment at the new restaurant in Te Anau. Mr Chan attended but failed the interview and forgot to bring any reference. He passed a second test a week later but again forgot to bring any reference. However Mr Chan did confirm that he was working for “China City” restaurant in Te Anau and that his licence was currently with the Southland District Council.

[5] It was discovered that on 10th February 2015, Mr Chan had made an application for a new on-licence for the “China City” restaurant in Te Anau in the name of a company called 'Chan Farther and Son Limited'. Mr Chan is the sole director and shareholder of this company. The application was largely incomplete and several documents were missing or lacking in adequacy. In the application Mr Chan was identified as holding a manager's certificate.

[6] We have read the decision of the Southland District Licensing Committee dated 22nd December 2015. The decision deals in part with the frustrations inherent in obtaining information from Mr Chan, problems with building compliance, allegations of illegal trading at the restaurant, Mr Chan's failure to disclose the convictions referred to above, and above all, his failure to attend the hearing in person or be represented, and the lack of any excuse or apology. In its decision LIQ – 2015/16 the Committee declined the application but invited Mr Chan to re-apply provided his application was thorough and complete, and he was serious about his intentions. The evidence indicates that a second application may be lodged in the future.

The Committee's Final Decision and Reasons.

[7] The Act provides in s.219(2) that if an applicant for a Manager's Certificate intends to manage a particular licensed premises, then the application must be filed with the licensing committee with which the application for the licence was filed. Mr Chan has taken himself out of our jurisdiction, and therefore his application must clearly fail. It would be technically possible to send the current file to the Southland District Agency, but given that it has been part heard this could create serious issues for the Committee and the Applicant.

[8] In addition Mr Chan currently has no licensed premises to manage. One of the Committee's policies or guidelines is that we do not issue certificates in a vacuum. They are not documents which are placed on a wall to be admired from time to time. They must be working documents and will seldom be issued unless the applicant is employed in the industry. The reason for such a guideline is that current employment keeps the manager up to date with trends and current laws. It is not only important for managers to regularly become upskilled but also to have the support of the licensee or the employer. In summary, certificates have to be earned, and they have to be earned by people who are committed to working in the industry.

[9] Normally we would have convened a public hearing as indicated in our previous decision, but that has now become a pointless exercise given that Mr Chan has left the District. We are legally unable to deal with the matter and given that it has been part heard by us, the only reasonable way out of the predicament is for Mr Chan to start again. If, as it appears, he is committed to managing the premises known as "China City", and if, it should ever obtain a licence, he is legally required to lodge his new application with the Southland District Licensing Committee. Accordingly, his application for a Manager's Certificate is refused because of lack of jurisdiction.

DATED at Queenstown on this 7th day of October 2016



Mr E W Unwin
Chairman