

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

**AND**

**IN THE MATTER** of an application for the renewal of a  
manager's certificate pursuant to s.  
224 by Chance Xavier Zane  
Watene.

**DECISION OF THE WESTLAND DISTRICT LICENSING COMMITTEE ON AN  
UNCONTESTED APPLICATION**

**AUTHORITY:**

Pursuant to section 191(2) of the Sale and Supply of Alcohol Act 2012 and a Council resolution dated 28 November 2013, the functions, powers and duties of the Westland District Licensing Committee are delegated to the committee chairperson where no objection has been filed, and no matters of opposition have been raised by the Police, the Medical Officer of Health or an Inspector. There is no Local Alcohol Policy in place for the District.

**Summary of Evidence**

The complete file has been made available to me.

A report from the Inspector concludes that the applicant is suitable to continue to hold a manager's certificate.

The Police were opposed to the application but after a period the "objection" was withdrawn.

**Evaluation of Evidence**

I have considered the application on the basis of the uncontested reports received. The matter is able to be dealt with on the papers.

The applicant works at the Lake Mahinapua Hotel. He is a New Zealand citizen and he has held a Manager's Certificate since August 2019. He has completed his Licence Controller Qualification and this is the first renewal of his Certificate.

This application has been languishing in my care for some months. On the face of it the application is nothing but routine. The application is properly made, the applicant is suitable, he does not have any convictions recorded against him, he has experience within the industry, and he holds a recognised qualification.

The issue that has brought about the delay relates to an incident that occurred on 14 January 2020 at the Mahinapua Hotel that involved a guest, a "drunken incident" and a Police investigation. The Police report is woeful reading and I record my thanks to the Inspector for the way in which he has analysed all the issues and come to a helpful conclusion. He has analysed statements, reviewed video footage and conducted his own enquiries and I am grateful for his lucidity.



In March 2021 I did suggest to the Secretary of the Westland District Licensing Committee that this application for renewal should go to a public hearing so that the Police and the Applicant could appear together to consider the facts and allow a decent assessment to be made. It was, however, not to pursue this course of action because of the clear statement made by the Police that "the objection is withdrawn". The Police statement is very clear so I have the comfort of knowing that the Police now have no concerns about Mr. Watene notwithstanding the very damning initial assessment.

In a very condensed analysis it appears that a female guest travelling with the *Kiwi Experience* somehow became very intoxicated without anyone noticing until she arrived in her room where her partner was asleep and he awoke to find a very confused and disoriented partner who then left the room without having exhibited any coherence and then entered the room of another guest known to her. At this stage she was naked and clutching her clothes. The guest helped the apparently intoxicated lady back to her room where she vomited. Her memories the next morning included no recollection of the previous evening and it took her two days to remember anything.

This incident was referred to in my decision on the On-licence in July 2020 in which I said;

*There is a worrying aspect referred to in the Inspector's report. An incident occurred in January 2020 where there was a possible assault involving a patron. The Inspector helpfully outlines all the circumstances but is unable to make any conclusion for various reasons including the departure of key staff and the Covid 19 lockdown which hindered face to face investigation. There is a sinister aspect to the case but without conclusion there is little weight that the events of that night can be applied to this licensing process. My understanding is that the Police are still considering the circumstances and weighing the events that can be verified. In the meantime, the inspector has advised that the incident that occurred is being treated as an incident of importance and that his contention that the applicant is suitable to hold a licence should stand on the basis that the premises has been operated and managed appropriately over the years with the singular exception of the event that is now well and truly recorded on the files and may result in the enforcement agencies taking a more frequent and closer look at management procedures at the Mahinapua Hotel. It is appropriate, in my view, that the matter lies there and that the review procedures relating to the suspension or cancellation of a certificate or licence can be utilized when investigations can be properly concluded.*

At the time of the grant of the On-licence I was sure that the Police had an ongoing investigation, and that the incident would develop with some sort of Judicial outcome. That was not to be and what did happen is that Chance Xavier Zane Watene has had the renewal of his General Manager's certificate opposed by the Police because, fundamentally, he was the Manager on duty on the night of 14 February 2020. His position is somewhat hapless; he was on duty from 4.00pm till 7.30pm and resumed work at 9.50pm.

There is no question that the applicant was on the premises and responsible for the safe and proper sale and supply of alcohol for the bulk of the evening in question. However, there is plenty to suggest that Mr. Watene was not the least bit complicit in the fiasco that unfolded in the early hours of 15 January 2020. All the facts support a view that a pleasant evening of fun and frivolity turned sour for one individual who quite suddenly exhibited all the signs of intoxication and became confused, disorientated and discharging vomitus in a very short timeframe.

The questions raised by the Police and considered carefully by the inspector revolve around the provision of free or discounted alcoholic drinks, an environment of encouraging people to drink to an excessive extent and that the premises were not under sufficient staff control to exercise surveillance to a safe standard.

There is no question that something went very wrong on the night of 14-15 January 2020 whilst Mr. Watene was on duty. I am unable to say with any degree of certainty that Mr. Watene had a hand in the resulting shambles and that something else happened.

I have been continuing to consider if there is anything that needs to be done at the District Licensing Committee level. My approach is that any licensed premises, in particular, a premises that has an On-licence should be a safe place and, arguably, the safest place to consume alcoholic beverages. In the case



of the Lake Mahinapua Hotel, I can not be sure that it is safe although I can be reasonably sure that Mr. Watene is not a factor in my "unsafe place" analysis.

It has taken a while, but I have come to the view that the Police are aware of all the facts and an investigation has been carried out. Realistically, the expectation has to be that if there is any material matter that should be prosecuted then the Police should be on to that task. However, after considering all the facts as reported I side with the Inspector's analysis that whatever happened was not the direct fault of Mr. Watene. It would not surprise me in the least if there is an element of "drink interference" that has been responsible for the events as they have played out. I am also sure that such a probability has come to the minds of others and that is why there has been no resulting prosecution.

I have readily adopted the view that Mr. Watene is a suitable person to continue to hold a Manager's Certificate and that his Certificate should be renewed as requested.

I am concerned at the approach of the Police. At the time of the consideration of the Premises On-licence the police objected to the grant thereof but changed their approach by setting opposition aside. This was after an on-site visit and meeting with all the parties involved.

Again, with this application the Police position was one of objection until as a consequence of a query by the Inspector the "objection" was withdrawn. It is easy to conclude that the Police would wish the District Licensing Committee to decide against the On-licence or Manager's Certificate Renewal which could go some way to relieving the apparent concerns of the Police. In my view, if the Police have any concerns at all relating to an alcohol application then they should stand by the "objection" and oppose an application at a public hearing where all concerns, opinions and evidence can be considered and tested by all parties OR if the Police believe that the Act has been infringed then they can prosecute and strive for the outcomes that they want. It is not for the Westland District Licensing Committee to favour a Police view on the papers.

Likewise, I am struggling with the appropriateness of the Police "objecting" to an application by way of a report that canvasses a myriad of sordid and sorry circumstances in a document that is publicly discoverable and then do a one-eighty-degree about face and remove all opposition without explanation whilst leaving their reports intact and open to public consideration. The alcohol licensing and re-licensing process is designed to include the public who should be able to have confidence in Public Body procedures. I am not empowered to do anything about this but simply record my thoughts and observations for consideration.

The Holder of the ON-licence is Lake Mahinapua Hotel Limited. I have previously resolved that this New Zealand Public Company is suitable to hold an alcohol licence and I imagine that Lake Mahinapua Hotel Limited is just as interested in the outcome of Mr. Watene's renewal application as Mr. Watene, himself, is.

For the record, there are some aspects that have come out of the Police investigation and reports on the Watene renewal application which should be seriously considered by the On-licence Holder.

In particular, the Police have reported that there were interviews with staff subsequent to the incident involving the lady and that the "Cleaners/housekeepers commented on the amount of vomit discovered (the next morning) being unusually high". This comment begs the obvious question as to what might be regarded "as a usual amount of vomit?" In my view the usual amount of vomit should be about zero and anything beyond zero should be regarded as unusual. Such a comment suggests to me that the bar is set very low at the Mahinapua Hotel.

If Mahinapua Hotel Limited fail to comprehensively review all the procedures at the Hotel before the next renewal and report on any changes made to policies and procedures then I think that it is most likely that the inevitable determination will be regrettable for the Company.

Finally, I record an apology to the applicant, Mr. Watene, His application for renewal has languished for a long time and I imagine that he must have had doubts as to the outcome, I acknowledge that his Manager's Certificate is essential for his on-going employment, but I do hope that he will accept that the issues were significant enough for me to give a careful consideration to them. After all, the Lake Mahinapua Hotel is, and has been for many years, an important component of the West Coast tourist scene. The public is right to expect that alcohol decisions are not made lightly and that the Westland District Licensing Committee is cognizant of decent and safe standards within the industry.

## **Decision**

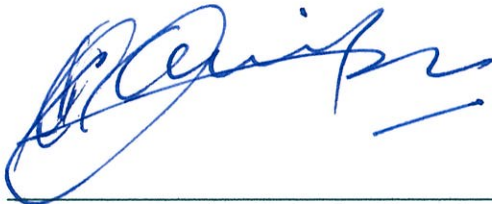
The application is granted on the papers pursuant to s.202 (1) of the Act as Decision Number **027-2021** and I direct that renewed manager's certificate 56/CERT/065/2019 be issued to Chance Xavier Zane Watene pursuant to s.64 of the Act.

The renewal is on the existing terms and conditions for a period of three years from the date of expiry.

### **Memorandum to the Secretary:**

Would you please arrange for a copy of this decision to be made available to the holder of the On-licence, Lake Mahinapua Hotel Limited.

Dated at Hokitika this 6 day of July 2021



**Chairman Westland District Licensing Committee**

