

DUNDEE CITY COUNCIL

REPORT TO: Policy and Resources Committee - 23 June 2008

REPORT ON: Decision by Sheriff Charles McNair in the action by Dundee City Council -v- Ram Swarup Basra

REPORT BY: Depute Chief Executive (Support Services)

REPORT NO: 352-2008

1.0 PURPOSE OF REPORT

This report advises members of the Policy and Resources Committee of the decision of Sheriff Charles McNair in the action raised by Dundee City Council against Ram Swarup Basra.

2.0 RECOMMENDATIONS

It is recommended that the Policy and Resources Committee:

- 2.1 Note the terms of the Sheriff's decision and agree that a complaint should be made to the Procurator Fiscal.

3.0 FINANCIAL IMPLICATIONS

- 3.1 The City Council was unable to recover non-domestic rates of £21,285.32 in respect of the Town House Public House as the various companies to whom the premises had been let by Mr Basra were dissolved. In addition the City Council will have incurred additional legal costs as a result of Mr Basra's actions.

4.0 MAIN TEXT

Reference is made to the licence granted to Mr Ram Swarup Basra, 95 Ancrum Road, Dundee, in respect of the premises at the Town House Public House, 1 King Street, Dundee on 24th June 1999. Mr Basra was the owner of these premises. At the time of his application for the licence, Mr Basra intimated to the Licensing Board that he was also the occupier of the Town House Public House. Occupancy is a necessary prerequisite to the grant of a licence. Mr Basra leased the premises to Innisfree Inns Limited on 25th June 1999. He also secured a personal undertaking from Mr John Martin in respect of the obligations contained in the lease to Innisfree Inns Limited. The undertaking was dated 20th October 1999. Mr Martin had been involved in various public house and hotel ventures in the past. Mr Basra continued to hold the licence and failed to advise the Licensing Board that he was no longer the occupier of the Town House Public House. The company Innisfree Inns Limited was dissolved on 2nd March 2001. Rates were not paid during the lease of the premises to Innisfree Inns Limited.

An assignation of lease was entered into with Town House Inn's Limited, with the consent of Mr Basra, commencing 4th July 2000.

In January 2001 Mr Basra's solicitor submitted an application, on his behalf, for the renewal of the licence for the Town House Public House. Again the Licensing Board was advised that Mr Basra was the occupier and was running the premises. Mr Basra was out of the country at the date of the Board meeting. On his return he met with an officer from Tayside Police and advised him that he was involved in the running of the Town House Public House and that he attended the premises on a daily basis. He advised the police officer that Mr John Martin was left in charge of security and computers.

The company Town House Inn's Limited was dissolved on 4 April 2003. The premises were

then let to Dundee Pub Estate Company Limited commencing 1st September 2003. One of the directors of Dundee Pub Estate Company Limited was Mr Iain Martin, the son of Mr John Martin. Mr Basra failed to intimate this change to the Licensing Board and continued to hold the licence for the premises. Again no rates were paid during this period.

The company Town House Inn's Limited was dissolved on 4 April 2003. The premises were then let to Dundee Pub Estate Company Limited commencing 1st September 2003. One of the directors of Dundee Pub Estate Company Limited was Mr Iain Martin, the son of Mr John Martin. Mr Basra failed to intimate this change to the Licensing Board and continued to hold the licence for the premises. Again no rates were paid during this period.

In January 2004 an application for a further renewal of the licence was presented to the Licensing Board on Mr Basra's behalf by his solicitor. Mr Basra's solicitor was instructed that Mr Basra was the person responsible for the running of the Town House Public House. The Council's Finance Department submitted a letter of objection to the renewal on the basis that Mr Basra was not a fit and proper person to hold such a licence due to the existence of rates arrears. The case was continued to an adjourned meeting of the Licensing Board on 5 February 2004. At that meeting Mr Basra's solicitor, on the instruction of Mr Basra's representative, John Martin, admitted that the rates were due by Mr Basra. The application for renewal was refused. Mr Basra lodged an appeal against the decision of the Licensing Board. Dundee City Council also raised an action against Mr Basra for recovery of the outstanding rates. Mr Basra withdrew his appeal against the decision of the Licensing Board and defended the action in respect of the outstanding rates. Mr Basra claimed that Mr John Martin was the person running the Town House Public House. The actions of Mr Basra and Mr Martin led to the Licensing Board being deceived. Mr Basra and Mr Martin obtained and operated a licence for the Town House Public House contrary to the conditions of the Dundee City Licensing Board.

The Sheriff in his judgement concluded that Mr Basra was not liable for the rates. He also found, however, that Mr Basra appears to have been dishonest in respect of his dealings with the Licensing Board. In the circumstances he instructed that a copy of his judgement together with the transcript of Mr Basra's evidence should be sent to the Procurator Fiscal. A copy of the Sheriff's judgement has been forwarded to the Group Leaders and to Bailie Borthwick.

5.0 POLICY IMPLICATIONS

This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

6.0 CONSULTATIONS

The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance) and Head of Finance.

7.0 BACKGROUND PAPERS

The decision of Sheriff Charles McNair .

Patricia McIlquham

DATE: 10 June 2008