



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** Committee held on **Thursday 24th March, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Melvyn Caplan (Chairman), Nick Evans and Rita Begum

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 TAO TAO JU, 15 LISLE STREET, WC2

LICENSING SUB-COMMITTEE No. 3

Thursday 24th March 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Nick Evans and Councillor Rita Begum

Legal Adviser: Horatio Chance
Committee Officer: Jonathan Deacon
Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health and Metropolitan Police.

Present: Mr James Rankin (Barrister, representing the Applicant), Mr Adrian Yeow (on behalf of the Applicant), Mrs Lai Mei Tang (Applicant and Premises Licence Holder), Mr Desmond Sai Loi Tang (De-facto owner of company holding lease of premises), Mr Ian Watson (Environmental Health), Mr Francis Keegan (City Inspector Team Manager, appearing as witness for Environmental Health) and PC Toby Janes (Metropolitan Police).

**Tao Tao Ju, 15 Lisle Street, WC2
16/00812/LIPV**

1. Removal of condition 32 on the existing licence which states: ‘Mr Desmond Sai Loi Tang shall not be permitted to be upon the licensed premises at any time, and he shall not be involved in the management of the venue or the staff working there’.

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

The Sub-Committee initially heard from Mr Rankin, representing the Applicant, as to why condition 32 on the existing licence should be removed. He emphasised that Mr Tang, the de-facto owner of Tao Tao Ju, 15 Lisle Street, was not a villain and had not been convicted of any offences. Mr Rankin stated that had Mr Tang had a history of many assaults or been shown to be a rogue trader then it would have been entirely appropriate for condition 32 to be attached to the premises licence. However, he believed that it was draconian to stop him ever being on the premises with his family or involved with the premises on the basis of the evidence.

Mr Rankin sought to explain the incident when Mr Francis Keegan (“City Inspector City Manager”) and Mr Siva Kumar (“City Inspector”) had visited Super Star restaurant at 17 Lisle Street on Thursday 2 July 2015 at approximately 02:20 hours. Mrs Tang is also the premises licence holder for Super Star Restaurant and Mr Tang is the de-facto owner of the business. Mr Rankin stated that Mr and Mrs Tang had been married over 20 years and Mr Tang had worked for many years in the restaurant trade. When the inspection had taken place it had been the day before Mrs Tang received the results of her mammogram for breast cancer. Mr Rankin made the point that the timing of the visit was therefore inopportune. Mrs Tang was the potential recipient of bad news and it preyed on her mind and that of Mr Tang. The following day she did receive confirmation that she indeed had breast cancer. Thankfully she had subsequently been given the all clear.

Mr Rankin stated that Mr Tang was hosting a party in honour of his wife on the evening of 1 July / morning of 2 July and staff and friends had attended. Mr and Mrs Tang had provided the food and drink and the party did not involve licensable activities. He explained that when Mr Keegan and Mr Kumar arrived, showing their Council I.D. at the door, the message was not relayed upstairs to the Tangs on the first floor. When the City Inspectors had then proceeded upstairs, Mr Tang had then grabbed Mr Keegan’s arm near the stairs. Mr Rankin added that Mr Tang had not been aware initially of the identity of the City

Inspectors and that he was seeking to eject them from the premises. Mr Rankin commented that Mrs Tang accepted that Mr Tang had grabbed Mr Keegan's arm before she had stepped in (she had been sitting at a table with friends) and that he had also grabbed Mr Kumar's collar. It was also accepted that Mr Tang had probably consumed more alcohol than was advisable on the day in question.

Mr Rankin referred to the fact that the Police who had subsequently investigated the incident had not had access to CCTV footage. He informed Members that the reason for this was that at the time the CCTV had been installed, there had been no condition on the premises licence requiring the aspects set out in the Council's current model conditions MC01 and MC02. The model conditions had subsequently been agreed in September 2015 as part of a minor variation. The CCTV had not recorded continuously at the time of the incident last July. Mr Rankin wished to refute any possible suggestion that there had been sabotage of the CCTV system.

Mr Rankin stated that Mr Keegan had not been hurt as a result of the incident but he fully understood why he had been upset. Mr Rankin made the point that he was not suggesting that Mr Keegan had overreacted or acted improperly subsequent to the incident. Mr Keegan had, he said, made it clear that unless condition 32 on the premises licence was attached to the premises licence then it was intended that the premises licence would be reviewed. He advised the Sub-Committee that his client had agreed the condition but had not realised what the consequences would be of agreeing it. In response to the Sub-Committee's question as to why this had been the case when Mr and Mrs Tang had been represented by Jeffrey Green Russell, Mr Rankin replied that he was not privy to the advice given but that he would have challenged the particular condition had he been advising Mr Tang at the time. He emphasised that English was not Mr Tang's first language.

The Sub-Committee asked the Applicant a number of questions. In response Mrs Tang clarified that there were duty managers in place at Tao Tao Ju and Super Star Chinese Restaurant. She corrected her response that Mr Tang would be making the day to day management decisions for the licensed premises if condition 32 was amended and stated that she would be taking the decisions as the Premises Licence Holder and the Designated Premises Supervisor. Mr Rankin undertook to go through all the conditions on the licence with Mr and Mrs Tang to ensure they fully understood their implications and that they were to be complied with.

The Sub-Committee next heard from Mr Watson, from the Council's Environmental Health department ("Environmental Health"). He confirmed that the minor variation including condition 32 had been granted under delegated authority following communications between Mr Keegan and Jeffrey Green Russell, representing Mr Tang at that time. Mr Watson stated that whilst the condition appeared to be draconian, there had been lengthy communications with the lawyers in respect of the condition prior to it being agreed and the assaults on the two City Inspectors were serious incidents. Owners of premises had responsibilities in terms of how they behaved and acted towards Council officers or members of the public. Physical assaults on Council officers were

very rare.

Mr Keegan spoke as a witness on behalf of Environmental Health. He stated that his recollection of events on Thursday 2 July 2015 as set out in his witness statement in the report was similar to the representations Mr Rankin had just given to the Sub-Committee. He informed Members that he had waited for some time (approximately five to ten minutes) and had asked to speak to the manager of the premises. Two people on the ground floor had not engaged with the City Inspectors (one of them had said that a staff party was taking place) and they had therefore gone upstairs. They were told it was a staff party.

Approximately five minutes after they had first reached the first floor and checked the area, Mr Tang had arrived at speed. Mr Keegan stated that Mr Tang would not listen to what he had to say and had poked him in the ribs and then pulled his arm, attempting to drag him towards the stairs. It had not been overcrowded and people were sitting at the tables. Mr Tang finally released Mr Keegan's arm but in the midst of this, Mr Keegan lost his back-pack and when Mr Kumar had stepped forward to get it, Mr Tang had grabbed Mr Kumar's collar.

Mr Keegan recollected that once the situation had calmed down, he had asked one individual who he believed was the Duty Manager to display either the premises licence or potentially a Temporary Event Notice. Mr Tang had disappeared and Mrs Tang was in a distressed state on the ground floor. Mr King stated that the individual had been unable to produce the full licence. Mr Keegan and Mr Kumar had inspected the upper floors which appeared to be laid out as private / karaoke rooms. Mr Keegan informed Members that the man he believed to be the Duty Manager had said that the CCTV cameras were in use. At that point Mr Keegan had requested that the CCTV was retained. Following the incident Mr Keegan had told the Westminster Police Licensing Team that he wanted to bring a formal complaint against Mr Tang and they had inspected but not obtained any CCTV footage. He accepted that there had been no CCTV condition on the premises licence at that time but considered that the CCTV footage would have, nevertheless, confirmed his version of events.

Mr Keegan stated that it was Mrs Tang as the premises licence holder who had agreed condition 32 being placed on the premises licence. The alternative he had offered was a review of the premises licence which was a mechanism for the Sub-Committee to consider what steps should be taken. In response to a question from the Sub-Committee, Mr Keegan stated that the review would have been a perfectly acceptable outcome but that the conditions that had been proposed as part of the minor variation, including condition 32, had been agreed by Mrs Tang's legal representative and he was therefore happy with that. Mr Keegan added that he had a lawful right as an authorised officer to enter the premises and he expected the manager to come forward and assist with any enquiries that he had whilst carrying out his duties. As a licensing officer for 26 years it had been very rare for him to be manhandled.

The Sub-Committee asked Mr Keegan and Mr Watson a number of further questions. These included whether there had been any further inspections following the incident on 2 July. Mr Keegan advised that he did not have dates of the visits but that Council officers had visited Tao Tao Ju and Super Star

Chinese Restaurant on the same evening simultaneously three or four months ago. He had needed to check whether they were being managed separately. It had been found that there had been issues with staff operating the CCTV and showing footage to officers in a reasonable time period. Overall there had been three visits to one of the two premises and two to the other. He had found that there had been a general improvement in engagement towards Council officers at the two premises, including ceasing licensable activities immediately at the rear of the ground floor at Tao Tao Ju when advised that the area was unlicensed. The significant improvement was from a position where there had simply been a lack of staff knowledge of the conditions on the premises licences at the two premises.

PC Janes advised the Sub-Committee that the Metropolitan Police had maintained their representation in order that he could provide Members with impartial evidence. He had carried out the investigation following Mr Keegan's formal complaint against Mr Tang. He had spoken to staff initially at Super Star Chinese Restaurant and they had been unable to operate the CCTV. The following day it had been discovered that there were live images but no recorded footage. Mr Tang had in his interview with the Police denied that he had assaulted Mr Keegan and said that he had poked his arm and intended to lawfully eject him from the premises. There had been no injuries to Mr Keegan. The Crown Prosecution Service decided that due to insufficient evidence Mr Tang would not be charged. For this reason the Police were remaining impartial.

The Sub-Committee, after careful consideration of the matter, warned Mr Tang (in the absence of Mrs Tang from the announcement of the decision) that his actions towards the City Inspectors were totally unacceptable and that he must never behave in a similar fashion again. Whilst Members fully appreciated that Mr Tang as an owner was permitted to be involved with the Tao Tao Ju and Super Star Chinese Restaurant premises, they were not satisfied that he had not been playing a more active role in respect of the premises than he was otherwise permitted to have. The Sub-Committee stressed that it was important that Mrs Tang adhered to her responsibilities as premises licence holder and designated premises supervisor to the letter. The Sub-Committee also considered that the Applicant had been represented by an experienced barrister at Jeffrey Green Russell and that it would have been appreciated by the legal representative what the significance was of condition 32 being attached to the Tao Tao Ju licence. The Committee stated that it was important that the effect of the conditions on the premises licence were fully explained to Mr and Mrs Tang by Mr Rankin.

However, Members of the Sub-Committee in determining the matter considered that their role was to look at the application on its individual merits and where necessary impose appropriate conditions. On the basis of the evidence given prior to the incident and since, it was not felt to be appropriate nor indeed proportionate that Mr Tang would never be allowed on to his own premises at any time in the future. However, this was not to detract from the significance of what had taken place on 2 July 2015. The Sub-Committee noted that there had been improvement in the running of Tao Tao Ju and Super Star Chinese Restaurant but advised that the premises needed to be run well consistently

	over time in order to promote the licensing objectives. The aspect of the application to remove condition 32 from the premises licence was granted.
2.	Vary the licence plan
	<p>There have been some layout changes of the premises which include the following:</p> <ul style="list-style-type: none"> • The change of location of the main entrance • The movement of the bar at the front of the ground floor • The removal of the bar at the rear of the ground floor • The WC area at the rear of the ground floor has been changed to a dining area where licensable activity is carried out.
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee granted the variation to the licence plan.</p> <p>Environmental Health had submitted a representation objecting to this aspect of the application. There were no other parties who had made a representation on the layout changes to the premises. Mr Rankin informed the Sub-Committee that when Mr and Mrs Tang had purchased the premises in 2011, they had decided to refurbish the premises and the layout changes had been mistakenly carried out without obtaining the necessary permission. Two dining tables had been located at the rear of the ground floor in an unlicensed area but this error had been rectified.</p> <p>Mr Watson advised Members that he and Alan Lynagh, Senior Licensing Surveyor, had visited the premises on 15 March 2016 and they had no further objections to this aspect of the application. There had been a notice on the premises door confirming that it was not permitted for alcohol to be sold in the unlicensed area. Licensable activities that had been previously provided in this area had been a concern of the City Inspectors.</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is

suspended.

3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence

must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

7. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

9. The premises shall only operate as a restaurant:

- a. in which customers are shown to their table;
- b. where the supply of alcohol is by waiter or waitress service only;
- c. which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery;

- d. which do not provide any take away service of food or drink for immediate consumption;
- e. which do not provide any take away service of food or drink after 23.00, and
- f. where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

10. Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
11. Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.
12. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
13. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
14. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
16. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
17. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
18. The number of persons permitted in the premises at any one time (excluding staff) shall not exceed:

Ground Floor 90 persons
First Floor 20 persons
19. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

20. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
21. The licence holder shall ensure that all relevant staff are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 21 years (or older if the licence holder so elects) for evidence of age. This evidence shall be photographic, such as passport or photographic driving licence until other effective identification technology (for example, thumb print or pupil recognition) is introduced. All cashiers will be instructed, through training, that a sale shall not be made unless this evidence is produced.
22. All relevant staff will receive refresher training on relevant alcohol laws and the licence holder's policy on challenging for ID. Such training to take place at least twice a year. Records will be maintained at the premises containing information about the training of any person who may make a sale of alcohol including the date of their training and the nature of the training undertaken. The relevant documentation shall be produced on request to a police officer or a relevant officer of a responsible authority.
23. There shall be no striptease or nudity, and all persons shall be decently attired at all times, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
24. There shall be no sales of hot food or hot drink for consumption off the premises after 23.00.
25. No more than (15)% of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
26. There shall be no self service of alcohol on the premises.
27. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
28. Patrons permitted to temporarily leave and then re-enter the premises, eg to smoke, shall not be permitted to take drinks or glass containers with them.
29. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.

30. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
31. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue;
 - (b) all ejections of patrons;
 - (c) any complaints received concerning crime and disorder;
 - (d) any incidents of disorder;
 - (e) all seizures of drugs or offensive weapons;
 - (f) any faults in the CCTV system or searching equipment or scanning equipment;
 - (g) any refusal of the sale of alcohol;
 - (h) any visit by a relevant authority or emergency service.
32. If the premises licence holder is not present, there shall be a duty manager upon and in charge of the venue whenever it is open and trading, and whenever any person (other than staff members) are still present. The effect of this condition is that a duty manager cannot leave the venue at relevant times (even temporarily) unless there is another properly nominated manager also upon the venue to take his/her place.
33. This duty manager shall be the holder of a personal licence, evidence of which shall be produced to authorised persons upon request. The licensee or duty manager shall make themselves known promptly to any authorised persons who visit or inspect the venue and s/he shall assist them in their duties.
34. In the absence of the premises licence holder, a letter of delegations specifically naming the duty manager(s) shall be prominently displayed near the entrance of the venue.
35. The licensee or duty manager shall ensure that the venue is operated safely and that no unlawful activities are permitted to take place within the venue, and shall also ensure that all licensable activities are strictly limited to those areas covered by the licence and to the permitted hours.
36. The entrance to the venue shall not be locked whenever any persons (other than staff members) are still present, and authorised officers shall be given prompt access to all parts of the premises at any reasonable time.

4 SUPER STAR CHINESE RESTAURANT, 17 LISLE STREET, WC2

LICENSING SUB-COMMITTEE No. 3

Thursday 24th March 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Nick Evans and Councillor Rita Begum

Legal Adviser: Horatio Chance
Committee Officer: Jonathan Deacon
Presenting Officer: Yolanda Wade

Relevant Representations: Environmental Health and Metropolitan Police.

Present: Mr James Rankin (Barrister, representing the Applicant), Mr Adrian Yeow (on behalf of the Applicant), Mrs Lai Mei Tang (Applicant and Premises Licence Holder), Mr Desmond Sai Loi Tang (De-facto owner of company holding lease of premises), Mr Ian Watson (Environmental Health), Mr Francis Keegan (City Inspector Team Manager, appearing as witness for Environmental Health) and PC Toby Janes (Metropolitan Police).

Super Star Chinese Restaurant, 17 Lisle Street, WC2 16/00834/LIPV	
1.	Removal of condition 11 on the existing licence which states: ‘Mr Desmond Sai Loi Tang shall not be permitted to be upon the licensed premises at any time, and he shall not be involved in the management of the venue or the staff working there’.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): The Sub-Committee initially heard from Mr Rankin, representing the Applicant, as to why condition 11 on the existing licence should be removed. He emphasised that Mr Tang, the de-facto owner of Super Star Chinese Restaurant, 17 Lisle Street, was not a villain and had not been convicted of any offences. Mr Rankin stated that had Mr Tang had a history of many assaults or been shown to be a rogue trader then it would have been entirely appropriate for condition 11 to be attached to the premises licence. However, he believed that it was draconian to stop him ever being on the premises with his family or involved with the premises on the basis of the evidence. Mr Rankin sought to explain the incident when Mr Francis Keegan (“City

Inspector City Manager”) and Mr Siva Kumar (“City Inspector”) had visited Super Star restaurant at 17 Lisle Street on Thursday 2 July 2015 at approximately 02:20 hours. Mrs Tang is also the premises licence holder for Tao Tao Ju, 15 Lisle Street and Mr Tang is the de-facto owner of the business. Mr Rankin stated that Mr and Mrs Tang had been married over 20 years and Mr Tang had worked for many years in the restaurant trade. When the inspection had taken place it had been the day before Mrs Tang received the results of her mammogram for breast cancer. Mr Rankin made the point that the timing of the visit was therefore inopportune. Mrs Tang was the potential recipient of bad news and it preyed on her mind and that of Mr Tang. The following day she did receive confirmation that she indeed had breast cancer. Thankfully she had subsequently been given the all clear.

Mr Rankin stated that Mr Tang was hosting a party in honour of his wife on the evening of 1 July / morning of 2 July and staff and friends had attended. Mr and Mrs Tang had provided the food and drink and the party did not involve licensable activities. He explained that when Mr Keegan and Mr Kumar arrived, showing their Council I.D. at the door, the message was not relayed upstairs to the Tangs on the first floor. When the City Inspectors had then proceeded upstairs, Mr Tang had then grabbed Mr Keegan’s arm near the stairs. Mr Rankin added that Mr Tang had not been aware initially of the identity of the City Inspectors and that he was seeking to eject them from the premises. Mr Rankin commented that Mrs Tang accepted that Mr Tang had grabbed Mr Keegan’s arm before she had stepped in (she had been sitting at a table with friends) and that he had also grabbed Mr Kumar’s collar. It was also accepted that Mr Tang had probably consumed more alcohol than was advisable on the day in question.

Mr Rankin referred to the fact that the Police who had subsequently investigated the incident had not had access to CCTV footage. He informed Members that the reason for this was that at the time the CCTV had been installed, there had been no condition on the premises licence requiring the aspects set out in the Council’s current model conditions MC01 and MC02. The model conditions had subsequently been agreed in September 2015 as part of a minor variation. The CCTV had not recorded continuously at the time of the incident last July. Mr Rankin wished to refute any possible suggestion that there had been sabotage of the CCTV system.

Mr Rankin stated that Mr Keegan had not been hurt as a result of the incident but he fully understood why he had been upset. Mr Rankin made the point that he was not suggesting that Mr Keegan had over-acted or acted improperly subsequent to the incident. Mr Keegan had, he said, made it clear that unless condition 11 on the premises licence was attached to the premises licence then it was intended that the premises licence would be reviewed. He advised the Sub-Committee that his client had agreed the condition but had not realised what the consequences would be of agreeing it. In response to the Sub-Committee’s question as to why this had been the case when Mr and Mrs Tang had been represented by Jeffrey Green Russell, Mr Rankin replied that he was not privy to the advice given but that he would have challenged the particular condition had he been advising Mr Tang at the time. He emphasised that English was not Mr Tang’s first language.

The Sub-Committee asked the Applicant a number of questions. In response Mrs Tang clarified that there were duty managers in place at Tao Tao Ju and Super Star Chinese Restaurant. She corrected her response that Mr Tang would be making the day to day management decisions for the licensed premises if condition 11 was amended and stated that she would be taking the decisions as the Premises Licence Holder and the Designated Premises Supervisor. Mr Rankin undertook to go through all the conditions on the licence with Mr and Mrs Tang to ensure they fully understood their implications and that they were to be complied with.

The Sub-Committee next heard from Mr Watson, from the Council's Environmental Health department ("Environmental Health"). He confirmed that the minor variation including condition 11 had been granted under delegated authority following communications between Mr Keegan and Jeffrey Green Russell, representing Mr Tang at that time. Mr Watson stated that whilst the condition appeared to be draconian, there had been lengthy communications with the lawyers in respect of the condition prior to it being agreed and the assaults on the two City Inspectors were serious incidents. Owners of premises had responsibilities in terms of how they behaved and acted towards Council officers or members of the public. Physical assaults on Council officers were very rare.

Mr Keegan spoke as a witness on behalf of Environmental Health. He stated that his recollection of events on Thursday 2 July 2015 as set out in his witness statement in the report was similar to the representations Mr Rankin had just given to the Sub-Committee. He informed Members that he had waited for some time (approximately five to ten minutes) and had asked to speak to the manager of the premises. Two people on the ground floor had not engaged with the City Inspectors (one of them had said that a staff party was taking place) and they had therefore gone upstairs. They were told it was a staff party. Approximately five minutes after they had first reached the first floor and checked the area, Mr Tang had arrived at speed. Mr Keegan stated that Mr Tang would not listen to what he had to say and had poked him in the ribs and then pulled his arm, attempting to drag him towards the stairs. It had not been overcrowded and people were sitting at the tables. Mr Tang finally released Mr Keegan's arm but in the midst of this, Mr Keegan lost his back-pack and when Mr Kumar had stepped forward to get it, Mr Tang had grabbed Mr Kumar's collar.

Mr Keegan recollected that once the situation had calmed down, he had asked one individual who he believed was the Duty Manager to display either the premises licence or potentially a Temporary Event Notice. Mr Tang had disappeared and Mrs Tang was in a distressed state on the ground floor. Mr King stated that the individual had been unable to produce the full licence. Mr Keegan and Mr Kumar had inspected the upper floors which appeared to be laid out as private / karaoke rooms. Mr Keegan informed Members that the man he believed to be the Duty Manager had said that the CCTV cameras were in use. At that point Mr Keegan had requested that the CCTV was retained. Following the incident Mr Keegan had told the Westminster Police Licensing Team that he wanted to bring a formal complaint against Mr Tang and they had inspected but

not obtained any CCTV footage. He accepted that there had been no CCTV condition on the premises licence at that time but considered that the CCTV footage would have confirmed his version of events.

Mr Keegan stated that it was Mrs Tang as the premises licence holder who had agreed condition 11 being placed on the premises licence. The alternative he had offered was a review of the premises licence which was a mechanism for the Sub-Committee to consider what steps should be taken. In response to a question from the Sub-Committee, Mr Keegan stated that the review would have been a perfectly acceptable outcome but that the conditions that had been proposed as part of the minor variation, including condition 11, had been agreed by Mrs Tang's legal representative and he was therefore happy with that. Mr Keegan added that he had a lawful right as an authorised officer to enter the premises and he expected the manager to come forward and assist with any enquiries that he had whilst carrying out his duties. As a licensing officer for 26 years it had been very rare for him to be manhandled.

The Sub-Committee asked Mr Keegan and Mr Watson a number of further questions. These included whether there had been any further inspections following the incident on 2 July. Mr Keegan advised that he did not have dates of the visits but that Council officers had visited Tao Tao Ju and Super Star Chinese Restaurant on the same evening simultaneously three or four months ago. He had needed to check whether they were being managed separately. It had been found that there had been issues with staff operating the CCTV and showing footage to officers in a reasonable time period. Overall there had been three visits to one of the two premises and two to the other. He had found that there had been a general improvement in engagement towards Council officers at the two premises, including ceasing licensable activities immediately at the rear of the ground floor at Tao Tao Ju when advised that the area was unlicensed. The significant improvement was from a position where there had simply been a lack of staff knowledge of the conditions on the premises licences at the two premises.

PC Janes advised the Sub-Committee that the Metropolitan Police had maintained their representation in order that he could provide Members with impartial evidence. He had carried out the investigation following Mr Keegan's formal complaint against Mr Tang. He had spoken to staff initially at Super Star Chinese Restaurant and they had been unable to operate the CCTV. The following day it had been discovered that there were live images but no recorded footage. Mr Tang had in his interview with the Police denied that he had assaulted Mr Keegan and said that he had poked his arm and intended to lawfully eject him from the premises. There had been no injuries to Mr Keegan. The Crown Prosecution Service decided that due to insufficient evidence Mr Tang would not be charged. For this reason the Police were remaining impartial.

The Sub-Committee, after careful consideration of the matter, warned Mr Tang (in the absence of Mrs Tang from the announcement of the decision) that his actions towards the City Inspectors were totally unacceptable and that he must never behave in a similar fashion again. Whilst Members fully appreciated that Mr Tang as an owner was permitted to be involved with the Tao Tao Ju and

Super Star Chinese Restaurant premises, they were not satisfied that he had not been playing a more active role in respect of the premises than he was otherwise permitted to have. The Sub-Committee stressed that it was important that Mrs Tang adhered to her responsibilities as premises licence holder and designated premises supervisor to the letter. The Sub-Committee also considered that the Applicant had been represented by an experienced barrister at Jeffrey Green Russell and that it would have been appreciated by the legal representative what the significance was of condition 11 being attached to the Tao Tao Ju licence. The Committee stated that it was important that the effect of the conditions on the premises licence were fully explained to Mr and Mrs Tang by Mr Rankin.

However, Members of the Sub-Committee in determining the matter considered that their role was to look at the application on its individual merits and where necessary impose appropriate conditions. On the basis of the evidence given prior to the incident and since, it was not felt to be appropriate nor proportionate that Mr Tang would never be allowed on to his own premises at any time in the future. However, this was not to detract from the significance of what had taken place on 2 July 2015. The Sub-Committee noted that there had been improvement in the running of Tao Tao Ju and Super Star Chinese Restaurant but advised that the premises needed to be run well consistently over time in order to promote the licensing objectives. The aspect of the application to remove condition 11 from the premises licence was granted.

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
7. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for

consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,

- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

9. Alcohol may be sold or supplied:

- (a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10.00 to 00.00;
- (b) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12.00 to 23:30;
- (c) On Christmas Day: 12.00 to 22.30;
- (d) On New Year's Eve, except on a Sunday, 11.00 to 23.00;
- (e) On New Year's Eve on a Sunday, 12.00 to 22.30;
- (f) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

The above restrictions do not prohibit:

(a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(b) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;

(c) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

(d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(e) the sale of alcohol to a trader or registered club for the purposes of the trade or club;

(f) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

(g) the taking of alcohol from the premises by a person residing there;

(h) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

(i) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

10. Alcohol shall not be sold or supplied unless the premises have been structurally and bona fide used, or intended to be used, for the purposes of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises.
11. If the premises licence holder is not present, there shall be a duty manager upon and in charge of the venue whenever it is open and trading, and whenever any person (other than staff members) are still present. The effect of this condition is that a duty manager cannot leave the venue at relevant times (even temporarily) unless there is another properly nominated manager also upon the venue to take his/her place.
12. This duty manager shall be the holder of a personal licence, evidence of which shall be produced to authorised persons upon request. The licensee or duty manager shall make themselves known promptly to any authorised persons who visit or inspect the venue and s/he shall assist them in their duties.
13. In the absence of the premises licence holder, a letter of delegations specifically naming the duty manager(s) shall be prominently displayed near the entrance of the venue.

14. The licensee or duty manager shall ensure that the venue is operated safely and that no unlawful activities are permitted to take place within the venue, and shall also ensure that all licensable activities are strictly limited to those areas covered by the licence and to the permitted hours.
15. The entrance to the venue shall not be locked whenever any persons (other than staff members) are still present, and authorised officers shall be given prompt access to all parts of the premises at any reasonable time.
16. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
17. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
18. This licence is subject to all the former regulations made by Westminster City Council prescribing standard conditions for annual night café licences, effective from 1 October 2001.
19. The premises may be kept open for the purposes of this licence from midnight on each of the days Sunday to Thursday to 1.00am on the day following and from midnight on the days Friday and Saturday to 2.00am on the day following.
20. The number of persons that can be accommodated shall not exceed: Ground floor - 60, First floor 60 (excluding staff).
21. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.
22. Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available with or otherwise as an ancillary to meals served in the licensed premises.
23. The terminal hour for Late Night Refreshment on New Year's Eve is extended to 05:00 on New Year's Day.