

Thomas & Thomas Partners LLP

Your ref: 18/110644/LISEVR & 18/11062/LISEVR
Our ref: JS/TOM/MCK.9.3

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Ms Daisy Gadd

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Licensing Service
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By email: licensing@westminster.gov.uk
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26 March 2019

Dear Ms Gadd

**Local Government (Miscellaneous Provisions) Act 1982, Schedule 3
Sophisticats, 3-7 Brewer Street, 18/110644/LISEVR & 77 Welbeck Street 18/11062/LISEVR**

We refer to the Licensing Sub-Committee hearing scheduled for 10 April 2019 to determine the application for renewal of the SEVLs in respect of the above premises.

As set out in paragraphs 5.2, 5.4, 5.6 & 5.8 of the Agenda Report for the now adjourned hearing on 26 February 2018, there remain four objections to this application. Objectors 1, 2 & 3 remain anonymous under paragraph 10(17) of Schedule 3 of the 1982 Act. However, in relation to objection 4, Mr Warr and Mr Nash have given consent for their identity to be revealed. Also, in his second statement dated 17 February 2019, Mr Nash revealed the identity of objector 3 (at Appendix D4 of the 26 February 2018 report) as Mr Greg Paterson.

All four of the objections rely upon factual evidence to support their representations. Much of the factual evidence is not accepted by the applicant to be accurate or true and indeed may well be borne of malice. It is our position that, in those circumstances, and in order to substantiate their objections, the objectors must provide the factual evidence through a witness or witnesses. It is necessary for the disputed evidence to be given through a witness or witnesses because otherwise (i) there is no opportunity for the applicant to cross-examine/question the evidence and (ii) the alleged evidence itself, which is merely set out in writing in the objection letters, amounts to anonymous hearsay. Whilst ordinary hearsay is always admissible in licensing hearings, anonymous hearsay is always objectionable [please see *White v Nursing and Midwifery Council* [2014] EWHC 520 (Admin)].

The necessity for any factual evidence to be given by a witness or witnesses in person is of particular importance in this case because, as you know, an earlier objector to this application was one Allan Brown. Mr. Brown, in an anonymous objection letter, purported to give evidence of a visit to Sophisticats and alleged breaches of the licence which, upon his identity being revealed, were shown to be false or at least materially inaccurate. Mr. Brown subsequently withdrew his objection. Mr. Brown is connected to Simon Warr and Tony Nash (objection 4) who are connected to Greg Paterson (objection 3). It is also strongly believed that Mr. Brown and Simon Warr are connected to objection 2.

Paragraphs 5.15(a)&(c) and 5.7 of Westminster City Council's Sexual Entertainment Venues Guidance and Procedure document dated 17 February 2012 ("Westminster SEV Guidance") require any witness to state their full name and to be available to be questioned by Members of the Licensing Sub Committee, its legal and policy advisors and opposing parties. Thus, whilst it is perfectly proper for objectors to remain anonymous under paragraph 10(17), it is not possible for a witness to remain anonymous.

Please therefore note our client's contention that if any of the four objectors wish to rely upon factual evidence to support their objection, this must be effected by the calling of a witness or witnesses at the hearing. Such witness or witnesses must provide their full name and be subject to questioning by Members of the Licensing Sub Committee, its legal and policy advisors and opposing parties in accordance with paragraphs 5.7 & 5.15 of the Westminster SEV Guidance.

In any event, it will be necessary for all objectors, anonymous or not, to attend the hearing in person, in accordance with paragraph 5.8 of the Westminster SEV Guidance.

We would be most grateful if you could please ensure enough time is set aside to permit cross examination of witnesses in accordance with paragraph 5.7 of the Westminster SEV Guidance.

Yours sincerely

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