



Decision Number: 048/2023/HCDLC/203

**IN THE MATTER** of section 131 of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER** of an application by Pravin Nana Ranchhod trading as Ava Food Store for a Renewal of an Off-Licence, situated at 162 Cuba Street, Petone

**BEFORE THE LOWER HUTT DISTRICT LICENSING COMMITTEE**

Chair: Cr Simon Edwards  
Members: Noeline Matthews, Cr Brady Dyer

**HEARING** held at Hutt City Council Chambers, 30 Laings Road, Lower Hutt on 12 May 2023.

**APPEARANCES**

Pravin Nana Ranchhod	Applicant
Tracy Gibson	Alcohol Team Lead, (reporting Licensing Inspector) Hutt City Council
Senior Sergeant Shane Bengé	NZ Police
Sergeant Manu Leuluai	NZ Police

**IN ATTENDANCE**

Melissa Harward	City Solicitor, Hutt City Council
Annie Doornebosch	Democracy Advisor, Hutt City Council
Heather Clegg	Minute Taker
Sophie Hughes (observer)	Public Health Advisor, Medical Officer of Health

**DECISION OF THE DISTRICT LICENSING COMMITTEE**

**Decision**

[1] The Lower Hutt District Licensing Committee (the Committee) acting pursuant to the Sale and Supply of Alcohol Act 2012 **DECLINES** the application for a Renewal of an Off-Licence from Pravin Nana Ranchhod, trading as Ava Food Store at 162 Cuba Street, Petone.

**Introduction**

[2] Pravin Nana Ranchhod, trading as Ava Food Store, a grocery store, applied to renew the Off-Licence for the premises located at 162 Cuba Street, Petone. The application was lodged on 26 August 2022. No changes to the details of the Off-Licence were requested.

- [3] Pravin Nana Ranchhod is the overall manager for the premises and holds a current Manager's Certificate. There are three other employees who hold Manager's Certificates, all of whom are family members.
- [4] The Committee did not consider a site visit, given the nature of the application.
- [5] On 20 October 2022, the Police objected to this application under sections 131, 105 and 4 of the Sale and Supply of Alcohol Act 2012. There were no other written objections received, either from the other reporting agencies, or from members of the public.
- [6] The Committee noted that Mr Ranchhod had failed a Controlled Purchase Operation (CPO) conducted on 8 April 2021. There was disagreement between Mr Ranchhod and the Police as to the timing and details of this operation.
- [7] The Committee also noted the Alcohol Regulatory and Licensing Authority (ARLA) heard the case on 3 February 2022 (ARLA 450064/2021 Matthew Barraclough v Pravin Nana Ranchhod (enforcement licence) and ARLA 450070/2021 Matthew Barraclough v Pravin Nana Ranchhod (enforcement certificate)) and that as yet, no decision has been released.
- [8] The Committee also noted Mr Ranchhod had failed three previous CPOs (2005, 2011 and 2013) and had a conviction for receipt of stolen property.
- [9] The Medical Officer of Health did not submit to this application (having been served notice in the required form and within time). The Committee noted a representative attended and observed the Hearing but did not take part in the proceedings.

### **The Applicant**

#### *The Applicant's Statements of Evidence and Oral Submissions at Hearing*

- [10] Mr Ranchhod attended the hearing and elaborated on his statement of evidence. His main points were:
- Mr Ranchhod disagreed that he had failed the most recent CPO in that he considered that the volunteer who lied about their age meant that he was not in breach of the law; and
  - The 2008 CPO was invalid because the participants lied about their age.
- [11] Mr Ranchhod outlined the circumstances of the latest CPO that he had failed, as he recalled them. He believed the operation had occurred at 2.30pm and that a male had entered the store, approached the counter and requested \$11 cash out using a credit card. This male had then requested a second amount of \$11 cash out, with a different credit card. Mr Ranchhod explained that a female had walked into the store with the male, and whilst these transactions were occurring, had walked to the back of the store, picked out two bottles of wine without perusal, (since confirmed to be one bottle of wine and one bottle of non-alcohol grape juice) and walked out of the store.

Mr Ranchhod stated that as the male turned to walk out the door, he asked him how old he was, to which the reply was "eighteen". Mr Ranchhod stated he did not understand the circumstances of the event and thought perhaps he may have been robbed but noted he had retained the \$22 in cash. He added it was normal practice for one customer to approach the counter whilst another looked for items to buy, and that it was also normal practice for a customer to only want cash out as the train station was nearby.

- [12] Mr Ranchhod stated he did not give a receipt of any kind to the male, as they had not asked for it, and that as another customer was waiting to be served, he did not pursue the male and female. He noted that in any event, he would not normally have chased a customer if he believed he had been robbed, as he was scared for his safety. He explained he did not put the alcohol in a bag, which he would normally do as the store is located within a Liquor Free area, as the liquor was never presented to the counter.
- [13] Mr Ranchhod provided a brief background of how robberies were a common occurrence at his store, and as such, when the volunteers walked out of the shop, he did not feel safe to chase after them.
- [14] Mr Ranchhod also stated that he would often help those in need by providing free food. He confirmed he provided monetary donations to the community.
- [15] In response to questions from the Committee, the Police and the Licensing Inspector, Mr Ranchhod repeatedly stated he believed the CPO had been carried out illegally, as the male customer had lied about their age.
- [16] He also stated that it was not until 6pm or 6.30pm that a Police officer and two other personnel entered the store and informed him he had failed a CPO. Mr Ranchhod queried why those three people were not at the Hearing, and why it took so long for the Police to come into his store.
- [17] Mr Ranchhod also queried why the Police had not asked for a till receipt on the day of the CPO, instead returning the next day with a request for a receipt, which Mr Ranchhod could not fulfill as his till was not equipped to provide receipts of transactions from previous days.
- [18] He repeatedly referred to a Dominion Post newspaper article dated 11 October 2008 in which Mr Ranchhod maintained the Court ruling was that volunteers in a CPO could not lie about their age and that therefore he had not broken the law by selling alcohol to someone who had lied about their age.

*Suitability*

- [19] Regarding the Receipt of Stolen Property conviction, Mr Ranchhod believed he had been hard done by and that there were only two cameras recovered. He confirmed he had a strained relationship with the Police. He now did not bother to ring them if an incident of thieving occurred at his store, or an incident of a minor requesting an alcoholic sale, as inevitably there would be no response from the Police. Sergeant Leuluai pointed out that this was in direct conflict with Mr Ranchhod's own procedure which stated if a minor tried to purchase alcohol, they would not be sold it, or the Police would be called.
- [20] Mr Ranchhod advised the Committee that previously he had been the only person who worked in his store to hold a Manager's Certificate, and that now, there were a total of four employees who held a Manager's Certificate. He maintained that this meant he could now take breaks providing another employee with a Manager's Certificate was in the store. He confirmed he worked seven days a week, usually for the full hours the store was open. He further confirmed that he believed he had undertaken all the necessary training with respect to selling alcohol, and that he did not know what else could be added to that training.

*Committee's Overall Finding of Mr Ranchhod's evidence:*

- [21] The Committee was not persuaded by Mr Ranchhod's application to renew his licence. The evidence provided was repeated several times without fully adding further detail. This was highlighted in relation to the most recent CPO, where Mr Ranchhod's evidence conflicted with the Police's evidence. He stated repeatedly that the Police should have taken receipts at the time of the CPO, but the Police stated that Mr Ranchhod refused to cooperate at this time and his point of sale is not able to produce receipts after the day they are created.
- [22] The Committee was disappointed by the lack of accountability taken by Mr Ranchhod. Mr Ranchhod's suggestion that the Government require all those under 50 produce ID is at odds with his stated policy to ask the purchaser's age prior to asking for their ID. The Committee ultimately did not find Mr Ranchhod's evidence to be reliable or persuasive.

**Reporting Agencies**

- [23] The application was referred to the Medical Officer of Health, the Licensing Inspector and Police for comment in accordance with the ARLA Practice Directions and Statement issued on 26 November 2013. The Police had opposed the application based on suitability and noted that they had already applied to ARLA to have Mr Ranchhod's licence cancelled. During the Hearing, the Licensing Inspector also raised concerns regarding Mr Ranchhod's suitability, however their written report raised no issues in this regard.

*District Licensing Inspector*

- [24] The Committee received a detailed written report from the Alcohol Team Lead (the reporting Licensing Inspector), which provided good background to the application. It did not raise any objection to the suitability of the applicant, concluding that despite listing the failed CPOs, Mr Ranchhod was suitable to hold an Off-Licence, and that he demonstrated an adequate understanding of host responsibilities in his interview. However, upon asking Mr Ranchhod questions during the Hearing regarding his obligations under Sale and Supply of Alcohol Act 2012 (the Act), the Alcohol Team Lead did raise concerns regarding Mr Ranchhod's suitability. They were particularly concerned that Mr Ranchhod appeared not to take responsibility for any of his previous convictions, instead passing blame onto other parties.
- [25] The Alcohol Team Lead also raised concern over Mr Ranchhod's procedures relating to possible underage minors attempting to purchase alcohol, The Alcohol Team Lead believed he was not acting according to the requirements of the Act, as he repeatedly did not ask for identification from persons who looked under 25 years of age. Mr Ranchhod advised he had no issue with asking people for identification if he believed them to be underage.
- [26] The Alcohol Team Lead tabled a summary sheet for the most recently failed CPO at the Ava Food Store, which clearly set out the timings and happenings of that CPO. These details were also included in their original report.
- [27] The Alcohol Team Lead's report provided information relating to the design and layout of the store and compliance (or otherwise) with the Fire and Emergency NZ (FENZ) requirements. The Committee was advised that Mr Ranchhod had incorrectly declared the premises had an evacuation scheme, however FENZ had agreed that the building appeared to have evacuation procedures in place and did not raise any objections.
- [28] The report also advised that the signage on the premises required updating, and it is unclear to this Committee whether this has occurred. The report listed the systems, staff and training in place at the premises to show compliance with the Act and concluded that despite the current year's training not being noted down, or staff not having undertaken the Online ServeWise training module, the systems were in compliance with the Act.
- [29] The report explained the local environment and concluded that there were no noise, nuisance, graffiti or vandalism issues associated with or near the premises. It noted that the visual amenity of the exterior of the premises was clean and tidy, and concluded that there was no reason to believe that the amenity and good order of the locality would be likely to be increased by more than a minor extent, by the effects of a refusal to renew the licence.

*Committee's Overall Finding of the Licensing Inspector's Evidence:*

[30] The Committee found the Inspector's report useful and found the questions she asked of Mr Ranchhod to be illuminating. The Licensing Inspector ended her oral evidence stating that she now did have questions as to suitability. The Committee would agree that the question of suitability is important.

*Police*

[31] Both Senior Sergeant Bengé and Sergeant Leuluai were present at the Hearing and both offered evidence.

[32] Sergeant Leuluai explained the grounds for the Police opposition to the application as being the existence and unresolved matter relating to the Off-License and Manager's Certificate (namely the failed CPO on 8 April 2021, and the resulting 3 February 2022 ARLA Hearing) and the history of Mr Ranchhod's previous convictions (three failed CPO's and a dishonesty offence), which culminated in the Police belief that Mr Ranchhod was not suitable to hold an Off-Licence. The Police further believed that Mr Ranchhod's attitudes were not responsible and that he did not ensure harm from alcohol was minimised, and that Mr Ranchhod did not comply with the object of the Act.

*2021 CPO*

[33] Senior Sergeant Bengé expanded on the Police's opposition to the application, as he was the supervisor of the CPO in question (8 April 2021). He provided a detailed description of that particular CPO. He explained it began with all the volunteers for all CPOs for that day attending a briefing at Wellington Central Police Station, transportation of the volunteers to Lower Hutt, and the execution of the operations. He also explained that at about 6pm, he briefed the volunteers as to the exact layout of the Ava Food Store premises and that the Police officers remained in their vehicle while the operation was carried out. They could see the entrance to the store, but not the volunteers once they had entered the store. Once the volunteers returned to the vehicle, they provided officers with a description of what had occurred, their statements were transposed, and they signed them. Upon receipt of the signed statements, Sergeant Barraclough (the second officer involved in the CPO) and two Licensing Inspectors then entered the Ava Food Store (at approximately 6.10pm) and informed Mr Ranchhod he had failed a CPO.

[34] Senior Sergeant Bengé advised that Mr Ranchhod did not cooperate with officers when they first entered the store. Mr Ranchhod refused to provide a receipt of the purchase and that was the reason Sergeant Barraclough had returned the following day to ask for a receipt. In any case, Senior Sergeant Bengé advised receipts were not required, as the card used by the volunteer was a Police credit card, directly linked to a Police account and the statement for that account shows the transactions undertaken from that card. The relevant extract from the Police ANZ bank statement was presented as evidence, showing the date of 8 April 2021 with a single amount of \$22 being paid to Ava Food Store.

He noted Mr Ranchhod had rung up a single receipt for \$22 cash for Sergeant Barraclough at his second visit to the store the next day, which was dated 9 April 2021 (and was also presented as evidence).

- [35] Senior Sergeant Bengé clarified that the initial Police report stated the officers had entered Ava Food Store at 8.10pm, however, that had been found to be a typing mistake and was corrected at the ARLA hearing. The officer had used the 24-hour timing reference of 18.10hrs and that had been transposed incorrectly to 8.10pm. Senior Sergeant Bengé also clarified that the female volunteer had appeared at the ARLA Hearing and had given evidence under oath, confirming her statement taken in the Police vehicle immediately after conducting the operation. The Committee accepted Senior Sergeant Bengé's evidence as to the series of events because of its clarity and alignment to a majority of the paperwork presented to the Committee.
- [36] Senior Sergeant Bengé also relied on *Taylor v Vanda Enterprises Ltd*<sup>1</sup> to state that under the previous legislation, there was no requirement for volunteers who were minors, to be honest about their age when asked in a CPO. He noted that notion had been tested in the High Court (along with several other inconsistencies with the legislation) and it was ruled that it was only reasonable to expect a young person to lie about their age and that a retailer should expect them to do so. Senior Sergeant Bengé advised that it was not a suitable defense that a person who has sold alcohol to a minor and was lied to about the age of the customer, as s239 of the Act identifies that selling to a minor is an offence. He added that with guidance from the High Court, Police acknowledge volunteers who are minors may lie about their age but cannot use fake identification.

#### *Other CPOs*

- [37] Sergeant Leului asked a series of questions of Mr Ranchhod in relation to Mr Ranchhod's previous convictions and the most failed CPO, which culminated in Mr Ranchhod repeatedly refusing to accept responsibility on all accounts. Mr Ranchhod maintained there were misrepresentations of the volunteers (namely they lied about their age). Sergeant Leului believed Mr Ranchhod was reluctant to change any of his procedures when selling alcohol, which was reiterated by Mr Ranchhod repeatedly stating he didn't know what else he could do to update his procedures.
- [38] Upon further questioning by Sergeant Leului, Mr Ranchhod gave evidence that his procedure when selling alcohol, is that if a person came in wanting to buy alcohol or cigarettes and they looked under 25 years of age, he would ask them if they were over 18 years of age, then he would assess them and may or may not ask for identification. He accepted there were discrepancies between his procedure and the model template supplied by the Licensing Inspectors, in that his signage used the words "*If you look under 25 you could be asked for identification*" and the template used the words "*If you look under 25 you will be asked for identification*".

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<sup>1</sup> Taylor v Vandna Enterprises Limited AP 22-PL02

Mr Ranchhod believed that everyone under 50 years of age should have to provide identification if buying alcohol and that he had had thousands of minors come into his store looking to purchase alcohol and he had refused them.

- [39] In support of his procedure, Mr Ranchhod presented evidence at the 3 April 2022 ARLA Hearing, and again at this Hearing, that his identification request signage had *“been posted in his shop for 20 years”*. Although not challenged at the DLC Hearing, the Committee surmised that notice could have been in place under the previous 1989 legislation, which had different requirements regarding requests for identification compared to the 2012 Act.
- [40] Sergeant Leuluai advised he had contacted ARLA (as had the Alcohol Team Lead) to inquire about the pending decision from the 3 February 2022 Hearing resulting from the most recent failed CPO at Ava Food Store. He further advised that ARLA’s response had been to say the matter was still before the court and gave no explanation for the delay in reaching a written decision.
- [41] *Committee’s Overall Finding of the Police’s Evidence:*
- Both Senior Sergeant Bengé’s and Sergeant Leuluai’s evidence was clear, consistent and preferable to Mr Ranchhod’s evidence.

## **Legislation**

### *Sale and Supply of Alcohol Act 2012*

#### *Section 3*

- [42] The general purpose of the Act is for the benefit of the community as a whole and is to put in place a new system of control over the sale and supply of alcohol.<sup>2</sup>

#### *Section 4*

- [43] The object of the Act is to ensure that alcohol is sold and supplied safely and responsibly, and that any harm caused by the excessive or inappropriate consumption of alcohol is minimised.<sup>3</sup>

#### *Section 131*

- [44] Section 131 details the Criteria for Renewal. They are as follows:

1. *In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:*
  - a) *The matters set out in paragraphs (a) to (g), (j) and (k) of section 105(1);*
  - b) *Whether (in its opinion) the amenity and good order of the locality would be likely to be increased by more than a minor extent, by the effects of a refusal to renew the licence;*

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<sup>2</sup> Sale and Supply of Alcohol Act 2012 (the Act), s 3

<sup>3</sup> As above, s 4(1)



- c) *Any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129;*
  - d) *The manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.*
2. *The authority or committee must not take into account any prejudicial effect that the renewal of the licence may have on the business conducted pursuant to any other licence.*

Section 105

[45] Section 105(1) Criteria for Issue of Licences:

1. *In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:*
- a. *The object of the Act;*
  - b. *The suitability of the applicant;*
  - c. *Any relevant local alcohol policy;*
  - d. *The days on which and the hours during which the applicant proposed to sell alcohol;*
  - e. *The design and layout of any proposed premises;*
  - f. *Whether the applicant is engaged in, or proposed on the premises to engage in, the sale of goods other than alcohol, low alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods;*
  - g. *Whether the applicant is engaged in, or proposed on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services;*
  - h. *Whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence;*
  - i. *Whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that –*
    - i) *they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but*
    - ii.) *it is nevertheless desirable not to issue any further licences;*
  - j. *Whether the applicant has appropriate systems, staff and training to comply with the law;*
  - k. *Any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.*

Case Law

[46] The following case law has been provided to the Committee to assist in considering its decision.

[47] *Rapira-Davies v Eau De Vie Ltd*<sup>4</sup>, refers to *Trusha Trading Co Limited* NZLLA PH319-328/05:

[18] *There can be no doubt that the sale and supply to a person under purchase age is one of the more serious offences (s 239) of the 2012 Act. This was also the case under the previous Sale of Liquor Act 1989 (s 155).*

[19] *The Authority said in the Trusha Trading Co Limited case, decided ten years ago under the 1989 Act, at paragraph [13]:*

*“The application for suspension should be viewed against the following background. It is now over five years since the drinking age was lowered from 20 to 18. This reduction in the legal drinking age was a major social change in the country, and was accompanied by a number of other statutory measures such as sections 2(a), 132(a) and 155(2A) of the Act.*

*These measures were designed to bolster the detection and enforcement of breaches of the new law. In our view, Parliament took the view that the supply of liquor to minors was a very serious liquor abuse issue. It gave the Act the necessary teeth to actively discourage those who might be tempted to supply liquor to persons under age. Penalties were doubled for all offences, and the penalty for supply to minors was increased to a maximum of \$10,000 (for managers and licensees).”*

[48] In *Onehunga Wines & Spirits Co Ltd*<sup>5</sup> it is stated at paragraph [14], when referring to the two minors who entered the store:

*“The first time they went there in July 2000, they were served by Mr Jaewook Kim. He asked them their ages. 'Dane' said he was eighteen. No identification was asked for, and they were duly served.*

[49] In this case, the Committee understands that the repeated and recent offending had occurred during the space of a year, and believes the case law served to illustrate that a Manager served alcohol to a minor after asking them their age, and not requesting identification. In this case, the Off-Licence and Manager’s Certificate were cancelled by the Authority.

[50] In *Taylor v Vanda Enterprises Ltd*<sup>6</sup> at paragraph 31, it was stated:

*“The emphasis on an evidence of age document illustrates an intention on the part of the legislature that licensees should be required to make more detailed inquiries than simply asking the customer’s age. That policy must be based at least in part on an assumption that an under-age person who is attempting to purchase liquor unlawfully, will have an incentive to, and will be tempted to, lie about his or her age if asked.”*

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<sup>4</sup> *Rapira-Davies v Eau De Vie Ltd*, [2015] NZARLA PH 541, 2015 WL 7625522

<sup>5</sup> *Onehunga Wines & Spirits Co. Limited* LLA PH 311-312/2001

<sup>6</sup> *Taylor v Vandna Enterprises Limited* AP 22-PL02

- [51] In Trusha Trading Company Limited at paragraph [70] it is stated:  
*“Any concerns about whether the volunteer is untruthful do not apply to the holders of General Manager’s Certificates. They have the ability to request identification and make an assessment of the age of the purchaser. They have been given the ‘evidence of age’ tools to test any age claim. In particular a certified manager has the advantage of training. Finally, he or she carries the responsibility under s115 of the Act of complying with the Act, and the conditions of the licence. The buck literally stops with them. To add a further cliché, they are the front line in the campaign to reduce liquor abuse.”*

## **District Licensing Committee Discussion, Findings, Decision and Reasons**

### *Section 105 criteria*

- [52] As articulated by Heath J in *Re Venus NZ Ltd*,<sup>7</sup> while the object of the Act is stated as one of the criteria to be considered under s 105, the remaining factors must be weighed against the “object” of the Act. Consequently, after having regard to the criteria in s105, a licensing committee is then required to step back and consider whether the grant of an Off-Licence is consistent with the object of the Act. This also applies to an application for renewal and the criteria for renewal in s131 (which overlaps with s105).
- [53] In *Riccarton Liquor Ltd v Ferguson*<sup>8</sup> the Authority observed that in some cases one or more of the criteria in s105 may be fundamental or critical and may assume prominence over other criteria in s105.
- [54] Turning to s105(c), the Committee noted there is a Local Alcohol Policy (LAP) in place for Lower Hutt City. The Committee believes the proposal is in accordance with this Policy and notes no comments or objections to the contrary were received.
- [55] Turning to s105(d), the Committee noted that there were no objections to the proposed days or hours during which the applicant proposed to sell alcohol, and that these details were not proposed to be altered from the previous Off-Licence. The Committee also noted that at the hearing, Mr Ranchhod advised he now closed his shop at 6pm, for safety reasons.
- [56] The Committee note that in the past, only Mr Ranchhod held a Manager’s Certificate, and that this had led to him being fatigued with evidence of at least one instance where he was asleep behind the counter. Mr Ranchhod advised that now three other employees held up-to-date Manager’s Certificates, which provided him with the ability to take breaks. Accordingly, the Committee finds the proposed days and hours applied for the sale of alcohol to be suitable, having been presented with no evidence to the contrary.

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<sup>7</sup> *Re Venus NZ Ltd* [2015] NZHC 1377

<sup>8</sup> *Riccarton Liquor Ltd vs Ferguson* [2019] NZARLA 93 [133]

- [57] Turning to s105(e), the Committee was informed by the Alcohol Team Lead in their evidence that initially, Mr Ranchhod had applied for a wider area of his store to be for the sale of alcohol, and that he had since reduced the area, and submitted a revised plan. No reporting agencies objected to the design and layout of the premises, and in the absence of evidence to the contrary, we find that the design and layout of the premises are suitable.
- [58] Turning to s105(f), the Committee has already noted that no site visit was conducted. On 2 May 2023 Ms Matthews did visit the store. She noted she had difficulty in marrying up the categories of items for sale as listed in the accountant's records with what was actually presented for sale (for example, there were no fresh fruit or vegetables offered for sale).
- [59] The Committee note the Alcohol Team Lead's report stated that:
- "The sale of goods and the provision of services other than those directly relating to the sale of food and drinks include grocery items and household goods."*<sup>9</sup>
- [60] The Committee was presented with no formal objections or evidence to the contrary that there were sales of items other than alcohol, low and non-alcoholic refreshments and food on the premises. Accordingly the Committee finds that such items are offered for sale.
- [61] With respect to s105(g), the Committee note that neither the Ava Food Store nor the Licensing Inspector presented evidence that services other than the supply of food, alcoholic, low and non-alcoholic refreshments were undertaken on site. Accordingly the Committee finds that those are the only services provided by the store.
- [62] Turning to s105(j), the Committee note the Licensing Inspector did raise that the staff training and development plan did not appear to be updated and that similar concerns were raised for the 2019 application for Off-Licence Renewal. The Committee was surprised this did not warrant further investigation from the Licensing Inspector.
- [63] The Committee also finds that the evidence provided by the Licensing Inspector also relates to suitability in that it shows a general unwillingness to act within the bounds of the Act.
- [64] This is relevant to suitability as it goes towards an unwillingness to act in line with the object of the Act.
- [65] The Committee heard evidence from Mr Ranchhod that he did not know what else he could do with regard to training and that his procedures had not changed as a result of his previous convictions.

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<sup>9</sup> Section 9, page 10 of the Agenda Papers (page 5 of the report), Licensing Inspector's Report 048/OFF/0024/22

The Committee also heard from Mr Ranchhod that his procedure when confronted with a potential underage customer, did not meet the requirements of the Act. The Committee heard that whilst Mr Ranchhod did not object to asking patrons for identification, it was not his normal practice to do so. Mr Ranchhod explained at the Hearing that if a patron stated they were over 18 years of age, and he looked at them and assessed they were, he would not ask for identification. The Committee heard that Mr Ranchhod's alcohol advisory signage within the store did not comply with the Licensing Inspector's template, in that it stated patrons "*could be asked for identification*" if they looked under 25, whereas the template uses the words "*will be*". Mr Ranchhod stated there were many confusing requirements and that he would like it to be mandatory that all persons aged under 50 years of age must provide identification when purchasing alcohol. The Committee noted that Mr Ranchhod's alcohol advisory signage had been posted in his store "*for 20 years*".

- [66] Mr Ranchhod also gave evidence that undertaking refresher training courses would not be advantageous for himself or other employees who hold Manager Certificates, as there was nothing new to learn. The Committee heard that Mr Ranchhod was adamant his procedures when confronted with a potential minor trying to purchase alcohol, were sufficient, despite him being advised they were contrary to the requirements of the Act.
- [67] The Committee finds this evidence to be of major concern as Mr Ranchhod does not seem to take the age requirements under the Act seriously.
- [68] Finally, the Committee turns to s105(k), the matters raised in the Reporting Agencies reports. The Police objected to the suitability of Mr Ranchhod to hold an Off-Licence. They believed that the repeated offences under the Act (including the currently unresolved incident of 8 April 2021), Mr Ranchhod's lack of responsibility for his actions, his dishonesty offence and his inability or refusal to change his procedures in the wake of his convictions meant that Mr Ranchhod was unsuitable to hold an Off-Licence and that he did not uphold the object of the Act. The Committee heard that the Licensing Inspector raised similar concerns after questioning Mr Ranchhod at the Hearing.

#### *Section 131 Criteria*

- [69] The matters set out in s105 have been described above. With regard to s131(b), the Committee accepts that the premises are low risk and that beyond the issues referred to above, there is no evidence of alcohol-related harm. The Licensing Inspector's report stated<sup>10</sup> the following and the Committee were presented with no evidence to the contrary:

*"There is no reason to believe that the amenity and good order of the locality would be likely to be increased by more than a minor extent, by the effects of a refusal to renew the licence."*

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<sup>10</sup> Section 8, page 10 of the Agenda Papers, page 5 of the report, Licensing Inspector's Report 048/OFF/0024/22

- [70] With reference to s131(c), the Committee has dealt with the reports of the Police and Licensing Inspector as described above.
- [71] With reference to s131(d) and the manner in which the applicant has sold, displayed, advertised or promoted alcohol, the Committee note that the Licensing Inspector raised an issue during a monitoring visit on 17 March 2022<sup>11</sup> concerning the sale of high percentage beer, however, no comments were made relating to this incident, and no follow-up comments were made at the Hearing. The Committee therefore finds that there are no issues with the way Mr Ranchhod has sold, displayed, advertised or promoted alcohol and that he is in compliance with the Act.

#### *Suitability of the Applicant*

- [72] The matter at issue is whether or not Mr Ranchhod is suitable to have his licence renewed. The Committee has found that it has not been persuaded by the applicant that he is suitable to have his licence renewed.
- [73] The Committee is satisfied that there have been repeated breaches of the Act, (albeit over a long period of nearly 20 years) regarding failed CPOs. The Committee also finds that Mr Ranchhod shows a repeated lack of acceptance of his responsibilities under the Act. This is illustrated by Mr Ranchhod's insistence he had not broken the law by selling alcohol to minors, as the minors had lied about their age to him.
- [74] The Committee believes that Senior Sergeant Bengé is correct when they submitted that the sale of alcohol to minors is an offence against s239(1) of the Act. The Police presented cogent evidence which when Mr Ranchhod disputed, the Committee was unconvinced by.
- [75] In *Onehunga Wines & Spirits Co Ltd* at paragraph [46], it is stated:  
*"Since the age limit was reduced to eighteen, there have been regular concerns expressed throughout the country about the ability of young people to obtain alcohol. The hospitality industry has invested a great deal of time and money into training and upskilling management and staff, to ensure that any such abuse of the law relating to sales to minors, does not happen in licensed premises."*
- [76] On balance, the Committee considers that the issues identified throughout the course of the Hearing and as raised by the Police, and the Licensing Inspector do raise serious concerns around the suitability of Mr Ranchhod to hold an Off-Licence.
- [77] After considering the application and evidence provided against the object of the Act in ss3 and 4 and the criteria for renewal in s131 of the Act, the Committee declines to grant the application for the renewal of an Off-Licence.

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<sup>11</sup> Section 7, page 9 of the Agenda Papers, page 4 of the report, Licensing Inspector's Report 048/OFF/0024/22

**Conclusion**

[78] Having considered the application and relevant criteria under ss105 and 131 of the Act, and the purpose and object of the Act, the Committee is satisfied that the considerations fall against the granting of a Renewal of an Off-Licence to Pravin Nana Ranchhod, trading as Ava Food Store at 162 Cuba Street, Petone. This refusal to renew the Off-Licence is effective one month after the date of this decision, namely 14 July 2023, to allow for time for the sale of existing alcoholic stock.

Date at Lower Hutt this 2nd day of June 2023

Signed

A handwritten signature in blue ink, consisting of a stylized 'S' followed by a long horizontal stroke.

Cr Simon Edwards  
Chair, Lower Hutt District Licensing Committee