
Notice of Proposed Disciplinary Action

To: Tusu Karaoke Incorporated
Operator of Tusu Karaoke Inc.
5680 Spring Garden Road, Halifax, Nova Scotia
Eating Establishment Liquor License #006246 and
Lounge License #006247

From: John R. MacDonald, Executive Director
Alcohol, Gaming, Fuel and Tobacco, SNSIS

Date: May 6, 2022

Subject: Notice of Disciplinary Action
Tusu Karaoke Incorporated o/a Tusu Karaoke Inc.
5680 Spring Garden Road, Halifax, Nova Scotia

Current Situation

An Agreed Statement of Facts was submitted to this office on April 21, 2022, wherein the licensee acknowledged violation of sections 44(1), 44(2), 45(2), and 64(1) of the Nova Scotia Liquor Licensing Regulations, relating to violations observed on October 23, 2020.

Duty to prevent liquor being sold to, served to or consumed by minors

- 44(1) A licensee must ensure that a person who is under 19 years old is not sold, supplied or given liquor in their licensed premises.
- 44(2) A licensee must ensure that a person who is under 19 years old does not consume liquor in their licensed premises.

When minor may be in tavern, lounge, beverage room or class A cabaret

- 45(2) Except as prohibited in Section 47, a person who is under 19 years old may enter and be in a licensed premises to which this Section applies until 10:00 p.m. if 1 of the following conditions is met:
- (a) the person is accompanied by a parent, legal guardian or spouse who is 19 years old or older;
 - (b) the person is employed by the licensee, at work on premises and under adult supervision.



Service Nova Scotia and Internal
Services
Alcohol, Gaming, Fuel & Tobacco

Torrington Place
2nd Floor
780 Windmill Road
PO Box 545
Dartmouth, NS
B2Y3Y8
902.424.6160 T
TOLL FREE IN NS
1.877.565.0556
902.424.6313 F

Activities not permitted in licensed premises

64(1) A licensee must not permit any activity in or about their licensed premises that is detrimental to the orderly control and operation of the licensed premises.

The licensee has agreed on the following penalty:

Eating Establishment Liquor License No. 006246 and Lounge Liquor License No. 006247 be suspended for a period of four (4) days to be served on June 3-4, 2022; and June 10-11, 2022.

The following shall be attached as conditions of Eating Establishment Liquor License No. 006246 and Lounge Liquor License No. 006247:

- A) The licensee will hire professional security to be at the Licensed Premises from 10:00 pm until 2:00 am on Friday and Saturday nights.
- B) The licensee will have an approved manager at the Licensed Premises during licensed hours.

The office of the Executive Director, Alcohol and Gaming Division, Service Nova Scotia and Internal services, has considered the matter and issued a Notice of Disciplinary Action on May 6, 2022, pursuant to section 47B of the *Nova Scotia Liquor Control Act*.

Objection Process

The licensee may object in writing to the above proposed action in accordance with section 81A subsections (3) and (4) of the *Nova Scotia Liquor Licensing Regulations*. To object to a proposed action, the permanent licensee on whom the notice of proposed action was served must file a written notice of objection with the Executive Director prior to May 20, 2022.

A notice of objection may be in any form, but it must be in writing and include all of the following:

- (a) the name, address and phone number of the permanent licensee;
- (b) a copy of the notice of proposed action; and
- (c) the reason the permanent licensee objects to the proposed action.

After considering any objection to a notice of proposed action, the Executive Director must do one of the following:

- (a) take the proposed action;
- (b) rescind the notice of proposed action;
- (c) vary the proposed action, but only if the action taken is permitted by clause 47(1)(b), (c) of the *Liquor Control Act*; or
- (d) refer the matter to the Review Board in accordance with subsection 47B(1)(b) of the Act.



Service Nova Scotia and Internal
Services

Alcohol, Gaming, Fuel & Tobacco

Torrington Place
2nd Floor
780 Windmill Road
PO Box 545
Dartmouth, NS
B2Y3Y8

902.424.6160 T
TOLL FREE IN NS
1.877.565.0556
902.424.6313 F

Notice of Action

The office of the Executive Director, Alcohol, Fuel and Tobacco, Service Nova Scotia and Internal Services has concluded that a four (4) day suspension of Tusu Karaoke Inc., 5680 Spring Garden Road, Halifax, Nova Scotia. Eating Establishment Liquor License #006246 and Lounge License #006247 shall be served at the request of the licensee on June 3-4, 2022; and June 10-11, 2022.

In accordance with sections 83(1) and (2) of the *Nova Scotia Liquor Licensing Regulations* a Suspension Notice will be posted at the premises stating that the Liquor Licenses have been suspended. This suspension does not prevent the business from providing the sale of food or other non-liquor related services.

John R. MacDonald, Executive Director
Alcohol, Gaming, Fuel and Tobacco
Service Nova Scotia and Internal Services

IN THE MATTER OF the *Liquor Control Act*, R.S.N.S. 1989, c. 260, as amended

- and -

IN THE MATTER OF ALLEGED VIOLATIONS OF
NOVA SCOTIA LIQUOR LICENSING REGULATIONS

44(1), 44(2), 45(2) and 64(1) of the *Nova Scotia Liquor Licensing Regulations*
Tusu Karaoke Incorporated

AGREED STATEMENT OF FACTS

1. Tusu Karaoke Incorporated is a body corporate, incorporated under the laws of the Province of Nova Scotia. Tusu Karaoke Incorporated is the holder of Eating Establishment Liquor License No. 006246 and Lounge Liquor License No. 006247 (hereinafter “the licensee”).
2. Tusu Karaoke Incorporated conducts business within the Province of Nova Scotia and is the owner and operator of Tusu Karaoke Inc., which is located at 5680 Spring Garden Road, Halifax, Nova Scotia (hereinafter “the licensed premises”).
3. The licensee acknowledges that it has violated regulations 44(1), 44(2), 45(2) [formally 45(a), (b) & (c)] and 64(1) of the *Nova Scotia Liquor Licensing Regulations* and accepts responsibility for the violations.
4. The circumstances of the violation of regulations are as follows:
 - a. On October 23, 2020 Compliance Officer Ryan MacLellan (“CO MacLellan”) working with and for Alcohol, Gaming, Fuel and Tobacco (“AGFT”) conducted a routine inspection within the licensed premises. Routine inspections of licensed premises form part of the regular employment duties of a Compliance Officer with AGFT.
 - b. CO MacLellan entered the licensed premises just prior to 23:00 hours and remained at the entrance near the bottom of the stairs. He observed a male patron not wearing a mask, the patron covered his mouth with his hand, and left the area. A second patron was then observed leaving the washroom not wearing a mask.
 - c. CO MacLellan also observed a male patron showing signs of intoxication, drawing attention to himself, hugging other patrons, lifting them off the floor.
 - d. CO MacLellan looked around the corner, down the length of the premises and observed several patrons lingering in front of the bar. There were no seats at the bar, no barrier around the bar, only a small piece of plexiglass barrier in front of the cash register which did not extend past the payment area. CO MacLellan observed that approximately half of the patrons were not wearing masks.

- e. CO MacLellan then walked further into the premises away from the entrance and identified himself to staff of the licensed premises. Two servers then began to move quickly around the licensed premises physically directing patrons to their designated karaoke rooms, telling them to put on masks. CO MacLellan observed the group from the bar return to their karaoke room, located near the entrance. Patrons continued to exit from their designated rooms, some were directed back to their room and others proceeded to the washroom.
- f. CO MacLellan then approached Jim, the licensee, who was seated at a table having a drink. CO MacLellan explained the violations of the Public Health Order he has observed. Jim indicated that they are doing their best to abide by the Public Health Order but have found it hard.
- g. CO MacLellan's attention then turned to a table of 6 patrons near the entrance because they became loud, they drew attention to themselves. CO MacLellan advised Jim that he intended to check the identification of the patrons, as they appeared young.
- h. CO MacLellan approached the group, identified himself and requested identification from each patron.

The first male patron provided an Ontario Health Card with the name CF. The card indicated that CF was 19, however the patron did not resemble the photograph. The patron was later identified to police as AG, date of birth June 1, 2002.

The second male patron provided a Quebec driver's license with the name BM. The card was flimsy, and split front to back. BM was very reluctant to provide a date of birth. He was later placed under arrest by Cst. Benjamin for the purposes of identification. BM eventually provided his date of birth as September 18, 2002.

A female patron then provided an Alberta driver's license with the name MM. The card did not resemble an Alberta driver's license, the design and holograms were incorrect. MM provided a date of birth of June 22, 2002, when questioned.

The next patron provided what appeared to be a valid Ontario driver's license with the name AG, but the photograph did not resemble the person who presented the identification. The person who provided the identification, when questioned, admitted that her name was HG, date of birth May 31, 2002.

- i. CO MacLellan proceeded to present and discuss the fraudulent identifications to the licensee, Jim. The licensee was not able to see how any of the fraudulent identification presented were not legitimate. While the licensee reviewed the identification, CO MacLellan contacted the Halifax Regional Police, Liquor Enforcement Unit ("LEU"). Constables Benjamin and McGrath arrived within several minutes.
- j. While the LEU officers spoke with the minors, CO MacLellan continued to speak with the licensee. Another employee exited the kitchen and joined the conversation. The licensee indicated that this other man was responsible for checking the identification of patrons

before they entered. This man indicated that he had checked the identification of the patrons. He also indicated that he had difficulty determining how the confiscated identifications were fraudulent.

- k. CO MacLellan suggested that a compliance officer with AGFT should provide a staff instruction and identification training at the premises, and the licensee agreed. CO MacLellan then requested a copy of the security system video of the evening from the area where the minors were found.
 - l. CO MacLellan then left the premises and met Constables Benjamin and McGrath on Spring Garden Road as they were concluding their interaction with the minors. Each minor was charged prior to being released on their own with court dates.
 - m. CO MacLellan reviewed the security system video from 22:00 hours on October 23, 2020, until 23:59 hours on October 23, 2020.
 - n. The video showed the man who was noted as being responsible for checking the identification of patrons walking through the premises at 22:18 hours. The group of patrons who were identified as underage are seen entering the premises. They sat in a booth and were not asked for identification. The video showed that they placed their order. The video showed drinks being delivered to the patrons.
 - o. The video illustrated many violations of the Public Health Order. Patrons and staff were moving throughout the licensed establishment without masks, meeting and mingling with other patrons. The licensee was not wearing a mask.
 - p. The video demonstrated that when CO MacLellan entered the licensed establishment, two servers began to quickly move through the premises directing patrons back to their karaoke rooms, and to put on masks. Observing this behavior on the video brought CO MacLellan to the conclusion that the licensee and staff were aware of the Public Health Order requirements but were not enforcing or abiding by them.
 - q. During the review of the video, CO MacLellan observed that structural changes to the licensed premises had been made. The bar had been extended and a wall built, reducing the size of the seating area. CO MacLellan reviewed the matter and determined that the licensee had not submitted the required Application to Renovate to AGFT.
 - r. Further, during the review of the file, CO MacLellan determined that the management and share structure on file with AGFT had changed. CO MacLellan confirmed that no information regarding the changes had been submitted to AGFT.
5. This matter has been brought before the Executive Director of AGFT for the imposition of a penalty with respect to the licensee's violation of regulations 44(1), 44(2), 45(2) and 64(1) of the *Nova Scotia Liquor Licensing Regulations*.

6. The licensee and AGFT jointly recommend that:

Eating Establishment Liquor License No. 006246 and Lounge Liquor License No. 006247 will be suspended for a period of 4 days, to take place over two consecutive Friday and Saturday nights, within 30 days at a date and time mutually agreeable between the licensee and AGFT.

The following shall be attached as conditions of Eating Establishment Liquor License No. 006246 and Lounge Liquor License No. 006247:


- a) The licensee will hire professional security to be at the Licensed Premises from 10:00 pm until 2:00 am on Friday and Saturday nights.
- b) The licensee will have an approved manager at the Licensed Premises during licensed hours.

In accordance with sections 83(1) and (2) of the Nova Scotia Liquor Licensing Regulations a Suspension Notice will be posted at the licensed premises stating that the Liquor Licenses have been suspended. The suspension does not prevent the licensee from providing the sale of food or other non-liquor related services.

7. ENTIRE AGREEMENT

This Agreed Statement of Facts contains the entire agreement between the parties. There are no undertakings or representations expressed or implied, other than those contained in this agreement.


On behalf of Tusu Karaoke Incorporated:



Licensee, Tusu Karaoke Incorporated

April 21, 2022
Date

On behalf of the AGFT:



Jennifer Price Hudson
Director, Investigation & Enforcement, AGFT
Service Nova Scotia

April 21, 2022
Date