

**NSW Department of Industry
Liquor & Gaming NSW**

APPLICATION NO:	APP-0002734021
APPLICATION FOR:	On-premises liquor licence karaoke class
TRADING HOURS:	Monday to Saturday: 6:30 PM to 12:00 AM Sunday: 6:30 PM to 10:00 PM
APPLICANT:	BZHANG PTY LTD
LICENCE NAME:	Chun Li
PREMISES ADDRESS:	U 201, 118 Church St PARRAMATTA NSW 2150
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

Chun Li

Under delegation issued by the Independent Liquor and Gaming Authority under section 13 of the *Gaming and Liquor Administration Act 2007*, a designated Public Service employee or other Public Service employee of Liquor & Gaming NSW in the Department of Industry, has decided to refuse the application for an on-premises liquor licence Karaoke class, application APP-0002734021.

On 20 September 2017, after careful consideration of the application and other material, the delegate decided to refuse the application:

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 24 February 2017
- (2) Certification of Advertising Certificate dated 20 May 2017
- (3) Identification for the applicant
- (4) Plan of the proposed licensed premises
- (5) Plan of Management dated 2015
- (6) Development Application No. DA/819/2014, granted by Parramatta City Council on 17 July 2015
- (7) Submission from Parramatta LAC, dated 31 March 2017 outlining strong opposition to this application. Venue is currently under investigation by Police and Council.
- (8) Submissions from the Secretary, dated 31 May 2017, 21 July 2017
- (9) Email correspondence from the Authority to the applicant's legal representative requesting additional information in support of the application, dated 12,17 May 2017, 11 July 2017, 1 August 2017
- (10) Email correspondence from the applicant's legal representative to the Authority in response to the requests for additional information, dated 4, 10 May 2017, 15, 16 June 2017,

2. Legislative framework, statutory objects and considerations

In determining the application, the delegate has considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which state:

3 Objects of Act

- (1) The objects of this Act are as follows:
 - a. to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - b. to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - c. to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
 - a. the need to minimise harm associated with misuse and abuse of liquor (including the harm arising from violence and other anti-social behaviour),
 - b. the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - c. the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

3. Statutory tests

- (1) In determining an application for a licence, under section 45(3) of the *Liquor Act 2007*, the delegate must also be satisfied that:
 - a. the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates,
 - b. practices will be in place as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises and that those practices will remain in place, and
 - c. if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under part 3A or part 5.1 of that Act is required), to use the premises for the purposes of the business or activity to which the proposed licence relates – that development consent or approval is in force.

4. Community impact test

- (1) Under section 48(5) of the *Liquor Act* 2007, the delegate must not grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regards to the Community Impact Statement, where required, and any other matter the delegate is made aware of during the application process, that the overall impact of the licence, authorisation or approval in question being granted, will not be detrimental to the local or broader community.
- (2) The test applying under section 48(5) relates to delegated decisions in relation to the granting or removal of:
 - a. a small bar licence,
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. an on-premises licence relating to a restaurant that, in the case of a new licence, includes an application for a primary service authorisation,
 - d. an on-premises licence relating to a karaoke bar, a catering service or a vessel,
 - e. an application for a producer/wholesaler licence that, in the case of a new licence, includes an application for a drink on-premises authorisation
 - f. an application for ongoing extended trading hours to permit the sale of liquor after midnight in relation to any of the above licence types.
- (3) The Community Impact Statement provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to hospitals or health facilities, nursing homes, schools and places of worship.
- (4) Local and Broader Community - for the purposes of this decision, the delegate is satisfied that the relevant "local community" is the community within the suburb of Parramatta, and the "broader community" of the Parramatta City Council LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, under Section 45 (3)(a) I am satisfied that the proposed applicant is not, "fit and proper" to be licensee of a liquor licence at the proposed venue.
- (2) Police made a submission raising major concerns regarding the on-premises application-karaoke class. Police have previously attended the premises and found large quantities of liquor at the venue. Police requested a large set of conditions to be imposed on the licence, should it be granted
- (3) A Liquor & Gaming NSW Compliance investigation, undertaken on 15 July 2017, revealed the venue was trading without a liquor licence, contrary to Section 7 of the Liquor Act 2007. The venue manager, Mr Chun Li admitted that he was aware of the requirement to

have a liquor licence to sell/supply liquor and that a current liquor licence was not in place at the venue.

6. Overall social impact

A Liquor & Gaming NSW Compliance investigation, conducted on 15 July 2017, has confirmed the venue has been selling liquor without a licence. This was done with the knowledge of the manager. Police previously raised concerns regarding the suitability of the applicant to hold a liquor licence. The likely detrimental risk to the community, if the licence was granted, is deemed to be high.

7. Conclusion

- (1) I am satisfied that procedural fairness was afforded to the applicant and interested parties regarding the decision whether or not to grant the application, as all of those required to be notified of the application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision.
- (2) In accordance with section 45(3)(a) of the Act I am satisfied that the proposed licensee is not “fit and proper” to carry on the business or activity to which the proposed licence relates.
- (3) Having considered the results of the Liquor & Gaming NSW compliance operation at the venue, under section 45(3)(b) of the Act, I am not satisfied that sufficient practices would be in place at the premises if the licence were to be granted that ensure, as far as reasonably practicable, all reasonable steps would be taken to prevent intoxication on the premises, and that sufficient practices would remain in place to prevent intoxication and compliance with liquor legislation.
- (4) Consistent with section 45(3)(c) of the Act requiring development consent from the local council, I am satisfied that the required development consent or approval is in force.
- (5) In making this decision under delegation of the Authority, all statutory objects and considerations prescribed by section 3 of the Act were considered and accordingly, I have determined **to refuse** the licence application.

Decision Date: 20 September 2017



Matt Weber
Acting Manager Licensing (Business Licensing)
Liquor & Gaming NSW

Delegate of the Independent Liquor & Gaming Authority

Important Information:

In accordance with Clause 5 of the Gaming and Liquor Administration Regulation 2008, this decision is reviewable by ILGA.

The licence applicant and persons who were required to be notified of the application and who made a submission can apply for an application for review. An application for a review must be lodged with ILGA within 28 days of the date of the publication of this decision. An application fee applies. For original applicants, the review application fee is the same as the initial application fee. For non-original applicants, the application fee is \$100.

For ILGA reviews of delegated decisions, make an application for review via the Liquor and Gaming Application Noticeboard

at: <https://www.liquorandgaming.justice.nsw.gov.au/pages/public-consultation/online-application-noticeboard/online-application-noticeboard.aspx>. The Review Application form can be accessed on line via the Application Number hyperlink.

Further information can be obtained from the Reviews page on the Liquor & Gaming website at: <https://www.liquorandgaming.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>