

Buying Licensed Premises

Whenever someone buys (or is thinking about buying) any business, it is prudent to undertake “due diligence”. Unfortunately however, we have come across a number of cases where the “due diligence” was not diligent enough concerning licensing issues, often with dire consequences. A few case studies might prove the point:-

The pub that wasn't a pub

The buyers thought that they were buying (and did indeed buy) a pub. Sadly, no-one thought to read the conditions attached to the licence which required that alcohol only be sold as ancillary to a table meal. What they ended up with was in fact a restaurant and not a bar.

The nightclub that suddenly wasn't licensed at all

This client had checked out the licence for a nightclub that had recently closed and all seemed well. At a late stage of the negotiations with the landlord, it transpired that the previous tenant, having fallen out with the landlord, had surrendered the licence which was held in the tenant's name. Had the landlord taken the precaution of notifying the council of its interest in the premises, they would have been advised of this and been able to make an application to transfer and therefore “save” the licence. By the time they found out, it was too late and the only solution was to go to the expense of applying for a brand new licence. As the premises were in a cumulative impact area, this proved to be an expensive exercise that could and should have been avoided.

The late night venue that wasn't

In this case, the solicitors acting for the buyer obtained a copy of what they thought was the licence. In fact, it was only a copy of the licence summary and only the first page. To add insult to injury, they failed to make basic enquiries which would have revealed that there had been a review of the licence which had resulted in the opening hours being cut back from 2 a.m. to midnight and the imposition of a string of onerous conditions. By the time the true position became clear, the purchase had completed. It took well over a year to sort out the resulting mess but the client succeeded in having the contract rescinded, successfully sued his (by then former) solicitors for damages and recovered costs of approximately £180,000.

Most solicitors dealing with the sale and purchase of licensed premises readily acknowledge that they do not have expertise in licensing matters. Lacey's have a team of people who can not only deal with the commercial property aspects but also both licensing and planning issues and we are always happy to accept instructions from other solicitors to advise solely on licensing aspects if necessary.

For further advice on buying licensed premises, please contact:

Brendan Herbert: b.herbert@laceyssolicitors.co.uk or 01202 377810

This fact sheet provides information and comments on legal issues, however the contents of this fact sheet do not constitute legal advice, is not a comprehensive treatment of the subject matter covered, and should not be relied on as such. Legal advice should be sought about your specific circumstances before taking any action with respect to the matters discussed.