



**Citation: Jayamani Inc. o/a Jayalakshmi South Indian Cuisine v. Registrar under the *Alcohol and Gaming Commission of Ontario Act, 2019* ONLAT 15751/LLCA**

**File Number: 15751/LLCA**

Appeal from a Notice of Proposal to Refuse an Application for a Liquor Licence under the *Liquor Licence and Control Act, 2019*, S.O. 2019 c. C. 15, Sched 22

**Between:**

Jayamani Inc. o/a Jayalakshmi South Indian Cuisine

Appellant

and

Registrar under the *Alcohol and Gaming Commission of Ontario Act, 2019*

Respondent

**AMENDED DECISION**

**ADJUDICATOR:**

Jeffery Campbell, Vice-Chair

For the Appellant:

Vikram Subramanian, Corporate Officer

For the Respondent:

Stephanie Balaban ~~Balaban~~, Manager, AGCO  
Timothy Edwards, Counsel

**Held by videoconference:**

September 26, 2024

## Background

- [1] Jayamani Inc. (the “appellant”) operates the restaurant Jayalakshmi South Indian Cuisine in Kitchener, Ontario. It applied to the Registrar (the “respondent”) under the *Liquor Licence and Control Act, 2019*, S.O. 2019, c. C.15, Sched 22. (the “Act”) for a liquor sales licence.
- [2] Vikram Subramanian (“Mr. Subramanian”) is the sole officer and shareholder of Jayamani Inc.
- [3] On March 6, 2024, the respondent issued a Notice of Proposal to Refuse Application, alleging that the appellant is ineligible for a licence pursuant to clauses 3(4)(b) and (c) of the Act.
- [4] As Jayamani Inc. is the appellant in this matter, the title of this proceeding shall be *Jayamani Inc. o/a Jayalakshmi South Indian Cuisine v. Registrar under the Alcohol and Gaming Commission of Ontario Act, 2019*, rather than the previous title of *Jayalakshmi South Indian Cuisine o/a Vikram Subramanian v. Registrar under the Alcohol and Gaming Commission of Ontario Act, 2019*.

## Issues

- [5] The issues at the hearing are:

Issue 1 – Do the criminal charges, criminal convictions and provincial offences against Mr. Subramanian afford reasonable grounds for belief that the appellant will not carry on business in accordance with law and with integrity and honesty pursuant to clause 3(4)(b) of the Act?

Issue 2 - Did the appellant, contrary to clause 3(4)(c) of the Act, knowingly make false statements on his application by not disclosing all outstanding criminal charges and prior convictions for provincial offences.

Issue 3 - If either of the above is established, is there an alternative to refusal of the licence?

- [6] The onus is on the respondent to establish that the applicant is ineligible for a liquor sales licence under the Act.

## Result

- [7] For the reasons that follow and pursuant to s. 26(4) of the Act, I direct the respondent to carry out its proposal to refuse the appellant's licence as set out in the Notice of Proposal of March 6, 2024.

## Evidence and Analysis

### **Issue 1 – Mr. Subramanian's criminal charges and provincial offences do afford reasonable grounds for belief that the appellant will not carry on business in accordance with law and with integrity and honesty.**

- [8] According to the Court of Appeal in *Registrar, Alcohol and Gaming Commission of Ontario v. 751809 Ontario Inc. operating as Famous Flesh Gordon's*, 2013 ONCA 157, once the relevant facts are determined on a balance of probabilities, the issue is whether those facts afford reasonable grounds for belief that the business will not be carried on in accordance with the law and with integrity and honesty.
- [9] The "reasonable grounds for belief" standard requires something more than mere suspicion but less than proof on a balance of probabilities. In other words, the Registrar does not have to show that the past/present conduct of a licensee make it more likely than not that they will not carry on business as required. The Registrar need only show that there are reasonable grounds for belief that their business will not be carried on in accordance with the law and with integrity and honesty.
- [10] The appellant submitted its Application for a Liquor Sales Licence to the Alcohol and Gaming Commission of Ontario ("AGCO") on July 27, 2023. The appellant then submitted the required Disclosure Report on August 24, 2023.
- [11] Officer Daniel MacDonald ("Officer MacDonald"), investigator in the Eligibility and Major Investigations branch in the AGCO, gave oral and documentary evidence with respect to Mr. Subramanian's criminal record and provincial offences record. With respect to the criminal record, the documentation establishes the following:
- a. February 5, 2020 - Mr. Subramanian was charged with Sexual Assault, s. 271 of the Criminal Code ("CC"). This matter is scheduled to be tried in January 2025 (the appellant advised that he has been notified that he will be tried in October, 2024, although I have no documentary evidence before me to that effect).
  - b. July 28, 2022 – Mr. Subramanian was charged for incidents dating back to December 2021. Those charges included Assault, s. 266 of the CC (2 counts), Forcible Confinement, s. 279(2) of the CC; Criminal Harassment,

s. 264 (2)(a) of the CC; Uttering Threats to Cause Death, 264.1(1)(c) of the CC; and Cruelty to Animals, s. 445.1(1)(a) of CC.

- c. July 29, 2022, - Mr. Subramanian entered into a Release Order with the terms that he was “not to possess or have care or control of an animal.” On September 4, 2023, Mr. Subramanian was charged with the breach of that order.
- d. February 29, 2024 - Mr. Subramanian pled guilty to the 2 counts of assault from July 28, 2022, for which he was granted a Conditional Discharge with a one-year period of probation ending on February 29, 2025. The other charges were withdrawn.

[12] Officer MacDonald also presented Mr. Subramanian’s Ministry of Transportation Driving Record which showed *Highway Traffic Act*, RSO 1990 c. H.8 (“HTA”) infractions including two licence suspensions for unpaid fines. It is worth noting that those fines were both subsequently paid shortly after the suspensions and Mr. Subramanian’s driver’s licence was reinstated on both occasions.

[13] The respondent submits that Mr. Subramanian’s criminal charges, especially with respect to the assaults and sexual assault, show a pattern of behaviour which includes serious criminal conduct. It also submits that this pattern of behaviour continued even after his application for a licence (that incident being the September 4, 2023 breach of the Release Order).

[14] The respondent submits that Mr. Subramanian continues to be under probation (until February 29, 2025) and the 2020 sexual assault charges have yet to be resolved (the trial for which is set to commence in January 2025).

[15] The respondent submits that the criminal conduct as well as the HTA infractions, indicates that Mr. Subramanian is unable to follow the regulations of the heavily regulated environment of the AGCO. The respondent submits that this pattern of behaviour over a four-year period affords reasonable grounds for belief that the appellant will not carry on business in accordance with law and with integrity and honesty.

[16] Mr. Subramanian acknowledged the charges, both criminal and HTA. He submits that he is sorry for his behaviour and has changed since those incidents.

[17] In review of Mr. Subramanian’s criminal record, I conclude that it is reasonable for this Tribunal to draw a nexus between his past behaviour and his ability (or lack thereof) to adhere to the rules and regulations which are imposed by virtue of

possessing a valid liquor sales licence. In particular, even after receiving sexual assault charges in February 2020, he later committed assaults in December 2021 and July 2022 as well as breached a release order in September 2023, all of which for he pled guilty in February 2024.

- [18] While it is commendable for Mr. Subramanian to admit to his wrongdoing, I agree with the respondent that his conduct does indicate a repeated pattern of behaviour which displays not only a disregard for compliance with rules and regulations, but also with the well being of others. Given that the last infraction is that of September 4, 2023, there has been an insufficient amount of time for Mr. Subramanian to establish a changed pattern of behaviour necessary to warrant confidence that he will conduct his business in accordance with the law and with integrity and honesty.

#### Finding with respect to Issue 1

- [19] I conclude that, based on the evidence, the respondent has established reasonable grounds for belief that the appellant will not carry on business in accordance with law and with integrity and honesty. Given that, and in light of my findings below that the appropriate outcome is a refusal to grant a licence. It is, therefore, not necessary to consider Issue 2.

#### **Issue 3 – There is no alternative to the refusal of the licence.**

- [20] The respondent submits that, given the seriousness of the appellant's charges, there is no alternative to the refusal of the licence.
- [21] The appellant did not present any alternative recommendations to the refusal of the licence. The appellant merely requests that the Tribunal given him a chance.
- [22] As an alternative to revocation, I have considered whether the respondent should be directed to carry out the proposal with any changes that the Tribunal considers appropriate under s. 26(4) of the Act. I have also considered whether the Registrar should be directed to not carry out of the NOP but instead whether conditions should be imposed on the appellants licence under s. 26(5) of the Act.
- [23] There is nothing in the uncontroverted evidence of the respondent that would lead me to believe that the imposition of conditions on the appellant's licence would be effective as the appellant has not demonstrated a pattern of changed behaviour.

## **Conclusion**

[24] Based on the evidence presented, I conclude that the Registrar has met its onus to prove that the past or present conduct of Mr. Subramanian affords reasonable grounds for belief that the appellant will not carry on business in accordance with the law, and with integrity and honesty pursuant to s. 3(4)(b) of the Act. I also find that this is not a case where the imposition of conditions is appropriate.

## **ORDER**

[25] For the reasons set out above, I direct the Registrar to carry out the Notice of Proposal dated March 6, 2024 to refuse the appellant's application for a licence.

LICENCE APPEAL TRIBUNAL

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**Jeffery Campbell, Vice-Chair**

**Released: October 9, 2024**