

Court of Session, Scotland.

Unto the Right Honourable

THE LORDS OF COUNCIL AND SESSION

PETITION

of

MECCA LEISURE LIMITED, a Company
incorporated under the Companies Acts and
having its Registered Office at 76 Southwark
Street, London -

PETITIONERS

for

Judicial review of decision to refuse an
application for a direction under the
Gaming Act 1968, Section 32, by the
City of Glasgow District Licensing Board.

HUMBLY SHEWETH:

1. That the petitioners are a company incorporated under the Companies Acts having its Registered Office at 76 Southwark Street, London. The petitioners inter alia operate a number of proprietary clubs for the playing of bingo. In particular, they operate the Mecca Bingo and social Club (Orient) Gallowgate, Glasgow (hereinafter referred to as "the Orient"). The respondents are the city of Glasgow District Licensing Board, per

Town Clerk, City Chambers, Glasgow. The respondents are the Licensing Authority having responsibility, inter alia, for the grant and renewal of licenses under the Gaming Act 1968 ("the Act") for premises such as the Orient.

2. That on 28th June 1985 the respondents granted an application by the petitioners dated 4th February 1985 for the renewal of the licence for the said premises and refused an application by the petitioners, which formed part of said application for renewal, for a direction under Section 32 of the Act with respect to those premises. Copies of said application will be produced.

3. That the petitioners seek (1) reduction of said decision by the respondents insofar as it refused to give a direction under Section 32 of the Act and (2) an order ordaining the respondents to hold a meeting to reconsider said application for such a direction.

4. That the petitioners challenge the decision to the respondents to the aforesaid extent on the following grounds.

5. That where premises are licensed in terms of the Act two jackpot gaming machines may be operated as right therein in terms of Section 31 thereof, save where a direction is given under Section 32 of the Act. Said Section 32 empowers licensing authorities such as the respondents to give a direction authorising the substitution of a specified number of amusement with prizes machines complying with the requirements of Section 34 of the Act in place of said two jackpot machines. Such a direction is at the discretion of the Licensing Authorities.

There is no statutory right of appeal against a decision made under said Section 32.

6. That in presenting said application for a direction in relation to the Orient, Counsel for the petitioners gave, inter alia certain undertakings on their behalf as follows:-

(a) that entry to the Orient would be afforded only to members who would be required to take out membership at least 24 hours prior to their first session and to pay an entry fee for each bingo session;

(b) that no machines would be visible from the street;

(c) that all machines would be electrically disabled during the playing of cash bingo;

(d) that the existing opening hours of the Orient would not be extended; and

(e) that the payout on the machines would be restricted to £3 and that the machines would pay out at a rate in excess of 70 percent of monies staked.

In addition the petitioners offered to alter the siting of the machines to meet the requirements of the respondents. A copy plan showing the proposed location of the machines and a transcript of the proceedings at said hearing are produced and referred to for their terms which are adopted and held to be repeated herein brevitatis causa. No objection was made to the petitioners' said application by the Police, the Building Control Department or the Gaming Board.

7. That is was the duty of the respondents to exercise the discretion conferred upon them by said Section 32 in a reasonable and proper manner. The respondents in reaching said decision exercised said discretion in an unreasonable and improper manner. No reasonable licensing authority giving fair and proper consideration to the petitioners' said application, the material placed before and the undertakings given to the respondents would have reached the decision which the respondents reached. Further, and in any event, a decision pursuant to said Section 32 is one requiring a proper factual basis. There was no proper basis in fact, on the evidence before the respondents, to support said decision to refuse said application. In these circumstances the petitioners seek the remedies hereinbefore specified. The petitioners found upon the following authorities: Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation (1948) 1 K.B.223, Ashbridge Investments Ltd, v. Minister of Housing and Local Government (1965) 1 W.L.R. 1320, Wardie Property Co. Ltd. v. Secretary of State for Scotland 1984 S.L.T. 345; Strathclyde Passenger Executive v. McGill Bus Services Ltd. 1984 S.L.T. 377.

PLEAS IN LAW

1. The respondents, in reaching decision complained of, having exercised said discretion in an unreasonable and improper manner, said decision ought to be reduced and the respondents ordained to hold a meeting to reconsider said application.

2. Separatim, there being no proper basis in fact to support said decision to the extent complained of, said decision ought to be reduced and the respondents to hold a meeting to reconsider said application.

ACCORDING TO JUSTICE, etc.