

HOSPITALITY AND TOURISM INFORMATION MEMO

MARCH 11, 2024

Tenant Disputes and Abandoned Premises

It has been the long-standing rule of the Liquor Authority that there cannot be two liquor licenses issued to two different licensees for the same physical space (the Licensed Premises). That is the reason why the Authority requires that the current license be surrendered before a new license, or a Temporary Retail Permit, can be issued to a new applicant for the same Licensed Premises. This issue frequently arises when an applicant is buying the business and/or real estate of a current licensee, or if a new tenant is taking over a rental space previously leased to a business with a liquor license.

However, what happens if the current licensee won't surrender the license? Or can't be located to do so? Landlords may find that their tenants are falling behind on the rent and are seeking to leave the premises, or are actually abandoning the leased premises. Or, what happens if one owner of the current licensee is willing to surrender the license but the others aren't?

In Advisory 2023-1, the Liquor Authority indicated that, if the Licensed Premises has been "abandoned" by the current licensee, there is a new mechanism to get a license issued to a new applicant, even if the current licensee can't be located. The applicant for the new license can submit an affidavit from the owner of the property regarding the abandonment of the premises. After receiving the affidavit and supporting documentation, the Liquor Authority will contact the current licensee by certified mail and/or email to see if that entity or individual disputes the claim of abandonment. If the current licensee disputes the abandonment, the new license application will be denied. If the current licensee acknowledges that it has abandoned the premises, or it does not respond to the Liquor Authority's letter, the Liquor Authority will consider the premises abandoned and will proceed with its review of the application.

The Liquor Authority also issued Advisory 2023-2, which stated that any individual listed in the Liquor Authority's records as an officer of a corporation can surrender a liquor license. If the licensee is an LLC, any individual listed in the Liquor Authority's records as a managing member, manager or officer (or, if none are shown in the Liquor Authority's records, any member) can surrender the license. The Liquor Authority stated that it will not become involved in a dispute between principals or other parties alleging that the individual was not authorized to surrender the license.

[Jennifer Tsyn](#) represents businesses and individuals in a variety of business law matters, with a focus on liquor licensing issues. If you have any questions about this information memo, please contact Jennifer or any member of Bond's [hospitality and tourism practice](#).

