



Counter Notice – Permitted Temporary Activities

On the 11th September 2017, the Licensing Authority received from you, Orlando Peracca, a temporary event notice (“the notice”) in respect of proposed temporary licensable activities due to take place on 8th October 2017 at Portofino’s, Henry Street, Lytham.

Having received an objection from a relevant person, and having held a hearing to consider the objection, the licensing authority considers it appropriate for the promotion of a licensing objective to serve a counter notice.

The subsection which applies is indicated by a “X” in the following table.

Relevant subsection of the Licensing Act 2003	Insert “X” as applicable
Section 107(2) of the Act applies because you are a personal licence holder and you have already given at least 50 temporary event notices in respect of event periods wholly or partly within the same calendar year as the event period specified in the notice.	
Section 107(3) of the Act applies because you are not a personal licence holder and you have already given at least 5 temporary event notices in respect of event periods wholly or partly within the same calendar year as the event period specified in the notice.	
Section 107(4) of the Act applies because at least 15 temporary event notices have already been given which are in respect of the premises indicated in the notice and which specify as the event period a period wholly or partly within the same calendar year as the event specified in the notice.	
Section 107(5) applies because in the calendar year in which the event period specified in the notice, or any part of it, falls, more than 15 days are days on which one or both of the following fall – a) that event period or any part of it, b) an event period specified in a temporary event notice already given in respect of the same premises as the notice or any part of such period.	
Section 105 (2) applies as this counter notice has been issued to prevent the event going ahead to protect one or more of the licensing objectives. The event would not promote the licensing objective of prevention of public nuisance.	X

A copy of this counter notice will be sent to the chief officer of police for the area in which the premises specified in the temporary event notice you gave are situated.

Where the relevant licensing authority gives a counter notice under section 105(3), the premises user may appeal against that decision. An appeal under this paragraph must be made to the magistrates' court for area in which the premises concerned are situated. An appeal must be commenced within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against. But no appeal may be brought later than five working days before the day on which the event period specified in the temporary event notice begins.

Under section 136 of the Licensing Act 2003 a person commits an offence if he carries on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation; or if he knowingly allows a licensable activity to be so carried on. A person convicted of such an offence is liable to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.

SIGNATURE	On behalf of Fylde Borough Council	DATE 22/9/2017



Reasons for Service of Counter Notice – Permitted Temporary Activities

On 11th September 2017, the licensing authority received from you, Orlando Peracca a temporary event notice ("the notice") in respect of proposed temporary licensable activities due to take place on 8th October 2017 at Portofino'o, Henry Street, Lytham. The licensing authority is satisfied that following a hearing before a panel of the Licensing Committee of this Council on the 22 September 2017 a counter notice under section 105(2) of the Licensing Act 2003 must be served to promote a licensing objective. The reasons for this decision are listed below:-

The panel have made their decision taking into consideration the evidence given by Mr. Dent, representing Environment Protection, and Mr. Peracca, for Portofino's. The panel agree with the points made by Mr. Dent concerning the general noise levels in the vicinity of Henry Street and complaints received from local residents. The panel appreciate comments received by Mr. Peracca stating that he would manage the control of patrons leaving their premises to reduce noise nuisance but he accepts that the noise level in Henry Street has increased due to the increase in licenced premises. The panel are concerned with the rising level of noise affecting residents in the vicinity of Henry Street, particularly those at the Homestead. Taking into account the licensing objective for the prevention of noise nuisance the panel consider that allowing the temporary event notice application to proceed will prolong the noise activity in the area by several hours more than what is experienced at present, and that this would not promote the licensing objective of prevention of public nuisance. Accordingly, the panel consider it appropriate to serve a counter notice to prevent the event from proceeding.

A copy of this notice will be given to the chief officer of police for the area in which the premises specified in the temporary event notice you gave are situated.

SIGNATURE	On behalf of Fylde Borough Council	DATE 22/9/17