

Appeal decision

Date: 15 August 2015

Code of racing: Harness

Appeal panel: Judge W Carter (chair), Mr B Miller and Mr G Casey.

Appearances: Licence applicant Mark Zohn appeared on his own behalf.
Mr W Birch, general manager, Stewards and Integrity Operations, Racing Queensland, appeared on behalf of the stewards.

Decision being appealed: Refusal to grant a harness racing licence.

Appeal result: Appeal dismissed.

Extract of proceedings – in the matter of the refusal by the Racing Queensland to grant a harness racing licence. Licence applicant: Mark Zohn

THE CHAIRMAN: In this appeal, the appellant appeals against the decision of the control body refusing him a harness racing licence. This application was made to the Queensland control body on 6 June 2014, and was duly considered by the control body's Licensing Committee. That committee refused the application.

As part of those proceedings on 21 July 2014 the stewards conducted an inquiry into serious complaints which had been made in relation to the physical condition of horses then in the control of Mr Zohn.

The transcript of the stewards inquiry was part of the material which was considered by the Licensing Committee, as was the fact that the appellant has a criminal history, the details of which are on the record.

Having regard to those matters, namely the appellant's criminal history and their serious concern about the condition of the relevant horses, it was decided by the committee that the appellant was not a fit and proper person to be granted a trainer's licence for harness racing. He now appeals to this board and we have heard lengthy submissions from the appellant in respect of the relevant matters to which we have referred.

Having regard to the licensing policy, which governs the control body's grant of racing licences in the various codes, it is clear that those who are responsible for decision making in this area must necessarily have regard to that policy.

On that account it would seem incontrovertible that the criminal history of the appellant is not irrelevant. Mr Zohn argued strongly that because of its timing and its age that it should be ignored. Our view is that it should not but that it should be given its proper weight in the total context of other relevant matters.

It is a matter of serious concern for us as it was for the Licensing Committee that in June 2012 when Mr Zohn, the appellant, was in charge of the standard bred horses, B Grudge, Two Olives Only, Big Baz and Sue Courage, those four horses were adjudged to be in what can only be described as appalling physical condition, so much so that when the horses were transferred to the stable of Mr Mark Belford, a licensed harness racing trainer, his first reaction was to complain to the stewards.

The stewards then sought the opinion of Dr Baldwin, a well-known, licensed and reputable veterinarian, who examined the horses on 27 June 2012, and he adjudged each of those horses to be in absolutely sub-prime condition. Begrudge was assessed to be 0 out of 5; the other three horses 1 out of 5.

This was, in our view, as it was for the Licensing Committee, another serious question. It was these matters which the Licensing Committee took into account, and to which we have given due weight.

We are also aware that on 5 February 2013, the applicant applied to the Harness Racing Control Board in New South Wales for a trainer's licence and by the judgement of that committee on 5 March 2013, the applicant was refused on the basis that he was not a fit and proper person to hold a licence.

It seems that the matters relative to his criminal history were in fact taken into account, as was the information which was available through Mr Baldwin concerning the condition of Mr Zohn's horses. His application having been refused, he appealed to the Racing Appeals Tribunal, which on 11 July 2013 refused his licence.

We are not prepared to pass any judgement upon the adjudication, either of the Licensing Committee in New South Wales or the Racing Appeals Tribunal.

We are persuaded, having regard to the matters upon which the Licensing Committee, in our view, properly relied, and giving such matters due weight, that the Licensing Committee acted correctly in refusing the licence, and on that basis we consider that the appeal should be dismissed.

Further right of appeal information: The appellant and the stewards may appeal to the Queensland Civil and Administrative Tribunal (QCAT) within **14 days of the date of this decision**. Information in relation to appeals to QCAT may be obtained by telephone on (07) 3247 3302 or via the Internet at www.qcat.qld.gov.au