

**OBJECTION TO GRANTING OF RESTAURANT LIQUOR LICENCE
MAMASAN (PTY)LTD IN RESPECT OF PREMISES SITUATED AT
SHOP 2, 7th STREET CORNER 1ST AVENUE, MELVILLE ERF 24,
MELVILLE**

Application Reference number: GLB 700007479

LODGED BY: -

Full name of objector: MELVILLE RESIDENTS ASSOCIATION

Full address of objector: 114 3RD AVENUE,

MELVILLE

2092

Contact telephone number of objector: 0833757742

Email address of objector: mrteam@ilovemelville.co.za

TO: Liquor Licensing – Johannesburg Regional Office

**Gauteng Liquor Board
Matlotlo House
124 Main Street
Johannesburg**

Receipt of Objection Acknowledged:

Signed:

Date:



AND TO Leon Slotow

**Applicant's Representative
32 4th avenue
Highlands North
2192**

Email: info@slotow.co.za

Receipt of Objection Acknowledged:

Signed:

Date:

1. The applicant has applied for a restaurant liquor licence in respect of MAMASAN (Melville) at shop 2, 7th street, corner 1st avenue Melville, situate at erf 24, Melville, under application reference number GLB7000007479.
2. The Melville Residents Association ("MRA") has had sight of the application papers made available by the Johannesburg Regional Office of the Gauteng Liquor Board and filed by the applicant for the above premises in terms of section 23 of the Gauteng Liquor Act 2 of 2003. Certain aspects relating to this application are of particular concern to the association and have led to it filing this objection.

BACKGROUND

3. From 1978 to 1994 there was a 150% increase in the per capita consumption of alcoholic beverages in South Africa, which now has one of the highest levels of alcohol consumption per drinker anywhere in the world.
4. The manufacture, marketing and sale of liquor has recently received much attention from local, provincial and national government structures, as well as from communities and stakeholders in the liquor industry.
5. The Gauteng MEC for Economic Development Lebogang Maile recently stated that, "*the board must endeavor to limit the negative impact of liquor outlets in residential areas*"

Draft Gauteng Liquor Policy

5. The Draft Gauteng Liquor Policy dated June 2011 acknowledges that there are certain liquor-related challenges in South Africa, including:
 - A non-compliant society;
 - No respect for the law;
 - Widespread use of alcohol;
 - Inadequate law enforcement.

6. It furthermore states, with specific reference to the **Proximity of Licensed Premises to Public Facilities**, that there are many licensed premises located within a 500 metre radius of places of worship, educational institutions, similar licensed premises or public facilities, and that many are located in **residential areas**.

The likely effect of liquor traders in residential areas is that, inter alia,

- Intoxicated patrons interfere with and disturb learners and members of the community;
- The noise generated by the activities within these premises with and can be an ongoing and serious nuisance to residents living in their vicinity
- These premises and their patrons often operate for lengthy hours, creating continuous noise and pollution for surrounding residents, especially in the evenings and on weekends and public holidays.
- It is not uncommon for these premises to have patrons who are involved in fights with each other after consuming alcohol or who become involved in fights with other people after leaving the drinking premises.

The Draft Policy also states that *“all residential areas require protection from the negative impacts of liquor trade. While in the interim it is proposed that the 500m protective radii around community facilities be applied even more rigorously, the fact that entire residential areas need to be buffered from the negative impact of liquor trade should be emphasized”*.

The aim of the draft policy is to:

- Lower outlet densities;
- Facilitate the natural agglomeration of specific goods and services within preferred sites with appropriate land use rights;
- Limit the negative impact of liquor trade on residential areas.
- Limit the hours of sale of liquor in residential areas.

7. The **Draft National Liquor Policy**, prepared by the Department of Trade and Industry last year, will be placed before Parliament shortly.
 - **Section 1.6.6** of the draft Policy proposes that liquor premises be located at least five hundred meters (500m) away from schools, places of worship; recreation facilities and residential areas. It further proposes that no liquor licenses shall be issued to premises near public transport; and areas not classified for entertainment or zoned by municipalities for purposes of trading in liquor. It also proposes that if such a license is already issued it should be terminated within a period of two years.
8. The **Control of Marketing of Alcoholic Beverages Bill** was approved by cabinet on 18 September 2013. The motivation for the bill, according to the Inter-Ministerial Committee on Combating Alcohol and Substance (IMC) is because *“alcohol is reported to rank third on the list of risk factors leading to death and disability while other statistics point to a strong link between alcohol consumption and violent deaths, including those resulting from domestic conflict and suicide. In addition, significant numbers of people arrested for robbery, assault, rape and weapons-related offences are under the influence of alcohol”*.
9. It is against the above background that applications for liquor licences are to be considered.
10. Liquor trading and consumption in Melville have had a considerable impact on our suburb. While Melville has two strip business/commercial areas on 7th Street leading into 4th Avenue and Main Road, Melville, it is a primarily **residential area**. The business/commercial strips were created to allow for the establishment of retail outlets and facilities to serve the Melville residential area. As a consequence of this residentially-based layout, the business/commercial strips are very narrow, typically consisting of a depth of only one erf from the Main Road, 7th Street and 4th Avenue. There is a concern that the type of activity which is likely to take place in and around the applicant’s premises should it obtain a liquor licence, will raise noise levels with a potentially negative impact on the quality of life enjoyed by residents who live within earshot of the premises.

11. 7th street in Melville has historically experienced many incidents of lawlessness and serious **crime**, including drug peddling, muggings, fights, intimidation and harassment of residents, and at least two violent deaths at premises trading in liquor over the past 2 years, being a murder at the (now closed) Dollar Table and the beating to death of an armed response officer outside Ratz – both premises located in 7th street. The MRA works proactively for a safe, peaceful suburb, and is gravely concerned about this trend, especially its negative impact on the rights of individual residents and the far reaching reputational and security compromises it has caused our community.
12. There is already an **oversaturation** of restaurants in 7th street between 1st Avenue and 3rd Avenue, serving liquor with meals and in some instances separately at the bar, both during the week and over weekends . Refer Poppy's Restaurant, Hell's Kitchen, Nuno's (XaiXai) Santa Muerte, Liquid Blue, Six, and recently Pablo Eggs GO Bar. Now with the addition of Mamasan there will be no fewer than 8 liquor trading restaurants/bars in this very small confined area. This number excludes the other restaurants, pubs and lounges further down 7th street.
13. The MRA recently conducted a suburb-wide **survey** regarding, inter alia, the issue of liquor trading premises in Melville and more particularly at the 27 Boxes centre close by. It was clearly evident among the over 300 responses that there is a significant concern among residents regarding the number of liquor trading premises in the area.
14. **Parking** is already a major problem in and around 7th street. In the evenings congestion and double parking near the relevant premises already poses a severe threat to the road safety and general amenity of the immediate surrounding area. With the addition of Mamasan the problem will be further exacerbated, and this is likely to lead to parking moving further into the residential area. The parked cars attract car guards, who are known to peddle drugs and intimidate car owners and pedestrians. It does not appear as though the applicant can adequately address this major issue, as there are only 2 public parking bays available outside the premises, parallel thereto. The photographs

provided by the applicant are self-evident. Insofar as the applicant makes reference in its written representations to "ample parking" in the "the restaurant parking area" such representation is false.

15. Section 2(d) of the Gauteng Liquor Act Regulations provides, inter alia, that:

"(2) An application for a licence as contemplated in section 19 of the Act must be –

d) accompanied by a comprehensive written motivation in support of the application which must include public interest requirements–

(i) the need for a liquor outlet in the area,

(ii) the impact of a liquor outlet in the area

(vi) the proximity of other liquor outlets, educational institutions, places of worship and public transport facilities"

15. The MRA does not believe that the present application adequately addresses the above requirements. Argument will be advanced at the hearing on this point.

16. **Section 4 (5) of the Regulations** states that the applicant must give notice of an application by serving a notice of the application to educational institutions, places of worship and liquor outlets within 500m of the proposed premises. The MRA submits that the above requirements were not adequately met, will ask for proof of same at the hearing, and reserves the right to advance argument thereon.

17. The MRA is of the view that no live music, nor background music, should be directed from the applicant's proposed premises into the area surrounding them. All forms of loud music provided for the purpose of entertainment including dancing, must be strictly prohibited. No reference is made to music in the premises. Since the applicant refers to the restaurant having a "casual slant" it is anticipated that the premises will have music pumping through the establishment.

18. In terms of the Liquor Licence restaurants may serve liquor with meals between 10.00 am and 02.00 pm. The MRA notes that the applicant has not indicated its intended hours of operation, and requires the honourable board to consider same and include in the conditions of any licence it may grant, hours of operation which are to be strictly adhered to.
19. Prior to the issue of the Liquor licence the MRA requires copies of the relevant **Health and Safety certificates** which ought to have been issued for the premises.
20. As far as the provisions of **section 30 (3)** of the Act are concerned, as has been pointed out in the application, there are places of worship, educational institutions, similar licensed premises and public transport facilities within 500m of the applicant's premises. The MRA believes that such details as provided in the application are incomplete and inaccurate. Argument on this aspect will be made at the hearing.
21. Another cause for concern is the fact that section 104 of the Gauteng Liquor Act, 2003 permits a liquor licence, once granted, to be **transferred** to another licensee without any notice to the community. This is unacceptable to the association as no opportunity is provided to the association and the community to object to the proposed transferee or to the transfer in those instances in which there have been problems caused by the activities of the business which have impacted negatively on the surrounding neighbourhood. Unless it is provided as a condition to the grant of the liquor licence that the liquor licence is not transferable to another person and that any change in the current shareholding of the applicant will result in the immediate rescission of the licence, no protection will be afforded to the community to prevent a transfer of ownership and control without its knowledge and the community will have no opportunity to object and raise its concerns
22. Failing the concerns raised being dealt with by the inclusion of suitable conditions attaching to the grant of the liquor licence, the association are of the respectful view that the application for a restaurant liquor licence should be refused.

23. The Regulations furthermore stipulate that the Board must grant a liquor licence subject to specific and general conditions, and that *"The Board may add such other conditions as it may deem appropriate in the public interest"* – see section 13 of the Regulations.
24. The MRA has advised the applicant that in the event that the license is granted, that it would want specific **conditions** to be incorporated with a view to ensuring that the impact on the suburb in general and residents' interests in particular, is kept at an absolute minimum, in line with the stated intentions of both the national and provincial government's present intentions. It is hoped that by the time the hearing takes place, such conditions have been formulated and discussed with the applicant.
25. The MRA notes from the application papers that the premises are in the process of building alterations. There is no confirmation in the application papers that the necessary **building plans** have been submitted or approved.
26. We also note that there is no **SARS clearance certificate** in respect of Mamasan (Pty) Ltd or any of its shareholders or directors. Without same it is not correct for the applicant to state that the relevant persons are fit and proper for the purposes of this application. The papers are therefore incomplete, and such non-compliance should not be condoned, especially in light of the feeble excuse provided by the applicant in respect thereof. Further argument on this point will be advanced at the hearing.
27. The floor plan provided by the applicant suggests that there may be as much as 40 patrons in the confined area provided for patrons, and that there will be tables outside (i.e. on the pavement). The MRA believes that the premises will be congested and noisy, and that the pavement tables will create an obstacle on the already narrow pavement. Further argument on this point will be advanced at the hearing.
28. The MRA notes the statement by Mrs C Tsikoudakis to the effect that the applicant has the right to occupy the premises. Upon perusal of the application papers it is noted that the applicant is in fact a sub-lessee. Upon a perusal of the lease and sub-lease attached to the application papers the MRA is of the respectful view that the applicant's right to

occupation of the premises has not been properly substantiated. Further argument will be made on this point at the hearing.

29. The MRA wishes to make the following averments in response to certain statements made in the applicant's written representations:

29.1. It is NOT correct that "*the nearest residents are at least 200 metres away*". A number of residential homes are situated within 50 metres of the premises, and many homes are situated between 50 and 200 metres of the premises.

29.2. Given the other professional commitments of 2 of the three shareholders of the applicant, it is highly unlikely that there will be much hands-on running of the business. It is far more likely that such individuals may be or become absentee owners. In addition, no information has been provided in the papers regarding Mr Dawood Petersen, a major shareholder in the business.


29.3. The MRA also notes several references to "*a manager*" who was allegedly employed at another similar establishment in Melville. Neither this individual's name, nor the details of the other establishment managed by him or her, has been provided. The MRA requires these details, as well as details regarding such individual's criminal record (if any) to establish whether such person is linked to any other problem establishments in Melville or elsewhere.

29.4. The applicant states that there is "*more than enough demand*" for a facility such as this. There is in fact already more than enough supply of these types of establishments in the area, as is evident from the application papers. Further argument on this point will be advanced at the hearing.

30. The MRA is of the respectful view that the applicant has neither proven the need, nor the desirability or appropriateness of establishing yet another liquor serving establishment in the relevant area in Melville. The application papers are in many material respects incomplete and factually incorrect.

31. In light of the above, the MRA asks that the application be refused.

Signed:

A handwritten signature in blue ink, consisting of a cursive 'u' followed by a stylized 'h'.

Date:

24/08/2016

Full names of Objector: Melville Residents Association

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