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| OBJECTION TO GRANTING OF RESTAURANT LIQUOR LICENCE FOR Flashing Investments (Pty) Ltd IN RESPECT OF PREMISES SITUATED AT Shops 102 and 103, corner of Main Road and 4th Avenue MELVILLE, ERF No. not indicated. |
| **Application Reference number: GLB7000011421** |

LODGED BY: -

Full name of objector: MELVILLE RESIDENTS’ ASSOCIATION

Full address of objector: 22 4th AVENUE, MELVILLE 2092

Contact telephone number of objector: 0763143506

Email address of objector: mra-liquor@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: Otto Wolf

 PO Box 1048

 Rooseveltpark

 2129

Email: liquorwolf@gmail.com

And: chandrasgeda7@gmail.com

Sent by email on

1. The applicant Flashing Investments (Pty) Ltd, Registration number 2017/526081/07, has applied for a restaurant liquor licence in respect of The Brazenhead – Melville at the corner of Main Road and 4th Avenue in Melville, with no Erf No. indicated, under application reference number GLB7000011421.
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 on behalf of 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 concern to the MRA and have led to it filing this objection.
3. The type of licence applied for is masked as a restaurant while the franchise is known to be … *designed and operated under the guidelines of the "****Irish Pub Concept****". … While they're all related, no two* ***pubs*** *look exactly alike*…

[https://www.safranchisebrands.co.za/the-brazen-head]

The MRA is not convinced that this is a bona fide restaurant. On the plans a big bar area is also provided which is not usual for a restaurant.

1. The location of the premises, i.e. Main Road is known to the honourable Liquor Board due to the numerous complaints relating to establishments like Stones and Ballerz – the latter which closed down and which premises are currently being occupied and where Cappello Melville has been operating a night club-type of business for the past number of months. This area is already burdened with a lot of noise, unruly car boot parties, spinning and drag racing.
2. In the advertisements and in an affidavit a list of similarly licenced premises within a radius of 1 kilometre appears. It should be noted by the honourable Board that the requirement in this regard as set out in Section 24(3) is prescriptive in that the Applicant shall indicate the required information in the application. This requirement is there to ensure the Board is in a position to make an informed decision. Though approximately 30 establishments are listed, the MRA can state that the details listed are outdated and inaccurate with numerous unlicenced premises listed, but there are also establishments not listed. Argument on this aspect will be made at a hearing.
3. The property may not have sufficient parking to accommodate its patrons as the parking area behind the property is used by the flats in the same building of the proposed premises – it is known that vehicles have been stolen from this parking lot.
4. In respect of the Schedule of Statutory Requirements:
	1. In item 3.1 the applicant indicates that the premises are not fully completed and requires some 2 months post approval for completion.
	2. Section 30 requires detail of places of worship, educational institutions and similarly licenced premises (within a radius of 500m) to be listed with distances indicated. This applicant failed to discharge this duty and the application should thus be refused.
	3. It follows that the statement in item 7 that the application complies is incorrect and improper.
	4. It is noted that the SAPS clearance is outstanding and the Applicant requested condonation in this regard. This aspect should be addressed before the honourable Board can make any decision.
5. The document attached as proof of right of occupancy, indicates Shops 2 and 3 of Melville Corner – this is not the same as the premises indicated on the application and thus there is no proof of any right to occupy the premises in respect of the application before the Board.
6. The MRA standard procedure, as published on the website, is to object in an endeavour to liaise with an applicant to establish a relationship and obtain detail of the intentions and hopefully enter into an agreement that is mutually beneficial. The MRA also invites prospective applicants to liaise with them and there are numerous examples of this with regards to establishments such as Pablo Eggs-Go-Bar, and most recently Del Forno.
7. The MRA wishes to make the following averments in response to certain statements made in the applicant’s written representations: The applicant states that there is not a restaurant of a similar style in the area. There is however already more than enough supply of these types of establishments in the area. There is an oversaturation of restaurants and liquor outlets in Melville, serving liquor with meals and in some instances separately at the bar, both during the week and over weekends. At last count there are more than 45 liquor outlets in a radius of 1 km from the centre of Melville. 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 Melville. A further concern is that the oversaturation may well lead to the further demise of some outlets leaving possibly empty venues that will encourage further displaced.
8. The application states that the intention is to serve breakfast and lunch, however the attached menu does not indicate any breakfast options. Nowhere does the application indicate operating hours, it is thus not clear exactly what is intended.
9. **Regulation 3(2) d)** of the Gauteng Liquor Act 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”*

 The MRA does not believe that the present application adequately addresses the above requirements, specifically related to the impact of the outlet in the area. Furthermore, incomplete information is presented under oath amongst other regarding other liquor outlets, places of education and places of worship. Argument will be advanced at the hearing on this point in the event that the application proceeds.

1. As far as the provisions of **section 30 (3)** of the Gauteng Liquor Act, 2003 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 and no distances are provided. The North Gauteng High Court in 2010 ruled that “ …According to the reasons, the respondent [the Gauteng Provincial Liquor Board] exercised its discretion against the applicant because it deemed the grant of the licence in close proximity to the schools not to be in the public interest.”

The court further found that “The respondent reasoned that the existence of the tavern licence, another liquor outlet in close proximity to the educational institutions, rendered a further licence not in the public interest.” and further that “The latter is a valid consideration.” [Swema]

In Mobylink Trading CC v The Gauteng Provincial Liquor Board and The Chairperson of the Gauteng Provincial Liquor Board, the North Gauteng High Court found “ that it would not be in the public interest to grant such an application. Put differently, if the proposed premises are situated within the 500 meters radius of one or more of those institutions, the Board would be more readily inclined to refuse the application for a liquor licence than to grant it, unless it is established that despite the proximity of the proposed premises to such institutions, the granting of a liquor licence would not impact negatively on those institutions. The duty to establish that, in my view, rests upon the applicant, which obviously, is a factual enquiry.”

The MRA is not convinced that the applicant discharged this duty.

Argument on this aspect will be made at the hearing.

1. In the Comprehensive Written Representations there are a number of references to the Constitution of the Republic – it is noted that some refers to the repealed constitution of 1993. This is not a good reflection on the attention given to the application and this is similar to the inaccurate detail supplied regarding the similarly licenced premises referred to above.

**FURTHER COMMENTS**

1. 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 primarily a **residential area**. There is a grave concern that the type of activity and specifically the trading hours applied for are an insult to residents. The Board has intimate knowledge of the problems caused by patrons to Stones and the now closed-down Ballerz – both premises being referred to by the applicant in motivating this application. The Board should seriously consider its responsibility towards the community in weighing up the rights of the applicant and those of residents and the implications, The Board has the discretion as allowed in the Act and Regulations to set conditions and could other than declining the application, set reasonable hours for an outlet in situated in a residential neighbourhood. The type of activities which is likely to take place in and around the applicant’s premises should it obtain a liquor licence, will raise noise levels emanating from the premises with a potentially very negative impact on the quality of life enjoyed by residents who live within earshot of the premises, e.g. in the flats above the premises and the residential homes of which the closest is not even 75 metres away.
2. Melville has historically experienced many incidents of lawlessness and serious **crime**, including shooting, car thefts, hijacking, drug peddling, muggings, fights, intimidation and harassment of residents, and at least three violent deaths at or related to premises trading in liquor, one being a murder at premises in Main Road not more than 200 m from this premises. 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.

**CONCLUSION**

The application papers are thus incomplete, misleading and in certain instances factually incorrect and the MRA is of the respectful view that the application for a liquor license should be refused.

The MRA hereby respectfully requests a hearing to be held in respect of this application in order to review this application. The MRA also reserves the right to take further legal advice and action if necessary if no hearing is held.

 Signed: --------------------------------------

 Date:

 Full names of Objector: Melville Residents Association Address of Objector: 22 4th Avenue, MELVILLE 2092

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