|  |
| --- |
|  |
| OBJECTION TO GRANTING OF PUB LIQUOR LICENCE FOR Thayaliano Group Motors (Pty) Ltd in respect of premises known as The Countess situated at SHOP 001, 75 – 4th AVENUE MELVILLE, 27 BOXES |
| **Application Reference number: GLB 7000014601** |

LODGED BY: -

Full name of objector: MELVILLE RESIDENTS’ ASSOCIATION

Full address of objector: c/o 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: Raymond Mavuka

 Applicant’s Representative

 09 Mosethle Street

 Atteridgeville Pretoria

 0008

Email: Raymond.mavuka@gmail.com

Sent via email on: XX Nov 2020

1. The applicant Thayaliano Group Motors (Pty) LTD, Registration number 2018/358540/07, has applied for a pub liquor licence in respect of The Countess at Shop 1, 75 – 4th Avenue, Melville, situated at 27 Boxes, Melville, under application reference number GLB7000014601.
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 detail in respect of the premises is conflicting in the various documentation items. The indicated street address of 75, 4th Avenue relates to Erf 431 for which zoning information has been submitted, while the lease agreement submitted reflects 27Boxes which is not on Erf 431. Thus the application is fatally flawed and should be withdrawn and resubmitted should the applicant decide to proceed with an application as incorrect information has been submitted.
4. In addition to the above defect, neither of the properties indicated have the land use rights to be granted a pub licence. Section 23(4) of the Gauteng Liquor Act specifically requires an explicit approval from the local authority for a pub to be opened at any premises. The honourable board knows the 27Boxes premises or the representatives of the City of Johannesburg who sits on the local committee will advise the Board that the City through its property owning company is the owner of the erf on which 27Boxes were developed. The lease agreement of the 27Boxes does not provide for any liquor licenced premises, it only provides for one coffee shop.

1. The written representation states that the applicant “*Is binding himself to all applicable law and by-laws that govern the liquor trade and the council under which he operates*”. However, the experience of the residents and other businesses in the area cannot confirm of the sincerity of this averment.

5.1 During the recent months numerous breaches occurred which lead to noise complaints and visits by JMPD (reference numbers over the recent months, e.g.: 27 August – J2108270070 and J00068; 24 September – J0066; 15 October – J0060), screenshots and noise clips of The Countess will be provided on request.

5.2 There are also no landuse rights for any live entertainment and numerous advertisements were posted in this regard – see copies attached.

1. As can be seen from the various social media advertisements the sale of liquor is marketed – whilst the applicant is only now applying for a licence. This should be of grave concern to the Liquor Board.

**FURTHER COMMENTS**

1. Lease agreement, item 1.8 states the purpose as a restaurant and item 6.3 of the general terms and conditions determines it may not be used to any other purpose and in 6.7 the tenant is to ensure no nuisance emanates from the premises – see 5.1 above for proof of the contrary; the trading hours are limited in terms of 1.13 and item 6.13 of the general terms and conditions determines the premises may not remain open after the maximum hours.
2. Under oath the applicant declares his pub is a non-smoking area – does that include the outside seating area? The use of hookah pipes is not addressed while it is especially relevant in the time of Covid-19.
3. As required in **section 30 (3)** of the Gauteng Liquor Act, 2003 the applicant must list places of worship, educational institutions, similar licensed premises and public transport facilities within 500m of the applicant’s premises. Such details as provided in the application are incomplete and inaccurate. For example in respect of educational facilities, the applicant declares under oath that there are none while there is a primary school approximately 200m away. Argument on this aspect will be made at the hearing.
4. **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 believes that the present application does not address either the need for a liquor outlet in the area, nor the impact of a liquor outlet in the area.

Furthermore, incorrect and incomplete information is presented regarding:

* other liquor outlets – numerous are missing;
* educational institutions – none is listed;
* places of worship – quite a number is outstanding.
1. The MRA wishes to state the following:

 At last count there are more than 50 liquor licenced premises within a 1 km radius from the centre of Melville. It seems the practice at the Gauteng Liquor Board is to “revive” old lapsed licences and then transfer them. This practice makes it very uncertain to determine the number of active licenced premises. The establishments listed by the applicant are not a correct reflection of either the existing operators or those premises with licences that can be “revived” by the Liquor Board.

The impact of the oversaturation is being impacted negatively and exacerbation by the economic situation caused by the pandemic which lead to the vacating of a number of outlets, with new tenants arriving in the area in a short space of time, who “take over” with or without knowledge of the Liquor Board and who are not subject to the same scrutiny afforded by a new license application process. This highlights the importance of this process that is being followed here.

12. Section 24(1) requires a notice of intention to apply to be affixed to the premises – there is no proof of this having taken place.

13. The application papers are thus incomplete and factually incorrect and the MRA is of the respectful view that this application should be refused if the applicant does not withdraw it.

1. Further to the aspect of **oversaturation** of liquor outlets in Melville, whether liquor is served with or without meals, both during the week and over weekends, at last count there are more than 40 liquor-licensed premises in a 1 km radius from the centre of Melville. In addition, there appears to be certain highly disruptive business operations with issued restaurant or pub liquor licenses, which operate as clubs, regularly hosting live entertainment, despite there being no consents issued by the City of Johannesburg for places of amusement or live entertainment in Melville. The current applicant has been conducting similar activities – see item 5.1 above.

 This has contributed to a culture of non-compliance in regard to the laws and by-laws among some business owners.

 This application cannot and should not be considered in a vacuum – the fact that the Local Committee and the Board have largely ignored the above facts in many applications before it, is alarming, and it contradicts the stated intention of the Gauteng MEC for Economic Development’s statement that, *“…the Board must endeavor to limit the negative impact of liquor outlets in residential areas…”*. It is our respectful submission that the granting of even more liquor licenses in an already oversaturated area is completely inappropriate and has been detrimental to many other non-liquor businesses as well as the residents in the suburb.

 One may be tempted to justify the granting of yet more licenses by mentioning that the GLB has an inspectorate with **enforcement** authority, however the MRA has seen no evidence suggesting that the inspectorate has performed any useful function in monitoring and where appropriate, censuring any liquor license holders in Melville. We are not aware of a single license being suspended or withdrawn, despite clear evidence having been available to show that there have been many establishments that have not complied with the conditions of their licenses.

 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.

15. As there is no consent from the local authority for a pub, neither a place of amusement which includes live music entertainment as the applicant has been operating – approval cannot be granted. Furthermore a lessor may not grant rights to a lessee which are greater than those which the lessor itself has.

19. 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**. 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 Main Road, 7th Street and all the avenues from 1st to 5th Street. 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. The premises furthermore can be open to the street and for ventilation in the era of **COVID**, this will be required. Thus the sound of any event hosted will carry into the neighbourhood – mainly towards the eastern side (1st and 2nd Avenue) but also to the west from the open court yard.

20. Melville has 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 five violent deaths at or near premises trading in liquor, being the drive-by shooting New Year 2020 (diagonally across from the premises), a murder at the (now closed) Dollar Table and the beating to death of an armed response officer outside Ratz, and one unnatural death in 7th Street close to Liquid Blue. The unfortunate drive-by shooting in the early hours of New Year’s morning 2020 is still foremost in the minds of residents – no progress has been made in solving this crime. The MRA with the Melville Security Initiative work 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**

Should the Board have any inclination to consider the present application, then the MRA hereby requests that a hearing be held in respect of this application, as there are many highly relevant considerations which need to be put to the Board in the form of oral argument. All parties will benefit from the opportunity to fully ventilate the issues set out above, and this will assist the Local Committee in making informed and well considered recommendations to the Board.

The MRA reserves all of its rights herein.

 Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Full names of Objector: Melville Residents Association Address of Objector: c/o MELVILLE 2092

 Contact telephone number of objector: 076 314 3506

Email address of objector: mra-liquor@ilovemelville.co.za