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| OBJECTION TO GRANTING OF RESTAURANT LIQUOR LICENCE FOR LOVE AND LIGHT CAFE, Registration number 2021/944938/07 in respect of premises to be known as LOVE AND LIGHT CAFÉ situated at SHOP 46 – CAMPUS SQUARE SHOPPING CENTRE, KINGSWAY UNIVERSITY, AUCKLAND PARK |
| **Application Reference number: GLB 7000015257**  |

LODGED BY: -

Full name of objector: MELVILLE RESIDENTS’ ASSOCIATION

Full address of objector: Suite 69, Private Bag X09, PostNet, Melville 2109

Contact telephone number of objector: 0795601505

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

TO: Liquor Licensing – Johannesburg Regional Office

 Gauteng Liquor Board

 Matlotlo House

 124 Main Street

 Johannesburg

AND TO: JMN Consultants

 Applicant’s Representative

 PO Box 43058

 Theressa Park, Pretoria

 0155

Email: jmnliquorjs@gmail.com

Sent via email on: XX June 2022

1. The applicant Love and Light Cafe, Registration number 2018/380479/07, has applied for a restaurant liquor licence in respect of Love and Light Cafe at Shop 46, Campus Square Shopping Center, situated at Kingsway/University Rd Auckland Park, under application reference number GLB7000015275.
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 liquor board should be placed in possession of both tax and police clearance certificates as undertaken by the agent. Without these the application cannot be considered.

**FURTHER COMMENTS**

1. 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, there is a place of worship and learner academy about 500m from the premises. This shows that the applicant has no knowledge or interest in the community in which it proposes to operate a business of liquor trading which is very concerning to the MRA. Argument on this aspect will be made at the hearing.
2. The applicant presented inaccurate, lacking information under oath regarding:
* other liquor outlets – several are missing;
* educational institutions – only UJ is listed;
* places of worship – none is listed.

6. The application papers are incomplete and factually incorrect and the MRA is of the respectful view that this application should be refused.

7. As far as the provisions of **section 30 (3)** of the Gauteng Liquor Act, 2003 are concerned, the applicant indicates under oath that there are neither any places of worship nor any educational institutions within the stipulated area, while there are several. A large number of similar licensed premises are also not listed in the papers and were not listed in the advertisements. The applicant fails to put this information as prescribed in the Act before the Board.

In Bulk Deals Six CC and another v Chairman of the Liquor Board of the Western Cape and others (2002) the judge stated: “*After all, while the onus in a liquor licence application is not to be equated with the onus which a litigant bears to establish his or her claim in a civil action, the information which must be place before a Board to enable it to make a decision must come from* ***the applicant****.*” (Our underlining and emphasis) On this alone, the application should be refused.

Argument on this aspect will be made at a hearing.

8. Section 30(3) furthermore affords the Liquor Board the discretion to refuse or grant a licence by reason of the close proximity of educational institutions, places of worship and similarly licenced premises. In Swema Pub and Restaurant cc vs Gauteng Liquor Board (2010) the application was refused considering the public interest – the existence of another licensed premises in close proximity rendered a further licence not in the public interest. The legislature has entrusted the relevant discretion to (the respondent) Board. Public Interest was also discussed in the Bulk Deals Six CC and another v Chairman of the Liquor Board of the Western Cape and others case (2002). Though the judge proceeded in this instance to direct a licence be issued, it was made *subject to restrictions to trading hours* and selling and serving liquor in the open veranda area as the premises were *in a shopping centre* in a residential area.

11. The MRA believes that such details as provided in the application are incomplete and inaccurate and no distances are provided. Swema Pub and Restaurant CC vs Gauteng Liquor Board (2010) the court 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*.”

In Mobylink Trading CC v The Gauteng Provincial Liquor Board and The Chairperson of the Gauteng Provincial Liquor Board (2010), the North Gauteng High Court referring to the Caroline Street Liquor Store case (2010), considered the “*residual discretion which Du Plessis J correctly, with respect, concluded that the Board retains, is this: where there are places mentioned in section 30(3) within the 500 meters radius of the proposed premises, an assumption readily exists that such institutions would be negatively impacted by the granting of a liquor licence, and a fortiori, 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.

Mobylink Trading CC v The Gauteng Provincial Liquor Board and The Chairperson of the Gauteng Provincial Liquor Board (2010), the North Gauteng High Court found “… *That the decision of the Board has not been articulated in so many words is, in my view, not a basis to infer that the Board did not exercise its discretion properly. It is clear that the very close proximity of the proposed premises to these institutions, especially the church within 50 meters radius, must have weighed heavily on the Board to refuse the application*.”

In Caroline Street Liquor Store CC v The Gauteng Provincial Liquor Board (2010) the court dealt with Section 30 in detail regarding the consideration of applications under the Act. In terms of section 30(2) the respondent "shall grant an application" if certain requirements are met. It is not in issue that the applicant met those requirements. Section 30(3) stipulates: "The Board shall grant an application in the case of premises not situated within a radius of five hundred (500) metres in the vicinity of a place of worship, educational institution, similar licensed premises, public transport facility, or such further distance as the Board may determine or as may be prescribed from time to time." Read together, the two subsections provide that, if the requirements of section 30(2) are met, the Board shall grant an application provided that it may refuse an application if the proposed premises are within a radius of 500 metres from any of the places mentioned in subsection (3). Put differently, even if the requirements of section 30(2) have been met, the Board still has a discretion to refuse an application if the proposed premises are within 500 metres from a place mentioned in section 30(3).

Argument on this aspect will be made at the hearing.

1. The applicants state that they believe their application is in the public interest as they believe in the quality of their food and the service and quality business they can create in the area. There is no way that any interested party can assess these beliefs about the food, the standard of service, or the atmosphere, or behaviour of patrons.
2. The MRA wishes to state the following:

 At last count there are more than 50 liquor-licensed premises within a 1 km radius from the centre of Melville, which includes Campus Square Shopping Center. The establishments listed by the applicant are not a correct reflection of either the existing operators or those premises with licenses that can be “revived” by the Liquor Board.

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 favourably, 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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