

DOCUMENT FORMALITIES

Application Type **New Application**License Type **Restaurant**Applicant ☐ Natural Person ☒ Non-Natural Person (Trust, Company, Partnership or Close Corporation)

SECTION 0

Application submitted by:

I am the applicant ☐ I am, a consultant / agent, submitting on behalf of the applicant ☒

First Name	OTTO	Surname	WOLF	
Second Name	KARL	Street Number	PO BOX 1048	AMOUNT R 3 0 0 0 . 0 0
Street Name	ROOSEVELTPARK	Suburb	ROOSEVELTPARK	
City	JOHANNESBURG	Code	2129	
Mobile Phone	0834373573	Land Line	0114776438	AMOUNT R 1 5 0 0 . 0 0
Email Address	otto@liquorconsultant.co.za			

SECTION 1 - APPLICANT DETAILS

1.1	Name of Business	
1.1	Surname of Applicant	
1.2	Age of the Applicant	
1.3	Company Registration Number	
	Residential Address or Registered Office Address	
	Street Number	
	Street Name	
1.4	Suburb	
	City	

GAUTENG DEPARTMENT OF
TREASURY AND FINANCE
INPUT UNIT
JOHANNESBURG REGION
2010-05-06
2010/002818/07
SOUTH AFRICAN LIQUOR BOARD

LEXSHELL 143 TRADING (PTY) LTD
N/A
0
SHOP 2 & 3
MELVILLE PROPERTIES CORNER 7TH STREET AND 2ND AVENUE
MELVILLE
JOHANNESBURG





P.O. Box Number	PO BOX 1048, ROOSEVELTPARK
5 Postal Code	2129
6 Business Telephone Number	0820570328
7 Email Address	coobs@coobs.co.za
8 Cellphone Number	082 057 0328
Physical Address of the premises for which the liquor permit is required	
Street Number	SHOP 2 & 3
Street Name	MELVILLE PROPERTIES CORNER 7TH STREET AND 2ND AVENUE
9 Suburb	MELVILLE
City	JOHANNESBURG
ERF Number	SHOP 2 & 3

SECTION 2 - APPLICANT ENVIRONMENT

IS THE APPLICANT A PERSON WHO:-

INPUT

- | | | | |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|-------------------------------------|
| 2.1 | has in the Republic or elsewhere in the preceding ten years been convicted and sentenced for any offence to imprisonment without the option of a fine? | <input type="radio"/> YES | <input checked="" type="radio"/> NO |
| 2.2 | has in the preceding five years been convicted of an offence in terms of The Gauteng Liquor ACT, 2003 (Act Number 2 of 2003 or the Liquor ACT, 1989 (ACT number 27 of 1989) and was sentenced to a fine of not less than R 200-00 or to imprisonment without the option of a fine or both imprisonment and a fine? | <input type="radio"/> YES | <input checked="" type="radio"/> NO |
| 2.3 | is not domiciled in the Republic? | <input type="radio"/> YES | <input checked="" type="radio"/> NO |
| 2.4 | is an unrehabilitated insolvent? | <input type="radio"/> YES | <input checked="" type="radio"/> NO |
| | is a minor? | <input type="radio"/> YES | <input checked="" type="radio"/> NO |
| 2.6 | is the spouse of a person contemplated in questions (2.1), (2.2), or (2.4)? | <input type="radio"/> YES | <input checked="" type="radio"/> NO |

THE APPLICANT IS A COMPANY, CLOSED CORPORATION, PARTNERSHIP OR TRUST,
STATE WHETHER THE PERSON CONTEMPLATED IN QUESTIONS 2.1 - 2.6:-

INPUT

- | | | | |
|-----|----------------------------------------------------------------------------|---------------------------|-------------------------------------|
| 2.7 | has a controlling interest in such a company, closed corporation or trust? | <input type="radio"/> YES | <input checked="" type="radio"/> NO |
|-----|----------------------------------------------------------------------------|---------------------------|-------------------------------------|



1.8 Is a partner in such a partnership ?

☐ YES ☒ NO

1.9 Is the main beneficiary under such a trust ?

☐ YES ☒ NO

SECTION 3 - GENERAL DETAILS

INPUT

State the **name, identity** number and **address** of each person, including the applicant, who will have any financial interest in the business and in each case the **nature of such interest**. If the applicant is a public company, statutory institution or a cooperative as contemplated in the cooperatives ACT, 1981(ACT number 91 of 1981), it shall be

- 3.1 sufficient if only the **name and postal address** of such company, statutory institution or co-operative as the case may be, the name of such director (if any), thereof and the nature and extent of the financial interest of such company, statutory institution or co-operative are furnished and not also the interests of individual members of such company, statutory institution or co-operative. INPUT TABLE BELOW

	Name	Surname	Identity Number	Address	Nature Of Interest / Notes
()	SEE ANNEXURE H	SEE ANNEXURE H	SEE ANNEXURE H	SEE ANNEXURE H	SEE ANNEXURE H

- 3.2 State the applicants **financial interest** in the liquor trade in the Republic and if the applicant is a private company, closed corporation, partnership or trust, also of every shareholder, member or partner thereof or beneficiary there under. (If the applicant or the said shareholder, member, partner or beneficiary has no such interest, this fact shall be specifically mentioned).

SEE ANNEXURE H

- 3.3 In the case of an application for a liquor store licence, sorghum beer for off-consumption or micro manufacturer's licence is the applicant a manufacturer of liquor or the agent.

☐ YES ☒ NO

4 State type of liquor applicant intends selling

ALL KINDS OF LIQUOR

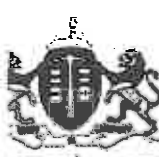
In the case of an application for a micro-manufacturer's licence :-

- 5.1 Is the applicant a person who manufactures fermented beverages ?

☐ YES ☒ NO

- 5.2 State the volume of liquor produced or the volume of liquor intended to be produced by the applicant per year.

0 - 500 liters



INPUT

Describe the situation of the premises where the business is to be conducted with reference to the erf, street or farm number

ERF SEE PARAGRAPH 1.4 AND 1.9
Street SEE PARAGRAPH 1.4 AND 1.9
Farm number SEE PARAGRAPH 1.4 AND 1.9

In the case of an application for a sorghum beer license, state whether it is intended to sell beer for on consumption or off consumption

☒ On Consumption
☐ Off Consumption

Under what name is the business to be conducted ?

THE FEDERAL

In which region are the premises situated ?

Johannesburg Liquor Licenses

Will the applicant have the right to occupy the premises referred to in question 8 ?

☒ YES ☐ NO

In the case of an on consumption license state in which portion of the premises the sale of liquor will take place.

AS DEPICTED ON THE ATTACHED PLAN

Is the application made in respect of premises which has not yet been erected ?

☐ YES ☒ NO

Are the premises already erected but require additions or alterations in order to make them suitable for the purpose of the proposed business ?

☒ YES ☐ NO

the date on which such erection, additions or alterations will be commenced with

COMMENCED

the period which will be required for the erection, additions to or alterations

APPROXIMATELY 2 MONTHS

Are the premises already erected and in the applicant's opinion do not require additions to or alterations in order to make them suitable for such purpose ?

☐ YES ☒ NO





Is an application made for any determination, consent, approval or authority which could be granted by the board?

☐ YES ☒ NO

In the case of an application for a club liquor license, please accompany this document with a copy of the constitution or rules of the club. Are you applying for a club liquor license?

☐ YES ☒ NO

SECTION 4 - Declaration (pen-to-paper only section)

declare or truly affirm that the information contained in this application is true.

Signature of Applicant
or Authorized Person



Date

2016-05-05

SECTION 5 - Commissioner Of Oaths (pen-to-paper only section)

certify that this declaration has been signed and sworn to or affirmed before me by the applicant or an authorised person who acknowledged that (i) he or she knows and understands the contents of this declaration; ii) that he or she has no objection to taking the prescribed oath or affirmation; and (iii) he or she considers the prescribed oath or affirmation to be binding on his or her conscience and that he or she uttered the following words "I swear that the contents of this declaration are true, so help me God" or "I truly affirm that the contents of this declaration are true".

Commissioner Of
Oaths Signature



First Name(s)

Surname

Business Address Line 1

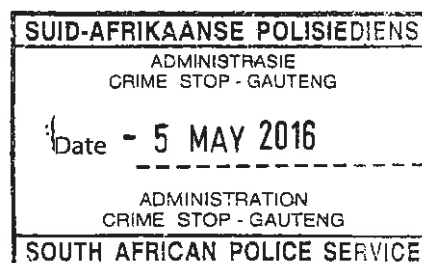
Business Address Line 2

Business Address Line 3

Designation

Area for which appointment is held

Office held if appointment is Ex Officio



04832699
Commissioner of Oaths

Full Name : MARIUS BRUWER
Address : 186 MAIN ROAD, NEWLANDS.
Designation: WARRANT OFFICER
Office held appointment is Ex Officio :
REPUBLIC OF SOUTH AFRICA

**PROOF OF PAY
MENT OF REGI-
STRATION FEES**



Absa Online: Notice of Payment

05 May 2016

Dear Gauteng Liquor Board

Subject: Notice Of Payment: Gauteng Liquor Board

Please be advised that MNR OK WOLF made a payment to your account as indicated below.

Transaction number:	80192EE9E4-573
Payment date:	2016-05-05
Payment made by:	MNR OK WOLF
Payment made to:	Gauteng Liquor Board
Beneficiary bank name:	FIRSTRAND
Beneficiary account number:	62309767608
Bank branch code:	255005
For the amount of:	1,500.00
Immediate interbank payment :	N
Reference on beneficiary statement:	GLB7000006894
Additional comments by payer:	FIRST REGISTRATION FEE : THE FEDERAL- MELVILLE : GLB7000006894

View your account to confirm that you have received this payment as the following apply to Absa Online payments into non-ABSA bank accounts.

- Payments made on weekdays before 15:30 will be credited to the receiving bank account by midnight of the same day.
- Payments made on weekdays after 15:30 will be credited by midnight of the following day.
- Payments made on a Saturday, Sunday or Public holiday will be credited to the account by midnight of the 1st following weekday.

If you need more information or assistance, please call us on 08600 08600 or +27 11 501 5110 (International calls).

If you have made an incorrect internet banking payment, please send an email to digital@absa.co.za

Yours sincerely

General Manager: Digital Channels

This document is intended for use by the addressee and is privileged and confidential. If the transmission has been misdirected to you, please contact us immediately. Thank you.

Member of / Lid van



Absa Bank Limited Reg No 1986/004794/06 Authorised Financial Services and Registered Credit Provider Reg No NCRCP7 Company Information:
www.absa.co.za

Absa Bank Beperk Reg No 1986/004794/06 Gemagtigde Finansiële dienste- en Geregistreerde Kredietverskaffer Reg No NCRCP7 Maatskappij-inligting.
www.absa.co.za

**ADVERTISEMENT IN THE
PROVINCIAL GAZETTE**

- (7) Kutlwano's Resturant, La Creche Restaurant, Ekhaya Restaurant, Times Square Restaurant, Lekki Bar, Rocker Fellas Night Club, Shoprite Liquor Store, Ambassordor Bar & Restaurant, Rich Man Poor Man Tavern..
- (8) Nazareth House, United Church Schools, Mount Calvary Pentecostal Church.

SOWETO

- (1) Mnyanda Ncedo.
- (2) Mnyanda Liquor Store.
- (3) 8512245358086.
- (4) Erf 2360-2370 Chiawelo Extension 2, Soweto.
- (5) Liquor Store.
- (6) None.
- (7) None.
- (8) None.

ROSETTENVILLE

- (1) Foodoozze Restaurant.
- (2) Foodoozze Guest House & Restaurant.
- (3) 2015/399824/07.
- (4) Erf 1852, 13 Ruby Street Rosettenville Johannesburg 2130.
- (5) Guest House.
- (6) Rosettenville Christian Primary School (300m), Rosettenville Central Shool (450m), Kenilworth's Secondary School (300m), Khanyisa Nursery School (250m), St Martin's High School (600m), Hamlet School For Specialized Education (100m), Lion King Nursery School (150m), Little Feet Nursery School (320m), Verney College (100m)..
- (7) Tops @ Kenilworth's (1000m), Thibault Liquor store (650m), Ndlazi Discount Cellar Liquor Store (750m), Quality Spirit Liquor Store (500m), La Casmar Bottle Store (950m), O' Chefe Restaurant (200m), Cafe Latino (300m)..
- (8) Wisdom Bible Church (100m), Universal Church (200m), Revival Church (350m), Mountain of Testimonies Church (400m), Apostolic Faith & Acts Church (470m), Apostolic Faith Mission Church (550m), St Paul's Family Church (600m), International Grace Chapel (760m), South family Of God Church (800m), Assemblies of God (850m), St Mary's Anglican Church (900m), Christain Youth Center (965m), Salvation Army Community Center (1000m)..

JOHANNESBURG - MELVILLE

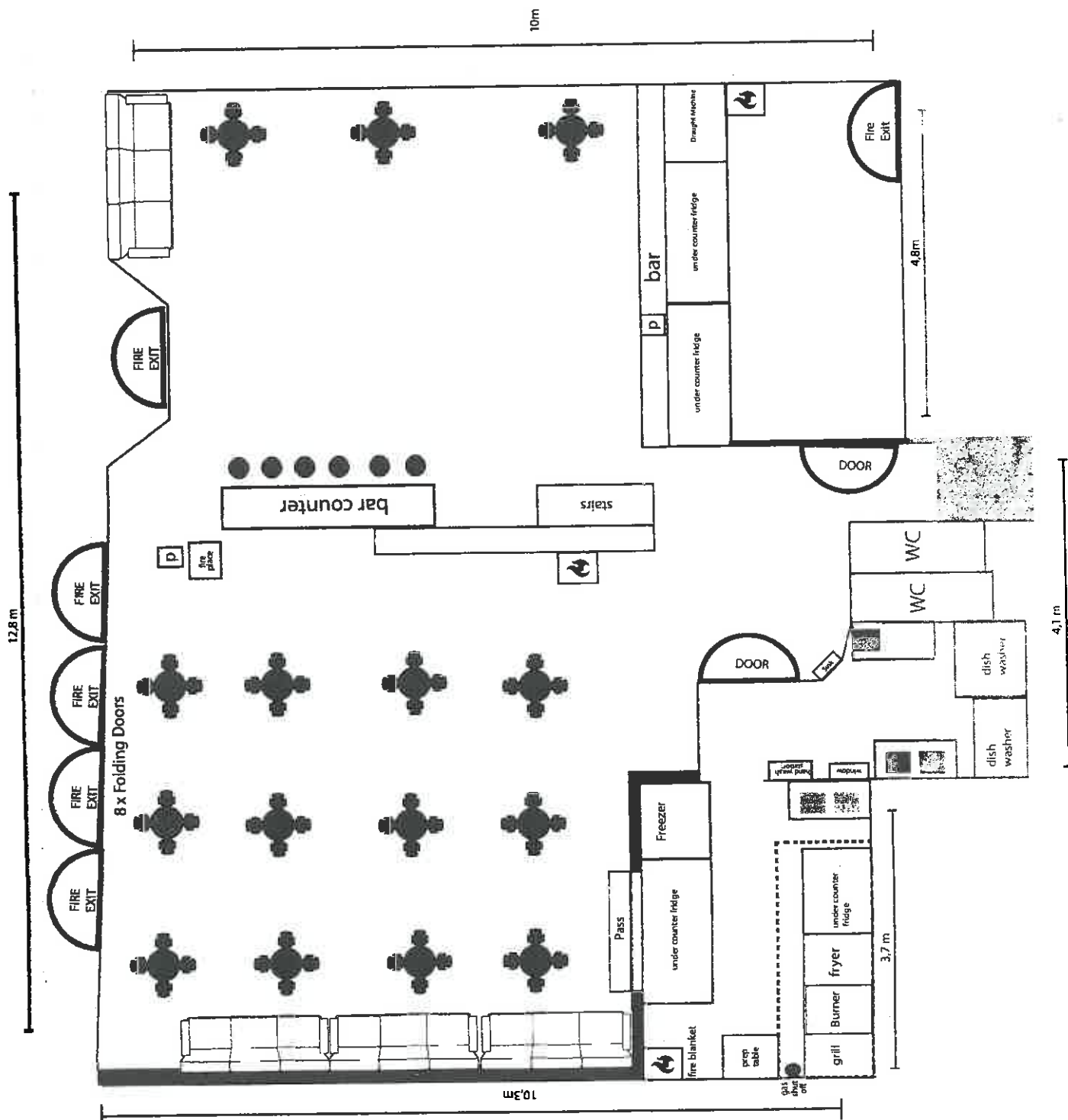
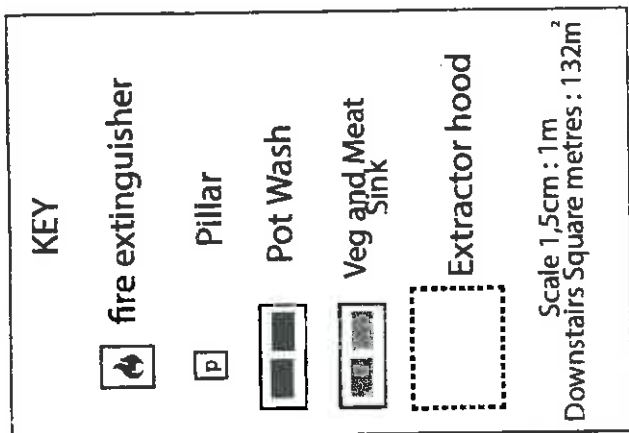
- (1) LEXSHELL 143 TRADING (PTY) LTD.
- (2) THE FEDERAL.
- (3) 2010/002818/07.
- (4) SHOP 2 & 3, MELVILLE PROPERTIES CORNER 7TH STREET CORNER 2ND AVENUE, MELVILLE.
- (5) RESTAURANT LIQUOR LICENSE.
- (6) Melville Junction School (The Foundation School); Melpark Primary School; Sparrow School, Langahead School, University of Johannesburg; Milpark Business School; Deutsche Schule; Mc Auley House Convent; St. Katherine School, Montessori Pre-School.
- (7) To the best of the applicant knowledge, the following similar licensed premises are within a radius of 1 kilometre from the
premises: Bambanani; Sakua Sushi; Six Restaurant; Loft; Lucky Mexico; Transkei; Xai Xai Lounge; De La Creme; Ratz; Sahib Indian Restaurant; Yasuqui Cuisine; Melville Cafe; Nuno's Restaurant; Liquid Blue; Melons Restaurant; The Antz; Cafe
Picobella; Catz Pyjamas; Chinese Lantern; Big Time Taverna Sama Restaurant; Lingo Restaurant; Chaplins Restaurant; Soi Restaurant; Mugg and Bean; Local Grill; Buzz 9; Fontana Roastery; Quench Restaurant.
- (8) The Auckland Park Baptist Church, Rivonia SDA Church, Melville Methodist Church; Kruis Gemeente Church. The Potters House, Nederduitse Hervormde Kerk; Heritage Baptist Church, Nederduitse Hervormde Kerk van Suid Afrika, Catholic Church, Christ Embassy, NG Kerk; Die Kapel; Rosebank SDA, 1 st Avenue; Melville Gemeente; Melville Junction Church; Musjid Mosque; Richmond Road; Auckland Park Baptist Church. St. Pete's Anglican Church.

JOHANNESBURG - PARKHURST

- (1) PARKWOOD PARK CAFE C.C..
- (2) 4th AVENUE COFFEE ROASTERS - PARKHURST.
- (3) CK 2008/161529/23.
- (4) THE COBBLES CENTRE CORNER 11th & 4th AVENUE, PARKHURST.
- (5) RESTAURANT LIQUOR LICENSE.

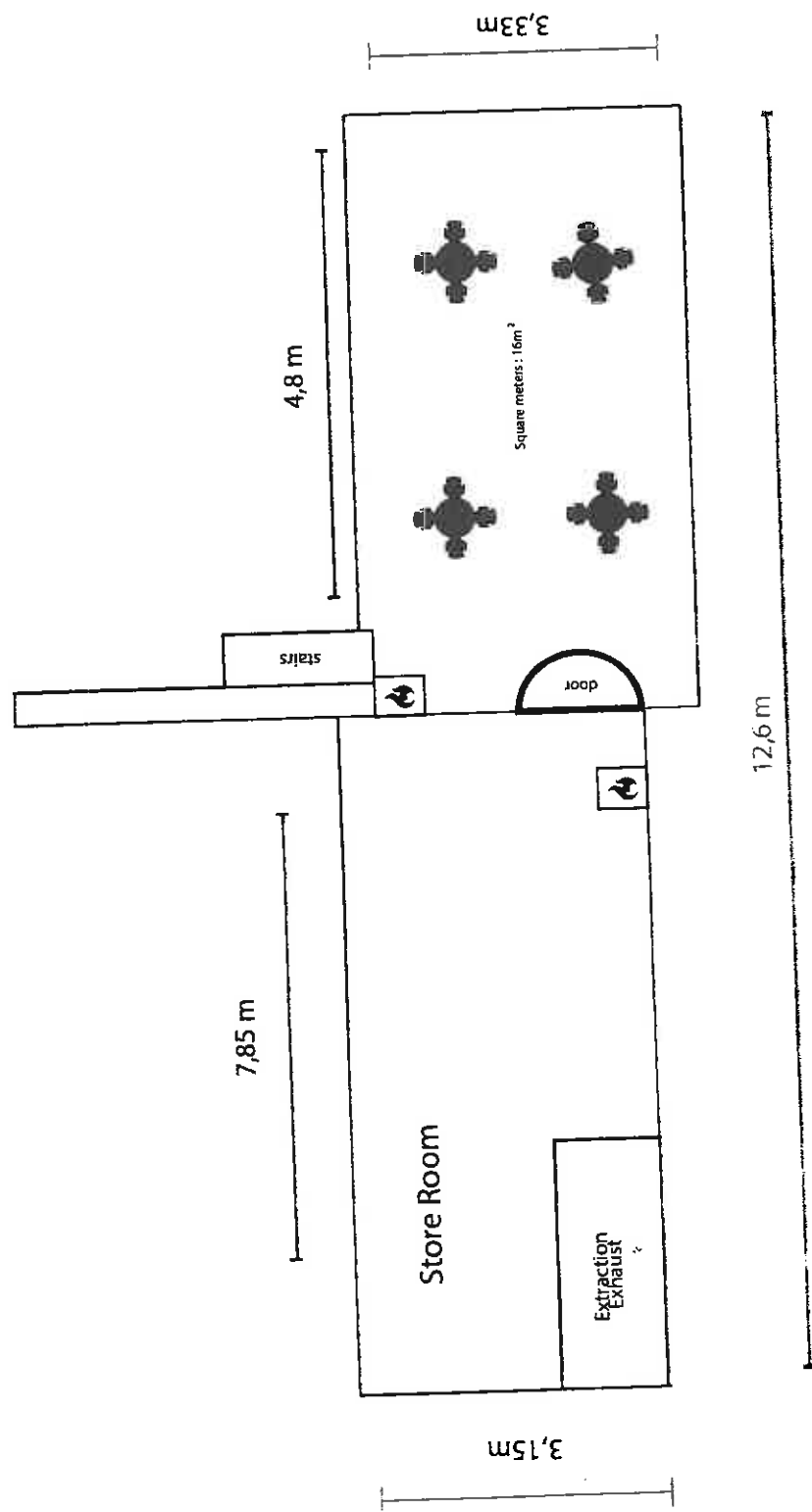
**ADVERTISEMENTS IN THE STAR
AND THE CITIZEN**

DOWNSTAIRS THE FEDERAL



UPSTAIRS THE FEDERAL

Upstairs Square Metres: 44 m²



ANNEXURE " B "

DESCRIPTION OR PHOTOGRAPHS OF PROPOSED PREMISES IN TERMS OF SECTION 23 (C)

LOCATION

The proposed premises is situated at shop number 2 & 3, Melville Properties corner 2nd Avenue and 7th Street, Melville.

The area of Melville can be better described as a residential and commercial area with various other retail outlets which includes restaurants as stated in the newspaper advertisements in the attached envelopes.

Although there are various other restaurant liquor licensed businesses in the same area as the proposed restaurant there are no other restaurants with the same trading nature as the proposed restaurant.

With regard other similar licensed premises within a 500 meter radius of the proposed restaurant the applicant quotes the following Supreme Court judgment :

In the Supreme Court case Riach v Liquor Licensing Board Rhodesia 1969 (1) SA 342 AT 344 the learned judge remarked, "the control over the sale of liquor under the Act was introduced for the protection of the public and not for the financial benefit of persons fortunate enough to have been granted the privilege of selling intoxicating liquornever the intention to.....make the sale of liquor a closed field and by doing so confer protection from competition on a privileged class of trader....."

Healthy competition is regarded as the cornerstone on which the current liquor law is based and the controlling authority is assured that a harmful monopolistic condition will not arise or be aggravated in the liquor trade or branch thereof should the required license be granted.

THE RESTAURANT ITSELF

The honorable Board is referred to the attached photographs and plan of the premises as well as the attached menu.

From the attached photographs the honorable Board will notice that the proposed premises is still under construction but once completed accordance with the plan submitted with this application it will afford proper and adequate accommodation for the purposes of a restaurant.

The restaurant will seat its patrons on quality plastic chairs at square wooden top tables.

The applicant's restaurant will be supported because it will be totally different to any other restaurant business in the same business node and the trading nature of this restaurant will not be similar as any other restaurant in the same target area.

The restaurant will be a high class establishment and only the best materials, furniture, crockery and cutlery will be used.

ENTRANCE

Upon entering the premises at the main entrance one will immediately be in the dining area on the ground floor of the proposed restaurant.

The dining area, food preparation area and toilet facilities for both males and females will all be situated on the ground floor level of the proposed premises.

The entrance to the preparation area will be from the main dining area.

MEZANINE LEVEL

On this level there will be a storeroom and a small dining area only.

PHOTOGRAPHS

The photographs shows a restaurant still under construction.

The proposed restaurant will when completed, afford suitable accommodation for the kind of business the applicant intends.

PREPARATION AREA

Utensils that will be used in the preparation area will consist of a potwash sink, stainless steel dumping tables, upright fridge, underbar fridge, pot rack, dry rack, griller, industrial stoves etc.

The dining area, food preparation area and toilet facilities for both males and females will all be situated on the same premises.

The entrance to the preparation area will be from the main dining area.

FINISHES

The entire dining area floor will screed plaster.

The walls and floor in the preparation will be painted plaster.

The walls in the dining area will be painted plaster.

The ceiling of the premises will be a concrete ceiling.

Tables in the dining area will be a combination of square and rectangular wooden top tables with plastic chairs.

Crockery will be a combination of standard Chinese porcelain and ceramics and cutlery is be stainless steel.

Also attached to this application is a full menu that will be available at the restaurant.

TOILET FACILITIES

Toilet facilities for ladies and gentleman will be situated on the premises as depicted on the attached plan of the premises.

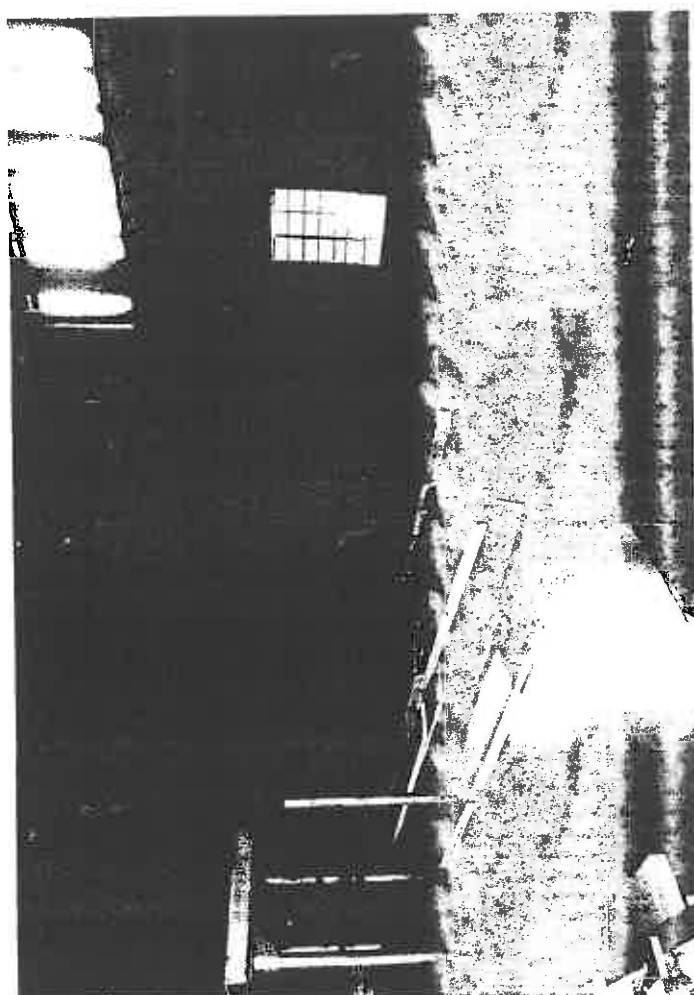
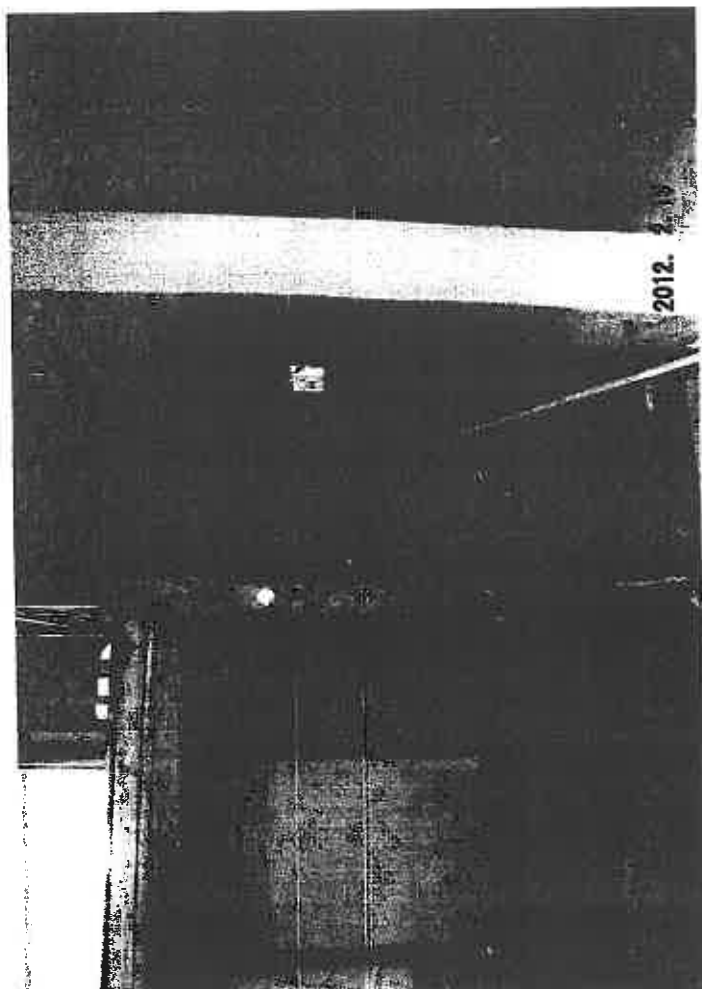
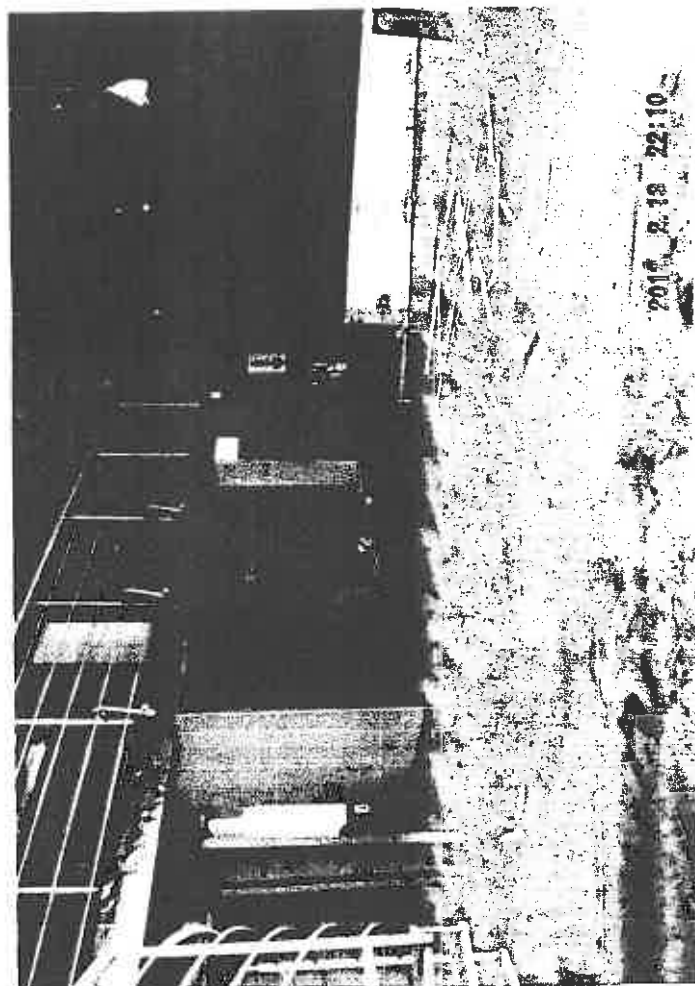
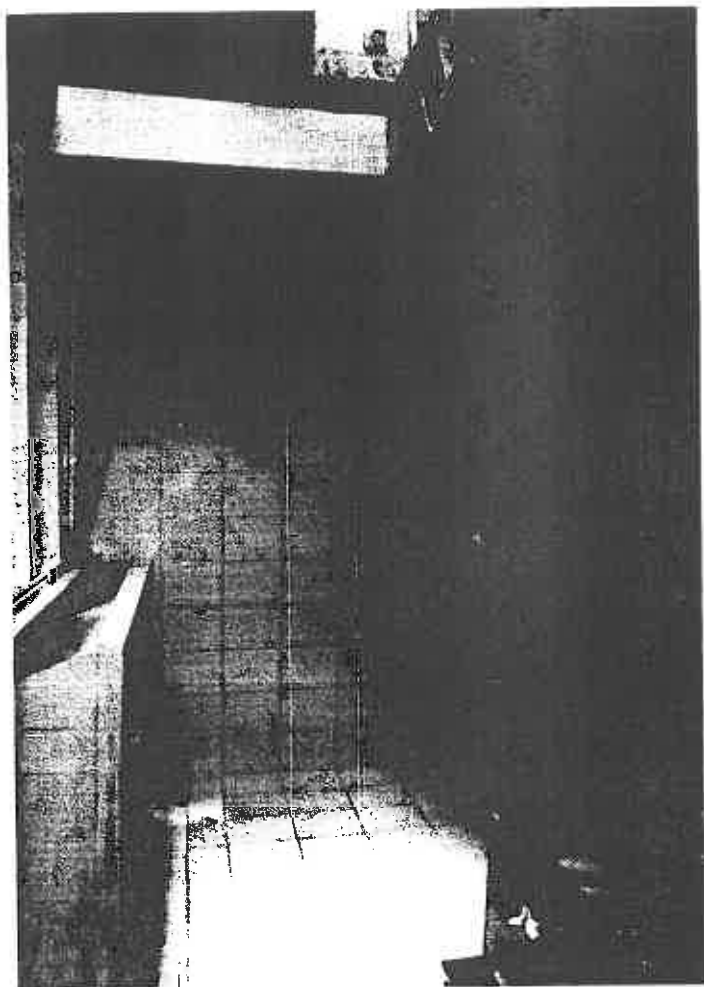
SERVICES OFFERED AND SECTOR OF THE MARKET

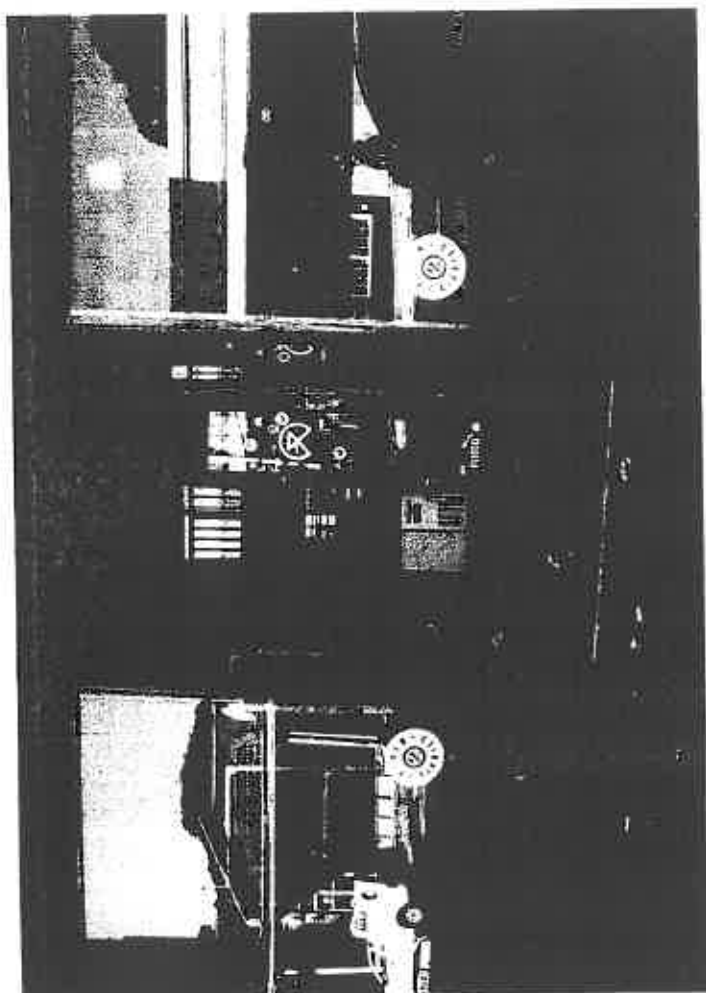
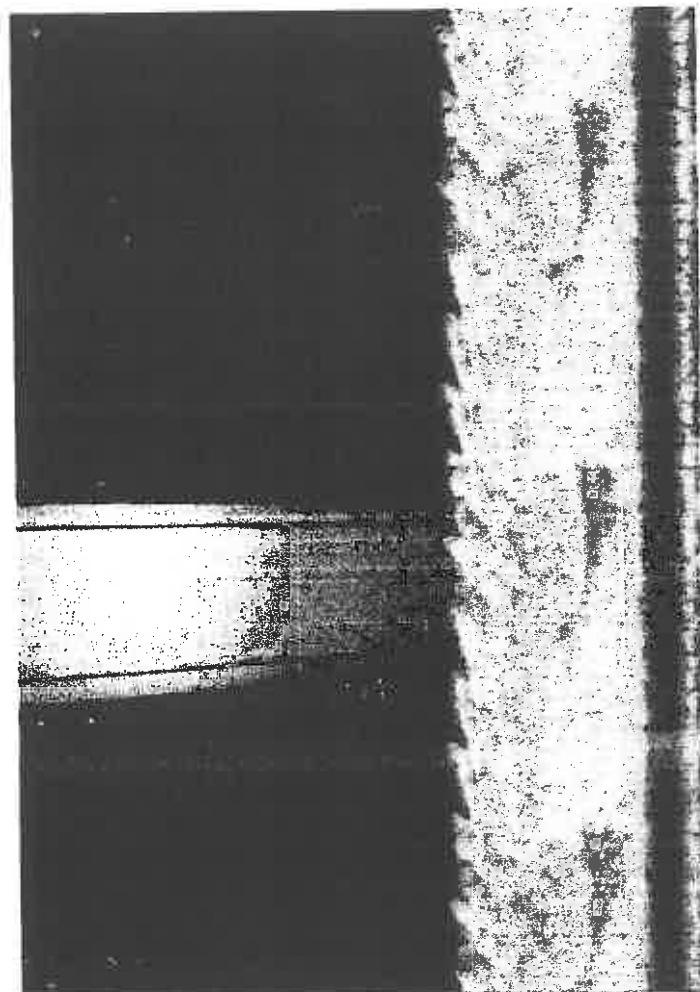
The applicant director will serve breakfast, lunch and supper at the restaurant and although the trading nature will differ from any other restaurant in the area, the services offered will not be similar to that of any other restaurant in the same business node.

The applicant director will draw his clientele from the surrounding residents, businesses and shoppers to the area.

CONCLUSION

As can be clearly seen from the attached plan and photographs, the applicant's premises will more than adequately meet the requirements of the honorable Board for the granting of a restaurant liquor license and because healthy competition is the cornerstone on which the current Liquor Act is based, the applicant wishes to compete on equal footing with other proposed restaurants in the same business node.





COMPREHENSIVE WRITTEN REPRESENTATIONS IN TERMS OF SECTION 23(a)

NATURE OF APPLICATION

This application is brought to the Minister of Trade and Industry via the agency of the secretary of the local committee of the Johannesburg Liquor Affairs for a restaurant liquor license terms of Section 23 of the Liquor Act by the applicant company LEXSHELL 143 TRADING (PTY) LTD with registration number 2010/002818/07 and its sole director who's particulars appears on annexure H of this application.

RIGHT OF OCCUPATION

The applicant has the right of occupation by virtue of the attached lease agreement.

SECTION 23 (4) OF THE LIQUOR ACT

Section 23 (4) of the Liquor Act states that applications for tavern, pool club, pub, liquor store and night club liquor licenses shall also be accompanied by unequivocal approval by the relevant department of the relevant metropolitan or district council, in addition to any zoning or planning or environmental laws requirements.

The Board's attention is drawn to the fact that this is an application for a restaurant liquor license and not a tavern, pool club, pub, liquor store or night club liquor license. Therefore Section 23(4) of the Act is not applicable to this application.

NEED AND CONVENIENCE

The question of need and convenience has received the attention of the Supreme Court in the matter of Anesh Naidoo versus Chairman of the Liquor Board (as first respondent) and Luin Investments C.C. (as second respondent)

This judgment was delivered on the 25th of November 1995 in case number 15470/95 by Mr. Le Roux J.

In his reasons for refusal of the application, the first respondent, being the Chairman of the Liquor Board, said the following : "Although a liquor license at the proposed premises would have been more convenient to the general public to a certain degree, any considerations of convenience were canceled by the fact, on the one hand, that no need for an additional liquor store was shown or alleged to exist and by the fact on the other hand that there was no indication that the service of the existing need by other liquor store licenses was so inconvenient that consideration of convenience must outweigh consideration of need."

Mr. Le Roux J's comments on this reason was as follows : "I pause to say at this stage that there are pronouncements which indicate that the public interest consists mainly of the convenience of the purchasing public and it seems to me that by elevating the question of other outlets as being sufficient to the level

which it has been accorded here by the first respondent might constitute a misdirection. It presupposes that the adjudicator has made up his mind without the question of convenience, because he considers that there is no need for a additional outlet, it becomes virtually a fait accompli that any application should be refused on the basis that there is no further need for a liquor store in that area.....it certainly seems to run counter to the trend of decisions that an application of this nature is not to be judged on the basis that we have sufficient outlets in the area and therefor whoever applies after that has no chance of obtaining a liquor license. That was the exact problem that faced the court in the well known case of Pretoria Town Council versus The A1 Electrical Ice cream Factory (Pty) Ltd, 1993 Volume 3 SA (8) where it was held that this was an extraneous consideration which vitiated the decision."

In the Supreme Court case, Hardy's Cellars C C vs Chairman of the Liquor Board & another, case number 8643/94 - Cape Provincial Division the Court addressed the free market principles as follows :

"Gesonde mededinging is die lewensbloed van ekonomiese vooruitgang en het gewoonlik tot gevolg dat daar mededingende pryse en 'n beter prys aan die gemeenskap verskaf word. Dit is in die openbare belang dat daar gesonde mededinging bestaan aangesien die gemeenskap slegs daardeur bevoordeel kan word. Hiermee wil ek nie voorgee dat oorvoorsiening nie 'n faktor is wat by 'n aansoek van hierdie aard in ag geneem moet word nie, maar prysoorloë is gewoonlik in die guns van die gemeenskap en wat my betref moet daar buitengewone opstande van die hede bestaan alvorens gesonde mededinging nie in die openbare belang sal wees nie. Daar bestaan geen ekonomiese redes waarom bestaande drankwinkels teen mededingers beskerm moet word en sodanige beskerming kan selde in die openbare belang wees....."

In another court case it was stated that, ".....even assuming that there are too many liquor outlets in the area, the laws of supply and demand forecast that the store most likely to close would be the one which serves the least purpose or is least efficiently run....."

In the Supreme Court case Riach v Liquor Licensing Board Rhodesia 1969 (1) SA 342 AT 344 the learned judge remarked, ".....the control over the sale of liquor under the Act was introduced for the protection of the public and not for the financial benefit of persons fortunate enough to have been granted the privilege of selling intoxicating liquornever the intention to.....make the sale of liquor a closed field and by doing so confer protection from competition on a privileged class of trader....."

THE APPLICANT

The applicant is the company LEXSHELL 143 TRADING (PTY) LTD with registration number 2010/002818/07 and its sole director whose particulars appear on annexure H of this application.

The applicant director is a South African citizen with permanent residence in the Republic.

The applicant director has not been disqualified in terms of Section 36 of the Liquor Act.

CONCLUSION

It is respectfully submitted that the applicant director is a fit and proper person to hold a restaurant liquor license and that there is no reason whatsoever why a liquor license should not be entrusted to him at the proposed premises. The applicant director has not been disqualified in terms of Section 36 of the Liquor Act.

The applicant director is without any doubt a responsible person who is au fait with the terms and conditions of the Liquor Act concerning the handling and sales of liquor upon the proposed premises.

PUBLIC INTEREST

In the ruling *exparte* President of the conference of the Methodist Church 1993 (2)(SA)679 the court reconsidered previous rulings regarding public interest and on Cit 10E-G of the report concluded as follows "..... the phrase public interest does not permit of a clear comprehensive definition."

AS WAS OBSERVED BY HERSTEIN J IN *ARGUS PRINTING AND PUBLISHING CO. LTD VERSUS DARBY ARTWARE (PTY) LTD. AND OTHERS*, 1952 (2) SA 1(c), ONE MUST ADOPT, IN GIVING EFFECT TO THE PHRASE, A BROAD COMMONSENSE VIEW OF THE POSITION AS A WHOLE
..... (AND IT MUST BE CONSIDERED WHETHER)
..... THE PUBLIC WOULD BE BETTER SERVED IF THE APPLICATION WERE TO BE ALLOWED TO PROCEED WITH IT'S SCHEME THAN BY A CONTINUATION OF THE EXISTING STATE OF AFFAIRS."

In this case as well as *Kemp versus Republican Press (Pty) Ltd.* 1994 (4) SA 261 (OKD) the following aspects were also considered, namely whether a need exists, if it would be convenient to the public, whether the safety and welfare of the broader public would not be endangered, that it would not cause a degeneration of health and hygiene, that the present order and morals would not be negatively influenced and that it would not disturb the peace and tranquility people are enjoying in the surrounding area.

The first important aspect is whether a need exists for such a facility and if it may be regarded as essential and beneficial to the targeted market. When the positive and negative aspects resulting from this application are compared and taken into consideration the controlling authority may well find that the envisaged liquor outlet could be regarded as essential.

In addition, the facility may be regarded as essential as there is no other on-consumption liquor license with the same trading nature in the area.

Although numerous other facilities are found in the same target area none of the other restaurants has the same trading nature as the proposed restaurant.

Secondly the applicant wishes to stress that the proposed premises will provide a convenient service to the client profile, namely the residents, employees and visitors mainly from the target area.

Concerning the safety and welfare of surrounding residents, employees and patrons, no negative aspects are foreseen as very strict measures will be introduced regarding the selling of liquor.

Visitors and employees, as well as residents of the target market are assured that they will be able to continue their daily activities in peace and tranquility and that the proposed premises will not cause a degeneration of health and hygiene or have a negative effect on the present order and morals should the license be granted by the honorable Board.

In addition to the court ruling per paragraph 17 regarding the different factors to be taken into consideration concerning public interest the controlling authority is respectfully referred to sections 8 and 26 of the constitution, act 200 of 1993, wherein the aspects of equality before the law and the free engagement in economic activities are addressed. It is a fact that the small businessman's contribution is essential for the recovery of the existing weak economical situation in South Africa. Everything possible is being done by the Government and other institutions to stimulate this segment of the market which will naturally lead to new employment opportunities as well as funds for the state as a result of additional tax, both personal and VAT, thus enriching with the local community as well as the entire country.

As a result of the suitability of the proposed premises to provide a comprehensive service to the business surrounding the proposed premises, visitors and residents in the target area the proposed facility may be regarded as being in the public interest.

The applicant's knowledge of life, responsibility, good behavior, friendly disposition and good public relations, as well as the business acumen built up through the years, is regarded as being in public interest and he should conduct a honest but profitable business on the proposed premises.

SUITABILITY OF PREMISES IN TERMS OF THE LIQUOR ACT.

In order to recommend the granting of the authority applied for, the honourable Board must be satisfied as to the following which the applicant submits, appears from the representations.

1. That the applicant has the right to occupy the premises in order to conduct the business of a restaurant liquor license.
2. That the proposed premises will provide accommodation for the purpose for which the authority is applied for.
3. That the sale and consumption of liquor at the proposed premises will not detrimentally effect the right of a place of worship, school or residents residing in close proximity.
4. The applicant submits that it would be in the interest of the public if the relevant authority is granted by the honourable Board for the following reasons:

- 4.1 A bona-fide restaurant is to be conducted.
- 4.2 The premises will afford suitable accommodation for conducting a restaurant liquor license.
- 4.3 The applicant director is a person capable of exercising control required for the granting of a restaurant liquor license.
- 4.4 The granting of the authority applied for is reasonably required to satisfy prospective patrons to the restaurant and will enable the applicant director to provide his patrons with a proper and convenient service.

It is respectfully submitted that the applicant has made out a prima facie case indicating that there is a definite need for the authority applied for.

Healthy competition is regarded as the cornerstone on which the current liquor law is based and the controlling authority is assured that a harmful monopolistic condition will not arise or be aggravated in the liquor trade or branch thereof should the required license be granted.

SUPPLICATION :

As the positive aspects, as spelt out, far outnumber any negative aspects and that the proposed premises be regarded as extremely suitable for purposes of a restaurant the proven capabilities of the applicant to be the holder of a liquor license and the fact that it will without any doubt be in public interest to open such a facility, it is the applicant's humble plea that the honorable Board may find the granting of a license at this facility as essential.

In terms of Section 24 of the constitution, Act 200 of 1993, it is hereby humbly requested that this application will enjoy the honorable Board's benignant consideration.

SUPREME COURT JUDGMENTS

Our courts have decided in several cases that an applicant has a real right to take part in the economic activity anywhere in the country unless there are sound reasons to the contrary.

The following pass judgments substantiates these rights of an individual :

ESTATE AGENTS BOARD v LEK, 1979 (3) SA 1048 (AD) OP 1064D – E :

"It is, of course, clear that ordinarily a person is free to carry on the trade, calling or profession of his choice. That is a right which the Law recognises and protects from unlawful interference from others.....

It can be regarded as a real right in the sense that it is an absolute right, one available and enforceable against everybody."

TABAKAIN v DISTRICT COMMISSIONER SALISBURY 1974 (2) SA 604 (R.S) OP 606 E - G

"The complexities of modern society have enormously multiplied the controls to which people are subjected in the exercise of their general rights, and there is increasingly a inseneous tendency to regard permits of all kinds as a form of a privilege. I would resist the notion of regarding a permit as a sort of a delectable crumb that might or might not be dropped from the bureaucratic dinner table. To withhold such a permit is to affect the citizen adversely in his rights by denying him the opportunity of exercising his trade in a manner that is normal for anyone of good character."

TAYOB v ERMELO LOCAL ROAD TRANSPORTATION BOARD AND ANOTHER, 1951 (4) SA 440 OP 449 A - C.

"The chairman went on the suggest that the granting of an exemption was not a right but merely a privilege. It almost amounts to saying that granting of an exemption is in the gift of the Commission or a local Board. This is a wrong approach to adopt by a statutory Board, which is empowered by Parliament to grant permission to carry on a trade. It is not an exceptional privilege or a monopoly which depends on the issuing of the permission. Even the humblest citizen has the right to approach such a Board and he is entitled to get that permission he requires, unless there are sound reasons to the contrary."

This right of the applicant was confirmed in the temporary Constitution of the Republic of South Africa and this has now been reconfirmed in the permanent Constitution which was signed by the honorable President of the Republic of South Africa on 18 December 1996. (Act 108 of 1996)

THE LICENSE HOLDER

Registrasienom

LEXSHELL 143 GENERAL
TRADING
2010/002818/07

**Sertifikaat van Inlywing
van 'n Maatskappy met 'n aandelekapitaal
Certificate of Incorporation
of a Company having a share capital**

Hierby word gesertifiseer dat / This is to certify that

LEXSHELL 143 GENERAL TRADING (PROPRIETARY) LIMITED

vandag ingelyf is kragtens die Maatskappyywet, 1973 (Wet 61 van 1973), en
dat die Maatskappy 'n maatskappy is met 'n aandelekapitaal.

was this day incorporated under the Companies Act, 1973 (Act 61 of 1973), and that
the Company is a company having a share capital.

Geteken en geseël te Pretoria op hede die / Signed and sealed at Pretoria this

15 dag van/day of February 2010

Registrateur van Maatskappye/Registrar of Companies

Certified Copy of the Original Document

LOUISA J VAN DEN BERG
COMMISSIONER OF CATS
REFERENCE NO. 9/18/2 JOHANNESBURG (A19)(1)
POSTNET NORTHCLIFF
SHOP 88, MOUNTAINVIEW SHOPPING CENTRE
ONR 14TH AVENUE & WELTEVREDEN ROAD
NORTHCLIFF 212, WILLOWDEN 2156

Seël van die Registrasiekantoor vir Maatskappye.
Seal of Companies Registration Office

Hierdie sertifikaat is nie geldig nie, tensy geseël deur die seël van die Registrasiekantoor vir Maatskappye.
This certificate is not valid unless sealed by the seal of the Companies Registration Office.

Certificate issued by the Registrar of Companies & Close Corporations on Monday, November 15, 2010 01:10
Certificate of Confirmation



COMPANIES AND INTELLECTUAL
PROPERTY REGISTRATION OFFICE

a member of the dti group

Registration Number 2010 / 002818 / 07
 Enterprise Name LEXSHELL 143 GENERAL TRADING
 Enterprise Shortened Name None provided.
 Enterprise Translated Name None provided.
 Registration Date 15/02/2010
 Business Start Date 15/02/2010
 Enterprise Type Private Company
 Enterprise Status In Business
 Financial Year End February
 Tax Number 9465820166
 Main Business/Main Object GENERAL TRADING AND ALL BUSINESS ALLIED THERETO
 Postal Address P O BOX 523
 MELROSE ARCH
 JOHANNESBURG
 2076
 Address of Registered Office 65 A 5TH AVENUE
 MELVILLE
 2092

Auditors

Name PKF (JHB) INCORPORATED
 Postal Address PRIVATE BAG X10046
 SANDTON
 2146

Active Directors / Officers

Surname and first names	ID number or date of birth	Director type	Appoint-ment date	Addresses
DIACK, JAMES DOUGLAS	8508095147082	Director	03/11/2010	Postal: 65 A 5TH AVENUE, MELVILLE, 2092 Residential: 65 A 5TH AVENUE, MELVILLE, 2092



COMPANIES AND INTELLECTUAL PROPERTY REGISTRATION OFFICE

Registrar of Companies & Close Corporations

P.O. BOX 429, PRETORIA, 0001, Republic of South Africa, Docex 256, PRETORIA

Call Centre Tel 086 184 3384, Website www.cipro.co.za, WAP www.cipro.co.za/mobile

RESOLUTION

Resolution of a meeting of the director of company **LEXSHELL 143 GENERAL TRADING (PTY) LTD**
held at **JOHANNESBURG** this... *5th* ... day of... *May 2016*

Present: **JAMES DOUGLAS DIACK**

RESOLVED:

1. That the company apply in terms of Section 23 of the Liquor Act, 2 of 2003 for a restaurant liquor license with regard to **THE FEDERAL – MELVILLE**.
2. That **OTTO KARL WOLF** be authorized and instructed to do such application, appear before the Liquor Board or appoint a representative on behalf of the applicant and sign any documentation on behalf of **THE FEDERAL – MELVILLE** pertaining to such application for a restaurant liquor license.
3. That **OTTO KARL WOLF** be authorized to sign all documents and to do all such things as may be necessary to effect the application in terms of Section 23 of the Liquor Act, 2003.
4. That **JAMES DOUGLAS DIACK** be authorized to sign all documentation for and on behalf of the applicant company in respect of the application in terms of Section 23 of the Liquor Act, Act 2 of 2003.


JAMES DOUGLAS DIACK