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The Chairperson
Johannesburg Regional Liquor Licensing Committee
Johannesburg

Dear Sir / Madam

RESPONSE TO VARIOUS OBJECTIONS
APPLICATION IN TERMS OF SECTION 23 OF THE GAUTENG LIQUOR ACT PARKMORE TOPS LIQUOR STORE, SANDTON
LODGED ON 03.04.2009

When almost 400 residents (of which more than a third live outside the area concerned) object to an application for a new liquor store business and almost a thousand residents from within the area concerned simultaneously express their support for such liquor store business in their area, it calls for rational and objective thinking of what constitutes the public's best interest and which portion of the public applies.

In his judgement in the case of BULK DEALS SIX CC AND ANOTHER v CHAIRPERSON, WESTERN CAPE LIQUOR BOARD AND OTHERS, CAPE PROVINCIAL DIVISION, 2002(2) SA 99 Judge Roger Cleaver gives clarity to just this kind of situation by defining "public" and the "public interest".

In this case it was found that the Western Cape Liquor Board erred when it misinterpreted the concept of "public interest" by basing its decision to refuse the applications concerned on the interests of those residents living in an area surrounding the proposed premises alone.

It was further found by Judge Cleaver that the Liquor Board also "misdirected itself" by not having regard to the manner in which the proposed business is to be carried on in assessing whether such business would be prejudicial to certain residents.

The court consequently directed the Liquor Board to grant those applications.

Judge Cleaver also held that -

"..... It is the manner in which a business will be carried that will determine whether or not such business would prejudice the residents of a residential area or any place of worship."

The question to be considered therefore is not whether there is a residential area, place of worship, educational institution or public transport facility per se in the vicinity of the proposed premises, but whether there is any objective reason or substantial evidence that applicant will carry on the proposed business in a manner which will detrimentally affect those residents: school or place of worship.

It is accordingly submitted that unless it is subjectively clear from substantial evidence that the liquor licence applied for would lead to malpractice and illegal behaviour which prejudice the public at large and/or that the area will be negatively affected by the issue of such a liquor licence, the licence applied for should be granted. The concerns of the objectors are not only premature, but totally unsubstantiated and speculative.

Significant to note is that almost a third of the objectors have addresses from well outside the Parkmore environment. Some are from suburbs such as Linden, Lonahill, Norwood and Fourways, kilometres away. Others are from even further afar, namely Midrand, Randburg, Northriding and Kensington. The objections are therefore not representative of the area being served by the shopping centre of which the proposed Tops Liquor Store will form part.

On the other hand, the petitions signed by residents in favour of the Tops Liquor Store applied for, were all signed inside applicant's KwikSpar Supermarket and therefore truly representative of residents shopping in the area.

The crux of the objectors' concerns is focused on the proximity of an informal taxi facility.

But, to summarily assume that the proximity of a taxi stop would "invite public drinking, intoxication, and likely subject the surrounding community to disturbance and prejudice the residential lifestyle of the neighbourhood" is not only prejudicial of a certain sector of the community and speculative, but also presumptuous. Applicant's nearby KwikSpar located in the same shopping complex has had a grocers' wine licence for 6 years and has never had any problems with that facility being abused by taxi drivers and/or their passengers.

To summarily assume and indiscriminately accuse taxi drivers and their passengers of alcohol abuse is not only prejudicial and presumptuous, but totally unfair and unacceptable. Although not residential, earning their daily income in the area and as employees from the very people who now accuse them of alcohol abuse, they form as much part of the local community as those who might be more privileged to permanently live in the area.

There is an officially approved "taxi stop" at the nearest existing liquor store, the Parkmore Discount Liquor Store in 11th Street, approximately 1km away. This liquor store is located directly opposite an educational institution, the Boston City Campus and Business School, and applicant