

SOUTH AFRICA / JUDGMENT

# Time Anchor Distillery (Pty) Ltd and Others v Gauteng Provincial Liquor Board (124397/2023; 124405/2023) [2023] ZAGPPHC 2051 (21 December 2023)

[2023] ZAGPPHC 2051

## COURT

North Gauteng High Court, Pretoria

## BEFORE

Minnaar

## CASE / FILE NUMBER

124397/2023; 124405/2023

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## Policy

IN THE HIGH COURT  
OF SOUTH AFRICA  
(GAUTENG DIVISION,  
PRETORIA)

Date: 21 December 2023

## Case number:

124397/2023

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED

DATE: 21/12/2023

SIGNATURE

In the matter between:      TIME ANCHOR DISTILLERY  
                                         (PTY) LTD  
                                         AND 31  
                                         OTHERS  
                                         APPLICANT  
And  
                                         THE GAUTENG PROVINCIAL  
                                         LIQUOR BOARD  
                                         RESPONDENT  
                                         (“TIME  
                                         ANCHOR”)  
                                         AND  
                                         Case no: 124405/2023  
                                         In

the matter between:      WOOLWORTHS  
                                         (PTY) LTD  
                                         APPLICANT  
                                         and  
                                         THE GAUTENG PROVINCIAL  
                                         LIQUOR BOARD  
                                         RESPONDENT  
                                         (“WOOLWORTHS”)

## JUDGMENT

MINNAAR AJ:

### INTRODUCTION:

- [1] By agreement between the parties, and with the leave of court, the application with case number 124397/2023 (“Time Anchor”) and the application with case number 124405/2023 (“Woolworths”) (collectively referred to as “the applications”) were consolidated for purpose of argument. Reference to “the applicants” and to “the respondent” is a reference to the parties as they appear in the applications.
- [2] In the applications, the applicants seek an order in terms of Section 6(2)(g)[1] of the Promotion of Administrative Justice Act, 3 of 2000 (“PAJA”) read with Section 8[2] of PAJA and the common law, for a mandamus order coupled with interim relief against the respondent.
- [3] In essence, apart from the mandamus to direct the respondent to do what is expected of it, the applicants seek an interim order, pending a decision by the respondent, to conduct their business as if they were awarded the liquor licenses applied for.
- [4] The respondent is a public administration body, subject to its legislation and constitutional controls. Section 195(1)(a) to (h) of the Constitution provides:

*“(1) Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:*

- (a) A high standard of professional ethics must be promoted and maintained.
  - (b) Efficient, economic and effective use of resources must be promoted.
  - (c) Public administration must be development-oriented.
  - (d) Services must be provided impartially, fairly, equitably and without bias.
  - (e) People's needs must be responded to, and the public must be encouraged to participate in policy-making.
  - (f) Public administration must be accountable.
  - (g) Transparency must be fostered by providing the public with timely, accessible and accurate information.
  - (h) Good human-resource management and career-development practices, to maximise human potential, must be cultivated.”
- [5] These kinds of applications are not novel as they frequently appear on the roll in the various Divisions of the High Court. It is concerning that litigants should seek judicial intervention, regularly, to ensure that the respondent executes its statutory imposed mandate. On a broader conspectus, the impression is created that the respondent is turning a blind eye and deaf ear as to the obligations imposed on it in terms of section 195(1) of the Constitution.

[6] In *Mohamed and another v President of the Republic of South Africa and others*

[2001] ZACC 18; 2001 (3) SA 893 (CC) at paragraph 69, the Constitutional Court stated the following:

"South Africa is a young democracy still finding its way to full compliance with the values and ideals enshrined in the Constitution. It is therefore important that the State lead by example. This principle cannot be put better than in the celebrated words of Justice Brandeis in *Olmstead et al v United States*:

"In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously . . .

Government is the potent, omnipresent teacher. For good or for ill, it teaches the whole people by its example ... . If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy."

I am mindful that our democracy is no longer as ‘young’ as it was in 2001 when the aforementioned was said by the Constitutional Court, but it does not diminish from the requirement that the State should lead by example. One way of ‘leading by example’ would be for the respondent to fulfil its statutory duties according to the prescript and timeframes of the applicable legislation.

NO ANSWERING AFFIDAVIT:

- [7] In casu, the respondent failed to deliver an answering affidavit. Instead, the respondent, in both applications, delivered a notice in terms of Rule 6(5)(d)(iii) of the Uniform Rules of Court. In the Rule 6-notice, the respondent raised the following points of law:
- a. The founding affidavit lacks the necessary averments to render the application urgent and such actions render the purported urgent application materially defective; and
  - b. The application discloses no basis on which the interim relief sought can be granted, alternatively, the founding affidavit does not make out a prima facie case for the interim relief claimed.
- [8] It is trite that a respondent should, generally, file his answering affidavit on the merits at the same time as he takes a preliminary

objection on a point of law.[3] This is to prevent a situation where, should the legal objection fail, the court is faced with the situation where the case is to be heard without the respondent having filed an answering affidavit on the merits. The alternative hereto is that the application has to be postponed to enable the respondent to prepare and file an answering affidavit: this will result in an undue protraction of the proceedings and piecemeal handling of the matter.

- [9] The absence of answering affidavits was raised with the respondent’s counsel during argument. The explanation provided was that, due to the time constraints imposed by the applicants, the respondent was unable to properly prepare and present an answering affidavit and as such reliance is placed solely on the contents of the Rule 6(5)(d)(iii) notices.

- [10] The applications were served on 28 November

2023. In both applications the espondent had to deliver a notice of intention to defend on 1 December 2023 and deliver an answering affidavit on 5 December 2023. According to me, the time frames imposed on the respondent granted the respondent ample opportunity to prepare and deliver an answering affidavit. Instead of comforming with the time frames imposed, the respondent elected, out of its volution, to deliver the Rule 6-notice in Woolworths on 8 December 2023 and in Time Anchor on 10 December 2023.

- [11] In light of the time afforded to the respondent to deliver an answering affidavit, and its election not to deliver same, the respondent is bound by its election to solely rely on the points of law raised.

- [12] In the respondent's heads of argument, various 'deficiencies' in the applicants' papers are pointed out: heads of argument are not evidence: if the respondent wanted to present these defences it should have proceeded to file an answering affidavit. In such circumstances, it was open for the applicants to respond to these challenges in their replying affidavit. Applicants were devoid of this opportunity. The result is that, on the merit of the applications, this court only has one version before it, and that is the version of the applicants.

URGENCY:

- [13] One of the key requirements of urgency is for an applicant to make out a case that such an applicant will not obtain substantial redress in due course. In this regard, it was stated by Tuchten J in *Mogalakwena Municipality v Provincial Executive Council*, Limpopo 2016

- (4) SA 99 (GP) at paragraph 64:

*"It seems to me that when urgency is in issue the primary investigation should be to determine whether the applicant will be afforded*

substantial redress at a hearing in due course. If the applicant cannot establish prejudice in this sense, the application cannot be urgent. Once such prejudice is established, other factors come into consideration. These factors include (but are not limited to): whether the respondents can adequately present their cases in the time available between notice of the application to them and the actual hearing; other prejudice to the respondents and the administration of justice; the strength of the case made by the applicant; and any delay by the applicant in asserting its rights. This last factor is often called, usually by counsel acting for respondents, self-created urgency."

- [14] The applicants' main contention is that, due to the clogged rolls in this Division, they will not be afforded substantial redress in due course. The applications were brought as urgent applications as the applicants took steps to obtain the liquor licenses to enable them to trade and earn an income. In conducting their trade and earning an income they will be able to employ employees and pay their salaries.

- [15] The applicants trade in the hospitality-, food- and beverages sectors. They have lodged their applications for the liquor licences in time and their rushing to this urgent court is not to seek preferential treatment to be issued with the licenses where they, out of their own conduct, caused a delay in complying with the applicable legislation. Their rushing to this urgent court is a direct result of the ineptitude of the respondent to do what is required of it, as and when same is required.

- [16] I am in total agreement with what has been stated by Adams AJ (as he then was) in the case of *Piza Vino Lynridge (Pty) Ltd t/a Piza & Vino v The Chairperson of Gauteng Provincial Liquor Board & Another* case number 70433/2016 (Gauteng Division, Pretoria):

*"[19] By then, the matter had become urgent in the sense that the restaurant business of the applicant ought to have been up and*

running and would have been fully operational but for the fact that the Liquor License had not been issued. This in turn resulted in irreparable damage to the applicant in that it is suffering great financial loss due to the severe damage to the reputation of the restaurant. This, in my view, had resulted from the tardy conduct on the part of the second respondent.

- [20] I find the conduct of the Respondent unreasonable, I am at a loss to understand why there is such a delay in finalizing the application for a Liquor License.”
- [17] The applicants did not sit by idling. The applicants engaged with the respondent and enquired as to the progress of their applications. Regularly the respondent was urged to do what is required of it. This is especially so in the Time Anchor application. When it became evident that nothing was forthcoming the applicants elected to proceed with the urgent applications.
- [18] Respondent’s counsel submitted that the urgency was self-created. I am not in agreement with this. If the respondent did what is required by law, then there would not have been any need to ever approach a court, whether on an urgent basis or in the normal course of proceedings.
- [19] This court cannot turn a blind eye to the applicants’ predicament premised on the technical attack on the urgency of these applications. To strike these applications for lack of urgency and to allow them to follow the normal course on the motion roll would be an injustice. The applicants will not be afforded substantial redress in due course and as such both applications are regarded as being urgent and deserving of a hearing.

#### MANDAMUS APPLICATION:

- [20] This court has the common law jurisdiction, as well as jurisdiction in terms of section 6(2)(g) [4], read with section 8 of PAJA, to issue an order against an administrative organ, directing it to take a decision in a matter which is unnecessarily delayed or where there is a refusal on the part of the administrative organ to take a decision.
- [21] From the application, it is evident that the respondent is unnecessarily delaying the taking of the required decision in respect of the applications for liquor licenses.
- [22] Section 33(1) of the Constitution provides that everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
- [23] The respondent’s failure to act is without any basis (especially in light of the absence of an answering affidavit) and is prejudicial to the applicant. The applicants are entitled to the relief that the respondent be directed to consider and finalise the applications within a specified period.

[24] In the applications, the applications requested a period of 30 calendar days from date of the order. As this is the festive season, such a period might be insufficient and the order will therefore provide for a period of 30 court days from service of the order. Service of the order to be effected within a period of 5 court days from date of the order.

#### INTERIM RELIEF CLAIMED:

[25] The court enjoys a general power or inherent jurisdiction to grant pendente lite relief to avoid injustice and hardship (*Airoadexpress (Pty) Ltd v Chairman, Local Road Transportation Board, Durban and Others*

[1986] ZASCA 6; 1986 (2) SA 663 (A) ).

[26] A request for an interim interdict is a court order preserving or restoring the status quo pending the determination of rights of the parties. An interim interdict does not involve a final determination of these rights and does not affect their final determination. In this regard the Constitutional Court said in *National Gambling Board v Premier, Kwa-Zulu Natal and Others* [2001] ZACC 8; 2002

(2) SA 715 (CC) at paragraph 49:

*“An interim interdict is by definition 'a court order preserving or restoring the status quo pending the final determination of the*

*rights of the parties. It does not involve a final determination of these rights and does not affect their final determination.' The dispute in an application for an interim interdict is therefore not the same as that in the main application to which the interim*

*interdict relates. In an application for an interim interdict the dispute is whether, applying the relevant legal requirements, the status quo should be preserved or restored pending the decision of the main dispute. At common law, a court's jurisdiction to entertain an application for an interim interdict depends on whether it has jurisdiction to preserve or restore the status quo.”*

[27] The requirements for the granting of an interim interdict are the following:

- a. A prima facie right;
- b. A well-grounded apprehension of irreparable harm if the interim relief is not granted and the ultimate relief is eventually granted;
- c. That the balance of convenience favours the granting of interim relief; and
- d. That the applicant has no other satisfactory remedy.

[28] In this regard, Holmes JA said the following in *Eriksen Motors (Welkom) Ltd v Protea Motors Warrenton and Another* 1973 (3) SA 685 (A):

*“In exercising its discretion the Court weighs, inter alia, the prejudice to the applicant, if the interdict is withheld, against the prejudice to the respondent if it is granted. This is sometimes called the balance of convenience.*

The foregoing considerations are not individually decisive, but are interrelated; for example, the stronger the applicant's prospects of success the less his need to rely on prejudice to himself. Conversely, the more the element of 'some doubt', the greater the need for the other factors to favour him. The Court considers the affidavits as a whole, and the interrelation of the foregoing considerations, according to the facts and probabilities; see *Olympic Passenger Service (Pty.) Ltd. v Ramlagan*, 1957 ( 2) SA 382 (D) at p. 383D - G. Viewed in that light, the reference to a right which, 'though prima facie established, is open to some doubt' is apt, flexible and practical, and needs no further elaboration.”

- [29] It is undisputed that the applicants applied for liquor licences and that they have a right to have same considered and that the applications either be granted or rejected. The applicants' prima facie right vests in these applications.
- [30] The ineptness of the respondent to act is causing the applicants prejudice as they cannot conduct their trade or earn an income. There is thus a well-grounded apprehension of irreparable harm if the interim relief is not granted.
- [31] The balance of convenience favours the applicants as interim relief is granted whilst the respondent complies with its statutory imposed duties.
- [32] At this stage, there is no alternative remedy available to the applicants: their only option was to approach this court for assistance herein.

#### COSTS:

- [33] The applicants only sought costs in the event of opposition.
- [34] The respondent elected to oppose the application and I can see no reason why costs should not follow the outcome hereof.

#### CERTAIN LICENCES PROCESSED: TIME ANCHOR APPLICATION:

- [35] At the hearing of the application, counsel for the applicants informed the court that, in respect of the Time Anchor applications, certain applications were processed and the court was directed to the amended draft order.
- [36] From the amended draft order it would appear that the applications in respect of the following applicants were processed:
  - a. Fourteenth to Eighteenth;
  - b. Twenty-second;
  - c. Twenty-fifth and twenty-sixth; and

d. Twenty-ninth.

[37] Respondent's counsel submitted that there is no evidence before the court to confirm same. I have no reason to doubt the submission made by the applicants' counsel and as such the order granted in the Time Anchor application echoes the amended draft order.

ORDER:

Consequently, I make the following order:

TIME ANCHOR (case number: 124397/2023):

1. The Respondent is directed to within 30 (thirty) court days of the date of service of this order to consider and finalise the pending applications of the First- to Thirteenth, Nineteenth to Twenty-first, Twenty-third, Twenty-Fifth, Twenty-seventh to Twenty-eight and Thirty to Thirty-second Applicants and to communicate the decision to the relevant representative for the Applicants in respect of their respective liquor licence applications as follows:

1.1 The Micro Manufacturers Liquor Licence as applied for by the First Applicant, TIME ANCHOR DISTILLERY (PTY) LTD, in respect of a business to be known as Time Anchor Distillery, and to be situated at 1[...], D[...] Road, Sandown, Sandton, Johannesburg, Gauteng Province, with reference number GLB7000017050;

1.2 The Pub Liquor Licence as applied for by the Second Applicant, CAMP DAVID (PTY) LTD, for a business known as Why Not Exclusive Gay Lounge and Bar, and to be situated at 4[...] M[...] Street, Waterkloof Glen Ext 5, Pretoria, Gauteng Province with reference number GLB5000008764;

1.3 The Section 28(1)(c) on and off-consumption licence as applied for by the Third Applicant, GILLIEMEAD (PTY) LTD, for a business to be known as Gilliemean, and to be situated at [...] N[...] Road, Olifantsfontein, Gauteng Province, with reference number GLB6000005960;

1.4 The Micro Manufacturer Liquor Licence as applied for by the Fourth Applicant, THE GIN GUY (PTY) LTD, for a business to be known as Urban Spirits and to be situated at 8[...] J[...] M[...] Street, Brooklyn, Pretoria, Gauteng Province, with reference number GLB5000011150;

1.5

(i) The Micro Manufacturers Licence as applied for by the Fifth Applicant, DESERT STORM DISTILLERY (PTY) LTD, for a business known as Desert Storm Distillery, and to be situated at 1[...] E[...] Road, Koedoespoort Industrial, Pretoria, Gauteng Province, with reference number GLB5000011143;

(ii) The Restaurant Liquor Licence as applied for by the Fifth Applicant, DESERT STORM DISTILLERY (PTY) LTD, for a business known as Desert Storm Cafe, and to be situated at 1[...] E[...] Road, Koedoespoort Industrial, Pretoria, Gauteng Province, with reference number GLB5000011144;

1.6 The Restaurant Liquor Licence as applied for by the Sixth Applicant, CANYON SPRINGS INVESTMENTS 173 (PTY) LTD, for a business known as Canyon Springs (trading name Changed to Café Del Mar), and to be situated at 1[...] H[...] Road, Menlo Park, Pretoria, Gauteng Province, with reference number GLB5000010851;

1.7 The Micro Manufacturers liquor licence as applied for by the Seventh Applicant, URBAN NATURE DISTILLING COMPANY (PTY) LTD, for a business known as Urban Nature Distilling Company and to be situated at corner of Lenchen South & South Street, Zwartkops Ext 4, Centurion, Pretoria, Gauteng Province, with reference number GLB5000011033.

1.8 The Micro Manufacturers liquor licence as applied for by the Eight Applicant, ANDREW PETER GOULD, for a business to be known as Ginify and to be situated at 3[...] D[...] Street, Rooihuiskraal North Ext 36, Pretoria, Gauteng Province, with reference number GLB5000010847;

1.9 The Section 28(1)(c) on and off-consumption liquor licence as applied for by the Ninth Applicant, KAMCAY PROPERTY GROUP (PTY) LTD, for a business to be known as Expressions Café Deli & Coffee Shop and to be situated at 1[...] L[...] Drive, South Kensington, Johannesburg, Gauteng Province, with reference number GLB7000016990;

1.10 The Restaurant liquor licence as applied for by the Tenth Applicant, CASA DE FUME CC, for a business to be known as Casa de Fume and to be situated at corner Witkoppen Road & Straight Avenue, Lone Hill, Johannesburg, Gauteng Province, with reference number GLB700017415;

1.11 The Grocer's Wine liquor licence as applied for by the Eleventh Applicant, EQUESTRIA 2 FAMILY STORE (PTY) LTD, for a business to be known as Pick 'n Pay Linton Corner and to be situated at corner Lynnwood and Solomon Mahlangu Road, Equestria,

Pretoria, Gauteng Province, with reference number GLB5000011246;

1.12 The 28(1)(c) liquor licence as applied for by the Twelfth Applicant, CIRCLE SENIOR LIVING (PTY) LTD, for a business to be known as Circle Senior Living and to be situated at [...] A[...] Street, Sandown Ext 24, Sandton, Johannesburg, Gauteng Province, with reference number GLB7000017230;

1.13 The Micro Manufactures Licence as applied for by the Thirteenth Applicant, NAKED HOUSE DISTILLERY (PTY) LTD, for a business to be known as Naked House Distillery and to be situated at [...] D[...] Street, Eastgate Ext 11, Sandton, Johannesburg, Gauteng Province, with reference number GLB7000016138;

1.14 The Hotel Liquor Licence as applied for by the Nineteenth Applicant, CRADLE MOUNT CONFERENCE CENTRE (PTY) LTD, for a business to be known as Cradle Mount Hotel & Conference Centre and to be situated at Plot 5[...], M[...] Road, Pinehaven, being Plot 5[...] of Portion 187 of the Farm Muldersdrift, Muldersdrift, Gauteng Province, with reference number GLB4000003334;

1.15 The Restaurant Liquor Licence as applied for by the Twentieth Applicant, THE FOOD ENTERPRISE GROUP 1 (PTY) LTD, for a business to be known as Bossa Silver Lakes and to be situated at Shop 0[...], Corner Solomon Mahlangu Drive and Stellenberg Road, Silverlakes, Pretoria, Gauteng Province, with reference number GLB5000011264;

1.16 The Micro Manufacturers Liquor Licence as applied for by the Twenty-first Applicant, JON DIGITAL IMPRESSION (PTY) LTD, for a business to be known as Copper Rock and to be situated at [...] H[...] Road, City Deep, Johannesburg, Gauteng Province, with reference number GLB7000017059;

1.17 The Liquor Store Licence as applied for by the Twenty-third Applicant, AFRICAN CONCEPT TRADE (PTY) LTD, for a business to be known as Ultra Liquors (Wilgenheuwel) and to be situated at Corner Hendrik Potgieter and Nic Diederichs Road, Wilgeheuwel, Roodepoort, Gauteng Province, with reference number GLB7000017171;

1.18 The Sports Ground Liquor Licence as applied for by the Twenty-Fifth Applicant, HOLLANDIA FC (PTY) LTD, for a business to be known as Hollandia Football Club and to be situated at 8[...] L[...] T[...] Street, Rietfontein, Pretoria, Gauteng Province, with reference number GLB5000010635;

1.19 The Liquor Store Licence as applied for by the Twenty-Seventh Applicant, LUXURYGIFT (PTY) LTD, for a business to be known as Luxury Gift and to be situated at 3[...] S[...] d[...] B[...] Street, Pretoria, Gauteng Province with reference number GLB5000008988;

1.20 The Restaurant Liquor Licence as applied for by the Twenty-eight Applicant, BLACKROSE BOTANICLE (PTY) LTD, for a business to be known as Black Rose and to be situated at Walter Sisulu National Botanical Gardens, 3[...] B[...] Road, Poortview, Roodepoort, Gauteng Province, with reference number GLB7000017080;

1.21 The Restaurant Liquor Licence as applied for by the Thirtieth Applicant, PURELY FROZEN BY GTS (PTY) LTD, for a business to be known as Nome Modern Mediterranean and to be situated at Shop U[...], Morningside Shopping Centre, Corner Outspan and Rivonia Roads, Morningside, Sandton, Gauteng Province, with reference number GLB7000017419;

1.22 The Restaurant Liquor Licence as applied for by the Thirty-first Applicant, PTA ON FIRE (PTY) LTD, for a business to be known as Fireroom – Village Walk and to be situated at Shop 3[...] V[...] W[...], 1[...] O[...] T[...] Avenue, Hazelwood, Pretoria, Gauteng Province, with reference number GLB5000011253;

1.23 The Micro-Manufacturers liquor licence as applied for by the Thirty-Second Applicant, IVYLEAGUE GROUP (PTY) LTD, for a business to be known as Ivy League and to be situated at 1[...] S[...] R[...] Service Road, Tulisa Park, Johannesburg, Gauteng Province, with reference number GLB7000017394.

2 The Respondent is directed to within 30 (thirty) calendar days of date of this order, to finalise the, approved and granted pending application in respect of the fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, Twenty-second, Twenty-fourth, Twenty-sixth and Twenty-ninth Applicants and to finalise, sign and issue their respective liquor license application as follows:

3.1 The Restaurant Liquor Licence as applied for by the Fourteenth Applicant, GEMELLI CUCINA BAR (PTY) LTD, for a business to be known as Pantry by Gemelli and to be situated at Shop N[...], Posthouse Link Centre, Posthouse Street corner Main Road, Bryanston, Johannesburg, Gauteng Province, with reference number GLB7000017121;

3.2 The Hotel Liquor Licence as applied for by the Fifteenth Applicant, RIVONIA BED AND BREAKFAST (PTY) LTD, for a business to be known as Rivonia Premier Lodge and to be situated at [...] R[...] Road, Edenburg, Rivonia, Johannesburg, Gauteng Province, with reference number GLB7000017032;

3.3 The Restaurant Liquor Licence as applied for by the Sixteenth Applicant, KEY WEST STEAK RANCH (PTY) LTD, for a business to be known as Missouri Spur Steak Ranch and to be situated at Shop No. 2[...], K[...] W[...] Shopping Centre, corner Paardekraal Drive & Viljoen Street, Krugersdorp, Randfontein, Johannesburg, Gauteng Province, with reference number GLB4000003392;

3.4 The Restaurant Liquor Licence as applied for by the Seventeenth Applicant, ITALIAN JOB FOOD EMPORIUM CC, for a business to be known as The Italian Job Food Emporium and to be situated at Shop No.[...], Posthouse Link Centre, Posthouse Street, corner Main Road, Bryanston, Johannesburg, Gauteng Province, with reference number GLB7000016642;

3.5 The Restaurant Liquor Licence as applied for by the Eighteenth Applicant, SHOCK PROOF INVESTMENTS 143 (PTY) LTD, for a business to be known as Stud and to be situated at Shop 0[...], Coachman's Crossing

Shopping, Lyme Park, Bryanston, Johannesburg, Gauteng Province, with reference number GLB7000017407;

3.6 The Liquor Store Licence as applied for by the Twenty-second Applicant, NORTH SHORE TRADING 123 (PTY) LTD, for a business to be known as North Shore Liquors (Rensburg) and to be situated at Corner of Suttman and AG Visser Street, Rensburg, Heidelberg, Gauteng Province, with reference number GLB8000002883;

3.7 The Liquor Store Licence as applied for by the Twenty-fourth Applicant, VAVIMETER (PTY) LTD, for a business to be known as Spar Murrayfield and to be situated at 7[...] R[...] Street, Murrayfield Ext 1, Pretoria, Gauteng Province, with reference number GLB5000011114;

3.8 The Restaurant Liquor Licence as applied for by the Twenty-Sixth Applicant, MATJILA RESTORATION AND LOGISTICS (PTY) LTD, for a business to be known as Karstie's Restaurant and to be situated at 3[...] S[...] d[...] B[...] Street, Pretoria, Gauteng Province, with reference number GLB5000011105;

3.9 The Restaurant Liquor Licence as applied for by the Twenty-ninth Applicant, ARTISAN BAKE SHOP (PTY), for a business to be known as Vovo Telo – The Wilds and to be situated at Shop [...], The Wilds Retail Centre, Corner Country Estate and Waterfall Drives, Midrand, Randburg, with reference number GLB7000017157;

3 The Applicants are authorized to trade in liquor in their respective businesses as set out in paragraphs 4.1 to 4.32 below, as if the liquor licences as applied for have been granted and issued until a final decision in respect of the respective applications have been communicated and received by the respective representatives for the Applicants, and should the decision be to decline any of the said applications, an order authorising the said Applicant to continue trading until such time as the respective decisions are finalised on review before the Honourable Court, provided that such an Applicant has to institute such review proceedings within 30 (thirty) calendar days of the decision being communicated and received by the representative/s for the Applicants.

3.1 The Micro Manufacturers Liquor Licence as applied for by the First Applicant, TIME ANCHOR DISTILLERY (PTY) LTD, in respect of a business to be known as Time Anchor Distillery, and to be situated at 1[...], D[...] Road, Sandown, Sandton, Johannesburg, Gauteng Province, with reference number GLB7000017050;

3.2 The Pub Liquor Licence as applied for by the Second Applicant, CAMP DAVID (PTY) LTD, for a business known as Why Not Exclusive Gay Lounge and Bar, and to be situated at 4[...] M[...] Street, Waterkloof Glen Ext 5, Pretoria, Gauteng Province with reference number GLB5000008764;

3.3 The Section 28(1)(c) on and off-consumption licence as applied for by the Third Applicant, GILLIEMEAD (PTY) LTD, for a business to be known as Gilliamead, and to be situated at [...] N[...] Road, Olifantsfontein, Gauteng Province, with reference number GLB6000005960;

3.4 The Micro Manufacturer Liquor Licence as applied for by the Fourth Applicant, THE GIN GUY (PTY) LTD, for a business to be known as Urban Spirits and to be situated at 8[...] J[...] M[...] Street, Brooklyn, Pretoria, Gauteng Province, with reference number GLB5000011150;

3.5 (i) The Micro Manufacturers Licence as applied for by the Fifth Applicant, DESERT STORM DISTILLERY (PTY) LTD, for a business known as Desert Storm Distillery, and to be situated at 1[...] E[...] Road, Koedoespoort Industrial, Pretoria, Gauteng Province, with reference number GLB5000011143;

3.6 The Restaurant Liquor Licence as applied for by the Sixth Applicant, CANYON SPRINGS INVESTMENTS 173 (PTY) LTD, for a business known as Canyon Springs (trading name Changed to Café Del Mar), and to be situated at 1[...] H[...] Road, Menlo Park, Pretoria, Gauteng Province, with reference number GLB5000010851;

3.7 The Micro Manufacturers liquor licence as applied for by the Seventh Applicant, URBAN NATURE DISTILLING COMPANY (PTY) LTD, for a business known as Urban Nature Distilling Company and to be situated at corner of Lenchen South & South Street, Zwartkops Ext 4, Centurion, Pretoria, Gauteng Province, with reference number GLB5000011033.

3.8 The Micro Manufacturers liquor licence as applied for by the Eight Applicant, ANDREW PETER GOULD, for a business to be known as Ginify and to be situated at 3[...] D[...] Street, Rooihuiskraal North Ext 36, Pretoria, Gauteng Province, with reference number GLB5000010847;

3.9 The Section 28(1)(c) on and off-consumption liquor licence as applied for by the Ninth Applicant, KAMCAY PROPERTY GROUP (PTY) LTD, for a business to be known as Expressions Café Deli & Coffee Shop and to be situated at 1[...] L[...] Drive, South Kensington, Johannesburg, Gauteng Province, with reference number GLB7000016990;

3.10 The Restaurant liquor licence as applied for by the Tenth Applicant, CASA DE FUME CC, for a business to be known as Casa de Fume and to be situated at corner Witkoppen Road & Straight Avenue, Lone Hill, Johannesburg,

Gauteng Province, with reference number GLB700017415;

3.11 The Grocer's Wine liquor licence as applied for by the Eleventh Applicant, EQUESTRIA 2 FAMILY STORE (PTY) LTD, for a business to be known as Pick 'n Pay Linton Corner and to be situated at corner Lynnwood and Solomon Mahlangu Road, Equestria, Pretoria, Gauteng Province, with reference number GLB5000011246;

3.12 The 28(1)(c) liquor licence as applied for by the Twelfth Applicant, CIRCLE SENIOR LIVING (PTY) LTD, for a business to be known as Circle Senior Living and to be situated at [...] A[...] Street, Sandown Ext 24, Sandton, Johannesburg, Gauteng Province, with reference number GLB7000017230;

3.13 The Micro Manufactures Licence as applied for by the Thirteenth Applicant, NAKED HOUSE DISTILLERY (PTY) LTD, for a business to be known as Naked House Distillery and to be situated at [...] D[...] Street, Eastgate Ext 11, Sandton, Johannesburg, Gauteng Province, with reference number GLB7000016138;

3.14 The Restaurant Liquor Licence as applied for by the Fourteenth Applicant, GEMELLI CUCINA BAR (PTY) LTD, for a business to be known as Pantry by Gemelli and to be situated at Shop N[...], Posthouse Link Centre, Posthouse Street corner Main Road, Bryanston, Johannesburg, Gauteng Province, with reference number GLB7000017121;

3.15 The Hotel Liquor Licence as applied for by the Fifteenth Applicant, RIVONIA BED AND BREAKFAST (PTY) LTD, for a business

to be known as Rivonia Premier Lodge and to be situated at [...] R[...] Road, Edenburg, Rivonia, Johannesburg, Gauteng Province, with reference number GLB7000017032;

3.16 The Restaurant Liquor Licence as applied for by the Sixteenth Applicant, KEY WEST STEAK RANCH (PTY) LTD, for a business to be known as Missouri Spur Steak Ranch and to be situated at Shop No. 2[...], K[...] W[...] Shopping Centre, corner Paardekraal Drive & Viljoen Street, Krugersdorp, Randfontein, Johannesburg, Gauteng Province, with reference number GLB4000003392;

3.17 The Restaurant Liquor Licence as applied for by the Seventeenth Applicant, ITALIAN JOB FOOD EMPORIUM CC, for a business to be known as The Italian Job Food Emporium and to be situated at Shop No.[...], Posthouse Link Centre, Posthouse Street, corner Main Road, Bryanston, Johannesburg, Gauteng Province, with reference number GLB7000016642;

3.18 The Restaurant Liquor Licence as applied for by the Eighteenth Applicant, SHOCK PROOF INVESTMENTS 143 (PTY) LTD, for a business to be known as Stud and to be situated at Shop 0[...], Coachman's Crossing

Shopping, Lyme Park, Bryanston, Johannesburg, Gauteng Province, with reference number GLB7000017407;

3.19 The Hotel Liquor Licence as applied for by the Nineteenth Applicant, CRADLE MOUNT CONFERENCE CENTRE (PTY) LTD, for a business to be known as Cradle Mount Hotel & Conference Centre and to be situated at Plot 5[...], M[...] Road, Pinehaven, being Plot 5[...] of Portion 187 of the Farm Muldersdrift, Muldersdrift, Gauteng Province, with reference number GLB4000003334;

3.20 The Restaurant Liquor Licence as applied for by the Twentieth Applicant, THE FOOD ENTERPRISE GROUP 1 (PTY) LTD, for a business to be known as Bossa Silver Lakes and to be situated at Shop 0[...], Corner Solomon Mahlangu Drive and Stellenberg Road, Silverlakes, Pretoria, Gauteng Province, with reference number GLB5000011264;

3.21 The Micro Manufacturers Liquor Licence as applied for by the Twenty-first Applicant, JON DIGITAL IMPRESSION (PTY) LTD, for a business to be known as Copper Rock and to be situated at [...] H[...] Road, City Deep, Johannesburg, Gauteng Province, with reference number GLB7000017059;

3.22 The Liquor Store Licence as applied for by the Twenty-second Applicant, NORTH SHORE TRADING 123 (PTY) LTD, for a business to be known as North Shore Liquors (Rensburg) and to be situated at Corner of Suttman and AG Visser Street, Rensburg, Heidelberg, Gauteng Province, with reference number GLB8000002883;

3.23 The Liquor Store Licence as applied for by the Twenty-third Applicant, AFRICAN CONCEPT TRADE (PTY) LTD, for a business to be known as Ultra Liquors (Wilgenheuwel) and to be situated at Corner Hendrik Potgieter and Nic Diederichs Road, Wilgeheuwel, Roodepoort, Gauteng Province, with reference number GLB7000017171;

3.24 The Liquor Store Licence as applied for by the Twenty-fourth Applicant, VAVIMETER (PTY) LTD, for a business to be known as Spar Murrayfield and to be situated at 7[...] R[...] Street, Murrayfield Ext 1, Pretoria, Gauteng Province, with reference number GLB5000011114;

3.25 The Sports Ground Liquor Licence as applied for by the Twenty-Fifth Applicant, HOLLANDIA FC (PTY) LTD, for a business to be known as Hollandia Football Club and to be situated at 8[...] L[...] T[...] Street, Rietfontein, Pretoria, Gauteng Province, with reference number GLB5000010635;

3.26 The Restaurant Liquor Licence as applied for by the Twenty-Sixth Applicant, MATJILA RESTORATION AND LOGISTICS (PTY) LTD, for a business to be known as Karstie's Restaurant and to be situated at 3[...] S[...] d[...] B[...] Street, Pretoria, Gauteng Province, with reference number GLB5000011105;

3.27 The Liquor Store Licence as applied for by the Twenty-Seventh Applicant, LUXURYGIFT (PTY) LTD, for a business to be known as Luxury Gift and to be situated at 3[...] S[...] d[...] B[...] Street, Pretoria, Gauteng Province with reference number GLB5000008988;

3.28 The Restaurant Liquor Licence as applied for by the Twenty-eight Applicant, BLACKROSE BOTANICLE (PTY) LTD, for a business to be known as Black Rose and to be situated at Walter Sisulu National Botanical Gardens, 3[...] B[...] Road, Poortview, Roodepoort, Gauteng Province, with reference number GLB7000017080;

3.29 The Restaurant Liquor Licence as applied for by the Twenty-ninth Applicant, ARTISAN BAKE SHOP (PTY), for a business to be known as Vovo Telo – The Wilds and to be situated at Shop [...], The Wilds Retail Centre, Corner Country Estate and Waterfall Drives, Midrand, Randburg, with reference number GLB7000017157;

3.30 The Restaurant Liquor Licence as applied for by the Thirtieth Applicant, PURELY FROZEN BY GTS (PTY) LTD, for a business to be known as Nome Modern Mediterranean and to be situated at Shop U[...], Morningside Shopping Centre, Corner Outspan and Rivonia Roads, Morningside, Sandton, Gauteng Province, with reference number GLB7000017419;

3.31 The Restaurant Liquor Licence as applied for by the Thirty-first Applicant, PTA ON FIRE (PTY) LTD, for a business to be known as Fireroom – Village Walk and to be situated at Shop 3[...] V[...] W[...], 1[...] O[...] T[...] Avenue, Hazelwood, Pretoria, Gauteng Province, with reference number GLB5000011253;

3.32 The Micro-Manufacturers liquor licence as applied for by the Thirty-Second Applicant, IVYLEAGUE GROUP (PTY) LTD, for a business to be known as Ivy League and to be situated at 1[...] S[...] R[...] Service Road, Tulisa Park, Johannesburg, Gauteng Province, with reference number GLB7000017394.

4 The registrar is authorized to issue separate interim orders in respect of each of the businesses in accordance with paragraph 4.

6 The Respondent is ordered to pay the costs of this application.

Minnaar AJ

Acting Judge of the High Court

Gauteng Division, Pretoria

Heard on: 4 September 2023 For the Applicants: Adv. T C Kwindu Instructed by: The State Attorney For the Respondent: Adv. Z Feni Instructed by: Makhafola & Verster Incorporated Date of Judgment: 9 October 2023

[1] “A court or tribunal has the power to judicially review an administrative action if the action concerned consists of a failure

to take a decision”.

[2] “(1) The court or tribunal, in proceedings for judicial review in terms of section 6 (1), may grant any order that is just and equitable, including orders- (a) directing the administrator- (i) to give reasons; or (ii) to act in the manner the court or tribunal requires; (b) prohibiting the administrator from acting in a particular manner; (c) setting aside the administrative action and- (i) remitting the matter for reconsideration by the administrator, with or without directions; or (ii) in exceptional cases- (aa) substituting or varying the administrative action or correcting a defect resulting from the administrative action; or (bb) directing the administrator or any other party to the proceedings to pay compensation; (d) declaring the rights of the parties in respect of any matter to which the administrative action relates; (e) granting a temporary interdict or other temporary relief; or (f) as to costs.

(2) The court or tribunal, in proceedings for judicial review in terms of section 6 (3), may grant any order that is just and equitable, including orders- (a) directing the taking of the decision; (b) declaring the rights of the parties in relation to the taking of the decision; (c) directing any of the parties to do, or to refrain from doing, any act or thing the doing, or the refraining from the doing, of which the court or tribunal considers necessary to do justice between the parties; or (d) as to costs.”

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(i) to give reasons; or

(ii) to act in the manner the court or tribunal requires;

(b) prohibiting the administrator from acting in a particular manner;

(c) setting aside the administrative action and-

(i) remitting the matter for reconsideration by the administrator, with or without directions; or

(ii) in exceptional cases-

(aa) substituting or varying the administrative action or correcting a defect resulting from the administrative action; or

(bb) directing the administrator or any other party to the proceedings to pay compensation;

(d) declaring the rights of the parties in respect of any matter to which the administrative action relates;

(e) granting a temporary interdict or other temporary relief; or

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(2) The court or tribunal, in proceedings for judicial review in terms of section 6 (3), may grant any order that is just and equitable, including orders-

(a) directing the taking of the decision;

(b) declaring the rights of the parties in relation to the taking of the decision;

(c) directing any of the parties to do, or to refrain from doing, any act or thing the doing, or the refraining from the doing, of which the court or tribunal considers necessary to do justice between the parties; or

(d) as to costs.”

[3] Randfontein Extension Ltd v South Randfontein Mines Ltd 1936 WLD 1 at 4 - 5; Du Toit v Fourie 1965 (4) SA 122 (O) at 128G – 129C; Bader v Weston 1967 (1) SA 134 (C) at 136E – 137C; Lipschitz & Schwartz NNO v Markowitz 1976

(3) SA 772 (W) at 776A – C; Moskovitz v Meteor Records (Pty) Ltd 1978 (3) SA 996 (C); Standard Bank of South Africa Ltd v RTS Techniques and Planning (Pty) Ltd 1992 (1) SA 432 (T) at 441F – 442J; Ebrahim v Georgoulas 1992 (2) SA 151 (B) at 154D - G

[4] A court or tribunal has the power to judicially review an administrative action if- (g) the action concerned consists of a failure to take a decision

[4] A court or tribunal has the power to judicially review an administrative action if-

(g) the action concerned consists of a failure to take a decision

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