

IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Case No.: 1853/2015

In the matter of:

BASFOUR 2532 (PTY) LTD

Applicant

and

FREE STATE GAMBLING & LIQUOR
AUTHORITY
THE CHAIRPERSON OF THE FREE STATE
GAMBLING & LIQUOR AUTHORITY

1st Respondent

2nd Respondent

JUDGEMENT: EBRAHIM, J

HEARD ON: 6 AUGUST 2015

DELIVERED ON: 20 AUGUST 2015

REASONS

- [1] The applicant applied for a mandamus that the respondents be compelled to consider the applicant's application for a Restaurant Registration Certificate within 21 days of the grant of the Court Order.
- [2] The principal basis of opposition to the application was set out succinctly in the Respondent's Answering Affidavit dated 3 June 2015 where the deponent thereto placed responsibility for the failure to adjudicate the applicant's application for the Registration Certificate on the shoulders

of the local municipality which, the deponent categorically stated, had not placed the respondents in possession of its report.

- [3] The evidence on the papers revealed the following undisputed factual situation:
- (a) The applicant lodged its application for a Restaurant Registration Certificate ("the main application") on 7 November 2014, which is one day shy of 9 months prior to the date of hearing of the present application on 6 August 2015.
 - (b) The main application was served on the respondents on 20 April 2015.
 - (c) The Respondents Notice of Opposition was served on the applicant's attorneys of record on 11 May 2015.
 - (d) On 14 May 2015, the first respondent, through its administration department forwarded to the applicant's attorney of record the reports of the Liquor Inspector, the South African Police Services and the Mangaung Municipality. These reports were annexed to the Applicant's Replying Affidavit as annexures "R2, R3 and R4" respectively. The report of the Liquor Inspector ("R2") was dated 23 April 2015, the Police Report ("R3") was dated 22 December 2014 and the Municipality's Report "R4") was dated 16 January 2015.
 - (e) On 15 May 2015, the applicant's attorney of record responded to the reports as required in terms of Regulation 8(2) of the Regulations promulgated in terms

of the Free State Gambling and Liquor Act 2010 (Act 6 of 2010). The reply was served on the first respondent on 18 May 2015 and was annexed to the Applicant's Replying Affidavit as annexure "R5".

- (f) On 26 May 2015 applicant's attorney of record wrote to the first respondent giving notice of an intended application to this court in the event the main application not being attended to and considered by first respondent. The first respondent's response was that the matter was receiving the attention of its legal representative (the State Attorney).

[4] The uncontroverted factual position therefore was that as at 16 January 2015, i.e. prior to the main application being launched the first respondent was in possession of all the relevant reports to enable it to give due consideration to the applicant's application for a Restaurant Registration Certificate but, for reasons undisclosed on the papers before me, failed to do so.

[5] The application for the mandamus was accordingly granted.

S. EBRAHIM, J

On behalf of applicant: Adv. L. le R. Pohl SC
Instructed by:
Honey Attorneys
BLOEMFONTEIN

On behalf of the respondents: Adv. L. Bomela
Instructed by:
State Attorney
BLOEMFONTEIN

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