

Reportable:	NO
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Circulate to Regional Magistrates	NO



[REDACTED]

30 May 2025

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NUMBER: 2025/059406

In the matter between:-

**HER CASCADES SUPPLIES (PTY) LTD T/A
CLUB LEO**

Applicant

and

**THE GAUTENG PROVINCIAL LIQUOR
BOARD**

Respondent

JUDGMENT

FMM REID J

Introduction

[1] The applicant (Her Cascades) submitted its application for a

liquor licence to the respondent (Gauteng Provincial Liquor Board) on 7 June 2024. On 8 April 2005 the applicant was denied a permanent liquor licence.

- [2] The applicant now seeks urgent relief that the decision of the respondent dated 8 April 2025 be reviewed and set aside, and that the respondent be ordered to reconsider the application within a reasonable period.

Merits

- [3] The applicant utilised the services of a professional liquor consultant. Following the initial submission, the Gauteng Provincial Liquor Board (Liquor Board) issued several temporary permits to the applicant, thereby authorising it to trade lawfully in the interim, pending the outcome of the final application.
- [4] Despite various written communications by the applicant requesting an update on the status of the application, the Liquor Board remained unresponsive.

- [5] On 8 April 2025 the application for a liquor licence for the applicant was ultimately denied in terms of section 30(3) of the **Gauteng Liquor Act 2 of 2003**.
- [6] The basis for the denial was the proximity of the applicant's premises to a school or church within a 500-metre radius. It is admitted by the applicant that a school or church is located within a 500m radius of its premises.

Urgency

- [7] As mentioned, the applicant has traded with a temporary licence for a period of 9 months. It now approaches this Court on an urgent basis, seeking an urgent review and setting aside of the Liquor Board's final decision to decline their liquor licence. The urgency lies in the commercial prejudice that the applicant would suffer as it not be able to conduct business without a liquor licence.
- [8] The applicant argues that the Liquor Board's prior issuance of temporary licences created a legitimate expectation that a permanent licence would follow. Acting on that expectation,

the applicant entered into a lease agreement and lawfully operated the premises for a continuous period of 9 (nine) months without objection from any relevant authority or third party, including any nearby school or church.

- [9] Upon receipt of the denied application, the applicant found itself unable to meet its rental obligations, placing its business and contractual relations in jeopardy. The applicant's argument continues that the decision was made more troubling by the fact that the Liquor Board had, in January 2025—**after** the decision not to grant the licence was already taken at a meeting held in December 2024—nonetheless issued yet another temporary licence.

Legal framework

- [10] The Liquor Board relies on section 30(3) of the **Gauteng Liquor Act 2** of 2003 to justify its refusal, citing proximity to sensitive sites such as schools and churches.
- [11] Section 30(3) of the **Gauteng Liquor Act** reads as follows:

“30 Consideration of applications for licences

(1) An application for a licence shall be considered by the local committee and referred to the Board with recommendations whereafter the Board shall consider the application, and it may-

- (a) refuse the application; or*
- (b) grant the application.*

(2) The Board shall grant an application for any licence if-

- (a) the premises are or will, on completion, be suitable for the purposes for which they will be used under the licence;*
- (b) the applicant concerned is of good character and is otherwise fit to be the holder of the licence;*
- (c) the granting of the licence is in the public interest;*
- (d) the possibility does not exist that the granting of the application may cause a harmful monopolistic condition to arise or be aggravated; or*
- (e) the premises, accommodation, equipment and facilities in respect of which the licence is to be issued are, or will be, if the applicant is licenced, in compliance with this Act and regulations.*

(3) The Board shall grant an application in the case of premises not situated within a radius of five hundred (500) metres in the vicinity of a place of worship, educational institution, similar licensed premises, public transport facility, or such further distance as the Board may determine or as may be prescribed from time to time.”

- [12] The applicant argues that it is entitled to a permanent licence, as the schools and churches in a vicinity of 500 meter radius have not complained about their business establishment.

[13] Section 33 of the **Gauteng Liquor Act 2 of 2003** reads as follows:

“33 Licences and permits

(1) After the Board has granted an application in terms of this Act, it shall, subject to section 35, issue the licence through the local committee to the applicant to sell the kind of liquor provided for in this Act in respect of the kind of licence concerned, or, in the case of a catering or occasional permit, the kind of liquor determined by the local committee and specific places on the premises which have been excluded by the local committee in terms of section 31(5).

(2) The Board or local committee may at any time after the issue of a licence or permit in terms of subsection (1) or section 37, by a notice delivered to the licensee concerned-

(a) declare the licence or permit to be subject to such conditions or further conditions set out in the notice it may in its discretion impose; or

(b) suspend, withdraw or amend any condition or declaration imposed or made in terms of this Act.”

[14] The conditions for liquor licenses and permits are regulated by section 37 of the **Gauteng Liquor Act 2 of 2003**.

Finding

[15] The fact that the applicant had traded for a period of 9 months with a temporary licence, does not favour the applicant in this urgent application. The applicant seeks the Liquor Board to urgently review and issue a permanent liquor licence but has taken advantage of the 9 months in which it traded with a temporary liquor licence.

[16] In my view, the applicant is unreasonable to approach this court on an urgent basis, expecting to review and set aside a decision of the Liquor Board, where the decision took a period of 9 months to be finalised. Had the outcome of the decision been of cardinal importance, one would have expected the applicant to approach the court and seek an order that the Liquor Board be compelled to provide an answer to their application.

[17] On this basis, the application is doomed for failure due to a lack of urgency.

Costs

[18] The general principle is that the successful party is entitled to its costs.

[19] I find no reason to deviate from this general principle.

[20] The applicant should be ordered to pay the costs of the respondent.

Order:

In the premise, the following order is granted:

- (i) The application is struck from the roll for want of urgency.
- (ii) The applicant is to pay the costs.



FMM REID
JUDGE OF THE HIGH COURT
GAUGENG DIVISION JOHANNESBURG

DATE RESERVED: 15 MAY 2025

DATE HANDED DOWN: 30 MAY 2025

APPEARANCES:

FOR APPLICANT

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