

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA



CASE NO: 56038/2015

DATE OF HEARING: 4 November 2015

NOT REPORTABLE
NOT OF INTEREST TO OTHER
JUDGES

(1) REPORTABLE: YES NO
(2) OF INTEREST TO OTHER JUDGES: YES NO
(3) REVISED.
16/2/16
DATE
SIGNATURE

In the matter between:

18/2/2016

PICK N PAY RETAILERS (PTY) LTD

Applicant

and

THE GAUTENG PROVINCIAL LIQUOR BOARD

Respondent

J U D G M E N T

INTRODUCTION

[1] The applicant in this matter is Pick n Pay Retailers (Pty) Ltd, a private company operating in the retail sector. The respondent is the Gauteng Provincial Liquor Board ('the Board'), a juristic person established in terms of the Gauteng Liquor Act 2 of 2003. Part of the Board's functions is to receive applications for liquor licences and after considering an application, refuse or grant it (s 3(1)).

[2] Over the past few years the applicant has expanded its operations to include the sale of liquor, not only in its supermarkets, but also in separate liquor stores in adjacent or close proximity to its main supermarkets in shopping centres. The supermarket sells wine, while the liquor store sells other kinds of liquor as well. This requires two licences – a grocers' wine licence for the former, and a liquor store licence for the latter.

[3] According to the applicant, it endeavours to apply well in advance to enable it to trade in liquor from the opening day of a new shopping centre. This happens in about 95% plus of cases, according the founding affidavit of Winny Smit, a divisional director of the property development section of the applicant.¹ But what is problematic, according to Smit, is that the "issuing of the licences by the Respondent, and accordingly the right to trade thereunder, usually is delayed unnecessarily due to conditions imposed by the respondent as a prerequisite for the issuing of the licence ...".² This she describes as a "general phenomenon".³

[4] Two common conditions set by the Board are certificates from the local authority's emergency management services department and environmental health department respectively. This means that the applicant must produce these certificates before the licences will be issued. The applicant objects to the setting of these conditions.

[5] The practical effect is explained in the founding affidavit:

¹ Founding affidavit, Par 5.7.

² Ibid Par 5.7.

³ Ibid Par 5.8.

This simply means that until those conditions have been complied with, the documentation will not go back to the Respondent from its administrative division, who must prepare the prescribed licence form, to the Respondent or the Chairperson of the respondent to sign the licence document so that it can be issued."⁴

[6] The applicant now challenges the setting of these conditions by the respondent in respect of a number of liquor licence applications made by it. All of the licence applications under consideration in this case have been granted, but not issued. The challenge is brought under the Promotion of Administrative Justice Act 3 of 2000 (the PAJA).

[7] The legal issue is crisp: can the Board set certain conditions at the time of the granting of a licence, and require that they be complied with prior to the issuing of the licence? The essential question is therefore whether a licence can be *granted* subject to conditions.

[8] 'Issue' is defined in s 1 of the Gauteng Liquor Act as "the delivery or dispatch of the licence to the person to whom it has been granted or to his or her agent", while 'granted' means "the approval of an application by the Board prior to issue of the licence or permit." The granting of a licence therefore precedes its issue.

[8] The matter was first heard on an urgent basis on 28 July 2015 by J W Louw J, who granted an interim order allowing the applicant's Blue Hills Supermarket and Blue Hills Liquor Store to trade in liquor pending the finalization of the review, which now serves before me.

[9] The original application which served before the urgent court had asked for orders in respect of various premises. All of these licences have since been issued,⁵ except for the following: the Maunde Supermarket, Atteridgeville Liquor Store, and Jean Avenue Supermarket and Liquor Store.

[10] It is convenient to set out briefly some of the conditions set by the Board at the time of the granting of the licences. The notification from the Board in the form of letter, after consideration of the Blue Hills grocery store application, reads partly as follows:

⁴ Ibid Par 6.1.

⁵ The Eastdale, Blue Hills, Dainfern, and Thabong licences have been issued.

"2. Your application for a Grocer's Wine Liquor License⁶ has been granted subject to:

- 2.1 City Of Johannesburg's Emergency Management Services;
- 2.2 City of Johannesburg's Environmental Health Department;
- 2.4 Updated GTLA Membership;⁷ and
- 2.5 12 months inspection.

3. Please note that this letter does not amount to a license, a license will only be issued once you have complied with the above conditions."

In respect of the liquor store in the same shopping centre, only two requirements were set: a "City of Johannesburg Emergency Management Services Department Clearance Certificate" and a "twelve (12) months final inspection report".

[11] It should be obvious from the letter which conditions have been set and how they should be met, but it is not. It is problematic if the conditions are not stated with sufficient particularity. What needs to be obtained from the local authority's emergency management services; and, similarly so, from the environmental health department? To an experienced applicant this might not present a problem. But to a first-time applicant unfamiliar with the process and the terminology, it could be difficult to know what condition must be met. This is akin to not providing adequate reasons for an administrative action.

[12] In both notifications, the reasons for setting the conditions as well as the empowering provisions in terms of which the conditions were set, were not specified. The latter is particularly important, considering that the Board's power to impose these conditions is challenged in these proceedings.

[13] Applicant's attorney says that he had on a number of occasions approached the courts regarding the local authority condition:

None of the matters culminated in a decision as the matters were always settled by way of agreement that an interim order would be granted pending the process of issuing of the licence, which I obviously accepted as it mend [sic] that the interim order dispensed with the prejudice the relevant client was suffering. The only matter that went to full argument is the Barnard v The Respondent matter, referred to

⁶ The correct spelling is 'licence'. See the Gauteng Liquor Act 2 of 2003.

⁷ This is the Gauteng Liquor Traders Association.

The *Barnard* case is discussed below.

THE PROMOTION OF ADMINISTRATIVE JUSTICE ACT 3 OF 2000

[14] The applicant is challenging the decision of the Board to impose conditions before the issuing of a liquor licence in terms of section 6(2) of the PAJA. It is necessary first to determine that the PAJA indeed applies. Does the granting of a licence subject to conditions amount to administrative action? The applicant submitted that the decision amounted to administrative action, which was not disputed by the respondent.

[15] I do not consider it necessary to engage in an exhaustive inquiry whether the granting of a liquor licence subject to conditions is administrative action in terms of the PAJA (see s 1). In my opinion, it is a decision by an administrative body exercising a public power in terms of legislation that adversely affects the rights of the applicant and has a direct, legal external effect. And even if it were not administrative action under the PAJA, it would still be reviewable under the principle of legality.

[16] All the applications under review in this case were brought within the 180-day period, except for the grocer's wine licence in respect of Maunde. The issue of delay was argued in the urgent court. The court proceeded to hear the merits and an interim order was made, although only in respect of the Blue Hills stores.

[17] Section 7(1) of the PAJA specifies that review proceedings must be instituted without undue delay and not later than 180 days after internal remedies have been exhausted. In the absence of internal remedies, the 180-day period begins to run from the time that the applicant was informed of the administrative action, became aware of the administrative action and the reasons for it, or might reasonably have been expected to become aware of the administrative action and its reasons. In *casu* we are dealing with an instance where the applicant was informed of the administrative action. Internal remedies are not applicable.

⁸ Par 5.3. Confirmatory affidavit of Marius Blom, attorney of record of the applicant.

[18] The applicant contended that it had acted reasonably and adopted a pragmatic approach by attempting to comply with the conditions so as not to overburden the court. It claims its actions did not amount to acceptance of the conditions.

[19] The applicant submitted further that there would be no prejudice to the Board or any third party if the matter was heard. The legal issue is crisp and considering the merits of the application, "if the court refuses to grant the condonation it will not be in the interests of justice as the Respondent is then allowed to proceed with its ultra vires/unlawfull [sic] conditions imposed".

[20] In my opinion it would be to the advantage of the Board and third parties – particularly potential applicants – to get clarity on the setting of these conditions. This case is not about interim relief, but about the determination of the legal question. To the extent that the delay is still relevant and a point of contention, the Applicant's failure to bring the review within the 180-day period is thus not fatal.

[21] The decision is challenged on the following grounds:

- the Board acted ultra vires (s 6(2)(a)(i)).
- the decision was materially influenced by an error of law (s 6(2)(d)).
- the administrative action was taken for a reason not authorized by the empowering provision (s 6(2)(e)(i)).
- irrelevant considerations (health and safety issues) were taken into account by the Board (s 6(2)(e)(iii)).
- the granting of the licence subject to the conditions contravenes, or is not authorized by, the provisions of the Liquor Act (s 6(2)(f)(i)).
- the imposition of the conditions is not rationally connected to the purpose for which it was taken (s 6(2)(f)(ii);
- the imposition of the conditions is so unreasonable that no reasonable person could have issued the licences subject to the conditions (s 6(2)(h)).
- that the Board's decision was made arbitrarily or capriciously (s 6(2)(e)(vi))

APPLICANT'S ARGUMENTS

[22] In court, applicant's counsel focused on the ultra vires ground. The essence of her argument was that the Board lacked the necessary authority to impose the challenged conditions before issuing a licence.

[23] The applicant contended that, in requiring the certificates from the local authority, the Board was usurping the exclusive functions and powers of the local authority:

Respondent should limit itself to the provisions of its own Act and leave it to the local authority to enforce its own competencies and requirements in terms of the empowering legislation applying to the local authority.⁹

[24] The Board may set certain conditions in terms of the Liquor Act, but only *after* the issuing of the licence – not at the time of the granting of the licence. The Act makes no provision for setting conditions prior to the issuing of the licence. Only section 35 is an exception.

[25] The applicant contended that it is only in instances where the premises are incomplete that the Board has the authority to set a condition following the granting of an application for a licence, in terms of s 35. The founding affidavit of the applicant sets out how the section 35 process works in practice:

[T]he condition based on Section 35, namely that the premises must be completed before the licence will be issued, usually is met by notifying the Inspectorate of the Respondent that the premises are completed and ready for inspection, where after an inspector of the Respondent must inspect the premises and issue a certificate that he or she is satisfied that the premises has been duly completed in accordance with the application and the approved plan. I am advised that this usually happens once the conditions relating to municipal certificates, which I have submitted is *ultra vires*, have been complied with; the end result, in practice, is that of one applies for a liquor licence for a new liquor store or grocers wine section, and the same is approved by the Respondent, the licence only gets issued once the health and safety certificates from the Municipality have been lodged with the Respondent, and once it has been lodged, the inspection of the Inspector had been done.¹⁰

[26] Once all the requirements stated in s 30(2) are met, the Board must grant a licence. The applicant argued that all these requirements were met. Similarly, the statutory requirements which every application must meet were also complied with – see s 23(1)(a) to (j). The applicant said that once an application for a licence is granted, the licence must be issued. See s 33.

⁹ Par 7.4.

¹⁰ Paras 6.6.3-4.

RESPONDENT'S ARGUMENTS

[27] The respondent maintains that the Board has the powers to set these conditions at the time of granting a licence. It contends that it is empowered in terms of section 3(2)(b) of the Gauteng Liquor Act to do so:

(2) The Board may, after the consideration by it of any other matter contemplated in this Act ... (b) declare the licence concerned to be subject to such conditions or further conditions as it may in its discretion impose.

[28] The respondent claims that on a proper construction of this section, the Board has the power to impose conditions *prior* to the issuing of a licence. In fact, the Board may impose conditions at any stage as s 3(2) does not impose a timeline.

[29] As to why the Board is setting the conditions to obtain certificates from the local authority, the respondent submitted that it has a constitutional obligation to ensure that "all the premises in aspect [sic] of which licences granted are suitable not only for the purposes for which they will be used, but also for safe [sic] and emergency reasons."¹¹ For example, "It is common course [sic] that some of the beverages to be sold at these premises [sic] are highly flammable. The Respondent must be satisfied that all relevant procedures and measures are in place."¹²

[30] The respondent also relies on section 23(4), which it says means that an applicant must produce an emergency management plan and proof of compliance with environmental laws of the local authority.

I shall now deal with each of the respondent's arguments in turn.

The section 3(2)(b) argument

[31] The respondent submitted that the definition of 'grant' in s 1 read with s 3(2):

empowers the board to, after consideration of any matter (which includes the consideration of the an [sic] application of an [sic] liquor licence) contemplated in this

¹¹ Par 67.2 Respondent's answering affidavit by Fhedzisani Ronald Pandelani.

¹² Ibid Par 67.3.

From this, the respondent says, it flows that the Board may impose conditions at *any stage* after consideration of any matter before it. In the words of respondent's counsel, 'there is no timeline impose [sic] by section 3(2).'¹⁴

[32] The applicant took a different position, namely that the provision deals with the powers of the Board in respect of *any other matter*, not in respect of consideration of whether or not to grant a licence.

[33] Section 3 sets out the powers and functions of the Board. Subsections (1) and (2) are of particular significance:

- (1) The Board shall receive applications referred to in section 21 from the local committees and after considering such applications, refuse or grant the application concerned.
- (2) The Board may, after consideration by it of *any other matter* contemplated in this Act—
 - a. suspend for an indefinite time or for such period as it may determine or withdraw from such date as it may determine, a *licence* which is the subject of a report, complaint or objection concerned, or any right or privilege which is attached thereto;
 - b. declare the *licence* concerned to be subject to such conditions or further conditions as it may in its discretion impose;
 - c. rescind the suspension of the *licence* concerned or of any right or privilege which is attached thereto, with immediate effect or from such date as it may determine, subject to such conditions as it may in its discretion impose; or
 - d. take any such other steps as it may think fit.

[34] In respect of the s 3(2) argument, the respondent's reasoning is flawed. In the first place, the provision's wording is '*any other matter*', not '*any matter*'. Second, it is clear from a consideration of the rest of the section that the phrase refers to any matter *other* than the granting or refusal of an application for a licence. In other words, subsection (2) is not applicable when a decision is made whether to grant or to refuse a licence application. The powers given to the Board by subsection (2) only

¹³ Par 16.1 of Respondent's written submissions.

¹⁴ Ibid par 16.4.

applies in respect of licences, which is defined in section 1 as 'a licence *issued* in terms of this Act'. Subsection (2) therefore comes into play only *after* the issuing of a licence.

[35] Other provisions in the Gauteng Liquor Act also point to the Board having the authority to impose conditions only after the *issuing* of a licence. Section 33 (b) of the Gauteng Liquor Act provides as follows:

(b) 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.

[36] Section 37(3) provides:

A licence issued in terms of this Act shall be subject to ***such conditions set out in the licence*** as the Board may in its discretion impose. (My emphasis.)

[37] Section 33(a) of the Gauteng Liquor Act provides:

(a) 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”

[38] The granting of a licence precedes its issuing. After a licence is granted, it must be issued. This is clear from the legislation. The relevant sections referred to above clearly show that once the Board had decided to grant a licence, it must issue the licence. Section 35 is the only exception.

[39] This is not an instance of multi-staged decision-making. There are not two questions: first, shall we grant the licence; and if the answer is yes, shall we issue the licence? No, only the first question should be asked. If the first question is answered in the affirmative, the licence must be issued as a matter of course. However, once issued, the Board may set conditions authorised by the Act. Following the issuing of a licence, the Board may impose conditions to the extent provided for in the Act.

The section 23(4) argument

[40] The requirements and procedures which apply to every liquor licence application are stated in s 23 of the Gauteng Liquor Act:

- (1) Every application for a new licence shall be made to the relevant local committee of the district or metropolitan area in which the licence is sought, in the prescribed form by lodgement with the secretary of the local committee and shall provide or be accompanied by—
 - (a) a detailed written motivation in support of the licence applied for;
 - (b) a detailed sketch plan of the premises showing the rooms, services, buildings, construction material and other pertinent information;
 - (c) a detailed written description of the premises to which the application relates, together with colour photographs of the external and internal features of the premises;
 - (d) a report of an inspector and reports of any inspection required by any law or bylaw;
 - (e) proof of publication of notices in the newspaper in terms of section 24;
 - (f) a certificate of suitability on the person of the applicant and the application issued by South African Police Services;
 - (g) the full business address and location of the premises to which the application relates, identity number or registration number of the applicant, residential address or address of registered office of the applicant;
 - (h) proof of affiliation to an association referred to in section 38;
 - (i) proof of payment of the prescribed fee; and
 - (j) clearance certificate by the South African Revenue Services that the applicant complies with tax laws.
- (2) For purposes of considering a licence under subsection (1), the local committee may cause an inspection to be made of the premises to which the application relates and any other investigation the local committee thinks necessary.
- (3) Where an application for a licence has been refused by the Board, no new application may be made in respect of the same premises within a period of one (1) year from the date of refusal, except by special leave granted at the discretion of the Board.
- (4) Applications for tavern, pool club, pub, liquor store and night club liquor licences 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.

It should be clear that these are prerequisites which must be complied with before an application for a liquor licence can even be considered.

[41] Regarding section 23(4), the respondent contends that if an application for a licence does not contain approval by the municipality, it is defective. This requirement, says the respondent, includes that the premises must have the "relevant emergency management plan and that it complies with the environmental loss¹⁵ [sic] of the municipality."¹⁶ In other words, there must be proof of compliance with the local authority's laws in respect of these issues.

[42] The respondent informed the Court that the Board had thus far been lenient, saying that before issuing of licence, an applicant must comply with the section 23 requirements. Essentially, the Board will grant a licence, even though the applicant had not complied with all the application requirements, provided that compliance with these requirements is set as a condition for the issuing of the licence.

[43] I was referred to *Pick n Pay Retailers (Pty) Ltd v The Gauteng Liquor Board* (Case no 2011/47600, unreported) where Wepener J, without full argument, set aside the following conditions set by the Respondent:

- 1.1 West Rand District Municipality's health Department.
- 1.2 West Rand District Municipality's Emergency Management Services;
- 1.3 Submission of a valid NTHA certificate;
- 1.4 Payment of the prescribed fee, within a period of 30 days from receipt of this letter.

Two of the conditions are the same as in the present case. Unfortunately, there was no written judgment in the matter.

[44] In *Nkomo v Gauteng Liquor Board* (case no 19469, unreported) and *Beillings & Others v Gauteng Provincial Liquor Board* (case no __, unreported) the court found that conditions requiring certain documents and approvals from

¹⁵ Laws.

¹⁶ Par 16.5 of the Respondent's written submissions.

the local authority were ultra vires the Act and that they could not be imposed by the Board as a creature of statute. Although both cases were based on the predecessor of the current Act (Liquor Act 27 of 1989), they are still of relevance.

[45] Two cases decided in the Free State High Court are also relevant. *Nazo v Free State Gambling & Liquor Authority and another; Jacobs v Free State Gambling & Liquor Authority and another* (case number 2386/2015, unreported) is somewhat analogous. In a well-reasoned judgment Daffue J said the following (at par 36):

If the legislature intended to burden an applicant with the obligation to obtain the reports from the SAPS and the municipality it would have provided so. On no reading of the Act can it ever be suggested that an applicant has to take any steps against these two organs of state to obtain reports from their employees and to submit these reports before his/her application for a registration certificate can be considered by the Authority.

[46] In *Die Vennootskap bestaande uit Anton Steynberg en Johanna Jacoba Steynberg v Vrystaat Dobbels en Drankowerheid en 'n Ander* (case no: 2100/2015, unreported) the Applicant applied for a liquor store registration certificate. In a letter, the Applicant was advised that the application had been approved, but that a permanent certificate would be issued only once the applicant had submitted proof of right of occupation within 6 months of the issuing of the letter. This amounted to conditional approval. The applicant contended that it was not a statutory requirement, with which the court agreed, despite the respondent countering that the certificate was relevant to the application and that it was within its power to seek it prior to the issuing of the licence. Applicant's counsel argued that the Authority must either register or refuse to register the applicant in terms of the relevant legislation. The Court agreed: "Once the first respondent was satisfied that the application met the requirements set out in the Act it was obliged to grant the same together with a certificate in the prescribed form ...".¹⁷ And in the next paragraph the court concluded that the "Act does not make provision for conditional approval or conditional authority."¹⁸

¹⁷ Para 18.

¹⁸ Para 19.

[47] Of greatest relevance here is the case of *Barnard v Gauteng Provincial Liquor Board* (case no 29556/2014) which was recently decided in this division. The matter was heard on 19 Feb 2015; judgment was handed down on 21 September 2015. According to the applicant's attorney this is the first and only case, bar the present one, that has gone to full argument on whether the setting of the local authority condition by the Board was lawful or not. Similar to the present case, the licence was granted but not issued. The learned judge found that the PAJA did not apply, simply on the basis that the applicant had not utilized its provisions to request reasons for the decision of the Board not to grant her a liquor licence. The Court focused on s 23(4). In par 14 the Court said that

the Board must, in future, interpret section 23(4) correctly. It must avoid placing conditions when granting liquor licence applications by requiring that all applications for liquor licences must be accompanied by the unequivocal approvals by the Health and Planning Development Departments of municipalities, as required by the Gauteng Act. [43]

[48] The Board is indeed a creature of statute and can only exercise the powers conferred on it by its enabling legislation, namely the Gauteng Liquor Act. Section 3 specifically determines the powers and functions of the Board. Should it exceed these powers, it is acting ultra vires. The Board is thus prevented from traversing terrain outside the limited scope and ambit of the legislation.

[49] Had the legislature intended for the Board to have the authority to set these conditions at the time of granting the licence, it would have made provision for it. There is no indication in the Gauteng Liquor Act of an intention to the contrary.

[50] If there is non-compliance with the statutorily-prescribed application requirements, the licence should not be granted. It should be refused. But having granted a licence, the Board should issue the licence.

[51] Does the Act give the Board the discretion to be 'lenient'? I do not doubt the Board's bona fides in setting these conditions at the time of granting the licence. The fact though is it has no authority to do so.

[52] In conclusion, the respondent's argument is without merit and must be rejected. I find that the Board had acted ultra vires in setting conditions for the

issuing of the licences. Based on this finding, it is unnecessary to consider the other grounds of review.

REMEDY

[53] PAJA empowers the court to remedy a breach in a number of ways. The applicant contends that this case is 'exceptional' within the context of s 8(1)(c)(ii)(aa) of the PAJA. It seeks an order from the court to issue the licences without remitting the matter back to the Board.

[54] The respondent objects, contending that the court cannot issue a licence as this would violate the separation of powers, as the relief prayed for by the applicant would require the court to assume the role, functions and powers of the Board. In other words, it would be unconstitutional for it to do so.

[55] I disagree with the respondent. The PAJA specifically gives the court certain remedial powers, which is within the court's discretion to exercise. The exercise of these powers does not violate the separation of powers.

COSTS

[56] The papers for the urgent application were drafted by a senior counsel and a junior counsel, but a different junior counsel appeared in court to argue the applicant's case. I'm not convinced that the matter required the services of senior counsel, especially considering that some of the issues in the case had already been traversed by the applicant in earlier cases.

[57] Louw J found the matter to be sufficiently urgent to justify the issuing of an interim order. In my opinion, this justifies an order awarding costs for the urgent application to the applicant.

[58] In the majority of the cases discussed in this judgment, the courts awarded costs against the respondents on the scale between attorney and client. A similar costs order seems fair to me under the circumstances.

[59] Despite past orders against it in respect of the setting of conditions, the Respondent persisted in continuing with this practice. It could have avoided this litigation had it taken its cue from the interim orders against it.

ORDER

[60] I make the following order:

- (a) The respondent is prohibited from imposing conditions, including a certificate or certificates from the Local Authority in respect of health and safety, found to be ultra vires in terms of this judgment as a prerequisite for the issuing of a licence.
- (b) The respondent is ordered, when issuing a licence, to do so in accordance with the provisions of the Gauteng Liquor Act.
- (c) The decision of the respondent to impose conditions to the licences granted to the applicant under reference numbers GLB50000001762 (Pick n Pay Supermarket Maunde Shopping Centre), GLB50000002408 (Pick n Pay Liquor Store Atteridgeville) GLB50000001436 (Jean Avenue Pick n Pay Supermarket) and GLB50000002411 (Pick n Pay Liquor Store Jean Avenue) are reviewed and set aside. The applicant is authorised to trade in liquor in these businesses as if the grocer's wine liquor licences and the liquor store licences granted to it under said reference numbers have been issued until it is in fact so issued.
- (d) The respondent is directed to issue the aforesaid licences within a period of 7 (seven) days of this order
- (e) The respondent is ordered to pay the costs of the urgent application and this application on a scale as between attorney and client, including the costs of two counsel.




OLIVIER, AJ
ACTING JUDGE OF THE HIGH COURT

Representation for the Applicant:

Counsel: Adv L A Pretorius
Instructed by: Marius Blom Inc.

Representation for the Respondent:

Counsel: Adv Mtsweni
Instructed by: State Attorney