

Supreme Court of Appeal of South Africa

MEDIA STATEMENT

From: The Registrar, Supreme Court of Appeal

Date: Tuesday 29 March 2005

Status: Immediate

This media statement is released for informational purposes only. It does not form part of the Court's judgment.

On 29 March 2005 the Supreme Court of Appeal handed down judgment in *The Gauteng Gambling Board v Silverstar Development (Pty) Ltd and Others*. After six years of litigation the Court confirmed an order made by the Transvaal Provincial Division that directed the Board to issue the sixth (and last) casino licence for the Gauteng Province to Silverstar.

The Transvaal court had, on an application by Silverstar, set aside a decision of the Board refusing to grant the licence to it. The Board did not pursue its appeal against that aspect of the order. Argument in the appeal turned on whether it was proper for that court to have substituted its judgment for that of the Board as to the issue of the licence or whether the proper course would have been to remit the licence application to the Board to allow it to reconsider the matter and grant or refuse it, call for fresh tenders or simply leave the licence unawarded.

The Court, on appeal, found that the grant of the licence to Silverstar was, in the circumstances inevitable. The evidence proved that the application had been thoroughly investigated by the Board, that Silverstar had satisfied all the Board's

criteria and no objection which carried any weight remained unanswered. In addition fairness favoured Silverstar. The Board's approach lack of objectivity and its stubborn adherence to unsustainable objections combined with the long delay in resolving the issue justified the conclusion of the Transvaal court that the time had come to bring the uncertainty to an end.

The Board's appeal was accordingly dismissed.

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