

LIQUOR LICENCE REPORT TO THE DELEGATION COMMITTEE

SUBCOUNCIL 23

1. ITEM NUMBER: 23SUB15/9/2021

2. SUBJECT

LIQUOR LICENCES APPLICATION: DECISION TAKEN UNDER SUB-DELEGATED AUTHORITY BY DIRECTOR: AREA SOUTH, WARD COUNCILLOR AND CHAIRPERSON IN RESPECT OF: JAYKAYS LIQUOR DISTRIBUTORS; Ref. No.: LLA21080056

3. PURPOSE

To report on an application for a liquor license received in terms of section 37 of the Western Cape Liquor Act, 2008, (as amended Act 2015) by the Western Cape Liquor Amendment Act, 2010 and Western Cape Liquor Regulations, 2011 and to inform the Subcouncil of the outcome of comments received on the application and submitted to the Liquor Authority in terms of sub delegated authority.

4. FOR DECISION BY

Director: Area South in conjunction with Chairperson and Ward 75 Councillor in terms of their sub-delegated authority.

5. EXECUTIVE SUMMARY

The Western Cape Liquor Act, 2008, (as amended 2015) by the Western Cape Liquor Amendment Act, and the Western Cape Liquor Regulations, 2011 were implemented on 1 April 2012. The Act was implemented in phases. In terms of the Act, certain obligations were put on the City Manager. The City Manager ruled that all liquor licenses received within the City be received at a central venue and delegated his authority to the Director: Area South to receive such applications from the various Designated Liquor Officers.

- 4(1) To comment on applications for liquor licences in terms of the Western Cape Liquor Act, Amended Act 2015.

Where time or legal constraints do not allow the timeous submission of the matter to the SubCouncil, the SubCouncil Manager, in conjunction with the Chairperson and Ward Councillor, has the sub-delegated authority to deal with the matter.

6. DISCUSSION

- 6.1 Section 37 of the Act address the Notice of Application process. Section 37(4), (5) and (6) of the Act reads as follows:

“(4) The designated liquor officer in whose area of jurisdiction the proposed licensed premises are located must, within the prescribed period from the date of lodgement of an application, serve a copy of the application in the prescribed manner on the municipality concerned in order for it to—

(a) where section 36(1)(c) applies—

- (i) allow the public to have access to, inspect or, upon payment of the prescribed fee, obtain a copy of the application;*
- (ii) obtain the comment of the ward councillor;*
- (iii) comment on the application; and*
- (iv) allow for the consideration of the planning application in relation to the application for a liquor licence; or*

(b) where section 36(1)(c) does not apply—

- (i) allow the public to have access to, inspect or, upon payment of the prescribed fee, obtain a copy of the application;*

(ii) obtain comment of the ward councillor; and

(iii) comment on the application.

*(5) The designated liquor officer in whose area of jurisdiction the proposed licensed premises are located must or the municipality **may**, within the prescribed time, give notice of the application to—*

(a) neighbouring residents or such persons who in his, her or its judgement may be affected by, or have an interest in, the granting or refusal of the application; and

(b) the community policing forum, if any, of the area in which the premises are located.

(6) Notwithstanding subsection (1), where an applicant has to comply with section 36(1)(c), the notification done in terms of the applicable planning legislation is deemed to be in compliance with the notification requirements in terms of this section: Provided that the Liquor Licensing Tribunal may require such additional notification as it may deem appropriate.”

6.2 The following application for liquor license has been received by Subcouncil:

6.2.1 Details of applicant:

- LLA21080056
- Jaykays Liquor Distributors PTY LTD;
- 2021/614941/07
- Jaykays Liquor Distributors;
- Consumption OFF Premises
- Erf: 9040 8 Morgenster Street Shop 10A Westgate Westgate Mall Mitchells Plain;

6.2.2 Director: Area South confirmation: Advertising extent (Community participation) - Notices served on and received the following Comments:

- Ward 75 Councillor:
Cllr Woodman **has no objection to the proposal for a liquor licence.**
- Community Organizations: As per CBO Database:
No comment received
- Ward Committee: Elected Members of Ward 75
No comment received
- CPF:
No comment received
- Other interest and effected parties:
No comment received
- **Internal departments:**
 - ❖ Town Planning:
The subject property, namely Erf 9040, 8, Morgenster Street Shop 10A Westgate, Westgate Mall Mitchells Plain and is zoned for General Business Subzone GB1 purposes.
A business premises including the sale of alcoholic beverages (off-consumption) is a primary use in terms of General Business Subzone GB1.
Therefore, the Development Management: Land Use Management Department **has no objection to the proposal for a liquor licence.**
 - ❖ Health:
The department **has no objection to the proposal for a liquor licence**

❖ City Emergency Services:

The applicant does not comply to National Building Regulations and the By-Laws relating to the Community Fire Safety Act. Failure to provide this department with approved Municipal Plan for store layout with fire safety requirements has resulted in **the department not being able to approve or support the liquor licence application** due to the outstanding Fire Safety legislative requirement.

❖ Law Enforcement Squad:

No comment received

7. RECOMMENDATION

Please insert the Decision that was taken at the Delegation Meeting

SUPPORTED

☐

CONDITIONAL SUPPORT

☐

NOT SUPPORTED

☒

If Conditional support please indicate the conditions or Not Supported, Note the following grounds for disqualification.

Criteria for granting licences

31.(1) The Liquor Licensing Tribunal or Presiding Officer, as the case may be, **may not grant a licence**, unless it or he or she is satisfied on the balance of probabilities that -


- (a) the granting thereof is in the public interest;
- (b) the applicant is of good character, and not disqualified from holding a licence in terms of section 35;
- (c) the premises on which the sale or consumption of liquor will take place are or will upon completion be suitable for use by the applicant for the purposes of the licence;
- (d) the applicant has the right to occupy the proposed licensed premises; and
- (e) the granting of the application does not prejudice -
 - (i) the residents of a residential area;
 - (ii) the residents of an institution for the aged or frail;
 - (iii) the learners of an educational institution who are under the age of eighteen (18) years;
 - (iv) the patients of an institution for drug or alcohol related dependencies; or
 - (iv) the congregants of a religious institution located in the vicinity of the proposed licensed premises."

Reasons for Non Support or conditions if Conditional Support:

1. The applicant, *Jakays Liquor Distributors* need to submit building plans for the store layout and fire safety, before an application for a liquor premises, off consumption is considered.
2. In light of the above, and, being told that the building is under construction for the Liquor Outlet, the meeting could not support the application as it is submitted prematurely.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Director:Alesia Bosman</i>
CONTACT NUMBERS	<i>021 444 8722</i>
E-MAIL ADDRESS	<i>Alesia.Bosman@capetown.gov.za</i>
DIRECTORATE	<i>Urban Management - Area 4</i>

 Digitally signed by
Alesia Bosman
Date: 2021.09.15
10:40:30 +02'00'

DIRECTOR: AREA SOUTH

Date 15/09/2021

Comment: _____

Comment: _____

SUBCOUNCIL CHAIRPERSON

Date _____
