



## LIQUOR LICENCE REPORT TO THE DELEGATION COMMITTEE

### SUBCOUNCIL 05

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1. ITEM NUMBER : 05SUB17/2/2021

2. SUBJECT

**LIQUOR LICENCES APPLICATION: DECISION TAKEN UNDER  
SUBDELEGATED AUTHORITY BY SUBCOUNCIL MANAGER, WARD  
COUNCILLOR AND CHAIRPERSON IN RESPECT OF:  
UNCLE CARL'S LIQUOR SUPPLIES; Ref. No.: LLA21010009**

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 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

Subcouncil Manager in conjunction with Chairperson and Ward 24 Councillor in terms of sub delegated authority.

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5. EXECUTIVE SUMMARY

The Western Cape Liquor Act, 2008, as amended by the Western Cape Liquor Amendment Act, 2010 and 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 Manager: SubCouncils 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, 2008, as amended.

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:

- LLA21010009
- Walker Capital Investments PTY LTD;
- 2020/172231/07
- Uncle Carl's Liquor Supplies;
- Consumption OFF Premises
- Erf: 6232 24 Bird Crescent Bishop Lavis Matroosfontein;

6.2.2 Subcouncil Manager confirmation: Advertising extent (Community participation) - Notices served on and received the following Comments:

- Ward 24 Councilor:

The Ward Councillor, Ald Asa Abrahams, indicated that she is not supporting the application, based on the comments received from the Internal Directorates.

- Community Organizations: As per CBO Database:

No comment received during the Public Participation process

- Ward Committee: Elected Members of Ward 24

No comment received during the Public Participation process

- CPF:

No comment received during the Public Participation process

- Other interest and effected parties: 2021/02/15

The Subcouncil Manager, Ms Nomfundo Mdingi, indicated that she is not supporting the application, based on the comments received from the Internal Directorates.

- **Internal departments:**

- ❖ Town Planning:

The MPT resolved to refuse the application. It is still in the appeal stage where the applicant must be granted right to appeal the decision.

❖ Health: No comment received during the Public Participation process

No comment received during the Public Participation process

❖ City Emergency Services:

No comment received during the Public Participation process

❖ Law Enforcement Squad:

The premise is zoned for residential area. No parking for patrons. No zoning certificate attached. Liquor application can be considered when zoning certificate is approved by the City. Alterations will commence from 1st June 2021 according to application, no comment can be given regarding traffic flow or parking of patrons. Therefore, the application is not supported.

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## 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:

The MPT resolved to refuse the application. It is still in the appeal stage where the applicant must be granted right to appeal the decision.

The premise is zoned for residential area. No parking for patrons. No zoning certificate attached. Liquor application can be considered when zoning certificate is approved by the City. Alterations will commence from 1st June 2021 according to application, no comment can be given regarding traffic flow or parking of patrons. Therefore, the application is not supported.

**ANNEXURES:**

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**Annexure A:** 2021.02.15 - MINUTES - Uncle Carl's Liquor Supplies

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**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<i>Nomfundo Mdingi</i>
<b>CONTACT NUMBERS</b>	<i>021 444 2963</i>
<b>E-MAIL ADDRESS</b>	<i>Nomfundo.Mdingi@capetown.gov.za</i>
<b>DIRECTORATE</b>	<i>Urban Management - Area 3</i>

Comment: \_\_\_\_\_

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**SUBCOUNCIL MANAGER**

Date \_\_\_\_\_

Comment: \_\_\_\_\_

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**SUBCOUNCIL CHAIRPERSON**

Date \_\_\_\_\_