



**BESTUURSDIENSTE
MANAGEMENT SERVICES**

20 November 2014

Safety and Security Directorate's
Law Enforcement Offices
Cnr Old Paarl & Paradys Roads
Brackenfell

REFERENCE : WCP/034816

Sir/Madam

**APPLICATION IN TERMS OF SECTION 6 OF CONTROL OF UNDERTAKINGS THAT
SELL LIQUOR TO THE PUBLIC, 2013, FOR SUNDAY OFF-CONSUMPTION
TRADING**

GENETRIX INVESTMENTS CC T/A TOPS AT ROSMEAD, WCP/034816

Attached hereto please find the completed application for **Sunday Off-Consumption Trading** for the abovementioned licensed premises.

We trust that you will find the above in order.

Kindly contact us when the application is ready for collection.

Yours faithfully

DM HOOGENHOUT

CITY HEALTH

CITY OF CAPE TOWN | ISIXEKO SASEKAPA | STAD KAAPSTAD

THIS CITY WORKS FOR YOU

APPLICATION IN TERMS OF SECTION 6 OF THE CITY OF CAPE TOWN: CONTROL OF UNDERTAKINGS THAT SELL LIQUOR TO THE PUBLIC BY-LAW, 2013, FOR SUNDAY TRADING FOR OFF-CONSUMPTION PREMISES FROM 11:00 TO 18:00

All fields must be filled in

DETAILS OF LICENCEE

1. Liquor license number WCP/034816

2. Full name of licensee GENETRIX INVESTMENTS CC

3. If the licensee is not a natural person, state the name, identity number and address of each shareholder, member or partner. (use an annexure if required)

TONY DE JESUS COSTA, ID 800129 5178 08 1 OF 7 LICHFIELD, 3 FOYLE ROAD, CLAREMONT

ARTHUR DE JESUS COSTA, ID 750307 5013 08 2 OF UNIT 20 THE VILLAGE, 34 BELL ROAD, KENILWORTH

JOSE CALDEIRA DA CAMARA, ID 550823 5204 10 1 OF 37 HERCHEL ROAD, CLAREMONT

MANUEL DIAS BRANCO, ID 511117 5602 18 4 OF 26 MONMOUTH AVENUE, CLAREMONT

4. Name and address of the licensed premises

TOPS AT ROSMEAD, ERF 53794, 67 ROSMEAD AVENUE, KENILWORTH

5. Provide details of the premises where the licensed business is conducted with reference to the number of the erf, street(s), apartment, shop(s) or farm, as the case may be

ERF No. ERF 53794, TOPS ROSMEAD, 67 ROSMEAD AVENUE, KENILWORTH

6. Contact number

021 853 5785

7. State reason(s) why licensee is applying for trading on Sundays (use an annexure if required)

PLEASE SEE ANNEXURE

I declare that the information furnished in this application and in any documents attached to it, is true.

Signature [Signature]

Date

2014-11-19

(written authorisation to sign on behalf of licensee to be attached)

Name (printed) DM HOOGENHOUT

Application prepared by

DH MANAGEMENT SERVICES

Postal address PO Box 721, Strand, 7139

Physical address

Cortland Place, Room G03, 37 Main Road, Strand

Work tel:

021-8535785

Cell:

0845116266

Fax:

E-mail:

dane11evdm@vodamail.co.za

Signature [Signature]

Date

2014-11-19

(written authorisation to sign on behalf of licensee to be attached)

Name (printed)

DM HOOGENHOUT

APPLICATION IN TERMS OF SECTION 6 OF THE CITY OF CAPE TOWN : CONTROL OF UNDERTAKINGS THAT SELL LIQUOR TO THE PUBLIC, 2013 FOR SUNDAY OFF-CONSUMPTION TRADING

1. Introduction

All Local Authorities, in this case the City of Cape Town, have a mandate in terms of section 156 of the Constitution of the Republic of South Africa, act nr 108 of 1996 to make and administer by-laws for the effective administration of matters which it has the right to administer. In this case, trading hours and days for undertakings that sells liquor to the public.

This mandate was acknowledged by the Western Cape Liquor Act, Act Nr 4 of 2008 as amended and more specifically section 59 of the above act. In the case of the City of Cape Town, a by-law was published in 2010 and amended in 2012 and was due to be implemented on 1 April 2013. On 27 March 2013 (days before implementation) the by-law was referred back to the EEST portfolio committee to be reconsidered. This resulted in a publication of "Draft by-law for the Controlling of Undertakings that Sell Liquor to the Public, 2013". In the request for inputs from affected parties and by initiating the above process, the City Council acknowledged the fact that although alcohol is no ordinary commodity, unduly restricted supply (sales) have been shown to have adverse side-effects on individuals and businesses. Hence, it is necessary to seek a careful balance between the permitted times and hours of opening as well as the responsibilities of individuals using alcohol and those undertaking selling alcohol to the public.

The resultant new public by-law is more comprehensive and contains a number of new provisions in order to accomplish objectives to suit and satisfy all parties. The draft by-law also allows for the application for extension of trading days and hours within certain limits.

2. Personnel compliment and implications regarding HR & Labour Legislation

In the 2010 by-law on the sale of liquor which was amended in 2012 and referred back to the EEST Committee at a very late stage, many retailers decided to put retrenchments on hold until at least further draft by-law was received. In many instances this is still the case

and the outcome of this application will definitely have an effect on personnel compliments of liquor retailers. Hopefully it will not be necessary to reduce personnel as a result in this case. The outcome of this application will also no doubt have an effect on the amount of casual workers accommodated in the retail sector.

In order to conform to Labour Legislation, staff can only work a certain amount of hours per week. If Sunday trading (and proposed extended hours) will become a reality, more personnel can be employed – to work more weekly shifts, thus staying within the parameters of Labour Legislation.

Should the extended hours granted to this retailer not be extended for 2015, it will most definitely result in reduction of staff compliment both permanent as well as casual workers.

3. Commuters making use of public transport

In the case of commuters residing in outlying areas and making use of public transport, it is a known fact that after 18h00 (when liquor stores close) there are still a number of trains and busses arriving at these destinations. This resulted in commuters having to purchase liquor illegally. It must be born in mind that many people purchase liquor on a daily basis. As this is the best way of controlling liquor consumption. In most cases, liquor purchased on a specific day will be consumed on that day. Weekly purchases made on a Saturday morning (for the week) might result in over indulgence over the weekend. Therefore DAILY CONVENIENT purchase of liquor is very important to all people and even more so for people using public transport.

Should a commuter not be able to purchase liquor on arrival at his destination, it will be an option to purchase liquor at a point of boarding public transport. One needs not embroid on the hazardous situation of transporting liquor via public transport.

Another option will be to purchase liquor from illegal traders after arriving at destination.

4. **Tourism aspect affecting liquor retailing**

The Minister of Economic Affairs and Tourism, Mr Allan Winde, announced in the press recently the success of the Western Cape as a tourist destination. He also estimated the contribution of tourism to the Western Cape Economy to be at least 10% of economic activity. It is therefore of very high importance that tourists to the Western Cape (not only from the rest of South Africa, but also from abroad) be afforded ample time to do purchases, which obviously include purchases of alcoholic beverages. It is difficult for a tourist to understand why the shelves and refrigerators in a modern supermarket at some times are locked when they intend also purchasing wine and other alcoholic beverages for consumption at their holiday home or accommodation.

All the big supermarket groups spend a large amount of money on marketing campaigns to promote the wines and the wine routes of the Western Cape only to find that people shopping in supermarkets or shopping centres, end up in front of locked wine areas or locked liquor shops. The Western Cape is very fortunate to enjoy the portion of the tourist market that visit the Western Cape. It must, however, be noted that due to the economic climate, the tourist season is becoming shorter. Also for that reason the availability of all merchandise not only during this season, is very important for retailers in the Western Cape and specifically the Cape Peninsula and coastal area.

5. **Customer count in the retail environment**

No matter what the reason is, it is a known fact that the customer count of supermarkets and shopping malls, big and small, showed that preferred time of shopping of all commodities is between 17h00 and closing time. Should some departments and/or shops have to close earlier, it will no doubt inconvenience the shopper and also have an impact on the sales of the retailer. It is also a well-known fact that when the so-called grocers wine licenses was introduced years ago in contrary to predictions, the same amount of wine was sold but only in more outlets.

In other words, the granting by the authorities of grocers wine licenses did not increase the volume of wine sold in South Africa.

6. **By-Laws of surrounding Municipalities**

It is a known fact that some Municipalities published by-laws allowing especially Sunday trading by off-consumption retailers. The result is that members of the public running out of alcoholic beverages on a Sunday will then travel to adjoining areas where Sunday trading is allowed. The consequences of this need not be embroidered on. For example: in the Hottentots Holland area, the adjoining area, Overstrand Municipality, allows for Sunday trading and the traders in those towns even distribute flyers in the Hottentots Holland area advertising the fact that purchases are possible from them on a Sunday. The possibility of drinking and driving will be a reality.

7. **Western Cape Liquor Authority**

Should this application be approved, it will still be inside the parameters set by the Western Cape Liquor Act, Nr 4 of 2008 as amended in section 59 of the act. The retailer will not experience longer sales hours as a result of this application being approved. Proposed regulations published by the National Liquor Authority also calls for uniform trading hours throughout the Republic of South Africa. Should this be achieved, there will not be certain retailers that are given preferential treatment.

8. **Section 6(9) of the By-Law**

As requested in the above section, we comment as follows :

8.1 **Potential impact on surrounding environment**

This licensed Off consumption outlet has been trading in terms of this by-law from 11:00 until 18:00 on Sundays since the appeal lodged was upheld by the Appeals Committee in 2014 without having a negative impact on the surrounding environment. It is submitted that should this application be granted once again there will not be any negative impact on the surrounding environment.

8.2 Public Interest

In many reported and unreported cases the public interest is in most cases the deciding factor when a liquor licence is granted by a Liquor Authority and the conditions thereto are laid down.

According to the decision of the High Court of South Africa, public interest is doing something which if done, better serves the public than when not done.

All Liquor Boards in the Republic of South Africa, be it on a National or on a Provincial level, is regularly reminded of the article by Dr Malcolm Averey in De Rebus of May 1991, page 353 and 354 where it is specifically mentioned that the convenience of the public will be in most cases the deciding factor when considering the public interest and the granting of licences.

Applicant therefore submits that although published already in 1991, the statement made by the late Dr Averey still holds good and is definitely still applicable. Applicant furthermore submits, taking the above into account, the granting of this application for longer business hours, will no doubt be in the public interest as it will also convenience the public.

Most of the people residing in Rosmead also work in Cape Town CBD or elsewhere and therefore commute in and out from Rosmead. Should regular liquor stores not be open, customers will no doubt shop with illegal outlets of which there is quite a number in the area.

Applicant wishes to disclose to the Honourable Sub Council that the Spar Group is a member of ARA (Industry Association for Responsible Alcohol Use) and underwrites the views of this organisation. Attached to this appeal please find latest newsletter from the spokesperson of ARA, Dr Osborn Mahanjana from where it can clearly be seen what is being done in the fighting of alcohol abuse. It is also clear from the ARA newsletter that liquor trading hours are not on their agenda and therefore can be seen that they in fighting alcohol abuse have got a strategy in place that does not include curtailing of selling hours.

8.3 Security measures

- A burglar alarm with panic buttons is in place and an armed response unit is employed
- Armed response also patrols the area on a 24 hour basis
- Burglar bars and electric fencing on the roof are also in place
- Tops and Spar also have internal security officers during trading hours
- Spar and Tops also make use of 24 hour CCTV surveillance cameras

9. Annexures required by the By-Law

Attached please find the following:

- 9.1 Completed Form 3
- 9.2 Valid liquor licence
- 9.3 Business Licence (where applicable)
- 9.4 Zoning Certificate (where applicable)
- 9.5 Google image/street map
- 9.6 Approval of 2014 By-Law application
- 9.7. ARA newsletter
- 9.8 Resolution

Yours faithfully



DM HOOGENHOUT



Payment confirmation

Date: 20/10/2014 Time: 12:57 PM

From account details:	SAVINGS AC
My statement description:	Tops Rosemead 034818 F23
Beneficiary statement description:	WCP/034818 F23 Tops Rosemead
To account number:	145208883
Amount:	3,000.00
Payment date:	20/10/2014
Reference number:	20141020NEDBANK00628987745

Please note: Payments to other banks, including Nedbank branches outside South Africa, may take up to three business days.

Nedbank Limited, Reg No 195100030900, VAT Reg No 420716074, 136 Rivonia Road, Sandton, 2196, South Africa.

Western Cape Liquor Authority

Form 23

Reference no.: WCP/034816

BETTER GOVERNANCE

GENETRIX INVESTMENTS CC

C/O D M HOOGENHOUT

P O BOX 721

STRAND

7139

IF THE POSTAL ADDRESS HAS CHANGED,
PLEASE INDICATE THE NEW ADDRESS BELOW
AND FAX TO (084) 276 5927

RENEWAL NOTICE IN TERMS OF LIQUOR ACT, ACT 4 OF 2008 (AS AMENDED)

N.B.: The licensee shall not be absolved from the obligation to pay the annual fees timeously if the advice was not received by him. (Section 43(3))

ANNUAL FEES PAYABLE IN RESPECT OF A LIQUOR LICENCE FOR THE YEAR 2015

Name and address of licensed premises: TOPS AT ROSMEAD ERF 152796 ROSMEAD CENTRE CNR ROSMEAD AVE & MCKINLEY RD KENTILWORTH	
Kind of licence: CONSUMPTION OFF	Fees payable: R 3000.00
Total fees payable to the Western Cape Liquor Authority ON OR BEFORE:	31 December 2014
Place: CAPE TOWN	Date of issue: 14/10/2014

PLEASE NOTE:

- The South African Revenue Service (SARS) no longer accepts payment of the above-mentioned fees. Payment must be made by direct deposit into the Authority's banking account, with the following details: Bank: Nedbank, Account holder: Western Cape Liquor Authority, Account number: 145 204 2883, Branch code: 198745. Please insert your licence number as a reference on the deposit slip (i.e. WCP/001 Number indicated on the top left-hand side of this form).
- Proof of payment of your renewal fee must be sent to the Authority via fax to (084) 225 1442 OR via email to Administrations@westerncape.gov.za (please insert your licence number and the word "renewal" in the subject line of the email).
- A licence shall lapse on 1 January of the year in respect of which the applicable fees are not paid on or before 31 December of the preceding year. (Section 42(2)(b)).
- A licence which has so lapsed becomes valid again only when the annual fees concerned are paid with a charge of 50% on or before 31 January or with a charge of 100% on or before the last day in February of the year in respect of which the annual fees should have been paid. (Section 42(3)(a)(i) and (ii)).
- A licensee who has failed to pay the prescribed renewal fee on or before the last day in February of the year in respect of which the renewal fee should have been paid, may, on or before 31 March of that year, apply in writing to the Chief Executive Officer for condonation of such failure, and the Chief Executive Officer may condone the failure and allow the late payment of the prescribed renewal fee by a date to be determined by the Authority, subject to the payment of the renewal fee plus a penalty of 150%. Section 43(4). No annual fees may be accepted after 31 March.

TOBS 10/11/2010



Southern District
Plumstead Cnr Main and
Victoria Road
Plumstead
Private Bag X5
7801
Ask for: Land Use Management
Management
Tel no: 021 710 8000
Fax no: 021 710 8283
E-mail: info@capetown.gov.za
Website: <http://www.capetown.gov.za>
Ref: 152796

Isithiho Esikamazant
Plumstead Cnr Main and
Victoria Road
Plumstead
Private Bag X5
7801
Call: Land Use Management
Management
Umrabe: 021 710 8000
Ifaki: 021 710 8283
Ref: 152796

Suidelike Distrik
Plumstead Cnr Main en
Victoria Weg
Plumstead
Private Bag X5
7801
Vra vir: Land Use
Management
Tel no: 021 710 8000
Faks no: 021 710 8283
Verw: 152796

STRATEGY & PLANNING
Department: Planning & Building Development Management

13 December 2010

To whom it may concern

ZONING SCHEME EXTRACT
Erf 152796, Cape Town

On the date reflected above, Council's records indicated the property listed below to be zoned for the following purposes:

Property description	Erf 152796, Cape Town
Physical address	McKinley Road, Kenilworth
Applicable Zoning scheme	Cape Town Zoning Scheme Regulations
Zoning category	General Business
Sub zone (if any)	B1
Primary land uses permitted	See attached extract (pg 20)
Other previously approved use rights (if any)	See attached extract (City Map Planning)
Road widening / new road schemes (if any)	None

In this regard, kindly note the following:

- The above zoning category and land use rights are subject to various development parameters and restrictions contained in the applicable zoning scheme regulations, a copy of which is available on request at your nearest district planning office.
- The extract information above primarily states land use rights as reflected in the relevant scheme regulations and doesn't necessarily include reference to all previous land use approvals, restrictions, exclusions or departures. As such, you are therefore required to check the subject property's title deed for any restrictions that might be more onerous and/or records of any other previous approvals, consents, exclusions or departures granted from the zoning scheme regulations.
- Use of the property in accordance with the above specified zoning category does not exempt the owner / occupier from compliance with any other legal or statutory requirement which may affect the property.
- This document has no status unless signed by the Director: Planning & Building Development Management or other person exercising specific sub-delegated powers.

Yours faithfully

For DIRECTOR: PLANNING AND BUILDING DEVELOPMENT MANAGEMENT

THIS CITY WORKS FOR YOU SITHIHO SISEBENZELA WENA HIERDIE STAD WERK VIR JOU

30897a51-Pw2-4a40-8b6d-357006cc83971.doc



A - Kenilworth

① - Remond Super - Type Remond

② - Church

③ - School

④ - Church



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

Making progress possible. Together.

Ressey Building
3 Victoria Road
Rumstead 7800
Private Bag X 5, Rumstead 7801
Ask for: Mr ME Cupido
Tel: 021-710 8092
Cell: 084 2200145
Fax: 021-710 9307

Ressey Building
3 Victoria Road
Rumstead 7800
Inombolo Yebhos: X 5, Rumstead 7801
Cell: Mnu ME Cupido
Umlweba: 021-710 8092
Cell: 084 2200145
Fax: 021-710 9307

Ressey Gebou
Victoriaweg 3
Rumstead 7800
Private Bag X 5, Rumstead 7801
Vra vir: Mnr ME Cupido
Tel: 021-710 8092
Sel: 084 2200145
Faks: 021-710 9307

CITY HEALTH - ENVIRONMENTAL HEALTH - SOUTHERN SUB DISTRICT

For detailed information contact:

Kurt.Rustin@capetown.gov.za

021 7621202/5

Wynberg EH Office, Wynberg Town Hall, Lower Maynard Rd, Wynberg

ID 106 APPROVAL LETTER AFTER APPEAL RESOLUTION

REF NO: 33/55/7/8/00 - WCP/007935/B

TYPE OF LIQUOR CONSUMPTION: OFF CONSUMPTION

PERSONAL SERVICE

DATE: 18/08/2014

**TONY DE JESUS COSTA
7 LICHFIELD, 3 FOYLE ROAD
CLAREMONT
7735**

Dear Sir

RE: APPLICATION FOR EXTENDED LIQUOR TRADING HOURS:

TOPS AT ROSMEAD

ERF 53794 67 ROSMEAD AVENUE KENILWORTH

I refer to your application dated **14/04/2014** regarding the abovementioned matter and wish to advise that your application to extend your liquor trading hours has been considered by the Appeals Committee and it was resolved:

UNANIMOUSLY RESOLVED that: (a). The appeal submitted by the appellant, Mr D M Hoogenhout of DH Management Services, BE UPHELD for the following reason: the approval and grant of an extension of hours would not have a potential impact on the surrounding environment. (b). The decision taken by Subcouncil 20 at the meeting held on 21 May 2014 to refuse the application for the extension of liquor trading hours on Erf 53794, Kenilworth on Sundays, BE REVOKED. (c) The application for the extension of liquor trading hours on Sundays from 11:00 to 18:00 on Erf 53794, Kenilworth, BE APPROVED.

This approval will expire on the same date as your liquor license, where after a new application for extended liquor trading hours for the year will need to be submitted to the City of Cape Town for consideration in terms of section 2 of the City of Cape Town Control of Undertakings that sell Liquor to the Public By-Law 2013.

Yours faithfully

18 AUG 2014
Head Environmental Health
Southern Sub District
For: Executive Director City Health

RECEIVED BY: Dramerwe DATE RECEIVED:

19/8/2014 SIGNATURE:

[Signature]

Danie Hoogenhout

From: Osborn Mahanjana <info@ara.co.za>
Sent: 15 July 2014 12:47 PM
To: Danie Hoogenhout
Subject: ARA July newsletter



INDUSTRY ASSOCIATION FOR RESPONSIBLE ALCOHOL USE

Click here to download pictures from this gallery

Download | Print | Email | Facebook | Twitter | YouTube

A message from Dr Osborn Mahanjana

Fighting Underage Drinking Remains Our Priority:

In the month of June, South Africa takes a moment to appreciate the youth and the challenges they face. Almost four decades since the historical June 16 Soweto Student Uprising, young people in this country fight a monster very different to the oppressive government of the time yet with the same potential to cripple their growth and development.

The hardships faced by young South Africans, such as poverty and unemployment, limited recreational outlets and peer pressure, are major contributors to what remains one the Industry Association for Responsible Alcohol Use's (ARA) greatest concern; Under Age Drinking.



The ARA believes that through understanding the conditions, within communities, that lead to the excessive consumption of alcohol, intervention can be tailored to address specific factors; thus having a pragmatic yet culturally sensitive approach to combating the misuse and abuse of alcohol beverages. This organisation continues to support innovative ways to identify societal challenges around alcohol so as to address them in the most effective way.

It is for this reason that the ARA has been deeply involved in the Western Cape farming community. The Perdeberg Winelands Project was launched in August of 2011 and based on its success; it was later expanded to include the Robertson farming community. The aim of the project is to provide a platform for community members to express their concerns and become a part of finding the solution. Group therapy has proven to be a successful tool and in the latest effort to keep it interesting and beneficial to participants, board games were introduced to improve literacy, encourage patience and develop other life skills.

Empowering the Elderly to Empower Their Young:

Elderly farm dwellers are often left to look after their grandchildren while their parents work. Group therapy has taken a new twist in the Robertson Project, where the older participants have been introduced to playing of board games, such as snakes and ladders. These sessions are facilitated by the project's dedicated social worker, Malinda Coetzee.

They equip these farm workers with the tools to deal with life's challenges and help them become more than just child-minders, but active participants in educating minors. These lessons that they learn from the program are then instilled in their grandchildren who look to them as role models.

Group therapy sessions also help empower the elderly to combat social challenges such as alcohol abuse; alcohol related family violence, the dangers of drinking while pregnant and encourages responsible parenting. An observation by the social worker has revealed that there is less substance abuse in the children who are raised by their grandparents.

Initiatives such as this are an effective and a unique way to reach out to children and educate them about responsible alcohol use and are made possible by the Industry Association for Responsible Alcohol Use (ARA) Associate Members through their contributions.

The ARA looks forward to working on more interventions of this kind with the unwavering support of all key stakeholders.

COPYRIGHT 2013 ARA. All rights reserved.

Web: www.ara.co.za
E-Mail: info@ara.co.za

RESOLUTION

**AT A MEETING OF THE MEMBERS OF GENETRIX INVESTMENTS CC,
REGISTRATION NUMBER : 2001/017167/23, HELD ON 13 OCTOBER 2014 IT WAS
RESOLVED THAT:**

The members hereby appoint Daniel Marais Hoogenhout t/a DH Management Services (Sole Proprietor) or Danelle van der Merwe or René Ras as my authorised agent to prepare and sign on my behalf and/or to appear before the City of Cape Town's Council and to do whatever is necessary to be done in connection with the undermentioned application, as well to withdraw it :

*Application in terms of Section 6 of the City of Cape Town : Control of Undertakings that Sell Liquor to the Public, 2013, for **Sunday Off-Consumption Trading**, in respect of a premises situated at Erf 53794, 67 Rosmead Avenue, Kenilworth, Cape Town, City of Cape Town, Sub Council 20, Ward 85, known as **Tops at Rosmead**, (WCP/034816).*

This resolution is irrevocable and will remain in power until the application is finalised and the competent authority has considered the application.



TONY DE JESUS COSTA
MEMBER



ARTHUR DE JESUS COSTA
MEMBER



JOSE CALDEIRA DA CAMARA
MEMBER



MANUEL DIAS BRANCO
MEMBER