

## **Legal action taken by YBRA against Gauteng Shebeen License Regulations, 2013**

The Yeoville Bellevue Ratepayers Association (YBRA) has initiated legal action against the Gauteng Department of Economic Development (GDED), the Gauteng Liquor Board (GLB), and the Department of Trade and Industry (DTI) in relation to the Gauteng Shebeen License Regulations, 2013.

In 2004, the GDED introduced a process of registering illegal shebeens in Gauteng. All existing shebeens, no matter where they were, were asked to register with the GDED and, if they did so within the prescribed time, they would receive a Shebeen Permit. This permit would entitle them, on a temporary basis, to sell liquor without fear of action from the Liquor Board or the SAPS. Those who did not register and receive a permit faced closure and legal action.

The permit was valid for 18 months. In the 18 month period, permit holders were encouraged to apply for one of the many liquor license options already available in terms of the Gauteng Liquor Act, 2003. These included a tavern license, a pub license, a restaurant license, a club license, a night club license. However, very few of the permit holders actually applied for these licenses. This may have been because of the complicated procedure, the cost of application, and the obligation to advertise the application in two newspapers, the Government Gazette and on the proposed premises. The advertising is required to allow the community to object to the applications, should they wish to do so.

The 18 months expired and so all Shebeen Permit holders would once again become illegal and at risk of being closed down. So, because they were now faced with the challenge of what to do about shebeens now that their original plan had failed the GDED decided to extend the validity of the permits while they tried to find a solution. This continued for 92 months.

In 2012, the GDED published draft Shebeen License Regulations and called for comment. The YBRA, the Yeoville Community Police Forum (YCPF) and the Yeoville Bellevue Community Development Trust (YBCDT) attended a hearing in Alexandra in northern Johannesburg in which shebeen owners and community members participated. The Yeoville Bellevue organisations also submitted written comments to the GDED.

The final Shebeen License Regulations were published in March 2013, implementation of which started almost immediately.

The essential objection to the Regulations by the Yeoville Bellevue organisations were:

1. The compliance requirements were vague and minimalist
2. The Regulations introduced the idea of an off-consumption shebeen, ie a bottle store shebeen
3. Most importantly, applicants did not have to advertise in the papers or the Government Gazette or on the premises. This meant that community members would not know about the applications and would not be afforded the opportunity to context the application. The argument given by the GDED and the GLB was that only Shebeen Permit holders could apply for a shebeen license and, as all Shebeen Permits were granted in 2004, people around such shebeens are 'aware of them', ie they are not 'new' applications, therefore there is no need for them to advertise.

Our argument is that communities have never been given an opportunity to formally object to the more than 15 000 shebeens in the province. When the shebeens started, the community was not given a chance to object. When the Shebeen Permits were issued, communities could not object.

Now, when a license is being applied for, they still can't object. It is not enough to say that the community is 'aware' that a shebeen is there, so there is no need for the application to be advertised. It's exactly because a shebeen has been there and because it might have been a problem in the community that people might want it not be there in the future and therefore would like the opportunity to say no to the application.

With the pro bono help of Werksmans attorneys, we embarked on legal action to stop the process and force the GDED, the GLB and the DTI to revisit the Regulations. The DTI is not contesting the case – they are watching what happens and will accept whatever the outcome of the case is. The GDED and the GLB have said they intend to fight the action. In the meantime, we have had a mini-victory as the licensing process has been stopped until the court action has run its course.

Some shebeen owners have heard about the case and have asked to be included as part of the respondents. This is because they are worried about the outcome of the case, thinking perhaps that they are going to have to advertise in future and run the risk of not getting a license if the community objects.

By agreement with the court, we are publishing all of the court documents on our website so that anyone in the public, shebeen owners and any other interested parties have open, free and easy access to the information

If you would like further information or would like to comment on this court action, please email to [ybra@yeoville.org.za](mailto:ybra@yeoville.org.za).