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Decision-Making Processes for Liquor Outlets in Primrose, Ekurhuleni

Otto Mbongeni Shabangu

20 May 2025

A research report submitted to the Faculty of Commerce, Law and Management, University of the Witwatersrand, in 50% fulfilment of the requirements for the degree of Master of Management (in the field of Governance and Management).

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DECLARATION

I, Otto Mbongeni Shabangu, bearing student number 2452719, am enrolled as a student pursuing a Master's in Management: Governance in the year 2025. I declare that this report is my own, unaided work. It is submitted in partial fulfilment of the requirements for the degree of Master's of Management in the field of Governance and Management at the University of Witwatersrand, Johannesburg. This report has not been submitted before for any degree or examination at any other university.



_____

Otto Mbongeni Shabangu
20 May 2025

DEDICATION

I humbly dedicate this final academic report, a culmination of my master's degree journey, which was interrupted by a lengthy period of health challenges and hospitalisation, to wonderful and loving family members, who stood by me throughout this journey.

To my late mother, Nomalungelo "Nee Ntusi" Shabangu, a big thank you for your teachings and the seed of dedicating one's life to becoming a better person, and to always striving to contribute to making someone else's life worthwhile. To my father, Mkhishekhaya Shabangu, you'll always be my number one. The sacrifices you made, working hard to ensure that you provide a home for your family and quality education for your children, are appreciated.

To my beloved wife, Sithembiso "Kgosigadi" Shabangu, I would not have made it this far without you. Thank you for sticking by me, even in the most trying moments of our lives, especially the lengthy spell marred by life-threatening health challenges. You're godsent, Ngiyabonga maMkholo. To my children, Fisokuhle, Phumelele, Mhlanganisi, Kwandokuhle, and Okuhle (grandson), thank you for your support and cheering me throughout this journey.

Finally, to every person who played a role in my upbringing, education, career, spirituality, and health (Dr Loots and team @ Alberton Netcare Hospital), I take my hat off to you. I am a living testimony that it takes a village to raise a child. Izandla Zidlul' ikhanda.

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ABSTRACT

This study examines the obligation of government departments and officials to implement government policies lawfully and to uphold the rule of law faithfully. The study is motivated by the Gauteng Liquor Board's decision-making processes that resulted in the issuing of licences in prohibited areas and the proliferation of outlets. The primary objective is to identify the factors that influence the Gauteng Liquor Board's decision-making process, resulting in the proliferation of outlets in Primrose, Ekurhuleni.

A qualitative research strategy was utilised to conduct the study. 20 participants, representing 3 Primrose community-based organisations, 3 senior officers from the Ekurhuleni Metropolitan Department, and 2 senior officials from the Gauteng Liquor Board were directly engaged to glean into the lived experiences of the residents of Primrose, in Ekurhuleni.

Research findings indicate that the Liquor Board lacks the capacity to effectively regulate and enforce compliance within the liquor industry, and that its decision-making processes, in the licensing of Primrose outlets, were inconsistent with the provisions of the Gauteng Liquor Act of 2003. Nonetheless, the trading in liquor within a residential area and the proximity of outlets to public amenities are lawful and permissible in properties that have multiple user or zoning rights, subject to compliance with the Ekurhuleni Metropolitan Municipality Spatial Land Use Management By-Laws (2019) and the City of Ekurhuleni's Spatial Planning and Land Use Scheme (2021).

These results suggest that the lack of accountability, ineffective performance, and consequence management resulted in decisions that are inconsistent with the Gauteng Liquor Act of 2003, contributing to the broader understanding of the government's Regulatory Authority.

ABBREVIATIONS/ ACRONYMS

BY-LAW	Ekurhuleni Metropolitan Municipal Spatial Planning and Land Use Management By-Law, 2019
CBD	Central Business District
CPF	Community Policing Forum/ Primrose Community Policing Forum
DCO	Designated Compliance Officer
DPO	Designated Police Officer
EMPD	Ekurhuleni Metro Police Department/ Metro Police
GDED	Gauteng Department of Economic Development
GDP	Gross Domestic Product
GLA	Gauteng Liquor Act, 2003
GLB	Gauteng Liquor Board/ Liquor Board
HOD	Head of Department
INSPECTOR	Gauteng Liquor Inspector
LA	Liquor Act, 1928
MEC	Member of the Executive Responsible for Economic Development in Gauteng Province
MINISTER	National Minister of the Department of Trade, Industry & Competition

MUNICIPALITY	City of Ekurhuleni/ Ekurhuleni Metropolitan Municipality
NLA	National Liquor Act, 1989
NLAUTH	National Liquor Authority
PAIA	Promotion of Access to Information Act, 2000
PAJA	Promotion of Administrative Justice Act, 2000
PPE	Personal Protective Equipment
PRA	Primrose Ratepayers Association
PRIMROSE SAPS	Primrose Police Station
SANDF	South African National Defence Force
SAPS	South African Police Service
SCHEME	City of Ekurhuleni Land Use Managa=ement Scheme, 2021
SPLUMA	Spatial Planning and Land Use Management Act, 2016
TRIBUNAL	Ekurhuleni Municipal Planning Tribunal
USA	United States of America

Chapter 1
Research Conceptualisation

1.1 Introduction

This study examines the obligation of government departments and officials to implement government policies lawfully and to uphold the rule of law faithfully. It focuses on the liquor licensing decision-making processes of the Gauteng Liquor Board (Liquor Board), and seeks to determine the factors influencing these processes, which result in the issuance of liquor licences that conflicts with the provisions of the Gauteng Liquor Act of 2003 (GLA) and the Spatial Planning and Land Use Management Scheme of 2016 (SPLUMA), while failing to balance the interests of all residents in the Primrose Central Business District (Primrose), in Ekurhuleni.

The Liquor Board is a regulatory authority that is established in terms of section 2 of the Gauteng Liquor Act 2 of 2003 (the GLA), "*To provide for the control of the retail sale and supply of liquor within the Gauteng Province; to establish the Gauteng Liquor Board, local committees and a Liquor Trade Association; to regulate applications for licences and to provide for public notification and participation, to regulate the granting of licences in respect of different kinds of licences; to prohibit the sale of liquor to certain categories of people; to provide for general matters such as enforcement procedures; and to provide for matters connected therewith*".

The decision to approve or decline liquor licence applications is influenced by economic and political factors, and it directly impacts the lives of the prospective licence holders and the surrounding community (Crowley, 2017). The economic factors include the ease of doing business, retail prices, and increasing competition and consumer choice; while the political factors include revenue generation, sustainability of businesses and employment, and the public interest.

The Primrose Residents Association (PRA) and Primrose Community Policing Forum (PCPF) have ferociously criticised the Liquor Board's decision to grant 55 liquor licences in their residential areas, and in proximity to places of learning, places of worship, public amenities, and the resultant proliferation of liquor outlets along the Rietfontein Road in Primrose. Their

criticism was echoed by the Ekurhuleni Metro Police Department (EMPD) and Primrose precinct of the South African Police Service (Primrose SAPS), who ascribed the local crime situation to the unintended consequences of the liquor outlets' operations, which is attributed to the Liquor Board's perceived failure to adhere to its enabling legislation and enforcement of other relevant legislation.

A qualitative research strategy was employed to engage and obtain factual information on lived experiences from the Primrose residents, the businesses, and the community policing forum. Further, an analysis of the Constitution of the Republic of South Africa Act 108 of 1996 (Constitution) as amended, GLA and SPLUMA, community complaints, and media reports was conducted to identify trends of challenges confronting the community and to obtain an in-depth understanding and perspective of the magnitude, and the impact of the Liquor Board's licensing decision-making processes. In addition, separate engagements were held with the officials from the Liquor Board and the City of Ekurhuleni Metropolitan Municipality, Town Planning and the EMPD, to understand the intricacies of the mandate, functions, and enforcement of the applicable legislation and the municipal by-laws in Primrose.

The study found glaring discrepancies and inconsistencies in the application and enforcement of the law, the impact of competing mandates and interests of government entities, the susceptibility of the discretionary powers granted to government entities and officials, inadequate definition and promotion of public interests, and outdated legislation.

1.2 Background and Problem Definition

The high densification or proliferation of liquor outlets, their location in prohibited areas, ineffective regulation, poor enforcement, and the resultant unintended consequences of the liquor trade undermined the rule of law and impacted the quality of life for Primrose residents, particularly the rights that are enshrined in the Constitution. The Constitution makes provision for a Bill of Rights, which is the cornerstone of South Africa's democracy and affirms the rights of all citizens to dignity, equality, and enjoyment of all freedoms (section 7). The government and its public servants are obligated to promote and protect the rights of all citizens unless limited by legislation, and in terms of section 36 of the Constitution.

The residents of Primrose have the right to equal protection and benefit of the law including the full and equal enjoyment of all rights and freedoms (section 9), the right to inherent dignity

and have their dignity respected and protected (section10), the right to be free from all forms of violence and not be treated in an unhuman or degrading manner (section 12), the right to freedom of movement (section 21), the right to an environment that is not harmful to their health or wellbeing and the government have a corresponding obligation to protect the environment for the benefit of present and future generations (section 24), the right to access information that is held by the state or another person which is required to protect the rights of any citizen (section 32), and the right to administrative action that is lawful, reasonable and procedurally fair (section 33).

Furthermore, the Liquor Board's decision-making processes impact the right of the Primrose children to be protected from maltreatment, abuse, or degradation (section 28), and the right to basic education and further education (section 29). Finally, the government and its entities are always reminded that the rights of the child are of paramount importance in all matters that may affect children, section 28(2) of the Constitution. According to the World Health Organisation's Global Status Report on Alcohol and Health (2018), the consumption of alcohol is an integral part of most social, cultural, and other societal activities globally. Further, alcohol is consumed worldwide and is primarily associated with acceptable societal practices and traditions, which causes society to overlook its adverse impact on health and the social fibre of the communities (Flor and Gakidou. 2020). South Africa, like most African countries, is known for hosting events like braai vleis and customary rituals where the consumption of alcohol, including unregulated traditional beer, is a norm or acceptable practice. This is regardless of the impact of its harmful use, the violence and public disorder, and the country's health systems and finances.

Barr (2024) indicated that the liquor industry contributes immensely to South Africa's economy, provision of employment, and society in general. In addition, the Drinks Federation of South Africa (2024) reported that South Africa's liquor industry contributed R226. 3bn or 3.6% of the country's Gross Domestic Product (GDP) in 2022. Furthermore, 498,999 sustainable jobs, with a household income amounting to R2.5 bn, positively influenced the lives of 1.15 million individuals, while contributing R96,9 bn (6.7%) towards the country's total tax revenue.

This positive effect referred to above, and others, has resulted in a reluctance to strengthen the regulatory policy framework, which has become evident in what could be regarded as a pro-industry policy framework and inadequate policing of the liquor industry by various

governments. This is evidenced by the findings of studies conducted in the United States of America (USA), England, and Sub-Saharan Africa, regarding challenges associated with the densification and proliferation of liquor outlets, accessibility and availability of liquor (my emphasis), binge drinking and abuse of liquor, sale and consumption of liquor by minors, crime and related social harms of liquor trade. The following paragraphs illustrate the global trends and the extent of harm associated with the densification and proliferation of liquor outlets, as well as the ease of access and availability of liquor in society.

Liquor outlet densification or proliferation can be defined as the number of outlets that are located within proximity of each other and result in easy access and availability of liquor (Trangestein *et al*, 2020). Further, the high level of availability of liquor often results in the introduction of discounted prices by the retailers, in an attempt to attract huge crowds of patrons and ultimately causes abnormal and risky drinking patterns and unbecoming behaviour.

Firstly, a study conducted in Australia found that the densification of liquor outlets resulted in high consumption of liquor and risky behaviour by secondary students, between the ages of 12 and 17 years or grades 7 to 9, in urban communities. Clubs, hotels, and taverns were hugely associated with liquor consumption and risky behaviour by Australian adolescents. Finally, the study found that the consumption of liquor by Australian adolescents was found to be a more common trend than in the United States of America (Azar *et al*, 2015). Secondly, in New Brunswick (Canada), it was established that permitting grocery stores to sell liquor and the densification of liquor outlets would result in a notable increase in outlets located within 499 metres of each other and schools, while increasing the number of liquor outlets in residential areas by 97%. On the other hand, the increased access and availability of liquor were identified as a public health concern, and the youth were vulnerable because of the densification, liquor-related marketing strategies, and general societal acceptance of liquor consumption by the youth.

Finally, off-consumption liquor outlets were linked to the sale, supply, and consumption of liquor by minors because of poor access control and failure to limit the quantity of liquor sold to and consumed by the community (Slaunwhite et al, 2017). Thirdly, academics in Thailand found that the failure to determine the location of liquor outlets resulted in densification, which exacerbated the access and availability of liquor in society. Singh *et al.* (2018) noted that China's most populated residential area recorded the highest outlet densification at 0.9 to 10.9 per 100-meter radius, with 33% of those outlets operating for 24 hours. In Australia, the Night

Time Economy- referring to areas dominated by liquor outlets- is associated with violence and disorder, with some attacks resulting in death or serious injury to victims (Sisson, Maginn, 2018).

This hampered the effectiveness of the liquor control policy framework (Kaewpramkusol *et al*, 2018). Fourth, a 2020 study found that the United States of America had a high density and liquor availability in poorer and predominantly minority communities, with off-consumption outlets accounting for higher consumption, health risks, intimate partner violence, sexual assault, underage drinking, and related crimes (Lee *et al*, 2020). Consequently, Grace, Egan, and Lock (2016) opined that reducing liquor outlet densification is one of the solutions to resolving the impact of excessive consumption and abuse of liquor. Finally, it was recommended that the English regulatory authority should invoke the Cumulative Impact Policy, in terms of the Liquor Act of 2003.

Equivocally, the proliferation and densification of liquor outlets proved to have far-reaching implications for countries in Sub-Saharan Africa. Firstly, available evidence conclusively associated the increase in liquor consumption, risky behaviour, violence, and crime with densification and the proximity of liquor outlets to residential areas in Namibia. Further, the location of liquor outlets in proximity to schools, churches, public roads, and residential areas seemed to be a common trend, which immensely resulted in excessive liquor accessibility and consumption by the entire youth population (Hasheela *et al*, 2019). Ogochukwu, Odeigah, Patton and Trangestein (2023) indicated that the proliferation and proximity of liquor outlets to residential areas and public amenities significantly contribute to the high availability of liquor, binge drinking, high-risk behaviour, and crime. In Abeokuta, Nigeria, the shortest distance between liquor outlets was 28 meters, while the distance between liquor outlets and schools was 77 meters, respectively. The Nigerian situation was exacerbated by the observation, in 2023, that the country did not have regulations that restricted the physical location of outlets and the availability of liquor.

In South Africa, Nkosi (2024) opined that societal challenges and related harm increase where there is a high density of liquor outlets, licenced or unlicenced, with off-consumption outlets, with a substantial contribution from the bottle stores. Further, the prohibition to issue a liquor licence within a 500-meter radius of a place of learning, a place of worship, a public transport facility, and a similarly licensed outlet does not remedy the plight of minor children who are raised at residential liquor outlets and within proximity of liquor outlets. Nkosi argues that the

challenges and harms associated with liquor outlets and consumption are embedded in the upbringing and prospects of those children.

This concern was sharply raised by the residents of Primrose about instances where learners were found in possession, consuming liquor, and intoxicated at school, sports fields, and in a taxi to school. This gave credence to allegations that liquor outlets were selling liquor to minors or children in Primrose. In addition, Bowers, Davids, and London (2020) concluded that the increase in the number of outlets trading unlawfully and the densification of licensed liquor outlets increased the availability and consumption of liquor by pregnant women in the Northern and Western Cape Provinces of South Africa. Consequently, this increased the levels of Feutal Alcohol Syndrome, which ranged between 40.5 and 119.4 per 1000 pregnant women in Northern and Western Cape Provinces. In conclusion, Bowers, Davids & London. 2020; and Nkosi. 2024, conclude that resolving liquor outlet density is critical to reducing societal liquor-related challenges.

Primrose (the suburb) is the focal point of this study, and it is located just outside the Germiston CBD and covers 615 Hectares (Ha). The local South African Police Service reported that Primrose has approximately 55 licensed outlets, which are largely located within the residential areas and closer to public amenities. The Rietfontein Road, which is regarded as the spine of Primrose, stretches over a distance of 3.1 kilometres and is home to 31 (of the 55) licensed liquor outlets.

Haleem et al (2020) identified patrons as a "population at risk" of being involved in crime, as perpetrators, victims, or associates of someone who is directly experiencing crime because of their location or proximity to a liquor outlet. According to Lee, Ponicki, Mair, Gruenewald, and Ghanem (2020), the high density and proliferation of liquor outlets and the ready availability of alcohol result in increased alcohol consumption and poor public health. The Primrose Ratepayers Association (the PRA) has, in response to the number of licensed outlets that are trading locally, proliferation, and the challenges experienced by the community, accused the government, particularly the Liquor Board, EMPD and Primrose SAPS, of failing to act in the best interest of the community. The SAPS argued that there is a significant relationship between liquor outlets and crime, and regards liquor outlets and abuse as major crime generators locally.

The study is aimed at identifying the factors that influence the Gauteng Liquor Board's decision-making processes and systems for issuing liquor licences in Primrose. An international study found that the liquor industry had a permeate influence on the government's policy-making, decision-making, and enforcement. The influence is informed by two major principles, namely, the framing of the policy debate to suppress the agenda that is contrary to the industry's commercial interests, and building critical relations with key stakeholders to help manage potential threats to its commercial interests (McCambridge, Mialon, Hawkins, 2018). In South Africa, the promulgation of the Liquor Amendment Bill (2016), aimed at restricting the advertising of liquor products, revising the age limit, regulating the availability of liquor, and holding retailers and manufacturers accountable for harms caused by violations of regulations, was delayed by, amongst others, what society perceived as the lack of political direction or will to intentionally transform the liquor industry, the misalignment between the relevant national, provincial and municipal legislative framework, and a 2017 industry-funded socio-economic impact assessment. A further delay occurred when the industry adopted a 'carrot and stick' approach, involving litigation and funding for the government's intervention programme during the COVID-19 pandemic (Mitchell *et al.* 2025). In that context, Ferreira-Borges, Parry, and Babor (2017) indicated that governments in Africa have rarely enacted legislation aimed at reducing the availability of liquor, despite evidence suggesting an increase in the socio-economic impact of liquor.

The study does not seek to address the socio-economic impact and argue against the issuing of liquor licences and operations of places of interest, albeit in compliance with legislation, especially the Constitution of the Republic of South Africa Act of 1996 (as amended), Gauteng Liquor Act of 2003 and Spatial Planning and Land Use Management Act of 2016. The proliferation and location of liquor outlets in proximity to public amenities and the unintended consequences of the liquor trade cast doubts on the credibility of the decision-making processes and systems of the Liquor Board in Primrose.

Furthermore, the challenges occasioned by liquor licensing and unintended consequences, and the relevance of the study, transcend the borders of Primrose and the Gauteng Province. Pre-1994, the South African liquor industry was regulated through a universal framework, the Liquor Act of 1928 (hereafter the 1928 Liquor Act), which was repealed by the Liquor Amendment Act of 1962 (herafter the 1962 Liquor Amendment Act) and subsequently the Liquor Act 27 of 1989 (hereafter the 1989 Liquor Act). This legislation empowered the

Minister of Trade and Industry to make regulations regarding liquor-related matters, prohibited certain activities, like the sale of liquor to minors or intoxicated persons, outlined penalties for non-compliance, and provided for the appointment of Designated Police Officers (hereafter the DOPs) to monitor and enforce the law. The regulation of the liquor industry was, during that era, marred by racially motivated application and enforcement of the law, illegal trade, the supply of counterfeit liquor products, inadequate capacity to police the industry in townships and rural areas, and public health concerns.

The advent of democracy and the establishment of the nine (9) provincial governments and Schedule 5, Part A of the Constitution, devolved the power to regulate micro-manufacturing and the retail sale of liquor to the provincial governments. Accordingly, each province operates under its liquor legislation, has a Liquor Board or Authority, which is responsible for processing, approving, and monitoring compliance at outlets. The broad objectives of the Liquor Boards or Authorities are to promote responsible liquor trade, promote public health and safety, combat alcohol abuse, and support economic development. A desktop study conducted highlighted the high rate of alcohol consumption or abuse, proliferation of outlets, particularly illegal outlets (Shebeens), inadequate law enforcement capacity, municipal spatial planning and land use conflicts, poor intergovernmental coordination, poor public participation, and inconsistent application of the regulations as common challenges across all provinces. See Table 1 below for a comparative analysis of the regulation of the liquor industry across the nine provinces.

Table 1: Comparative Analysis of the nine (9) provincial liquor regulatory frameworks/ legislations

Province	Legislation	Proximity to places of interest guidelines	Outlet Density Rule	Objections/ Public Participation
Eastern Cape	Easern Cape Liquor Act, 2018	Yes, on a case-by-case basis.	Yes	Yes (21 days)
Free State	Free State Liquor Act, 2010	500 meter radius (flexible)	Yes	Yes (21 days)
Gauteng	Gauteng Liquor Act, 2003	500 meter radius	Yes	Yes (21 days)

KwaZulu-Natal	KwaZulu-Natal Liquor Act, 2010	Yes, on a case-by-case basis	Yes	Yes, not specified
Limpopo	Limpopo Liquor Act, 2009	500 meter radius	Yes	Yes, not specified
Mpumalanga	Mpumalanga Liquor Act, 2006	Yes, on a case-by-case basis	Yes	Yes, not specified
Northern Cape	Northern Cape Liquor Act, 2008	Yes, on a case-by-case basis	Yes	Yes, not specified
North West	North West Liquor Act, 2016	Yes, on a case-by-case basis	Yes	Yes, not specified
Western Cape	Western Cape Liquor Act, 2008	Yes, on a case-by-base basis	Yes	Yes, not specified

The GLA empowers the Liquor Board to issue seventeen types of licences, a catering or occasional permit, and a shebeen permit. The shebeen permits were issued once to outlets that were trading in liquor pre-1994 and were regarded as unlawful. However, these permits were only issued in June 2005, and their lifespan has been extended to date. Of concern is the fact that no formal requirements were attached to the application process for shebeen permits, and compliance inspections were not a prerequisite to the issuing of these permits. Consequently, the shebeen permits were granted in non-adherence to sections 30(2) and (3) of the GLA.

Discouragingly, while section 30(3) prohibits the granting of licences within a 500-meter radius of, among others, a similarly licensed outlet to address concerns around proliferation; the reference to a 'similarly' licensed outlet suggests that the Liquor Board is not prohibited from granting any or all the remaining sixteen types of licences, within a 500-meter radius of an already existing outlet. Therefore, section 30(3) cannot be invoked and is counterproductive to the efforts aimed at curbing the proliferation of liquor outlets. As illustrated in Tables 2 and 7 (below), the fifty-five licences that were issued to outlets in Primrose represent eight (8) of the seventeen (17) types of licences that are normally granted by the Liquor Board.

Table 2: Percentage Distribution of Types of Licences in Primrose

No.	Type of Licence	Percentage
1	Club Liquor Licence (On-Consumption)	2%

2	Gaming Premises Liquor Licence (On-Consumption)	2%
3	Grocers' Wine Liquor Licence (Off-Consumption)	5.4%
4	Hotel Liquor Licence (On-Consumption)	4%
5	Liquor Store Liquor Licence (Off-Consumption)	35%
6	Pub Liquor Licence (On-Consumption)	18.2%
7	Restaurant Liquor Licence (On-Consumption)	25.5%
8	Tavern Liquor Licence (On-Consumption)	7.2%

This resulted in the granting of licences in residential areas being widely criticised and, in some instances, challenged in courts by the affected residents, religious formations, educational institutions, and various government law enforcement entities.

The PRA, the Primrose Community Policing Forum (PCPF), and individual members of the community lodged incident complaints and reported gross contraventions of the GLA and Ekurhuleni Metropolitan Municipality by-laws and regulations to the EMPD, the Liquor Board, and the South African Police Service, respectively. In addition, the PRA accused the Liquor Board of granting licences in non-adherence to section 30(3) of the GLA.

Table 3: Trends of complaints emanating from licensed liquor outlets. The complaints predate this study, as far back as 2015

Type of Complaint	Date of Report/ Publication	Source
Surge in liquor outlets and related crimes alarm Primrose residents	12 June 2024	The Citizen
Taverns located close to schools a challenge in Gauteng	4 July 2022	SABC News
Sale and supply of liquor to minors	22 October 2015, 18 December 2015 and 28 February 2022	Germiston City News
	17 February 2023 and 1 March 2023	PRA Newsletter

Sale and supply of liquor to visibly intoxicated persons, public disorder/ violence, and vagrant behaviour	9 July 2018 and 29 November 2021	The Citizen
	25 February 2023, 1 & 3 March 2023 and 3 April 2023	PRA Newsletter
Playing loud music and disturbing the peace	25 February 2023 and 1 & 3 March 2023	PRA Newsletter
Public drinking and drinking from vehicles parked in public spaces	30 December 2022, 17 & 22 February 2023 and 3 March 2023	PRA Newsletter
Sale and abuse of illegal substances	30 December 2022 and 1 & 2 March 2023	PRA Newsletter
Littering and illegal dumping	17 February 2023 and 2 March 2023	PRA Newsletter
Trading beyond prescribed hours	17 & 25 February 2023, 3 March 2023	PRA Newsletter
Obstructing traffic, blocking residents' driveways/ entrances and contravening by-laws	25 February 2023, 1 March 2023 and 3 April 2023	PRA Newsletter
General non-adherence to licence conditions	24 March 2023	Germiston City News
Trading in liquor without a valid licence or permit	21 June 2022	Bedfordview and Edenvale News
	23 May 2017, 6 September 2019, 22 October 2019, 23 January 2020, 1 February 2020 and 14 November 2020	Germiston City News

On the other hand, the PRA reported numerous criminal activities that allegedly occurred inside and close to liquor outlets, including random gunshots, the spinning of vehicles, and the sale of drugs. In response to the adverse impact of liquor outlets, the affected communities resort to public protests and litigation in desperate efforts aimed at compelling the Liquor Board to

adhere to the GLA by consulting the residents and protecting their interests before approving applications for liquor licences.

Section 30(2) of the GLA places an obligation on the Liquor Board to grant liquor licences where it is in the public interest. According to IFAC (2012), public interest can be defined as any decision, process, action, or policy that is done to benefit or promote the interest of society. Government entities are required to consider the implications of their internal processes, including their policy framework, decision-making, and actions on the surrounding communities. Further, section 30(3) of the GLA prohibits the Liquor Board from granting licences in outlets that are located within a 500 radius of a place of worship, education, similarly licensed outlet, and public transport hubs. However, the situation in Primrose highlighted cases where the Liquor Board granted liquor licences in prohibited areas and against the public interest and inadvertently failed to comply with the provisions of its enabling legislation.

In conclusion, the study focuses on the Gauteng Liquor Board's liquor licensing processes and investigates the legal obligation of government departments and officials to be loyal to the Constitution of the Republic of South Africa Act of 1996 and implement legislation lawfully. It highlights how decisions to issue licences in Primrose (Ekurhuleni) often conflict with the Bill of Rights, the Gauteng Liquor Act of 2003, and the Spatial Planning and Land Use Management Act of 2016. Despite these and other applicable legal frameworks, 55 licences were issued near community and public spaces, prompting criticism from residents and other interest groups, due to the proliferation of outlets, the ready availability of liquor, increased crime, and social disruption. The liquor industry used its contribution towards economic growth and job creation to influence government policy and weaken regulation

The research used qualitative methods, engaged the community, analysed legislation and media, and interviewed officials. It found inconsistencies in law enforcement, clashes between government mandates, and poor promotion of public interest, indicating the need for clearer, updated regulations and more accountable governance.

1.3 Problem Statement

The deplorable state of Primrose, caused by the proliferation of liquor outlets and their proximity to public amenities, resulted in residents and businesses pondering over the legitimacy of local liquor outlets and the Liquor Board‘s decision-making processes, which

conflict with the provisions of sections 30(2) and (3). On the other hand, drug dealing, random shootings, public disorder and violence, illegal dumping, as well as the blatant, complete disregard for the rule of law, at and near the liquor outlets, have become a daily occurrence and have compromised the quality of life for the residents. The liquor industry is one of the major role players in building the economy, generating revenue, and employment. However, the problems that are highlighted above contribute to societal ills plaguing Primrose and undermine the benefits associated with the liquor industry.

For the past nine years, the residents of Primrose have been subjected to perpetual vagrant behaviour, lawlessness, and poor quality of life because of the proliferation of liquor outlets and patrons who completely disregard the rule of law and the rights of the residents. The issuing of 55 licences was done without consultation and in locations that were prohibited by the law, and remains the source of a long-drawn dispute between the residents and the government. The demand for the EMPD and SAPS intervention, and revocation of the licences by the Liquor Board yielded no results, and there doesn't seem to be an end in sight to the challenges experienced by the community, because the Liquor Board continues to issue new liquor licences regardless of the rule of law and extent of non-adherence to the licence condition by the outlets and patrons, in Primrose.

These unintended consequences of issuing liquor licences negatively affect human rights, reduce the quality of life for residents, limit potential economic benefits, and undermine the government's mandate to govern effectively for the benefit of all. Finally, the government's efforts to improve regulation, uphold the rule of law, and assert the authority of the state are severely hampered by widespread alcohol abuse, high liquor outlet density and the illegal liquor trade, poor spatial planning and land use management, inadequate public participation, weak intergovernmental coordination, limited enforcement capacity, and inconsistent regulatory application.

Therefore, this research seeks to establish whether the challenges that are experienced by the residents of Primrose are occasioned by gaps within the legislative framework and governance systems, the regulatory and law enforcement authorities, and/ or the public servants who are entrusted with the delivery of much-needed services to the residents of Primrose.

1.4 Purpose Statement

To accentuate the factors that influence the Liquor Board's decision-making processes and systems, which result in the granting of the licences in non-adherence to the Gauteng Liquor Act 2 of 2003 and the Spatial Planning and Land Use Management Scheme of 2016, in the Primrose Central Business District (Primrose).

1.5 Research Question

1.5.1 Primary Question

1. What are the factors that influence the Gauteng Liquor Board's decision-making processes and contribute to the proliferation of outlets in Primrose, Ekurhuleni?

1.5.2 Sub-Questions

1. How does the current legislative and policy framework support the effective regulation of liquor outlets by the Gauteng Liquor Board and the Ekurhuleni Metropolitan Municipality in the Primrose CBD?
2. To what extent has the Gauteng Liquor Board, under the Intergovernmental Relations Framework Act, established legislative mechanisms to harmonise collaboration with the Ekurhuleni Metropolitan Municipality in regulating liquor outlets?
3. What governance systems should be implemented to improve transparency, accountability, and adherence to the legislative and policy framework in the Gauteng Liquor Board's decision-making processes?

1.5.3 Research Objective

The objectives of the research are to:

1.5.3.1 Identify and examine the factors that influence the Gauteng Liquor Board's decision-making processes and contribute to the proliferation of liquor outlets in Primrose, Ekurhuleni.

1.5.3.2 Examine how the current legislative and policy framework supports the effective regulation of liquor outlets by the Gauteng Liquor Board and the Ekurhuleni Metropolitan Municipality in the Primrose CBD.

1.5.3.3 Examine the extent the Gauteng Liquor Board has established legislative mechanisms to harmonise collaboration with the Ekurhuleni Metropolitan Municipality in regulating liquor outlets.

1.5.3.4 Examine the extent and effectiveness of public participation within the licensing process to contribute towards an inclusive, fair, transparent, lawful, and credible licensing process.

1.5.3.5 Recommend governance systems to improve transparency, accountability, and adherence to the legislative and policy framework in the Gauteng Liquor Board's decision-making processes.

1.5.4 Structure of the research report

Chapter 1 provides the introduction and background to the study, which includes the context and purpose of the study, the research problem, questions, and objectives, with a keen interest in the Gauteng Liquor Board's decision-making processes and systems, which impact the lives of the residents of Primrose in Ekurhuleni.

Chapter 2 focuses on the history of the South African liquor industry, the applicable legislative and policy framework, and the establishment, mandate, and powers of the Gauteng Liquor Board in regulating the provincial liquor industry. In addition, the chapter provides a global context on the liquor industry and regulatory framework.

Chapter 3 presents the research strategy, the qualitative research methodology, and the data collection instruments (i.e. semi-structured interview questions, focus group discussions, and document analysis) and engagements with the various interest groups representing the population of Primrose. Further, the chapter discusses the data saturation, the data analysis tool used, ethical concerns, credibility, and validity of the study.

Chapter 4 provides the conceptual framework and in-depth discussion on the primary concepts of decision-making in public institutions, the regulatory authority, and the promotion of public

interests, in the researcher's effort aimed at establishing the factors that influence the Gauteng Liquor Board's decision-making processes and systems.

Chapter 5 presents the body of the research study and the presentation of the issues that emerged during the engagements with the residents' representatives and government officials who are tasked with the regulation of the liquor industry and enforcement of the law.

Chapter 6 presents an in-depth discussion of the research findings and an overview of the overall outcomes of the research, contextualising them in line with the literature review..

Chapter 7 provides the conclusion and a concise summary of the findings and recommendations from the study.

1.5.5 Chapter Summary

This chapter discussed the introduction, background, and objective of the study, which was to Examine the factors that influence the Gauteng Liquor Board's decision-making processes and contribute to the proliferation of liquor outlets, with a focus on the densification and the proximity of liquor outlets to public amenities, and their impact on the lives of the residents of Primrose, in Ekurhuleni.

Further, the chapter discussed the rationale for the study and highlights the research question/s that informed the context thereof. The chapter concluded by providing an overview and organisation of this report.

Chapter 2 discusses the history of the South African liquor industry, with more focus on the establishment, mandate, and powers of the Gauteng Liquor Board. In addition, the chapter provides a global context on the liquor industry and regulatory framework.

Chapter 2
History of the South African Liquor Industry and Global Context

2.1 Introduction

Barlow, Gleeson, O'Brien and Labonte (2022) indicated that fast-tracking progress to the implementation of efficacious liquor regulatory policies is critical to achieve the World Health Organisation's global strategy to the reduction of harmful use of alcohol, and the Sustainable Development Goals. Indispensably, decisive and effective compliance and enforcement are essential to maintain law and order, and reduce the impact of alcohol abuse and related harms (Brown, 2020).

This chapter discusses the historical background of the South African liquor industry, as well as the legislative and policy framework that established the National Liquor Authority, the Gauteng Liquor Board, and granted all citizens the equal opportunity to participate in the liquor industry. Furthermore, the chapter discusses the establishment, mandate, and powers of the Gauteng Liquor Board, and highlights the applicable provisions that seek to address the research questions, especially on how the current framework supports the effective regulations of the provincial liquor industry, and the establishment of mechanisms aimed at harmonising collaborative efforts with the municipality, in regulating the liquor industry in Primrose.

In addition, the chapter will conclude by illustrating how other jurisdictions, the United Kingdom (UK), and New South Wales have handled the concept of liquor regulation and authorities.

2.2 Historical Background of the Liquor Industry

The South African liquor industry was regulated in terms of the Liquor Act of 1928 (the LA). The LA only permitted white South Africans to participate in the liquor industry and gain access to licensed outlets. This resulted in the exclusion of all other races and gave birth to widespread illegal trading, and resulted in the proliferation of illegal outlets in the townships. Consequently, this undermined the government's efforts to eradicate illegal liquor trade and consumption. Black and coloured citizens were only granted access and allowed to drink liquor

in municipal beer halls. Later in 1962, the government passed the Liquor Amendment Bill, which allowed Africans to buy liquor without harassment or arrest from the police. The LA was subsequently repealed in 1978 and replaced by the National Liquor Act 27 of 1989 (the NLA), which made provision for the government to control the sale of liquor throughout South Africa, the exemption of certain persons and entities and the declaration of certain liquor products as beer and methylated spirit. This application of the NLA was not extended to the former Republics of Transkei, Bophuthatswana, Venda and Ciskei, as well as in the former independent bantustans of Gazankulu, KaNgwane, KwaNdebele, KwaZulu, Lebowa and Qwaqwa, until the promulgation of the Liquor Amendment Act, 1995.

These pieces of legislation regulated the liquor industry during the period of racial segregation, which saw black and coloured citizens being systematically excluded from participating in the liquor industry. This forced black citizens, who were mainly residing in townships, to operate illegal shebeens to manufacture, sell, and enjoy liquor, in the company of friends and relatives. Shebeens remained illegal and operated underground until the promulgation of the GLA, which repealed the NLA. The GLA defines a "shebeen" as an unlicenced liquor outlet whose primary business is to sell less than 60 cases of 750ml of beer per week.

2.3 National Liquor Act 59 of 2003

The National Liquor Act empowers the Minister of Trade, Industry, and Competition (Minister) to "*regulate the manufacture and distribution of liquor, through the promulgation of the national norms and standards to maintain economic unity within the liquor industry; to provide for essential national standards and minimum standards required for the rendering of services; to provide for measures to promote co-operative government in the area of liquor regulation; and to provide for matters connected therewith*".

Furthermore, the Minister chairs the National Liquor Policy Council (Council), established in terms of section 37, which is responsible for crafting of the national policy framework that is aimed at, amongst others, the regulation of methylated spirits, the prohibition of impotable substance, prohibitions regarding employment within liquor industry, the prohibition of supply of liquor or methylated spirits to minors and setting the acceptable standards for liquor advertising restrictions. Section 38 makes provision for participation or representation of each province by a designated official or the Member of the Executive Council (MEC) responsible

for liquor licensing in that province. The Council serves as the intergovernmental co-operation forum as contemplated in section 41 (1) *(h)* of the Constitution.

The National Liquor Act applies to all outlets that are duly authorised and/ or issued with registration for the manufacturing and distribution of liquor or methylated spirits and impotable substances in South Africa. Section 2 of Schedule 1 to the National Liquor Act empowered the Premier or MEC responsible for the regulation of liquor in each province to, in consultation or concurrence with the Minister, promulgate legislation that concerns the micro-manufacture, retail sale or consumption of liquor or methylated spirits within their province.

The National Liquor Authority, which is an entity of the Department of Trade, Industry and Competition, is responsible for the implementation and enforcement of the National Liquor Act.

2.4 Gauteng Liquor Act 2 of 2003

2.4.1 Mandate of the Gauteng Liquor Board

The Constitutional Court, in *Ex Parte The President of the Republic of South Africa In Re: Constitutionality of the Liquor Bill*, issued a judgment declaring that provincial liquor authorities have exclusive competence to regulate liquor licences. The judgment reaffirmed the provisions of the Schedule of the Constitution of the Republic of South Africa Act 106 of 1996 (the Constitution), which defined liquor licensing as a functional area of exclusive provincial competence.

The Liquor Board is established in terms of section 2 of the GLA and is a juristic person that can sue and be sued in its name. In addition, the Liquor Board has powers to, amongst others, receive and adjudicate over new licence applications; approve or decline licence applications; amend conditions of licences; suspend or revoke a licence; conduct hearings to test and verify allegations of non-adherence to licence conditions and issue penalties and sanctions against non-adhering licensed outlets.

The mandate of the Liquor Board is to regulate the retail sale and supply of liquor as well as monitor and enforce compliance with the provisions of the GLA, particularly licence conditions. Sections 23 and 24 of the GLA make provisions for new licence applications to

provide guidelines and ensure that new entrants comply with the law. This is done in recognition of the fact that most applicants for new licences are historically disadvantaged individuals, who are residing in townships and see the liquor trade as the only viable business model for the marginalised. On the other hand, section 25 makes provision for public participation by facilitating and encouraging interested community members or residents to lodge objections with the Liquor Board.

It could be argued that the crafters of the GLA expected the Liquor Board to exercise its powers responsibly, which sought to protect the public interest while promoting small businesses. According to IFAC (2012), public interest can be defined as any decision, process, action, or policy that is undertaken to benefit or promote the interest of everyone in society. Government entities are required to consider the implications of their internal processes, including their policy framework, decision-making, and actions on the surrounding communities.

The Gauteng Provincial Government resolved, in 2005 and through the Member of the Executive Council responsible for Economic Development, to grant liquor traders who were trading without valid licences shebeen permits. This was viewed as the government's commitment to bring shebeens within the ambit of the GLA. Shebeens are regarded as unlicensed places that sell liquor because they were excluded from lawfully participating in the liquor industry by the apartheid government. The provincial government introduced a special dispensation, which did not require the applicants to comply with the application procedures stipulated in sections 23 and 24 of the GLA. Worse still, they were not subjected to public participation and other critical provisions of the GLA, which also denied interested parties an opportunity to lodge their objections.

2.4.2 Establishment and powers of the Board

The Liquor Board is established in terms of section 2 of the GLA and is a juristic person that can sue and be sued in its name. The Board has powers to, amongst others, receive and adjudicate over new licence applications; approve or decline licence applications; amend conditions of licences; suspend or revoke a licence; conduct hearings to test and verify allegations of non-adherence to licence conditions and issue penalties and sanctions against non-adhering licensed outlets.

2.4.3 Establishment and powers of the Local Committees

The Liquor Board has five local committees, thath are established in terms of section 19 of the GLA. The local committees are located in each Metropolitan and District municipality of Gauteng, namely the City of Ekurhuleni, City of Johannesburg, City of Tshwane, Mogale City, and Sedibeng Municipality. The local committees have powers to, amongst others, adjudicate over new licence applications and make recommendations to the Board; adjudicate and make a final determination on objections lodged against licence applications; adjudicate applications for event permits and approve or decline applications for event permits.

2.4.4 Requirements and procedure for applying for liquor licences

Section 23 of the GLA compels all applicants for liquor licences to publish his/ her intention to apply for liquor licence in the provincial gazette and two newspapers that are distributed in the locality where the outlet will be operating; notify the residents by placing a notice at the proposed outlet as well as submit unequivocal approval from the local municipality; a detailed sketch plan with the physical address and written description of the outlet; a written motivation; South African Revenue Service compliance/ clearance certificate and South African Police Service clearance certificate.

2.4.5 Public participation in the licensing process

Section 25 of the GLA makes provision for anyone who would be affected by the approval and granting of a liquor licence to object to the application. The objection must be filed with the regional office of the Liquor Board and a copy filed with the applicant within twenty-one (21) days from the date of lodgment of the application. On the other hand, sections 26 and 27 of the GLA make provision for the filing of responses to the objection and processing of the objection by the Liquor Board, respectively. However, the decision of the local committee on the objection is not binding on the main adjudication Board.

2.4.6 Consideration of Licences by the Board

The Board has the discretion to approve or decline an application for a liquor licence, as well as the power to attach trading conditions that are necessary to ensure compliance with the rule

of law. Pursuant to the promotion and/ or protection of public interest, Section 30(2)(c) obliges the Liquor Board to grant licences where it is in the public interest; while section 30(3) prohibits the granting of licences to premises that are located within a 500-meter radius of a place of worship, education, similar outlet and transport hubs. Furthermore, section 37(1)(a) prohibits the granting a liquor licence to someone who has, in the preceding 10 years, been convicted and sentenced to imprisonment for any offence without an option of a fine unless the Board holds an opinion that the offence does not make that person unsuitable to hold a liquor licence, while section 37(1(b) prohibits the granting of a liquor licence to someone who has, in the preceding 5 years, convicted of an offence in terms of the GLA or National Liquor Act and sentenced to a fine or both imprisonment and fine, and has paid an admission of guilt fine not less than R200 unless the fine was reviewed and set aside by a court or such person has received amnesty or free pardon.

2.4.7 General compliance with the rule of law

A liquor licence that is duly issued by the Liquor Board grants the licensee rights and privileges and subjects him or her to obligations and responsibilities that may be prescribed in terms of the GLA, section 29(1). Furthermore, section 41(5) compels all outlets to comply with all laws, municipal by-laws, and regulations, as well as the country's health and tobacco laws. There are no municipal by-laws and regulations that make provision for shebeens to be accorded zoning rights or consent use that will enable them to trade. This creates a challenge for law enforcement entities to monitor and enforce compliance with all applicable laws and municipal regulations. A majority of public complaints that are lodged with the Liquor Board emanate from operations of shebeens who are not required to comply with the provisions of the GLA, other than 10h00 (a.m.) to 02h00 (a.m.) trading hours. Wilson (2008) stipulates that the priority of the government is to protect its citizens. Therefore, all operators of outlets must recognise that trading is a privilege and not an inalienable right.

2.4.8 Offences or Prohibitions

The sale and supply of liquor to minors and visibly intoxicated persons are prohibited in terms of sections 46 and 47 of the GLA, respectively. In addition, the GLA prohibits the sale and supply of illegal or counterfeit liquor products (section 50), sale and supply of liquor witout a valid liquor licence or permit, to be intoxicated, violent or disorderly in a public space, consume liquor in a pubic space or parking, or street, and posses and consume liquor in a sports ground

where te public has access, supply liquor to any person in his or her employ as wages, and impersonation (section 127), knowingly submit false or misleading information (section 128), fail to appear before, remain in attendance and give evidence before the Board (section 129), falsely impersonate an inspector or police officer, fail or refuse to comply with a lawful instruction, faile of refuse to comply with a notice of the Board, hinder or obstruct an inspector ot police officer, fail or refuse to grant an inspector or police officer access to a licensed outlet (section 130), enter into or negotiate an agreement about an activity that is prohibited (section 131), and fail or refuse to comply with a condition of a liquor licence (section 132).

The challenges that are listed in Table 3 (above) and non -adherence to the provisions of the GLA are compounded by twenty-one (21) illegal liquor outlets and shebeens that are allegedly playing loud music until the wee hours of the morning and promoting lawlessness in the surrounding Delport, Makause, and Marathon informal settlements. These outlets are trading without a valid liquor licence (or permit) and in contravention of Section 127(a) of the GLA.

2.4.9 Monitoring and enforcing compliance by licensees

The MEC has the powers to establish a Liquor Trade Inspectorate and appoint public servants as inspectors, in terms of section 108(1), (2) and (3) of the GLA. The inspectors have extensive powers that enable them to monitor and enforce compliance at all licensed outlets within the province. The powers of inspectors include, amongst others, investigating complaints (section 105), inspecting premises (109), entering premises with and without a warrant (110 & 111), using force (section 112), issuing a compliance notice (116), closing outlets (117), and seizing items (section 121). However, the inspectors are not appointed as peace officers, in terms of section 334 of the Criminal Procedure Act 51 of 1973, and cannot effect arrest, issue fines, and meaningfully monitor compliance as well as enforce the powers conferred by the GLA.

Deliberately, and to leverage the powers and resources of government law enforcement agencies, section 113 of GLA makes provision for members of the SAPS, Metro or Municipal Police, and the South African Defence Force to accompany and provide support to the Liquor Board inspectors when conducting monitoring and compliance with the licence conditions. On the other hand, sections 130(a),(b), and (c) make it an offence for any person to impersonate, hinder or obstruct, and fail to comply with a lawful instruction of an inspector or police officer. Finally, section 120 obligates the SAPS to furnish the Liquor Board with a report on any

conviction and the circumstances of the offence, in terms of the GLA or any South African law.

2.5 Global Context on the Industry and Regulatory Framework

2.5.1 Introduction

South Africa's approach and regulation of the liquor industry shares several similarities with global trends, although it has its unique challenges and emphases. The similarities include the reduction of alcohol-related harm, taxation and proposals on restricting alcohol advertising, protection of vulnerable groups, decentralising licensing, combating illicit trade, and restricting trading hours. However, the government's efforts to fortify and enhance regulation through the revision of the regulations and enforcement are challenged by the liquor industry.

The liquor industry's strategy to challenge regulation and enforcement is pursued through threats of litigation, positioning itself as a strategic partner in programmes aimed at the reduction of alcohol-related harms. O'Brien, Dwyer, Gleeson, Cook, and Room (2023) found that the liquor industry is positioning itself as a critical stakeholder in policy-making, opposing a global approach towards the regulation of the environment, promoting responsible trade and consumption, promoting self-regulation, and committing to public-private partnership with the governments. The following paragraphs illustrate the global context of the regulatory prescripts of the United Kingdom and New South Wales.

2.5.2 United Kingdom Licensing Act, 2003

The objective of the United Kingdom Licensing Act of 2003 (hereafter the UK Licensing Act) is to regulate the sale and supply of liquor, the late-night entertainment and provide for the enforcement of the regulations.

2.5.2.1 Decentralisation of licensing authority and establishment of committees

The industry is regulated through the decentralisation of the licensing authority to district councils of England, Wales, the London Borough, the City of London, the Sub-Treasurer of the Inner Temple, the Under-Treasurer of the Middle Temple, and the Isles of Scilly. This

approach is similar to South Africa, where the regulation of the retail and supply of liquor was decentralised and devolved to the nine (9) provinces of Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West and Western Cape, as prescribed in Schedule 5 and Part of the Constitution. Furthermore, the GLA decentralised the licensing processes by establishing regional offices of the Liquor Board in the Ekurhuleni, Johannesburg, Sedibeng, Tshwane, and Westrand districts.

2.5.2.2 Function and Powers of Licensing Committees

Section 5 of the UK Licensing Act empowers each district licensing authority to determine its policy for licensing and publish it (sub-section 1), and adopt a three-year policy for regulating the local industry (sub-section 3). Section 6 of the Act empowers each district licensing authority to establish a licensing committee consisting of ten but more than fifteen members, but this does not apply to the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple. This is similar to the establishment of local committees of the Liquor Board, which are located at regional offices and established in terms of section of the GLA.

The licensing committees, like the Liquor Board's local committees, are delegated to adjudicate licence applications and determine whether to approve or decline the application. However, the Liquor Board local committees can only recommend that a licence application be approved or declined by the main Board. Further, the licensing committees must keep a register of all issued licences (section 8).

2.5.2.3 Offences or Prohibitions

Allowing disorder, selling and supplying liquor to an intoxicated person is an offence (sections 140 and 141). In addition, the UK Licensing Act makes it an offence for a third party to obtain alcohol for an intoxicated person, and for an intoxicated person to remain at licensed premises (sections 142 and 143). Sections 141 and 143 are similar to section 47 of the GLA. However, the GLA does not expressly prohibit third parties from obtaining liquor for an intoxicated person. Interestingly, section 144 makes it an offence for a licensed outlet, a licensee and/ or the manager of a licensed outlet to knowingly keep or allow a person to keep smuggled goods at the outlet. The GLA does not tacitly or expressly prohibit the keeping or storage of smuggled goods, but compels licensed outlets to comply with all laws in South Africa. This could be

interpreted to include the Criminal Procedure Act 51 of 1977, among laws that aimed at discouraging and eradicating crime in South Africa.

It is an offence to permit unaccompanied minorsat a liquor outlet, sell or supply liquor to a minor, allow someone to sell or supply liquor to a minor, purchase liquor on behalf of a minor, for a minor to consume liquor, deliver liquor to a minor, or send a child to obtain or purchase liquor at a licensed outlet (sections 145, 146, 147, 149, 150, 151, and 152). However, the UK Licensing Act permits the sale of liquor by a minor who is subject to supervision by an adult (section 153). The GLA's prohibitions are only restricted to the employment, sale and supply of liquor to minors (sections 45 and 46). However, family members and students studying towards catering are exempted from the prohibition or restriction imposed by section 45.

In addition, the Act prohibits the sale of liquor in moving vehicles and trains (sections 156 and 157). The GLA does not issue mobile licences, either for stationary or moving. The Liquor Board has always argued and decided against the approval and issuing of a mobile licence, because it would be almost impossible to monitor and enforce compliance, while shifting responsibility to the SAPS. On the other hand, trading in liquor without a valid liquor licence or permit is prohibited and an offence, in terms of both the GLA and the UK Licensing Act. Finally, the Act provides an appeal process against the decisions of a licensing authority, while decisions of the Liquor Board are only reviewable by the High Court.

2.5.2.4 Role of third parties in the licensing process

The Act provides for a rigorous public participation process by requiring an applicant for any type of licence to notify the local authority and the chief of police to allow them to object, if there are grounds to do so (section 104). This is in contrast to the GLA, which does not place an obligation on an applicant for a licence to notify the local authority and the police about their application or intention to apply for a liquor licence.

2.5.3 New South Wales Liquor Act 90 of 2007

The NSW Liquor Act is administered by the Independent Liquor & Gaming Authority (ILGA). The objective is this Act is to regulate and control the retail sale and consumption of liquor, in

a manner that is consistent with societal expectations and values, and promote the public interest and that of business development through a flexible and practical system.

2.5.3.1 The Functions and Powers of the ILGA

The ILGA is empowered to receive and process licence applications (section 40), investigate and respond to inquiries regarding licence applications (section 42), decide whether to approve or decline licence applications (section 45), voluntarily suspend a licence (section 46A), provide training for applicants and licensees (section58), issue a contravention notice (section 75), order or prohibit a prson from entering a licensed outlet (section 78), handle complaints (section 80), short and long-term closure of licensed outlet (sections 82, 83, 84 and 85), provide late hour trading declarion (sections 87 and 88), and prohibit the sale, supply, and promotion of undesirable liquor products (sections 100, 101 and 102). Section 7 prohibits the sale or trading of liquor without a valid liquor licence issued by the ILGA.

2.5.3.2 Trading Hours

The NSW Liquor Act sets the trading hours, on weekdays, from 05:00 to midnight, Sundays from 10h00 to 22h00 (section 12). In addition, section 12A provides for the extension of trading hours for live music shows, performance venues, and small bars. This extension or relaxation of trading is limited to outlets that are located in a special entertainment precinct and for incentivised events. However, where a Sunday falls on 24 or 31 December, the trading hours are from 10h00 to midnight. Conversely, the GLA sets different trading hours for on and off-consumption licensed outlets, and there is no different set of trading hours for public holidays. Daily on-consumption hours are 10h00 to 02h00, and 08h00 to 20h00 for off-consumption outlets, with an exception for Sundays being 09h30 to 15h30.

2.5.3.3 Offences or Prohibitions

The NSW Liquor Act prohibits the sale of liquor without a valid licence if prohibited (section 7), excessive consumption and sale or supply of liquor to an intoxicated person (sections 73 and 114J), the sale of stolen goods and possession, sale or use of drugs on licensed outlets (section 74), breach of peace emanating from a licensed outlet (section 86), taking or removal of liquor after trading hours (section 105), obtaing liquor by misrepresentation or false pretence

(section 112), sell or supply liquor to a minor and obligate a licensee to verify the age of a patron who looks younger than 18 years (secton 117 and 114HA), consumption of liquor by a minor (section 118), sale or supply of liquor by a minor (section 119), permit minors access to a licensed outlet (section 126). The prohibitions listed above are similar to those provided in the GLA and highlighted in sub-paragraphs 2.4.8 and 2.5.1.4 above.

However, sections 121, 122, and 127A create exceptions for minors who are accompanied by a responsible adult or parent, minors in hotels and entertainment venues and festivals.

In addition, section 56 requires the licensee or licensed outlet to keep an incident register (section 56), apply for a voluntary suspension of a licence and cessation of trade (sections 46A and 93), and for a patron to enter into an agreement, with the licensee, not to be admitted ot permitted into a licensed outlet (section 76). On the other hand, section 79B enables the members of the public to lodge a complaint against a licensed outlet, and the complaint is handled by the ILGA in terms of section 80.

2.5.3.4 Role of third parties in the licensing process

Section 75 provides for a police officer or marine authorities to issue a notice against the licensee or relevant person in charge of a licensed outlet. On the other hand, the GLA provides members of the Metro or Municipal Police Department, SANDF and SAPS the power to accompany Liquor Inspectors (section 113), and police officers to seize liquor and documents from a licensed outlet (section 121). In addition, the Liquor Board escalates and heavily relies upon the members of the Metro or Municipal Police and SAPS for the enforcement of compliance and policing of offences listed in sections 127 to 132 of the GLA.

2.5.4 Gaming and Liquor Administration Act 91 of 2007

The Gaming and Liquor Administration Act 91 of 2007 (Gaming and Liquor Administration Act) is administered by the Independent Liquor & Gaming Authority (ILGA). The objective is this Act is to promote and ensure the virtue of the public officials employed by the ILGA, ensure that the entity is accessible and responsive to the needs of society, and promote a fair and transparent decision-making process in compliance with the applicable gaming and liquor

regulations. In addition, this Act applies to members of the ILGA, the Commissioner, designated public servants, and consultants to the ILGA (section 14).

Section 16 prohibits current and former employees of the ILGA from holding a gaming or liquor licence, holding an office or membership of a governing body of a club, and soliciting employment from and being a close associate of a gaming or liquor licensee. On the other hand, all the officials of the ILGA are sworn to an affirmation or oath of secrecy not to directly or indirectly divulge any information to third parties without authorisation or consent from the Commissioner of Police (section 17). Section 20 provides for the appointment of inspectors of the ILGA, who are empowered to monitor and enforce compliance with the NSW Liquor Act of 2007.

Finally, any member of the ILGA, the Commissioner, designated public servants, and consultants to the ILGA who are accused or suspected of contravening the provisions of the Gaming and Liquor Administration Act are subject to an investigation; if found guilty, they may face a sanction in terms of this Act.

2.6 Chapter Summary

This chapter discussed the history of the South African liquor industry, with a focus on pre- and post-1994 legislative and policy framework. Furthermore, the chapter briefly discussed the National Liquor Act 59 of 2003, the establishment of the National Liquor Policy Council, and its mandate to drive policy development that is aimed at adopting universal norms and standards for all stakeholders of the South African liquor industry, and the eradication of societal ills associated with the liquor trade and consumption. In addition, the chapter selectively discussed the specific provisions of the Gauteng Liquor Act 2 of 2003, which established the Gauteng Liquor Board and its Regional Local Committees, and sets out the requirements and procedures for liquor licence applications.

Of keen interest to the study, was the discussion around public participation (section 25), the Gauteng Liquor Board's obligation to promote public interest (section 30), and the corresponding obligation for the licensees or outlet operators to comply with all laws and regulations, including the municipal by-laws and regulations (sections 29 and 41), and the collaboration between the Liquor Board and the law enforcement agencies (i.e. Metro/

Municipal Police and SAPS) in enforcing compliance with the licence conditions and the rule of law. Finally, the chapter juxtaposed the regulatory framework and mandate of the Liquor Board with that of the United Kingdom Licensing Authorities and the New South Wales Independent Liquor & Gaming Authority, with a keen interest in the objective and mandate of those entities, licensing processes, offences or prohibitions and the role of parties in the licensing process, as well as the Gaming and Licensing Administration Act of 2007, which regulates the conduct and holds the public servant accountabile for their actions.

Chapter 3 discusses and justifies the research strategy, sampling technique, and the research tools that were utilised by the researcher, as well as the limitations, viability, reliability, and ethical concerns regarding the study.

Chapter 3
Research Methodology

3.1 Introduction

The objective of this chapter was to identify and define the research approach, research tools and how they were used, sampling technique, data collection, data processing, and data analysis. Furthermore, this chapter highlights and discusses the study limitations, viability, reliability, the researcher's positionality, and ethical considerations.

The original plan and objective of the study was to investigate and critically analyse the role of the Liquor Board, the extent of non-adherence to the provisions of the GLA, and the ineffective regulation of the liquor industry, which resulted in the proliferation of liquor outlet, as well as the perceived failure by Ekurhuleni Metropolitan Municipality and SAPS to enforce compliance, which impacted the lives of the community of Primrose.

3.2 Research Approach

The researcher adopted the qualitative research methodology to gain an in-depth understanding of the Liquor Board's decision-making processes and systems for issuing liquor licences, and its impact on the residents of Primrose, in Ekurhuleni. According to Brown and Strega (2005), qualitative research enables a researcher to observe and interpret the meanings of real-life experiences of the research participants, affected groups and individuals. The researcher utilised the qualitative research methodology to engage the Primrose Business Forum, Primrose Ratepayers Association, and Primrose Community Policing Forum to obtain the lived experiences and understand their context and environment, consequent to the Liquor Board's decision-making processes for granting liquor licences in Primrose. Furthermore, the researcher also engaged the Liquor Board officials and explored its liquor licensing and decision-making processes, and finally engaged the officials of the Ekurhuleni Metropolitan Municipality, who facilitated the granting of appropriate land use rights and enabled the applicant's outlets to meet the requirements to be granted liquor licences, in Primrose.

3.3 Rationale for Utilising the Qualitative Research Method

Qualitative research utilises a unique and specific set of methods to collect data. The researcher utilised interviews, conducted focus group discussions to zoom in closer and understand the personal experiences of the residents of Primrose, and conducted a document analysis of the Gauteng Liquor Act (and its Regulations) and the Ekurhuleni Metropolitan Municipality Spatial Planning and Land Use Scheme to understand the regulatory environment which impacts on liquor trade and the lives of Primrose residents. The method was more appropriate and pragmatic in collecting subjective data that was critical for the topic at hand. Studying the realities regarding day-to-day lives and challenges experienced by the residents was a complex task that required a research method that provided the researcher with the necessary skills to explore different perspectives and understand the community's context. This brought the researcher closer to the community and lived experiences and enabled him to gather data and obtain first-hand information. In addition, the method provided the researcher with an in-depth sense of what the key informants, particularly the community, think of the Liquor Board, the City of Ekurhuleni Metropolitan Municipality, the SAPS, and the government's broader mandate to monitor and enforce compliance with the laws.

Patton (2015) opined that it is critical for a researcher who wants to know the meaning of the personal experiences of research subjects, how they are affected, and their thoughts about those experiences to interact and ask them questions. To that end, the researcher utilised semi-structured and open-ended questions as a tool to gather data to enable the community members and officials from the Ekurhuleni Metropolitan Municipality and Liquor Board to expand and elucidate on their experiences. According to Patton (2015), the use of raw data and quoting directly from data obtained during interviews reveals the research participants' emotions and accounts of their personal experiences and perceptions.

3.4 Homogeneous Sampling

Homogeneous sampling, as a form of purposive sampling, was utilised and enabled the researcher to select participants who present similar characteristics, reduce disparities, and help conduct interviews with ease (Etikan, Musa, and Alkassim, 2015). Furthermore, this sampling technique enabled the researcher to select participants who are affected by the Liquor Board's decision-making processes and are aligned with the study objectives, and provided relevant, in-depth and insightful information on the lived experiences of the residents of Primrose. Jager,

Xia, Putnick and Bornstein (2025) indicated that the increased utilisation of a homogeneous sampling technique, instead of a heterogeneous sampling technique, greatly improves the generalisability of the research outcomes and findings.

Primrose is a largely residential suburb that covers 615 Hectares (Ha) and has a population of approximately 14,024 residents. The suburb is largely made up of old houses and apartments and is located closer to mine dumps along the Main Reef Road and three (3) informal settlements that are densely compacted within Simmer and Jack Gold Mine and Rose Acres, and has limited economic activities which stretch along the Rietfontein Road. The size of the population (approximately 14,024 thousand) necessitated the researcher to adopt the homogeneous sampling technique to interact and collect data from the members of the community, including the business forum, community policing, ratepayers, and government officials responsible for regulating the liquor industry and law enforcement.

Table 4: Sample distribution of key Research Participants

Key Participants Description	Number of Participants
Gauteng Liquor Board	2
Ekurhuleni Metropolitan Municipality	4
Primrose Ratepayers Association	4
Primrose Community Policing Forum	6
Primrose Business Forum	7

A total of 22 participants were deliberately selected and interviewed to provide the researcher with balanced and contrasting views from the residents, the businesses, the community policing forum, and government officials who were responsible for liquor licensing and law enforcement in Primrose. Staller (2021) opined that the subjects, surroundings, and/ or narrative we select and use in the study will help the researcher identify and achieve contrasting information that will provide a rich understanding of the context.

This sampling method enabled the researcher to select focus groups with similar characteristics and shared aspirations, values, and lived experiences. During the discussions, it emerged that the three (3) focus groups representing the residents had close working relationships. Despite this, the data collected offered diverse perspectives on the study's critical themes—namely, decision-making processes, public interest, and the role of regulatory authorities. This approach

aimed to ensure the collection of sufficient data to address the research question and enhance the study's validity. However, the limited timeframe and scope of the dissertation constrained the researcher's ability to achieve full data saturation.

3.5 Data Collection

Data was collected through the use of semi-structured interviews, focus group discussions, and document analysis. The researcher had two (2) separate sets of interview questions or questionnaires for government officials and the community of Primrose. The questions for the government officials focused on their designation and work experience, knowledge and understanding of the GLA, adherence to the law, and the impact of granting and issuing licences in Primrose. On the other hand, the questions for the community focused on their broad knowledge and understanding of the mandate of the Liquor Board, public participation, and the impact of granting and issuing licences in Primrose.

A schedule was drafted, and the interviews started after the researcher obtained ethical clearance, permission was obtained from the participating entities, and focus groups and individual consent were obtained from individual participants. Face-to-face interviews were conducted for nine weeks and accordingly recorded using a questionnaire or a set of semi-structured interview questions as a guideline for the engagements. A voice memo and recorder were used to record and store the information electronically, and the recording was later transcribed and saved as a Microsoft Word and a PDF file. The participants were informed that they were recorded, that their participation was voluntary, and that they could opt out of the research at any time. Attendance registers were signed by all participants, checklists completed, and the portfolio of evidence is safely stored and will be archived, as prescribed by the university.

3.5.1 Interviews

According to Gill, Stewart, Treasure, and Chadwick (2008), the purpose of research interviews is to delve into the personal experiences, opinions, and beliefs of individual research participants and provide a researcher with an in-depth understanding of the research topic. The data collection started with five (5) individual face-to-face semi-structured interviews, including two (2) senior officers from the EMPD, one (1) senior manager responsible for planning in the City of Ekuhruleni, and two (2) senior officials from the Liquor Board. Face-

to-face interviews enabled the researcher and participant to observe each other's facial expressions and non-verbal communication, which enhanced the communication and understanding of the topic, with each interview taking a maximum of twenty-five (25) minutes. However, one (1) senior manager from the EMPD provided written responses to the questionnaire or semi-structured interview questions because of his hectic work schedule.

The semi-structured interviews contained a set of questions that provided participants with guidance on the subject of the study. According to Gill, Stewart, Treasure, and Chadwick (2008), semi-structured interviews are flexible and allow the participants to elaborate on their personal experiences while enabling a researcher to ask follow-up questions and be provided with clarity on the subject of the study. In addition, Rowley (2012) opined that interviews largely involve verbal exchanges between a researcher and participant, aimed at acquiring information and understanding the participant's personal context, experience, and beliefs. Interviews are a critical factor for collecting data in a qualitative study and provide the researcher with the required understanding of the experiences of participants and the meaning attached to their experiences (Knox and Burkard, 2009).

3.5.2 Focus Group Discussions

Focus group discussions were utilised to engage and gather data from the community representative groups of Primrose. Gill, Stewart, Treasure, and Chadwick (2008) described this technique as a group discussion that sought to generate participants' information and opinions on matters of common interest, regarding the research topic. The validity, reliability, and dependability of the study depend entirely on the willingness and ability to respond truthfully and respectfully by members of the focus group. The discussions were moderated by the researcher and were largely comprised of individuals who shared similar characteristics, beliefs, and experiences.

Three (3) engagements, with focus groups representing the residents or ratepayers, the local business forum, and a community policing forum. A total of sixteen (16) participants formed part of face-to-face group discussions, which were informed by the researcher's questionnaire. The discussions attracted contrasting views, at times fierce disagreements, and dragged the engagements to an hour, as compared to twenty-five (25) minutes of individual participants. According to Dilshad and Latif (2013), a focus group provides participants with a more relaxed

and suitable discussion environment, and participants are open to influence and being influenced by others because of the familiarity and the good rapport they have with each other.

3.5.3 Data Saturation

Fusch and Ness (2015) described data saturation as the point at which sufficient information has been gathered to replicate the study, and no further new insights are likely to emerge. Mwita (2022) argues that a researcher must determine whether the data collected is sufficient for qualitative research. Furthermore, Hennink and Kaiser (as cited in Mwita, 2022) suggest that the validity of qualitative research findings depends on whether the data collected is adequate to answer the research questions. It transpired, during the focus group discussions, that the three (3) focus groups, Primrose Business Forum, Primrose Community Policing Forum, and Primrose Ratepayers Association, had close working relations, albeit representing different interest groups and sectors from Primrose. Consequently, no new insights into the lived experiences of Primrose residents emerged after the second focus group discussion. Subsequent engagements confirmed the generated codes and contributed to the establishment, review, and naming of the themes.

3.5.4 Document Analysis

Document analysis can either be used as a primary instrument or as a secondary instrument for data collection. It is a useful instrument for collecting data because it provides access to classical records to gain an understanding of how ancient policies provided the foundation for present policies and legislation. Government policies, programmes, and reports are generally regarded as reliable sources for data collection because of their originality and quality content (Mackieson, Shlonsky, and Connolly, 2018). It involves a process of repetitive and inattentive examination of a document that contains text and images that could be used in a study. Bowen (2009) described document analysis as a structured procedure that is used for reviewing documents to extract meaning and obtain an understanding of research information.

Wach, Ward (2013) indicated that the approach is commonly preferred for political science research as an enabler for an impartial and consistent analysis of written policies and legislation.

An analysis of written complaints to various government entities, newspaper articles, and press releases from the PRA, which were aimed at expressing their frustration regarding social ills caused by liquor licensing and the proliferation of liquor outlets in Primrose, was conducted. See Table 5 (below) for details.

Table 5: Analysis of Written Complaints, Newspaper Articles, and Press Releases on Social Ills and Criminal Activities Emanating from Liquor Outlets/ Trade, in Primrose

Type of Complaint	Date of Report/ Publication	Source
Surge in liquor outlets and related crimes alarm Primrose residents	12 June 2024	The Citizen
Taverns located close to schools a challenge in Gauteng	4 July 2022	SABC News
Sale and supply of liquor to minors	22 October 2015, 18 December 2015 and 28 February 2022	Germiston City News
	17 February 2023 and 1 March 2023	PRA Newsletter
Sale and supply of liquor to visibly intoxicated persons, public disorder/ violence, and vagrant behaviour	9 July 2018 and 29 November 2021	The Citizen
	25 February 2023, 1 & 3 March 2023 and 3 April 2023	PRA Newsletter
Playing loud music and disturbing the peace	25 February 2023 and 1 & 3 March 2023	PRA Newsletter
Public drinking and drinking from vehicles parked in public spaces	30 December 2022, 17 & 22 February 2023 and 3 March 2023	PRA Newsletter
Sale and abuse of illegal substances	30 December 2022 and 1 & 2 March 2023	PRA Newsletter
Littering and illegal dumping	17 February 2023 and 2 March 2023	PRA Newsletter

Trading beyond prescribed hours	17 & 25 February 2023, 3 March 2023	PRA Newsletter
Obstructing traffic, blocking residents' driveways/ entrances and contravening by-laws	25 February 2023, 1 March 2023 and 3 April 2023	PRA Newsletter
General non-adherence to licence conditions	24 March 2023	Germiston City News
Trading in liquor without a valid licence or permit	21 June 2022	Bedfordview and Edenvale News
	23 May 2017, 6 September 2019, 22 October 2019, 23 January 2020, 1 February 2020 and 14 November 2020	Germiston City News

In addition, numerous criminal activities occurring inside and close to liquor outlets, including random gunshots, the spinning of vehicles, and the sale of drugs, were also reported to the Primrose SAPS.

Numerous national, provincial, and local government legislative frameworks were analysed and utilised to provide the baseline and critical data for addressing the research question. See Table 6 for the list of the Legislative Framework that was analysed and utilised in the study.

Table 6: List of Legislative Framework Utilised in the Study

Title	**Year Published**	**Purpose**	**Jurisdiction**
City of Ekurhuleni Land Use Scheme	2021	To determine the use of land and development in order to promote social inclusion and economic growth within the City of Ekurhuleni.	Local

Ekurhuleni Metropolitan Municipality Spatial Planning and Land Use Management By-Law	2019	To provide processes, procedures and systems for the spatial planning, land development and land use management matters within the City of Ekurhuleni	Local
National Liquor Policy	2016	To provide for the revision of drinking age (21), reduce harmful use of liquor, ban advertising of liquor products, and hold traders accounting for harms associated with alcohol abuse.	National
National Liquor Norms and Standards	2015	To harmonise liquor regulation amd practices, facilitate effective and uniform law enforcement, and reduce the socio-economic impact of alcohol abuse, in South Africa.	National
Gauteng Liquor Regulations on Shebeen Licences	2013	To provide for the establishment of the Appeal Board, appointment of members, appeal process and prohibit the sale of liquor on Sundays.	Provincial

Gaming and Liquor Administration Act	2007	To promote and ensure the virtue of the public officials employed by the ILGA, ensure that the entity is accessible and responsive to the needs of society, and promote a fair and transparent decision-making process in compliance with the applicable gaming and liquor regulations.	National
New South Wales Liquor Act	2007	To regulate and control the retail sale and consumption of liquor, in a manner that is consistent with societal expectations and values, and promote the public interest and that of business development through a flexible and practical system.	National
Intergovernmental Relations Framework Act	2005	To provide framework for cooperative governance, facilitation of relations and dispute resolution mechanisms between national, provincial, and local government.	National

Gauteng Liquor Act	2003	To establish the Gauteng Liquor Board, Local Committees, and Inspectorate and make provision for control of the retail sale and supply of liquor and law enforcement within the Gauteng Province.	Provincial
National Liquor Act	2003	To establish the norms and standards, and promote co-operative governance within the South African liquor industry.	National
United Kingdom Licensing Act	2003	To regulate the sale and supply of liquor, the late-night entertainment and provide for the enforcement of the regulations.	National
Promotion of Administrative Justice Act	2000	To give effect to the section 33 (of the Constitution) right to administrative action that is lawful, reasonable, and procedurally fair, and the right to be provided with written reasons for administrative action.	National

Protected Disclosures Act	2000	To protect employees who report unlawful and irregular conduct at the the workplace, against occupational harassment or victimisation.	National
Code of Conduct for Public Servants	1997	To outline ethical standards and principles, and to promote ethical conduct, transparency and accountability by public servants.	National
Constitution of the Republic of South Africa Act	1996	To introduce the Bill of Rights, establish and facilita the separation of powers for the national, provincial, and local governments, the Constitutional Court, the Office of the Chief Justice.	National
South African Police Service Act,	1995	To provide for the establishment, organisation, regulation, and control of the South African Police Service.	National
Public Service Act	1994	To outline the framework, and regulate the organisation,	National

		administration, and conditions of employment for the public service.	
National Liquor Act	1989	To make provision for the to control the retail sale in South Africa.	National

In addition, the researcher identified the recently published investigative report of the South African Human Rights Commission titled "Enyobeni: A Sobering Account" to deal extensively with the government's responsibility to monitor and enforce compliance at liquor outlets.

Finally, Altheide, Coyle, DeVriese, and Schneider (2008) indicated that document Analysis can be a useful data collection instrument if the researcher can identify and highlight keywords, themes, and sub-themes and employ coding to categorise relevant data through various sets of documents.

3.5.5 Data Analysis - Thematic Analysis

The process of data analysis commenced shortly after the interviews and focus group discussions were conducted with participants, which were recorded, and the data was safely stored on a password-secured iCloud (Apple) account and laptop. The recordings were transcribed, proofread with minimum editing to ensure that they do not compromise the originality, authenticity, meaning and context that was provided by the officials and residents, as part of providing the factual experiences of the challenges occasioned by the proliferation of liquor outlets, unintended consequences, and lawlessness in Primrose. The transcripts were clearly labelled and saved in both Microsoft Word and PDF Formats, under the headings "Ekurhuleni Metro Police Department", "Ekurhuleni Town Planning Department", Liquor Board", "Primrose Business Forum", Primrose Community Policing Forum", and "Primrose Ratepayers Association".

The thematic approach was deemed suitable and appropriate for the study and was used to analyse the data collected as part of the study. Thematic analysis is a process of identifying and

explicating collected data to attach meaning; by focusing on the objective of the research and maintaining a relationship between the research question and the data collected (Mackieson, Shlonsky, and Connolly, 2018). In addition, the thematic analysis approach enables the researcher to examine and categorise data according to themes and patterns, which will be further utilised for in-depth analysis (Maguire & Delahunt, 2017). The thematic approach is also regarded as being useful to analyse both small and large data sets, which helps provide clear and reliable descriptions of the data collected. Dawadi (2020) submits that the approach can also be used to search for themes that could be used to illustrate an accurate narrative contained in the collected data, to provide astute and reliable findings. This could be accomplished by heeding the following steps:

3.5.5.1 Familiarisation with the Data

The first and most critical step of the analysis is to read and reread the research transcript. The process includes taking notes and highlighting the points of interest, and eventually identifying the number of themes that are contained within the data. The initial reading is not intended or might not provide a coherent understanding of the contents of the data, unless and until a careful re-reading of the data with keen interest, resulting in the researcher being immersed in the contents, the themes, and meaningful understanding of the data, to avoid the likely influence and interpretation of the data based on personal knowledge and experience of the field of study.

3.5.5.2 Generating Initial Codes

Familiarisation with the data enabled the researcher to delve into and appreciate the quality of the data. Nonetheless, the researcher must carefully and thoroughly reread the transcripts in a meaningful way and start identifying key phrases, sentences, and/ or paragraphs that are of interest in responding to the research question. By now, the researcher should have begun coding the transcript, using the key phrases and sentences within the data and attaching meaning. Dawadi (2020) referred to the codes as the building blocks, which were combined to construct potential themes in response to the research question.

3.5.5.3 Searching for Themes

The process entails the analysis of all codes that were identified within the dataset. The purpose of analysing the codes is to capture the patterns and the relationship within the different codes in the dataset, and establish the overarching theme/s. The codes will most likely be associated with or linked to one or more themes. The themes should talk and provide critical information about the relevance of the data to the research question or study.

3.5.5.4 Reviewing the Themes

Now that the themes have been constructed, the next step is to review them and check for coherence and consistency. The researcher has an opportunity to refine, rename, discard irrelevant themes, and merge the same or repetitive themes. The reviewed themes should be descriptive and provide a better sense of the potential responses or solutions to the research question. The themes should be meaningful, supported by the data, not overloaded or complex, and not repetitive. Colour-coding is used to differentiate the themes.

3.5.5.5 Defining and Naming the Themes

Following the review of the themes, careful consideration should be taken to ensure that all the themes are concise, clearly defined, relevant to the study, meaningful, understandable, and provide a clear narrative on the research outcome and findings. The names and definitions of themes should not be complex or lack coherence.

3.5.5.6 Writing the Report

Finally, the codes and themes emanating from the analysis must contribute towards the outcome and findings of the study, in a manner that provides a clear understanding and assurance regarding the validity of the analysis.

However, while the thematic analysis approach was useful, the researcher still had to organise and categorise collected data, to enable him to label and make sense of the collected data. This was necessitated by the size and nature (unstructured or semi-structured) of the qualitative data collected.

The quality of the research depends entirely on the available data collected, the method used to collect data, the data analysis approach, the quality, reliability, and validity of the data collected, and the ability to identify any gaps in the available data.

3.5.6 Limitations and Feasibility

The study focused on the factual personal experiences of the residents of Primrose and the implementation of the Gauteng Liquor Act of 2003. The findings of the study, while the laws regulating the processing and issuing of liquor licences and applicable by-laws (and regulations) are the same throughout Ekurhuleni Metropolitan Municipality, might not be conclusive in depicting the personal experiences of the residents of other suburbs and townships in Ekurhuleni or Gauteng. On the other hand, the peculiarity of the racial background, age, political affiliation, and social dynamics of the residents of Primrose, as compared to other suburbs and townships, could result in completely different outcomes or findings.

In addition, the SAPS in Gauteng was granted permission to participate and provide information for the study, and senior officers were assigned to participate and represent the SAPS. Unfortunately, the commitment to participate was not honoured, and this deprived the study of real-time and tailor-made data on the causal link between liquor trade, abuse, and serious criminal offences that are recorded for the Gauteng Province. Nonetheless, the researcher was advised to obtain high-level data from the SAPS official webpage (saps.gov.za), which was purportedly provided by the National Crime Register (Head Office). The data included serious criminal offences recorded as emanating from or being linked to liquor outlets (e.g. shebeens, taverns, pubs, nightclubs, bottle stores), from the 2020/ 21, 2021/ 22, 2022/ 23, 2023/ 24 and 2024/ 25 financial years, throughout South Africa. However, the data could not be utilised in the study because it could not be interpreted or tested, and the impact was not explained to the researcher.

3.5.7 Positionality

The researcher is a current employee and manager, responsible for law enforcement and compliance with the provisions of the Gauteng Liquor Act, at the Liquor Board. Furthermore, the researcher works closely with other government law enforcement entities and with the

residents or communities that are affected by the operations of licensed outlets. This is most likely to raise concerns regarding possible biases that could impact the validity, reliability, and dependability of the study and findings thereto. However, the utilisation of interviews and focus group discussions was aimed at ensuring that raw or first-hand data was obtained from the residents, with direct and personal experiences of the liquor trade in Primrose, and officials from the Ekurhuleni Metropolitan Municipality and Liquor Board.

Positionality can be defined as a researcher's worldview and the posture about the subject of the study and the socio-political context (Holmes, 2020). Research typifies a synergistic space that is created by the researcher and the research participants. As a result, the positionality of both the researcher and the research participants, which is informed by norms, values, beliefs, perceptions, and dispositions, has the potential to influence the research process and outcome (Lin, 2015).

To mitigate against possible bias and impact the validity, reliability, and dependability of he study, the researcher recorded the interviews, transcribed and printed hardcopies for easy reading and referencing, repeatedly read the transcripts, and utilised a Microsoft Excel spreadsheet to sift and capture keywords and phrases therefrom to minimise the risk of personal interpretation and conclusion. This enabled the researcher to conduct triangulation through the audit trail and cross-referencing of records and notes taken during the fieldwork. In addition, the residents and government entities were well represented, and the participants articulated their lived experiences persuasively and provided a written submission, which also simplified the analysis of collected data.

Finally, the researcher's willingness to unlearn and move from his comfort zone and allow the participants to express themselves with minimal guidance and interruption mitigated the risk posed by the researcher's positionality.

3.5.8 Ethical Considerations

This study and research report was conducted ethically and in compliance with the set standards of the University of Witwatersrand, which sought to protect the research subjects from any harm. The researcher was granted a full clearance letter from the Wits School of Governance, which duly authorised him to proceed and conduct the study. The ethics clearance letter was

tendered as proof of such clearance to Ekurhuleni Metropolitan Municipality, the Liquor Board, the South African Police Service, Primrose Business Forum, Primrose Community Policing Forum, and Primrose Ratepayers Association. Further, informed written consent was obtained from all the research subjects or participants before the engagement and collection of data, throughout the study.

3.5.9 Validity and Reliability

The researcher endeavoured to accurately capture the reality of the study as presented by the research participants by, among others, accurate recording of engagements, enabling the participants to freely express themselves, enabling the particpants to express contrasting views withour interruption, safe storage and archiving of collected data, transcribing and validating notes against recordings, trying to achieve a balance through guided and rigorous engagement, seeking feedback, reporting fully and letting readers draw their conclusion. The data collection method was not detached from reality, and accurately captured the lived experiences of the residents of Primrose. Ahmed (2024) opined that trustworthiness can be achieved through meaningful engagement with the participants, detailed explanation of the research purpose, rigorous documentation, and concepts, which are vital to ensure the validity and reliability of research findings.

In addition, the researcher conducted an extensive literature review and also utilised a Microsoft Excel spreadsheet to sift and highlight keywords, codes and formulate themes. The academic articles and journals, and the regulatory framework studied during the study, provided the researcher with past and current global and regional context of the divergent, and sometimes antagonistic, views of government and industry on the government's regulatory authority and the call for self-regulation by the liquor industry.

3.5.10 Dependability

The outcomes and results of this qualitative research can be replicated if the research were to be conducted with the same group of participants and in the same environment. A thorough record of all steps of the research process, from inception to completion, was kept to provide transparency and enable future researchers to replicate the study and test the dependability of the findings. Furthermore, an audit trail of the codes and themes, decisions, and data analysis

was kept to ensure the dependability of the research. Ahmed (2024) stipulates that dependability I achieved through meticulous documentation and modelling of an audit trail.

3.5.11 Chapter Summary

This chapter defined the research approach, research tools and how they were used, sampling technique, data collection, data processing, and data analysis. In addition, the chapter highlighted the researcher's original plan, which was aimed at critically analysing the role of the Liquor Board, the extent of non-adherence to the provisions of the GLA and resultant proliferation of liquor outlets, and the ineffective regulation of the liquor industry in Primrose. Furthermore, the chapter highlighted the study limitations, which were occasioned by poor cooperation from the SAPS, regardless of a written permission and commitment to participate in the study. Finally, this chapter discussed the study's viability, reliability, dependability, ethical considerations, and the researcher's positionality.

Chapter 4 discusses the conceptual framework and an in-depth discussion of the primary themes of decision-making in public institutions, the role of regulatory authorities, and the promotion of public interests.

Chapter 4
Decision-Making Approaches In Public Institutions
Conceptual Framework

4.1 Introduction

This chapter discusses the conceptual framework and justifies why the study was conducted. The preceding chapter discussed the legislative and policy framework that regulates the liquor industry, and it could be gleaned from the latter and spirit of the applicable legislation that the legislature could have pre-empted the impact of issuing liquor licences to the community. To respond to the research questions, identify potential gaps, reach an informed conclusion, and make recommendations, this chapter provides an in-depth discussion of the primary themes that are deemed relevant to the study, namely, decision-making in public institutions, the role of regulatory authorities, and the promotion of public interest.

4.2 Conceptual Framework

Conceptual framework is an argument about why the research topic one studies matters, and why the research strategy used is appropriate and meticulous (Tamene, 2016). He further opines that a conceptual framework is an intertwined system of suppositions that guides the research. To that end, the researcher identified the decision-making in the public institutions, regulatory authority and public interests as the core concepts to organise and guide the study, the justification and understanding of the study, as well as the independent and dependent variables which contribute towards addressing the research question, regarding the factors that influences the Liquor Board's decision-making processes and systems.

The regulation of the retail sale and supply of liquor is an exclusive competence of the provincial liquor authority, as confirmed by the Constitutional Court's judgment, in *Ex Parte The President of the Republic of South Africa In Re: Constitutionality of the Liquor Bill*. Therefore, this grants the Gauteng Liquor Board the sole mandate and responsibility to regulate the liquor industry, as stipulated in the GLA and the 2004 Regulations. The implementation of liquor regulation policies is a priority for the global community and is aimed at promoting healthy business practices and curbing the negative impact of consumption on individuals and the broader society. Jankhotkaew, Chaiyasong, Casswell, Huckle, and Phonsuk (2022) define policy implementation as a government regulatory process that concerns itself with practical

and measurable actions aimed at achieving set government standards and policy objectives. These actions include promoting awareness about the application processes and adherence to requirements, law enforcement, and sanctions for non-adherence to applicable policies.

Section 30 of the GLA empowers the Liquor Board to approve or decline applications for liquor licences. The Liquor Board's decision, to approve or decline applications, is primarily subject to the applicant and the premises adhering to the requirements of the GLA, including the licence requirements, location of the premises, municipal spatial planning and land use, tax laws, security clearance, and the public interests. However, the untenable situation presented in Primrose, the proliferation of liquor outlets and lawlessness affecting the residents, cast aspersions on the legality of the decision-making processes and commitment by the Liquor Board and other law enforcement agencies to enforce adherence to the rule of law.

Hardy (2016) states that the government officials, management, and employees have a legal and ethical obligation to ensure adherence to the rule of law. Section 1 of the Constitution of the Republic of South Africa Act 108 of 1996, as amended (the Constitution), stipulates that South Africa is founded on the supremacy of the Constitution and the rule of law, while sections 195 and 197(1) provides that public administration must be governed by the values and principles enshrined in Constitution, (including the Bill of Rights), and that the public servants and officials must execute national legislation loyally and lawfully, On the other hand, sections 23, 30(2) and (3) of the GLA set out the requiremets and stipulate that liquor licences should be issued when doing so is in the public interest while prohibiting the issuance of liquor licences within a 500-meter radius of places of learning, places of worship, similarly licensed outlets, and public transport hubs.

Further, sections 25, 26, and 27 make provision for would be affected neighbours or residents to object against the application for a liquor licence that is lodged with the Liquor Board. However, the process does not recognise or accept anonymous objections and does not provide a uniform and consistent procedure for the resolution of objections. Hence, not all objections lodged against an application for a liquor licence are considered, and objectors are not automatically allowed to present a substantive case before the Liquor Board. The Liquor Board has the discretion to determine how objections are processed, whether or not to conduct a hearing, and the circumstances that would justify the resolution of an objection in favour of the objectors. As a result, and regardless of the plethora of complaints against the issuing of liquor

licences, the residents of Primrose are subjected to perpetual nuisance and violations of their rights due to the proliferation of outlets, lawlessness, and the unintended consequences of the liquor trade and alcohol abuse. Irrefutably, the Liquor Board has an obligation, in terms of the policy framework, to monitor and enforce compliance within the industry. Furthermore, the policy framework makes provision for the Liquor Board to collaborate with the Metropolitan/ Municipal Police, the South African National Defence Force, and the South African Police Service in ensuring compliance with the laws of the land. On the other hand, the Intergovernmental Relations Framework Act of 2005 calls on all spheres of government to provide "…effective, efficient, transparent, accountable and coherent government for the Republic to secure the well-being of the people and the progressive realisation of their constitutional rights.". Wilkinson and MacLean (2012) opined that adherence to policy was enhanced by extensive law enforcement, which should be real, imminent, frequent, and unpredictable.

Notably, the South African liquor industry has become one of the major role players in economic growth, revenue generation, the creation of sustainable employment, and the livelihood of citizens. Barr (2024) indicated that the liquor industry contributes immensely to South Africa's economy, provision of employment, and society in general. In addition, the Drinks Federation of South Africa (2024) reported that South Africa's liquor industry contributed R226. 3bn or 3.6% of the country's Gross Domestic Product (GDP) in 2022. Furthermore, 498,999 sustainable jobs, with a household income amounting to R2,5 bn, positively influenced the lives of 1.15 million individuals, while contributing R96,9 bn (6.7%) towards the country's total tax revenue. This positive effect, has contributed to what is regarded as a reluctance by the government to strengthen the regulatory policy framework, especially on matters related to the densification and proliferation of liquor outlets, accessibility and availability of liquor, binge drinking and abuse of liquor, sale and consumption of liquor by minors, crime and related social harms of liquor trade.

McCambridge, Mialon, and Hawkins (2018) opined that the liquor industry has a permeate influence on the government's policy-making, decision-making, and implementation processes. This influence is based on the commitment to frame the policy debate to suppress the agenda that is contrary to the industry's commercial interests, and build critical relations with key stakeholders, including the government, to help manage potential threats to the industry's commercial interests. The South African liquor industry has emerged as the leading

partner and driver of the country's responsible liquor trade and consumption programme. The liquor industry's influence accounted for the lengthy delay in the promulgation of South Africa's Liquor Amendment Bill (2016), which was aimed at, amongst others, restricting the advertising of liquor products, revising the age limit to twenty-one (21) years, regulating the availability of liquor, and holding the retailers and manufacturers accountable for harms caused by the contravention of regulations. This delay was caused by a 2017 industry-funded study on the socio-economic impact and the 'carrot and stick' approach of the industry, which involved litigation against the government's restrictions and the funding of the government interventions during the recent COVID-19 pandemic.

Armour *et al* (2020) argue that regulatory compliance is a long-term objective for entities, while the augmentation of profits and drawing attractive financial or share incentives for managers and employees is immediate or short-term and often linked to one's employment contract. The arguments put forward by Hardy (2016) and Armour *et al* (2020) echoed the sentiments by Sutinen and Kuperan (1999), who cited Becker (1968) that parties contravene the law because the benefits of non-adherence exceeded the benefits derived from adherence
.

Finally, the following paragraphs provides an in-depth discussion of the main concepts of this study, namely; the role and importance of *decision-making in public institutions*, clarifying the *role of the government regulatory authorities* (the Liquor Board and Ekurhuleni Metropolitan Municipality), the need to promote and protect *public interest* of the affected or interested parties, and residents.

4.3 Decision-Making Approaches in Public Institutions

Decision-making is an administrative function that can be described as a cognitive process of identifying, analysing, and gathering relevant information to help an institution make a decision. Decision-making relates to the choice of what action to take, which is largely motivated by the perceived advantage resultant from that action, and the kind of advantage that would be favourable (Hristovski, Carvalho, Keith, 2017). Furthermore, experience and instincts, the context or environment, as well as the reflection and understanding of the decision-maker, are critical elements of decision-making (Nibbelink, 2018).

The primary mandate of the Board is to adjudicate applications for liquor licences and make a decision to either approve or decline the applications (sections 3 and 30), as well as decide on the suitability of the location and structure of premises to trade in liquor (sections 30 and 35), and the suitability of the applicant to obtain a licences (sections 36 and 37). In addition, section 30(2)c) compels the Board to grant a licence where doing so is in the public interest, only. Further, the Board has the mandate to grant a third party a controlling or financial interest in a licensed outlet (section 39), appoint a manager for a licensed outlet (section 40), approve structural alterrations or extension (section 43), approve the transfer of a licence (section 104) as well as monitor and enforce compliance with the GLA and the rule of law, after summoning any person with information regarding alleged contravention of the GLA (section 10), and conducting hearings against alleged contravention of the licence conditions (section 106). Consequently, section 107 of the GLA empowers the Board to issue a financial penalty and to suspend or revoke the licence where a licensee is found guilty of contravening the licence conditions and related provisions of the GLA. The Board is established under section 2 of the GLA, and its members are appointed by the Member of the Executive responsible for Economic Development in Gauteng (MEC) on a five (5) year term. The Board shall consist of six (6) to nine (9) *fit and proper* persons, who are not disqualified under section 4(4) of the GLA, including one or more persons admitted as an Advocate or Attorney, one or more representatives of the Department, one or more persons who's knowledgeable or experienced in welfare, social services or socio-economic development, and one or more persons who's liquor industry expert but not having a financial interest in the industry. The MEC is also empowered to appoint the Chairperson and Deputy Chairperson of the Board.

The Liquor Board has five (5) local committees, which are located in the Ekurhuleni, Johannesburg, Sedibeng, Tshwane, and Westrand districts of Gauteng, who are established under section 19 of the GLA, with their members also appointed by the MEC, on a five (5) year term, and each local committee shall consist of five (5) to seven (7) *fit and proper* persons, who are not disqualified under section 20(2) of the GLA, including one or more persons admitted as an Advocate or Attorney, a senior official or manager responsible for town or city planning or similar function, and a senior official or manager responsible for local economic development or similar function in the local municipality, one or more persons community representative who's knowledgeable in welfare, social services or socio-economic development, as well as a secretary who is seconded by the Liquor Board. The MEC shall appoint the Chairperson and Deputy Chairperson of the local committee. The mandate of the

local committee can be regarded as a precursor to that of the Board and is limited to considering and recommending that the Board approve or decline an application for a new liquor licence or the transfer of a liquor licence from one person to another or a third party, within twenty-one (21) days from the date of application (section 21), and may perform any function that is assigned to it under the GLA.

Applications for liquor licences are considered on their merits, and the GLA, in appreciation of the complexities and the impact of issuing licences, provides the Board with clear legislative powers to ensure that its decisions promote public interest. For example, section 23(1)(d) stipulates that an application must be supported by an inspection report of the outlet and its surroundings to determine compliance with the GLA and suitability to trade in liquor. Further, section 23(1)(d) makes provision for the submission of any other inspection which may be required in terms of any law and municipal by-law. In addition, the Board has the powers, in terms of section 10, to peruse the supporting documents (subsection 6), to summon an inspector who has submitted a report of the outlet (subsection 3), any other person with information (subsection 7) to give evidence during the consideration of the application, and to consider any matter which may provide the grounds for objection (subsection 10). Finally, section 14(1) empowers the Board to invite an expert or any other person to assist it in making a sound decision, and section 19(2) compels the local committees to provide the Board with a recommendation, whether to approve or decline an application for a liquor licence.

The PRA and PCPF have criticised the Liquor Board's decisions to grant fifty-five (55) liquor licences in residential areas, and proximity to places of learning, places of worship, public amenities, and the resultant proliferation of outlets along the Rietfontein Road in Primrose. Further, the PRA accused the Liquor Board of granting of licences in non-adherence by the Liquor Board with section 30(3) of the GLA regarding all licensed outlets that were trading in liquor in Primrose. The Rietfontein Road stretches over 3.1 kilometers and is regarded as the spine of Primrose, and is home to 31 of the 55.

Table 7: List of Licensed Liquor Outlets in Primrose

No.	Name of Outlet	Address of Outlet	Type of Licence	Date of Issue
1	Amos Tavern	Stad 2503, Main Reef Road, Cnr. Joan Rissik Road, Primrose	Tavern	09/05/2011
2	Big E's Pub & Grill	Shop 1, 76 B Oak Avenue, Cnr. Arcadia Road, Primrose	Restaurant	19/01/2011
3	BL Liquors	14 Main Road, Fishershill, Primrose	Liquor Store	
4	Boss Liquor	Shop 10, Mamo Court, 211Rietfontein Road, Primrose	Liquor Store	22/01/2017
5	Brian's Pub & Grill	Erf 134, Rietfontein Raod, Primrose	Pub	26/07/2022
6	Caledonian Hotel	Stands 657-660, 1 Main Road, Cnr. Joan Rissik Street, Primrose	Hotel	23/05/2011
7	Cas Dos Frangos	Stand 850, 123 Rietfontein Road, Primrose	Restaurant	17/07/2014
8	Cazbar Roadhouse & Restaurant	Erf 208, Rietfontein Road, Primrose	Restaurant	22/12/2021
9	Chef's Chicken	Shop 385, Primrose Shopping Centre, 86 Rietfontein Road, Primrose	Restaurant	15/04/2014
10	Constantia Pub & Grill	Erf 2984, 53 Shamrock Road, Primrose	Restaurant	16/01/2008
11	Ejardini Lounge	Erf 1500, Rietfontein Road, Primrose	Pub	16/05/2022
12	Enume & Sons Restaurant	Erf 22 Foxglove Avenue, Primrose	Restaurant	13/12/2018
13	Ew Heaven Bar & Restaurant	Erf 653, 3 Zinnia Avenue, Primrose	Restaurant	15/07/2016

14	Fatman's Pub	Stand 623, Shops 3, 4, 5 & 6, 25 Shamrock Road, Primrose	Pub	23/01/2006
15	Flames Pub & Grill	Stand 2063, 48 Elm Street, Primrose East	Tavern	04/01/2011
16	Fordsburg Liquor Store	Erf 679, 51 Rietfontein Road, Primrose	Liquor Store	03/02/2022
17	G Funk Bar Restaurant	Erf 1500, 168 Rietfontein Road, Primrose	Restaurant	30/07/2020
18	Globalis Liquor Store	Erf 3, Lupin Avenue, Primrose	Liquor Sore	26/02/2019
19	Gold Card	Erf 1563, 186 Rietfontein Road, Primrose	Hotel	03/12/2018
20	H20 Smile Restaurant & Pub	Erf 2197, 9-1 Aster Road, Cnr Rietfontein Road, Primrose	Pub	07/07/2017
21	Haute Resto Bar	Erf 168, Rietfontein Road, Primrose	Pub	08/05/2018
22	Huistoe Pub & Grill	Stand 39, Shop 6B, 6 Magnolia Road, Primrose	Pub	06/06/2022
23	Joe's Sport Bar	Erf 17a, Rietfontein Road, Primrose	Pub	12/10/2011
24	JP Liquor Store	Erf 4, Rietfontein Road, Primrose	Liquor Store	04/08/2021
25	Kib Rikah Club	32 Cemetry Road, Primrose		
26	Kings Restaurant	Erf 1565, 190 Rietfontein Road, Primrose	Restaurant	23/09/2024
27	Late Night Café Restaurant	Erf 53a, Rietfontein Road, Primrose	Restaurant	24/01/2011
28	Lekka Liquor	Shop 12B, 12 Magnolia Road, Primrose	Liquor Store	25/02/2021
29	Liquor City Primrose	25 Shamrock Road, Primrose	Liquor Store	
30	Lucky Liquor	Erf 3077, 33 Collins Street, Primrose Ext. 2	Liquor Store	21/12/2022

31	Luso Africa Sports & Cultural Associatoin	Portion 1 of Erf 170, Atting Park, 6 Walnut Road, Primrose	Restaurant	10/01/2011
32	New Heaven Liquor Store	Erf 810, 94 Rietfontein Road, Primrose	Liquor Store	11/06/2017
33	Oak Avenue Liquor Store	Erf 99a, Oak Lane, Primrose East	Liquor Store	10/03/2011
34	Overland Hyper	Erf 1337, Rietfontein Road, Primrose	Liquor Store	30/09/2022
35	Pick 'n Pay Primrose Square	Erf 3035, Primrose Square Shopping centre, Churchill Avenue, Cnr Shamrock Road, Primrose	Grocers' Wine	03/10/2018
36	Primrose Bowling Club	Erf 4, Bluebell Avenue, Primrose	Club	16/03/2011
37	Primrose Liquor Store	Rietfontein Centre, 201 Rietfontein Road, Primrose	Liquor Store	10/03/2011
38	Primrose Liquors	Erf 1337, Rietfontein Road, Ptimrose	Liquor Store	17/01/2019
39	Primrose Tops	Remaining Extent of Erf 1471, SuperSpar Building, 142 Rietfontein Road, Cnr Lupin Avenue, Primrose	Liquor Store	21/11/2017
40	Q's Place	Erf 131, Rietfontein Road, Primrose	Pub	22/02/2023
41	Quick Saver Liquor Store	Erf 122, Rietfontein Road, Primrose	Liquor Store	08/07/2019
42	Rainbow Liquor Store	Erf 806, 32 Primula Road, Primrose	Liquor Store	14/10/2015
43	Rainbow Restaurant	Erf 111, Rietfontein Road, Primrose	Restaurant	18/03/2020
44	Rainbow Restaurant	Erf 4, Rietfontein Road, Primrose	Restaurant	18/10/2017

45	Shoprite Primrose	Erf 1239, 1241 & 1242, Shop 1, Shoprite Centre, Cnr Violet & Rietfontein Road, Primrose	Grocers' Wine	17/05/2012
46	Stella's Tavern	Erf 202. Rietfontein Road, Primrose	Tavern	20/04/2012
47	Superspar Primrose	Erf 142, 144 Rietfontein Road, Cnr Violet Street, Primrose	Grocers' Wine	07/12/2012
48	The Goblet	Erf 2787, Camelot Complex, Cnr Pretoria & Hackea Road, Primrose	Tavern	08/06/2012
49	Tops @ Primrose	Erf 141, Rietfontein Road, Primrose	Gaming Premises	30/11/2012
50	Upstairs Pub	21 Lucy Street, Homestead Primrose	Pub	
51	Valentino's Pizzeria	Erf 123 Cydonia Street, Primrose	Restaurant	27/01/2011
52	Value Liquor Cellars	Erven 127-129, Rietfontein Road, Primrose	Liquor Store	26/09/2018
53	Value Liquor Cellars	Erven 127, 129 Rietfontein Road, Primrose	Liquor Store	30/11/2012
54	VDubTech Liquor STore	Erf 2502, Richdale Road, Primrose	Liquor Store	21/02/2023
55	X-Factor Pub & Restaurant	Erf 157, Rietfontein Raod, Primrose	Pub	19/10/2017

Section 30(3) of the GLA prohibits the Liquor Board from granting licences in outlets that are located within a 500-meter radius of a place of worship, education, similarly licensed outlet, and public transport hubs. However, the situation in Primrose highlighted cases where the Liquor Board granted liquor licences in prohibited areas and against the public interest and inadvertently failed to comply with the provisions of its enabling legislation.

For example, **1) Hideout:** Blessed Sacrament Church (145m), Assumption Convent (200m), Pitter Patter Day Care (270m), Wychwood Primary School (309m), and Bedfordview High School (420m); **2) JB Liquors:** Cemetery (121m), Red Cross Nursing Home for the Aged

(214m), St Johns Baptist Greek Church (321m); **3) Kib Rikah Club:** Primrose High School (46m), Cemetary (95m), Greek Church 290m, and El Shammah Home for Abandoned Babies (370m); **4) H20:** Red Cross Home for the Aged (125m), Jewish Cemetery & Place of Worship (185m), El-Shammah Home for Abandoned Babies (198m), Primrose High School (203m), and ST Johns Baptist Greek Church (460m); and **5) Rainbow Restaurant:** Jewish Cemetery & Place of Worship (121m), Red Cross Nursing Home for the Aged (214m), and ST Johns Baptist Greek Church (321m).

Section 23(4) of the GLA compels the applicants for a tavern, pool club, pub, liquor store, and night club liquor licences to obtain and submit an 'unequivocal approval' in addition to the zoning rights granted by the municipality. Section 156(1) of the Constitution confers the municipalities the executive authority to administer local government matters. Further, Part B of Schedule 4 of the Constitution lists all local government functions that are a competence of local government, including municipal spatial planning and land use management. To give effect to Part B of Schedule 4, section 156(2) of the Constitution empowers the municipalities to adopt and enforce by-laws to effectively administer matters falling within their competence.

Consequently, Sections 23, 24, and 25 of SPLUMA empower the Ekurhuleni Metropolitan Municipality to adopt and publish the Spatial Planning and Land Use Management By-Law of 2019 (By-Law), and the City of Ekurhuleni Land Use Scheme of 2021 (Scheme). Further, section 26(1) of SPLUMA stipulates that the published By-Law and Scheme become law and all land occupants and users are bound by their provisions, and the failure to comply therewith is an offence. The By-Law and Scheme empower the municipality to, amongst others, make decisions regarding the appropriate categories of spatial planning and land use zones, as well as appropriate procedures for development applications that promote social and economic inclusion, development principles as well as norms and standards, sustainable and efficient use of space, and the provision of redress for imbalances of the past.

The function and powers to consider, process, and decide whether to approve or decline applications for land development and land use are vested in the town planning authorised official (section 92), the municipal planning tribunal (section 94), and the municipal appeal authority (section 94) of the By-Law, which applies to all land, properties, formal and informal settlements, and land uses in the municipality, regardless of the ownership.

The authorised official has jurisdiction over all land development and land use applications, including the applications for the amendment, alterations, and cancellation of general plans, applications where there are no objections, cautionary or negative comments, and applications that are not supported by the adopted town planning viewpoint. The authorised official has the power to consider all land development and land use applications referred to him or her, request additional information, investigate, and decide whether to approve, decline the application. Further, the authorised official may, upon approval of an application, attach or subject the approval to conditions, including the payment of fees, specific restrictions regarding the use of the land or building, and compliance related to the provision of engineering services, infrastructure services, and community facilities. Finally, the authorised official may, where there are objections or negative comments, escalate the application to the municipal planning tribunal for consideration.

The municipal planning tribunal (Tribunal) is empowered to consider, inspect, conduct hearings, request additional information, subpoena any relevant person or official, draft conditions for consideration by the authorised official before implemenetation, and decide on all land development and land use applications referred by the municipality, and any organ of state. The Tribunal may, on approval of an application, subject the applicant to conditions related to the specific restrictions regarding the provision of infrastructure services, social infrastructure, and open spaces, permit or restrict the use of land or buildings. All the members of the Tribunal are obligated to sign a code of conduct and comply with the set operational procedures, and participate in inspections and hearings. The proceedings of the Tribunal shall be recorded, except the in-committee deliberations, and the recording made available to an interested party on payment of a prescribed fee. To safeguard the interests of applicants, objectors, and other relevant parties, the members of the Tribunal shall not discuss the matters before it with third parties or outside the Tribunal without the approval of the chairperson. The municipal officials and political representatives are warned against interference and attempts to influence the Tribunal. The processes and procedures of the Tribunal shall be conducted in compliance with the provisions of the Promotion of Administrative Justice Act 3 of 2000 (PAJA) and shall submit monthly or quarterly reports to the municipal manager for tabling before the council meeting. Any member of the Tribunal found guilty of misconduct, including the municipal officials assigned thereto, shall be disqualified from serving on the Tribunal.

Finally, sections 51(2) and (6) of SPLUMA empower the municipality to establish an Appeal Authority to consider appeals from any person, applicant, or land owner whose rights may be adversely affected by the decisions of the authorised official or the Tribunal of the municipality. The written notice to appeal must be submitted to the municipal manager within twenty-one (21) days of receiving the decision of the authorised official or Tribunal, and the notice must provide the substantive grounds for the appeal, and all the prescribed or supporting documents. The municipal manager shall, within thirty (30) days of receiving all prescribed or supporting documents, refer the appeal to the appeal authority for consideration. Further, the municipal manager shall, within seven (7) about the referral of the appeal to the appeal authority, notify the Head of Department responsible for municipal planning, and request that arrangements be made for the appeal authority to consider the matter. The membership of the appeal authority shall be limited to eleven (11) members, including three (3) persons who are not government employees, two (2) persons employed by the national or provincial government, and six (6) councillors from the municipality. Two councillors shall be nominated as chairperson and the other as alternate chairperson. All the appointed members must have expert knowledge and experience in the spatial planning and land use management discipline. The chairperson shall not have voting rights. Like the members of the Tribunal, all the members of the appeal authority are obligated to sign a code of conduct and comply with the set operational procedures, and participate in inspections and hearings.

The proceedings of the appeal authority shall be recorded, except the in-committee deliberations, and the recording may be made available to an interested party on payment of a prescribed fee. To safeguard the interests of applicants, objectors, and other relevant parties, the members of the appeal authority shall not discuss the matters before it with third parties without the approval of the chairperson. The municipal officials and political representatives are warned against interference and attempts to influence the appeal authority. The processes and procedures of the appeal authority shall be conducted in compliance with the provisions of the Promotion of Administrative Justice Act 3 of 2000 (PAJA) and shall submit monthly or quarterly reports to the municipal manager for tabling before the council meeting. Any member of the appeal authority found guilty of misconduct, including the municipal officials assigned thereto, shall be disqualified from serving on the appeal authority.

Decision-making involves a series of action steps that are necessary and helpful for a competent individual or institution to make a decision. The action steps include identifying a decision,

gathering relevant information, identifying alternative information, weighing available evidence, choosing a preferred or suitable alternative, taking action, and reviewing the decision taken.

Rayner (2003) indicates that the government's decision-making process is largely dependent on the availability of technical information and often blames technical failures when the consequences of the decisions are not favourable. To mitigate against this, governments have adopted and utilised various decision-making techniques to inform their approach to the delivery of basic services, *viz* cost-benefit analysis, risk probability analysis, fault-tree analysis, pollution dissipation models, spatial planning models, traffic-flow models, and exposure-response models, amongst others.

Two theories of decision-making, which would be tested against the problem of deciding uncertain conditions, as witnessed in instances where the Liquor Board is confronted with conflicting interests of promoting economic growth, licensing small to medium enterprises, creating employment opportunities, promoting the public interest, and enforcement of the rule of law.

4.3.1 Rational Choice Theory

According to Sato (2013), the purpose of the rational choice theory is to explain the social phenomena of the decision-maker at the time of making the choice. It is theory that is influenced by desires, beliefs, and opportunities available to the decision-maker (Bruch & Feinberg, 2017). Further, it influences an individual's perception of a rational decision or action under peculiar circumstances or a given situation. It informs individuals how best to realise their desires, which are largely influenced by their beliefs. In turn, beliefs are influenced by evidence or information that is at the disposal of that individual. Noticeably, decision-makers often have inadequate information and limited time to consider the benefits of available alternatives (Sato, 2013).

Section 3 of the GLA empowers the Liquor Board to adjudicate and decide whether to either grant or decline applications for liquor licences. The Liquor Board's decisions are largely informed by the applicant's motivation, the information presented by the Ekurhuleni Metropolitan Municipality's building control and economic planning unit, as well as the Liquor Board inspectors who are appointed in terms of section 108 of the GLA. On the other hand, the

GLA makes provisions for the Liquor Board to consider objections against the granting of liquor licences (section 27). However, the Liquor Board, in the consideration of applications and making decisions, is required, in terms of section 30(2)(c), to grant licences where it is in the public interest to do so. It can be assumed, under normal circumstances, that these legislative provisions are aimed at enabling the Liquor Board to make rational decisions when adjudicating applications for licences.

Wagnespack (2004) opines that the rational choice theory is straightforward, the first option for making simple decisions, generally sensitive to the variations presented by various interest groups, and promotes consistency in decision-making processes. Wagnespack's opinion contrasts with Creighton (2001), who stated that this theory is based on assumptions and fails to appreciate the creativity of individual decision-makers. Creighton's opinion is supported by Manzo (2013), who argues that the rational choice theory is vague, predictively inaccurate, and methodologically weak.

Gordji, Askari, and Park (2022) reference a new concept of the rational choice theory, known as hyper-rational choice, which seeks to interpret the engagement conditions of players, whose intention is to maximise their self-interests. The rational choice theory can also be used to resolve or make decisions on social dilemmas. Social dilemmas occur when independent individuals or organisations have to make choices or decisions under interdependent situations.

A classic example of a social dilemma is presented by the expectation and the government's obligation to make decisions that are favourable to promote businesses, grow the economy, promote the creation of employment, and protect the public interests, in the Primrose. There is no doubt that the granting of liquor licences by the Liquor Board promoted businesses and created employment, and enjoyed support from the surrounding communities until the outlets became an irritant. Furthermore, the number of licensed outlets promotes accessibility and freedom of choice to the clientele, and some of the residents who are adversely affected by the proliferation and non-adherence welcomed these establishments, at some point.

However, the celebrations and support for the operations of licensed outlets were undermined by non-adherence to the provisions of the GLA, municipal by-laws, and ineffective law enforcement by the Liquor Board, the EMPD, and SAPS. The ineffective regulation, coupled with inconsistent application and enforcement of the relevant policy frameworks, exposed the residents to lawlessness and violations of human rights, which threatened the existence of law-

abiding businesses. This could harm the reputation of government entities, revenue collection, the promotion of businesses, and the creation of employment.

4.3.2 Garbage Can Theory

The garbage can theory can be described as an irrational way of making decisions. It premises its decision-making process on assumptions that there is a disconnect between the problem, solutions, and the affected individuals/ organisations. According to Garristen *et al* (2022), the garbage can model does not conform to the consecutive sequence of decision-making processes and is not informed by any strategic goal. Instead, the decision-making process is largely influenced by the problems and the participants. This view echoed the sentiments that were shared by Fatahi (2013), who opined that the decision-making process is influenced by the organisational structure and preferred when there is anarchy. Organisations that use or prefer garbage can theory have three general characteristics. Firstly, the organisation does not have a clearly defined set of principles, and its operations are based on various inconsistent and ill-defined principles.

The Liquor Board is an entity of the Gauteng Department of Economic Development, and its licensing regime should be driven by a commitment to identify and resolve existing problems impacting the economy of Gauteng and the livelihood of residents through economic recovery, industrialisation, youth employment, and township economy (Growing Gauteng Together 2030 and Township Economic Development Act, 2022). Astonishingly, the current licensing regime is driven by the perverse and uncompetitive monopoly by the conglomerates, inconsistent decisions, or decision-making processes detrimental to small and township businesses, the review and setting aside of the Liquor Board's decision to decline applications where it's prohited and not in the public interest, as well as an overreach by the courts.

Secondly, the legislation is outdated, and the Liquor Board does not have a clearly defined formula for licensing liquor outlets in municipalities and its decision-making process. Currently, the provincial government or the Liquor Board and the Ekurhuleni Metropolitan Municipality are using different sets of policy frameworks to regulate the liquor industry. Furthermore, there is no uniformity regarding the classification, trading hours, and the conditions that are attached to licences. The Gauteng Provincial government and its municipalities do not have a policy to guide the geographical location and number of liquor licences that are granted in Primrose, Ekurhuleni. This could be the lacuna that weakens the

government's regulation of the liquor industry in the Primrose CBD and Ekurhuleni Metropolitan Municipality.

Thirdly, the Liquor Board adopted a set of standard operating procedures for all employees and all stakeholders. However, the implementation and compliance thereto are not effectively monitored and enforced, and there is selective consequence management against non-adherence and wrongdoing. On the other hand, the participation of critical role players and decision-makers is inconsistent, and the responsibility often rests with different team leaders or individual managers.

However, there has always been a belief that current team leaders and managers are capable and committed to identifying and finding solutions to emerging problems. In this environment, the garbage can theory creates a platform for team leaders or managers to raise their problems openly and honestly to find solutions. These leaders are said to be genuine and outspoken, which encourages frankness and allows everyone to make informed choices and decisions.

Interestingly, Wagnespack (2004) compares the two theories and recommends that organisations should consider using both the Garbage Can Theory and the Rational Choice Theory.

Table 8: Comparison between the Garbage Can Model and Rational Choice Theory

Focus Area	Garbage Can Model	Rational Choice Theory
Application	Complex decision-making process	Simple/ straight forward decision-making process and preferred where there's information constraints
Values	Adhere to and promote strong organisational norms	Sensitive to the variations presented by the bureaucratic processes and interest groups
Adherence to policy	Stringent adherence to policy/ rules	Decision premised on anticipation and less adherence to policy/ rules
Decision-making factors	Inconsistent and unpredictable	Consistent and anticipated

Reflection/ impact	Accurate description of the organisational decision-making processes/ objectives	Description of individual subjective views
Stakeholder Engagement	Optimal participation by interest groups and influential	Minimal or no participation by interest groups
Procedures	Consideration of different problems, possible solutions, interest of all participants and opportunities presented by available choices	Consideration of different problems, possible solutions, interest of key participants and largely benefit to the organisation
Determinants	Context and outcome	Outcome

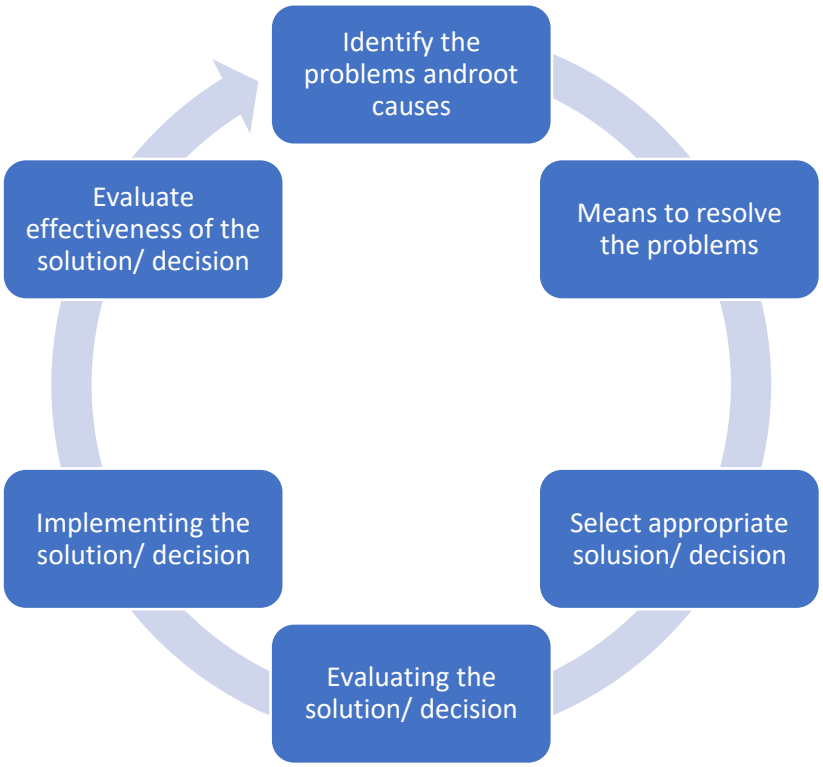
The researcher aligns himself with Wagnespack's recommendation because of the political expectations and mandate of the government towards economic growth, revenue generation, job creation, and promotion of small to medium business entities. On the other hand, the unintended consequences of granting licences, the obligation to engage various community stakeholders and ensure compliance with the GLA and SPLUMA make the adjudication of applications (including the decision to either decline or grant licences) a complex exercise, which could also be achieved through the garbage can theory.

Finally, decision-making is a complex exercise that requires an organisation and its stakeholders to identify, design, and adopt universal standard operating procedures and guidelines for decision-making processes. Bouchart, Blackwood, and Jowitt (2001) indicate that decision-making entails analysing complex information, identifying the problem, critically assessing available solutions, and managing stakeholders' expectations. These scholars proceeded and opined that the organisation would be required to consider internal policy, an analysis of the environment, as well as internal decision-making processes and tools.

Lunenburg (2010) stipulates that effective decision-making is critical for the success of most organisations. Bouchart, Blackwood, and Jowitt (2001); Fulop (2005), and Lunenburg (2010) concur on the fundamental areas of focus for the decision-making processes, namely: Identifying the problems and their causes, Identifying various means to resolving the problems, Selecting the appropriate solution/ decision, Evaluating the solution/ decision, Implementing

the solution/ decision, and Evaluating the effectiveness of the solution/ decision. These decision-making processes can be illustrated in the following diagram:

Figure 1: Decision-Making Process



4.4 Regulatory Authority

Regulation involves the making, implementation, and enforcement of rules as well as standards of general application that are used to maintain order within a specific sector or general society, and balance the interests of the business sector and its clients or the affected society. In addition, rules are used to assert the authority of the government by imposing corrective measures or sanctions against any person who fails to comply with the rules. Maman et al (2025) indicate that regulatory authorities play a uniquely pivotal and different role in governance, compared to private entities, government departments, and community-based organisations. Nevertheless, they opine that trust in the entity encourages compliance and enhances trust among sector stakeholders. Consequently, the entity needs to earn and sustain trust from its stakeholders. Grimmelikhuijsen et al (2021) echo these sentiments and further suggest that trust

in regulatory authorities is crucial for the communities to understand and implement their recommendations.

Regulation involves the delegation of the government's policy-making, implementation, monitoring, and enforcement powers and responsibilities to government agencies by the government, through a formal resolution, ordinance, or enabling statute (Yackee & Yackee, 2016). The agencies become an extension of government and can only exercise functions or powers conferred by the President, and/ or the responsible Minister, Premier, or Member of the Executive in the province. Inadvertently, regulations have the element of compelling individuals or entities to comply with a government directive or instructions, and failure to comply is often punishable by the imposition of a fine/ sanction, or imprisonment. It can be argued that regulation is used as a government's tool to respond to or mitigate a societal problem or crisis. Regulations can be used to control or manage competition between businesses, and promote societal good and individual interests (Levi-Faur, 2010). Regulations are largely necessitated by a government's primary obligation to promote the physical security and integrity of its citizens. The concept of regulatory agencies was introduced and took shape in South Africa in the 1990s. This was informed by a commitment to establish a more effective regulatory framework and mechanism for service delivery. However, despite the political commitment and promulgation of enabling legislation, success to date, remained a challenge and limited (Keyter *et al*, 2018).

The Liquor Board is an entity of the Gauteng Provincial Government, which reports to the MEC responsible for Economic Development, and was established in terms of the Gauteng Liquor Act 2 of 2003. This legislation was enacted to "…make a decisive break with the past oppressive liquor regulations while also seeking to balance the competing interests of those who produce, distribute, sell and consume liquor with the overall impact liquor has on social well-being, including the detrimental consequences for communities and families." (Gauteng Liquor Policy, June 2011). The Constitutional Court, in *Ex Parte The President of the Republic of South Africa In Re: Constitutionality of the Liquor Bill*, issued a judgment declaring that provincial liquor authorities have exclusive competence to regulate liquor licences. The Constitutional Court judgment reaffirmed the provisions of the Schedule of the Constitution of the Republic of South Africa Act 106 of 1996 (the Constitution), which defined liquor licensing as a functional area of exclusive provincial competence.

The Liquor Board is established in terms of section 2 of the GLA and is a juristic person that can sue and be sued in its name. In addition, the Liquor Board has powers to, amongst others, receive and adjudicate over new licence applications; approve or decline licence applications; amend conditions of licences; suspend or revoke a licence; conduct hearings to test and verify allegations of non-adherence to licence conditions and issue penalties and sanctions against non-adhering licensed outlets. It could be argued that the state of the liquor industry in Primrose, coupled with the plethora of complaints emanating from the proliferation and extent of non-adherence to licence conditions by liquor outlets and lawlessness points to deficiencies in the system or failure by the Liquor Board to effectively regulate the liquor industry, in the Primrose CBD.

Firstly, Section 197 of the Constitution of the Republic of South Africa (the Constitution), Act 108 of 1996 establishes the public service which is required or expected to loyally execute the Constitution and lawful policies or programmes of the government. Furthermore, section 196 establishes the Public Service Commission, which has a mandate to, amongst others, provide guidelines regarding the employment and management of public servants, as well as promote public service values and principles.

Under the promotion of public service values, the Public Service Commission gazetted a Code of Conduct for Public Servants, under Notice 5947, No. R825 of 10 June 1997. The Code of Conduct provides a guideline for public servants to be faithful to the Constitution of South Africa, conduct their duties in line with all the laws of the country, familiarize themselves with all relevant laws, serve citizens in a fair and unbiased manner, not abuse their employment positions, exercise professionalism at all times and be honest, responsible and transparent. Public servants are expected and required to abide by and be familiar with all legislation and law instructions applicable to their conduct and official duties, report fraud, corruption, nepotism, maladministration, criminal offences, and non-compliance with the Public Service Act of 1994 (Regulations 11, 13 and 14 of Public Service Regulations of 2016). The employees and members of the Liquor Board are expected and required to be loyal to the Constitution and the Code of Conduct for the Public Servants, as well as conduct themselves within the confines of the GLA. The contravention of the GLA is an offence [section 127(i)] and is punishable, if found guilty, by an imposition of R100 000.00 fine, imprisonment not exceeding ten (10) years, or both such fine and imprisonment [section 133].

Secondly, the Protected Disclosure Act, No. 26 of 2000, makes provision for any employee to disclose information relating to an offence or malpractice in the workplace that is committed by the employer or fellow employees. Boot (2019) puts forward a compelling argument in support of public servants' obligation to disclose information regarding the government's collective wrongdoing. To throw a spanner in the works, he extends this responsibility to instances where the public servants were either involved or complicit in the wrongdoing. To support his argument that public servants are obliged to disclose government collective unethical conduct where they were complicit, Boot (2019) puts various arguments forward: a public servant is responsible for government collective unethical conduct insofar as they were complicit; responsibility for unethical conduct creates a further responsibility to rectify the conduct; public servant must disclose government's classified or secret unethical conduct they were complicit in it; the extent of the public servants' blameworthiness is a factor; the most effective manner to rectify government's unethical conduct a public servant was complicit in is to disclose and the public servant's voluntary participation and knowledge that they were participating in the government's collective unethical conduct was a determinant in factor on who was responsible.

Martinez (2020) thinks that non-adherence to internal policies and processes is, in some instances, deliberately orchestrated by the employees and managers of entities. This causes non-adherence to persist despite the best efforts by the relevant regulators and law enforcement entities to prevent and deter improper conduct within their ranks. This has resulted in too much reliance on the criminal justice system to prosecute offenders. On 07 June 2024, the South African Public Service Commission published a circular prohibiting the "Implementation of Unlawful Instructions (PSC Circular No. 5 of 2024). The Circular was in response to a plethora of instances where government employees, found guilty of irregularities which crippled service delivery, undermined human rights, as well as derailed the objective of government, alleged that they acted on instruction of their senior manager or supervisor. The purpose of the Circular is to: Advise the Executive Authorities/ MECs, Heads of Departments and Employees of their responsibility to perform their duties within the confines of applicable laws and regulations; Encourage public servants to report irregularities and unlawful instructions to the relevant authorities; Advise and encourage public servants to remain professional and support the new administration, within the confines of the law; and Advise Executive Authorities/ MECs to act within the confines of the law to ensure organisational stability and service delivery continuity to all people.

Thirdly, the National Liquor Act No. 59 of 2003 (National Liquor Act) established the National Liquor Authority (NLA) which has jurisdiction throughout the Republic of South Africa to regulate the micro-manufacturing and distribution of liquor, establish the National Liquor Policy Council, establish the national norms and standards aimed at maintaining unity within the liquor industry and promote sound inter-governmental relations. On 8 December 2014, the National Minister of Trade and Industry published the National Liquor Norms and Standards, which came into effect on the date of publication. The National Liquor Norms and Standards were published after adoption by the National Policy Council, which is composed of the National Minister of Trade and Industry and all the Members of the Executive Authority responsible for liquor regulation. The purpose of the published Norms and Standards was to harmonise the existing liquor regulations and practices, facilitate effective and uniform enforcement of liquor laws, ensure consistency in the application of liquor laws, and reduce the socio-economic impact of alcohol abuse and availability of liquor.

All provincial liquor authorities pledged to align their respective legislation with the adopted and published National Liquor Norms and Standards, particularly on matters related to age verification, the prohibition against the supply of liquor to minors and intoxicated persons, trading hours, noise and nuisance, safety at outlets, provision of ablution facilities, payment of tax, and date for the harmonization of provincial legislation with the National Liquor Act.

Fourthly, Wilson (2008) opines that the permission granted by a liquor authority to trade in liquor is not a right, but a privilege. The decision to grant a liquor licence should be informed by the government's responsibility to promote the personal security of its citizens. Wilson's opinion was informed by the level of non-adherence and violence emanating from liquor outlets in Melbourne, Northridge, Queensland, Perth, and Victoria. The level of violence resulted in the introduction of lockdowns by the respective governments. However, Scott Duval, the South Australian Chief Inspector, held the view that lockdowns were ineffective in responding to non-adherence and violence at liquor outlets. Wilson (2008) concludes by stating that the problems of non-adherence to regulations and violence will be resolved by the deployment of more capable police officers as well as the amendment of regulations.

Contrariwise, Loo (2019) indicates that regulatory compliance can be achieved through awareness, monitoring inspections, rulemaking, quasi-judicial process, common law citations, and sanctions. These options provide the relevant sector or stakeholders with better and affordable options as compared to police and lawyers because their function is less adversarial.

However, this task is not systemically considered when the policy is developed, and enforcement is largely left to separate government law enforcement authorities. They conclude by saying that regulatory authorities have little appreciation of the impact of non-adherence to regulations. Tallberg (2020) argues that a compliance system that combines both enforcement and management mechanisms of regulation is more effective, as compared to the coercive approach of monitoring and sanctions.

On the other hand, the City of Ekurhuleni Metropolitan Municipality Planning and Land Use Management By-Law of 2019 (By-Law) and the City of Ekurhuleni Land Use Scheme of 2021 (Scheme) empower to regulate spatial planning and land use in Primrose. The By-Law establishes the procedures, processes, and systems that are mandatory to accelerate and control seamless land development and land use in Ekurhuleni. To promote the Municipality's authority on land development, land use, social cohesion, economic growth, and revenue generation, the Scheme recognises and may grant approval or consent for a suitable property to operate as a place of entertainment, and it includes a casino, cinema, concert hall, ***dance hall***, discotheque, indoor sports, ***night club***, ***pub***, ***theatre,*** and sports bar (my emphasis). In addition, the Scheme recognises and may grant approval or consent for a suitable property to operate as a place of refreshment for preparation, sale, and consumption of food or drinks for on-site or off-site consumption, and it includes a ***restaurant***, coffee shop, tea room, and tea garden (my emphasis). Further, the Scheme recognises and may grant approval or consent for a suitable property to operate a ***tavern***, and defines it as part of a dwelling house that is utilised for the sale or supply of liquor, for on-consumption of the premises as contemplated in the GLA. The highlighted places of entertainment, places of refreshments, and the tavern are included in the list of liquor licences, which may be applied for and granted by the Liquor Board.

The Scheme provides for twenty-two (22) land use categories that are considered to determine the suitability of land or buildings to trade in liquor. The Scheme may grant the owner or occupant of land or buildings primary, secondary, or ancillary rights to facilitate the use that complies with the set norms and standards. Primary use refers to any specific use that is prescribed by the Scheme, without the requirement to obtain the consent of the municipality. Conversely, secondary use refers to any specific use of land and/ or building that may be erected or in existence, that may be prescribed by the Scheme, and may only be used subject to or after obtaining a special consent or written consent (A and B) from the Municipality.

Written Consent A applies to privately-owned land, while Written Consent B applies to municipal-owned land. These categories are also crucial and relevant in the Liquor Board's decision-making processes and system, and regulate the appropriate utilisation of land or buildings located with residential, business, industrial, mining, public garage, agricultural, recreation, private open space, public open space, community facility, public services, social services, parking, roads, transportation, and special demarcated areas within the municipality.

Section 15.4 of the Scheme prescribes that an application for a liquor licence can only be lodged with the Liquor Board after the application for consent or rezoning has been approved by the Municipality. Notably, the Municipality may not grant written consent contrary to the restrictions that may be attached to a Title Deed, Deed of Transfer, or an ERF. Finally, section 35 of the Scheme stipulates that any person who fails to comply with the provisions and notices issued in terms of the Scheme shall be guilty of an offence and may, on conviction, be liable to a fine or imprisonment, in terms of section 116(2) of the By-Law.

4.5 Promoting Public Interest

Public interest concerns itself with the government's decision-making processes and actions that benefit the citizens or community. Therefore, the benefits derived from the government's processes and actions must benefit everyone, and not selected individuals or privileged groups (Corruption Watch, 2012). In addition, Short (2023) opines that the concept of public interest creates an obligation for government entities to embrace ethics and morals in their policy and decision-making processes.

Notably, section 30(2) of the Gauteng Liquor Act 2 of 2003 (GLA) compels the Liquor Board to grant a licence where and when doing so is in the public interest. Further, section 30(3) of the GLA explicitly prohibits the Liquor Board from granting licences to outlets that are situated within a 500-meter radius of a '*place of learning*', '*place of worship*', '*similarly licensed outlet*', and '*public transport facility*'. The Liquor Board, as a creature of statute, is expected and/ or required to act within the confines of its founding legislation. However, the complaints and information obtained from the Liquor Board's database evince a conspicuous state of affairs regarding the internal decision-making processes and systems.

Governments, including South Africa, have, in their efforts to promote public interest and reduce the impact of the liquor trade and abuse, introduced tax policies and law enforcement policies. However, these gains are threatened by the aggressive marketing strategies and interference in policy development and implementation by the champions of the industry. The South African liquor industry has used its contribution towards the economy, employment, and investment in government projects to push back against stringent policy and legislative framework. Drinks Federation South Africa (2024) reported that the liquor industry contributed R226. 3bn, or 3.6%, to the country's Gross Domestic Product (GDP) in 2022. In addition, 498,999 sustainable jobs, which generated R2.5 bn in household income, providing for the livelihood of 1,15 million individuals, were reported. The liquor industry's contribution translated to R96.9 bn (6.7%) of the country's tax revenue generation. This and previous years' contribution to the national fiscus, by the industry, motivated the industry to wage a fierce pushback and litigation against the government's Covid-19 Pandemic Regulations (Regulations), which were implemented from 3 March 2020 until April 2022. These Regulations impacted the industry's operations, profits and contribution towards the fiscus, after the complete shutdown of the industry, followed by limitations in transportation and delivery of liquor, trading hours, and the number of clients per outlet, whilst indirectly and unwittingly benefiting the illicit liquor industry to thrive.

The litigation against the Covid-19 Pandemic Regulations followed in the heels of the industry's resistance and successfully derailing the promulgations of the National Liquor Policy, 2016. While the Policy acknowledged and recognised the considerable contribution made by the industry to the economy, employment, output and export earnings and creation of sustainable jobs, it sought to, amongst others, deliberately address the socio-economic impact of liquor and the costs of alcohol abuse by banning the advertising of liquor, increased the age of drinking to 21 years, and hold the industry directly responsible for the socio-economic harms associated with alcohol consumption.

Public interest can only be achieved when the government considers the interests of all relevant stakeholders and minimises how its decisions and policies impact their lives. Beyers and Arras (2019) argue that diversifying stakeholders during consultation reduces government capture and the unbalanced protection of interest groups. On the other hand, Short (2023) raises pertinent questions about how regulatory authorities define public interest and whether their discretionary powers and public interest standards are not coerced by the dominant political

dynamics and fear of being purged. This resonates to the core of this study, regarding the decision-making processes and systems of the Liquor Board and the general application of the GLA. While the GLA does not define public interest, section 30(2)(c) compels the Board to grant liquor licences when it is in the public interest. In addition, section 30(3) prohibits the Board from granting licences in proposed outlets that are located within a "500-meter radius" of places of worship, learning, similar licensed premises, and public transport hubs. The Board does not have the discretion to grant licences in contravention of this provision and the general provisions of the GLA. When such happens, their actions are perceived to be tantamount to a contravention of section 127(i) of the GLA and not in the public interest.

Primrose is located just outside the Germiston Central Business District and covers 615 Hectares (Ha). The local South African Police Service reported that Primrose has approximately 55 licensed outlets, which are largely located within the residential areas and closer to public amenities. The Primrose Residents Association has, in response to the number of licensed outlets, accused the provincial government and the Liquor Board of failing to act in the best interest of its community. The residents of Primrose used various platforms to register their concerns and challenged the Liquor Board to explain why licences were granted in their location and the proximity of places of interest, in complete disregard of the GLA. Furthermore, the community lamented the lack of communication, consultation, and transparency in the Liquor Board's decision-making processes and systems, as the primary cause of the proliferation of outlets and unintended consequences of the liquor trade.

According to Downs (1962), the promotion of public interests is more realistic and achievable in a community that shares common values and interests. Downs opines further that working with communities that share common values and interests helps facilitate decision-making and interventions by government officials. This is more evident in African and rural communities of South Africa, which are largely led by chiefs and indunas, and where residents pursue the same cultural beliefs, values, and societal goals. Contrarily, Shan et al (2024) hold the view that public interest cannot be achieved without the protection of the rule of law, and litigation becomes a useful mechanism to supervise and hold the government accountable for the performance of its regulatory mandate.

Equally, the impact of granting liquor licences and trading in the vicinity of public amenities, including churches, homes, parks, schools, and shops are common concern that brought the

residents of Primrose together. Short (2023), indicates that the regulatory authority's decision-making processes and systems depict the rational and predictable patterns that are consistent with the applicable legislation, seldom reflect what the affected community regarded as a public good or values, even when it is prescribed legislation, and pressures of economic growth and generating revenue for the government are used to justified the failure to promote public interests.

Finally, Short (2023) concludes by casting doubt on the government regulatory authorities' ability and commitment to promoting public interest, even when it is prescribed by legislation.

4.6 Knowledge Gap

The literature review conducted by the researcher helped establish that the subject of liquor regulatory authority is widely researched and discussed, particularly regarding the authority and mandate of liquor authorities, licensing processes, the impact of alcohol abuse on vulnerable groups in society, and enforcement. However, the researcher has identified a knowledge gap concerning the following critical areas of interest, which could affect decision-making processes that are incompatible with the provisions of South Africa's national and Gauteng Provincial liquor industry, as well as the Spatial Planning and Land Use Management regulatory frameworks.

4.6.1 The impact of lapses in the decision-making processes

South Africa's liquor industry policy framework and the municipality's land use framework provide clear and succinct decision-making processes and systems, with clear role clarification and powers of the entities that are tasked with regulating the liquor industry and land use in municipalities. However, it falls short of identifying potential risks associated with the decision-making processes and systems of the regulatory institutions, and providing remedial action to mitigate these risks and their impact.

4.6.2 The factors influencing the liquor licence decision-making processes

The crafters of the applicable national, provincial, and local government pre-empted the potential socio-economic harm associated with the liquor trade, proliferation, and abuse. This

knowledge gap may present future academics with an opportunity to study the impact of discretionary powers on decision-making processes and systems of regulatory institutions.

4.6.3 The civil and criminal liability of the licensing authorities or individual members failing to adhere to the legislation

Section 197(1) of the Constitution establishes the public service and obliges the public servants to be faithful and loyally execute the law. Furthermore, Circular 1 of 2020 advises the Executive Authorities, Heads of Department, and public servants that they are required to perform their duties within the confines of the law and report irregularities and unlawful instructions. While there do not seem to be reported instances where regulatory authorities or their members were held criminally and civilly liable for decision-making processes and systems that conflict with the law. This knowledge gap presents an opportunity to establish whether members of regulatory institutions and/ or individual members can be held liable for the impact of their decisions on society.

4.6.4 The conflict between the municipal land use framework and the national/ provincial liquor regulatory framework

This conflict has derailed economic growth, revenue generation and sustainability programmes of municipalities, and hampered service delivery in communities. This knowledge gap presents an opportunity to conduct an in-depth study into this conflict, its impact on society and recommend solutions that will result in a synergised regulatory framework and systems.

4.6.5 Inadequate enforcement is impacted by competing government competencies and fiscal limitations

South Africa's regulatory institutions do not have adequate capacity, if any, to enforce compliance within their regulatory environment. This created an untenable situation where there is complete dependency or the enforcement is left to the SAPS and Metro/ Municipal Police Department. As a result, the enforcement of regulations is not prioritised or does not take place. This knowledge provides an opportunity to establish whether the current status was a deliberate design or intent on the part of legislation crafters, establish the trends and recommend interventions to resolve this matter.

Further gaps were identified in academic literature and the legislative framework that identify mitigators for challenges presented by administrative functions versus political meddling/ interference on the duties of regulatory agencies. In addition, there seems to be a blurring of lines concerning the role of the Ekurhuleni Metropolitan Municipality, Liquor Board, and SAPS in the regulation of liquor outlets. This is compounded by the courts, which hold contradictory views on the mandate of the Liquor Board against that of the Municipality. Finally, there does not seem to be an established or documented licensing formula that is used by the Liquor Board or Ekurhuleni Metropolitan Municipality to determine the number of licences that should be issued per locality, township, and/ or suburb.

The above presents an opportunity for further academic studies to enhance the academic knowledge in this regard.

4.7 Chapter Summary

Chapter 4 discussed the conceptual framework, which justifies the study and delved into the primary concepts of the study, including decision-making approaches in public institutions, the regulatory authority, and the promotion of public interest, which form the cornerstone of a regulatory authority. This discussion was critical to point the study towards addressing the research objective and questions.

The chapter concluded by identifying the knowledge gap which presented opportunities to examine the potential risks associated with the Liquor Board's decision-making processes, the impact of discretionary powers into decision-making processes of regulatory institutions, whether members of regulatory institution and/ or individual members can be held liable for the impact of their decisions in society, the impact of the conflict between municipal land use framework and national/ provincial liquor regulatory framework, and the impact of competing government competencies and fiscal limitations in law enforcement.

Chapter 5
Presentation of the Analysis Process and Results

5.1 Introduction

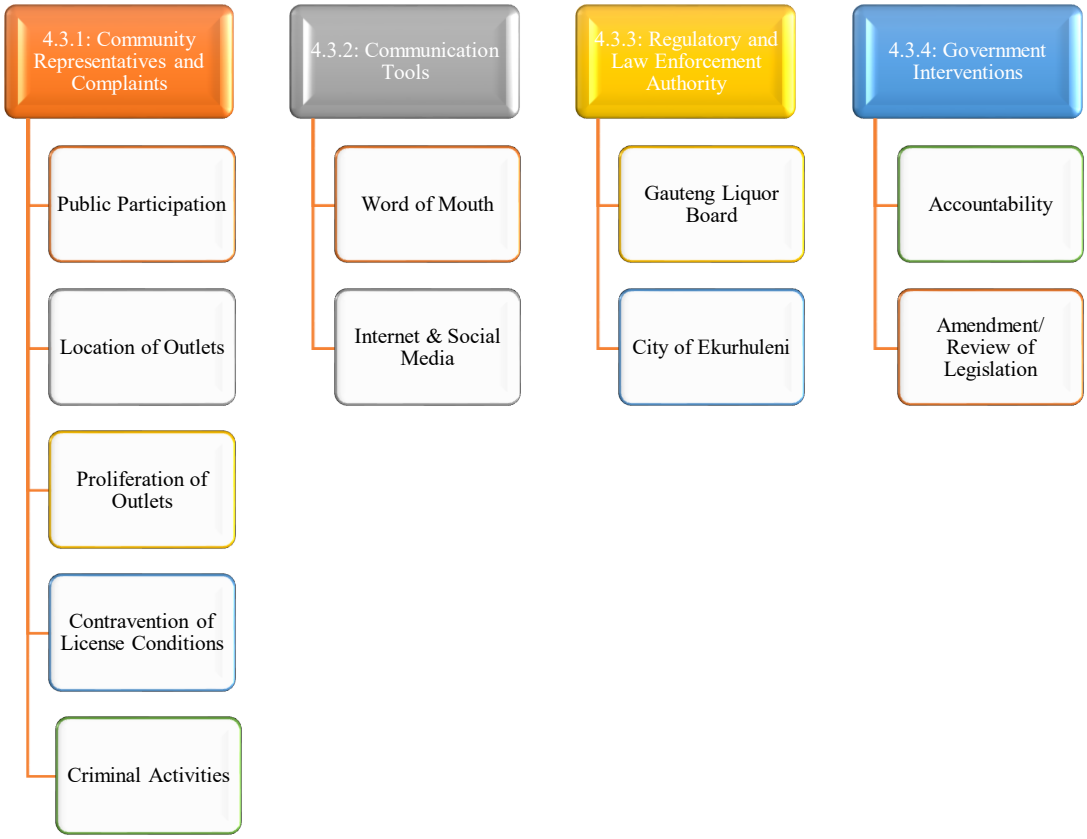
This chapter provides an objective presentation of the data collected, the analysis process, the research themes, and the findings of the study. In addition, this chapter provides the intricate details of the research participants' behaviour, attitudes, and lived experiences, while emphasising the exploration of nuances and context to ensure the credibility and reliability of the findings of the research. Furthermore, the tailor-made and interconnected research questions (questionnaires) test the participants' broader knowledge and understanding of the provincial liquor regulatory framework, licensing processes, licence conditions, and the role of the Liquor Board and EMPD in enforcing compliance with the rule of law. The chapter concludes by highlighting the results of the study.

5.2 Research Results

The results provide an accurate presentation of the raw data collected during the fieldwork, utilising semi-structured interview questions posed to the Primrose Business Forum, the Primrose Community Policing Forum, and the Primrose Ratepayers Association. Additionally, semi-structured interview questions were employed to gather factual information from relevant senior officials and managers of the EMPD and Town Planning Departments, as well as the Gauteng Liquor Board, regarding the government's role in regulating the liquor industry, land use, and town planning to address the research questions.

Furthermore, the results of the study focus on the four critical themes, which were explored during the analysis of the data collected, namely: *Community Representatives & Complaints*, *Communication Tools*, *Regulatory and Law Enforcement Authority*, and *Government Interventions*. The discussions of the results are structured as follows:

Figure 2: Chapter Overview



The next section explores the study's findings by analysing the quantitative distribution of the four themes emerging from it. Figure 3 below provides a visual portrayal of the proportional distribution of the thematic areas and research outcomes. The prominence and significance of each theme are examined and illustrated below.

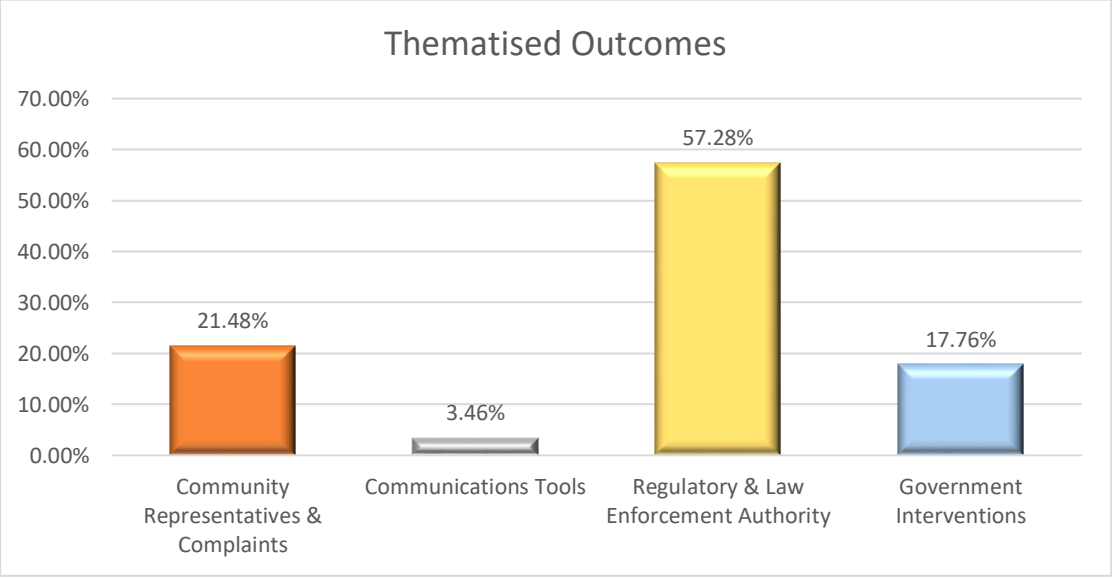


Figure 3: Proportional Distribution of each Thematic Area

The theme "Regulatory and Law Enforcement Authority" was the most prevalent and garnered the highest number (57.28) of comments across the spectrum of research participants. It was followed by "Community Representatives and Complaints" with 21.48%, "Government Interventions" with 17.76%, and finally, "Communication Tools" with 3.46%.

5.3 Analysis Process

This analysis is informed by the lived experiences and sentiments of the residents of Primrose, as represented by three (3) dominant and recognised organisations, who participated in the study and provided responses to semi-structured questions posed to address the research questions. While the participants were not experts in government and regulation of the liquor industry, they were residents, and some were entrepreneurs who provided personal, credible, and factual data regarding their lived experiences in Primrose.

On the other hand, separate and independent interviews were also conducted with the representatives of the Ekurhuleni Metropolitan Municipality and the Liquor Board. Unlike the participants who represented the residents of Primrose, the officials or representatives of the City of Ekurhuleni Metropolitan Municipality and the Gauteng Liquor Board were experts in their respective disciplines.

5.3.1 Community Representatives and Complaints

The residents of Primrose were represented by duly authorised members of the Primrose Business Forum (PBF), the Primrose Community Policing Forum (PCPF), and the Primrose Ratepayers Association (PRA). The PBF was founded on 19 December 2017 and represents the interests of local businesses and employers, including identifying business opportunities and revitalising the city. The PCPF was founded in 2012 and was properly constituted on 22 May 2017. Its objectives are to oversee three (3) local sectors, to create an effective community policing forum, maintain healthy relations with the local South African Police Service precinct, and the implementation of crime-fighting strategies. Finally, the PRA is a juristic person *(Registration No. 2022/632991/08)* which was founded in 2022, and its primary objective is "*…to represent the rights of all property owners in Primrose and its surrounding area. Our*

goal is to build common ground across the diversity of people and interests represented, ultimately improving the livelihoods and quality of life for all ratepayers who live and work in Primrose."

5.3.1.1 Public Participation

The PBF, PCPF, and PRA alleged that there was no public participation process and the Liquor Board did not consult the residents regarding the applications for the fifty-five liquor licences, which were issued in Primrose. In addition, the participants were not aware, nor were they informed of the opportunity to object, and the objection process against the granting of a liquor licence, as provided for in sections 25 to 27 of the GLA. Furthermore, the residents lamented the fact that the local councillor was also not consulted and relied on the PCPF and PRA for information regarding the existence of liquor outlets, the licensing process, reported cases of non-adherence to the liquor licence conditions, the causal link between alcohol consumption and abuse, and its impact in the community.

To protect the privacy of the participants, the comments will be attributed to a particular representative, and real names have been replaced by pseudonyms. The following excerpts from the raw data collected reflect the sentiments of the research participants.

The residents accused the Liquor Board of failing to consult the community, notify them about new licence applications and the right to object thereto, and the decision to approve applications for fifty-five (55) outlets which are operating in Primrose.

Rudy - "*...we were not given any formal notification that we may object. It was just purely through experience, and such that when we were aware of such an application that we could object to, there were plenty of other applications that had gone through and liquor licences granted, that we were not aware of.*"

Jack - *"There were no consultations with regard to the rights of the community to lodge any complaints or objections to the licences that were applied for."*

Grace - "*No, we were not made aware of our rights to object to any of these outlets. If we were made aware, we would have all…objected to it.*"

Robert - "*Never, never ever. Not us, the community, even our ward councillor. Nothing was communicated, and it's actually so scary that, I mean, I would think our ward councillor would be aware of these things. And often we are informing her of where the liquor outlets are. She's asking us for the lists because she's not been informed at all, either."*.

One resident sounded so despondent about the implementation and effectiveness of the Liquor Board's objection process and said, "*It's a waste of time. It's a waste of time, nobody adheres to the regulations.*". Startlingly, Frankie challenged the lack of confidence displayed against the bona fides of the Liquor Board's objection process, and said, "*I don't agree with you, because how else are you gonna do it? How else am I gonna raise my voice? You can't just say there can only be 4, because that will never happen. I will take part, because somebody else is going to do it next door to me, they're gonna put up a thing and say, I'm gonna put a bottle store, then I will take part.*". This view surprised other participants because it sounded like a desperate effort to inspire an *activist citizenry* in Primrose, who prefer to participate in determining the future they want to see in society.

Most participants were also surprised that liquor licence applications were advertised in at least two newspapers that are in circulation in their community, the Provincial Gazette, and another notice affixed to the premises, as prescribed by section 24 of the GLA. This section makes it peremptory for the applicants to publish their intention to apply for a liquor licence, within seven days prior to the lodgment of the application. However, the GLA does not prescribe the size and location of the newspaper advertisement. As a result, the advertisements are located in the classified section of the newspaper and in a small font.

Bobby - "*..., if it goes on the newspaper, it goes on classified, and how many people go to the classified to see how many liquor outlets are opening or closing? Second of all, I don't think any of them actually put a letter saying that they're open. We've had some instances where they have, but it's this tiny little paper like this, and…sometimes it'll be at the bottom of the window in the corner, so nobody notices.*"

Tumi - "*... somewhere where nobody is gonna take notice of it, unless she's looking for work.. No, some don't even put up the notice because we have come across some little busy opening, there's no notice outside."*

Shawn - *" I have seen a few that have put it, but it's such a tiny little you know, it's about an A4 size, on a massive window like that, but then they put it up in the top corner at the bottom corner where nobody really sees it."*

Finally, the participants were unanimous that the Liquor Board did not consult and inform them about the applications for most or all of the fifty-five (55) licences that were granted in Primrose. They were agitated that the number of licensed outlets increased to fifty-eight (58) and claimed they would not have known, had it not been for the engagement during the field work. The participants feel that the lack of consultation and information creates an opportunity for outlets to trade without valid licences, as it is alleged within the surrounding informal settlements of Delport, Makause, and Marathon.

Finding: The study found that the Liquor Board did not consult or notify the residents of Primrose about new licence applications, the right to object to a licence application, and the decision to issue licences to fifty-five (55) outlets that are operating in Primrose. Furthermore, the study found that the provisions of Sections 24, 25, 25 and 27 are ineffectual and do not promote public participation, because the notices that are aimed at informing interested parties about new licence applications are posted in the classified section of the newspapers, the provincial gazette, and another notice affixed to the premises. Further, no ordinary or reasonable person reads the classified section of a newspaper unless the person is a job seeker.

5.3.1.2 Location of Outlets

The narrative provided in Primrose, regarding the impact of the Liquor Board's decision-making process resulting in the granting of licences in prohibited and residential areas, is that of a community that finds itself on tenterhooks, and desperately hoping someone could salvage their situation. The following outlets were used as examples to substantiate the allegations of licences in prohibited and residential areas: ***Hideout:*** *Blessed Sacrament Church (145m), Assumption Convent (200m), Pitter Patter Day Care (270m), Wychwood Primary School (309m), and Bedfordview High School (420m);* ***JB Liquors:*** *Cemetery (121m), Red Cross Nursing Home for the Aged (214m), St Johns Baptist Greek Church (321m);* ***Kib Rikah Club:*** *Primrose High School (46m), Cemetary (95m), Greek Church 290m, and El Shammah Home*

for Abandoned Babies (370m); ***H20:*** *Red Cross Home for the Aged (125m), Jewish Cemetery & Place of Worship (185m), El-Shammah Home for Abandoned Babies (198m), Primrose High School (203m), and ST Johns Baptist Greek Church (460m); and* ***Rainbow Restaurant:*** *Jewish Cemetery & Place of Worship (121m), Red Cross Nursing Home for the Aged (214m), and ST Johns Baptist Greek Church (321m).*

There was consensus from the residents that they were opposed to the licensing of outlets within the residential area, places of learning, places of worship, public parks, public transport facilities, and other public amenities. The participants expressed their intention to continue lodging complaints against problematic outlets and object to all future applications for licences.

However, a representative of the City of Ekurhuleni Metropolitan Municipality advised that the licensing of outlets within the residential areas and in proximity to public amenities is not prohibited by the City of Ekurhuleni's Spatial Planning and Land Use Scheme. He explained that, *"…the city has grown so much that the existing land uses which are supplementary or complementary to residential. The uses have not been adequate as a result, people use residential properties for things like selling liquor, but that's not all."*. However, he emphasised that this is only permissible where the land or site where the outlet is located has been granted the required land use rights to conduct an outlet.

The peculiarity of Primrose was summed up as follows: "*…Rietfontein is a strip of land, and immediately adjacent or behind it, you find residential uses or rights? So, the perception of a lot of people on the ground is such that everything should be residential; therefore, if I see a tavern or if I see a liquor establishment, it would mean it's illegal. Now, in the planning principle, you have mostly multiple-story buildings at the bottom, you'll find shops, at the top, it is residential; in some cases, it's just purely a single floor, maybe a business or residential. And if this guy next door here wants to operate a shop, he should still be able to do that because it's within the CBD, and when/ whether the one right next to them also wants to open a block of flats, then that might just happen. It's permitted. Obviously, within compliance with certain conditions of whatever use is provided for."*.

Finally, the representative from the City of Ekurhuleni Metropolitan Municipality concluded by saying, "*There's also there is also a proliferation of churches because there is not enough land available for churches. So, people use their old residential properties for churches."*.

Finding: The study found that trading in liquor within a residential area and the proximity of outlets to public amenities are lawful and permissible, subject to compliance with the municipal by-laws.

5.3.1.3 Proliferation of Outlets

The Rietfontein Road is regarded as the backbone and the centre of major business activities, particularly entertainment and the liquor trade. It stretches over a distance of 3.1 kilometres and is home to 31 (of the 55) licensed outlets in Primrose, as illustrated in Tables 4 and 7 above. Consequently, it has witnessed an influx of non-residents, undocumented foreigners, and criminal elements, which account for most of the reported criminal activities and destruction of basic public infrastructure in Primrose. The PBF and the PRA claimed that the proliferation of outlets and the unintended consequences of liquor resulted in the cancellation of a 2017 Primrose Precinct Project (Project) by the City of Ekurhuleni Metropolitan Municipality. The Project was aimed at restoring Primrose, attracting investment and business, and improving the quality of life for the residents. The following excerpts comprise verbatim comments and responses provided by the residents during the fieldwork.

Piet - *"We have so many liquor venues and establishments, licensed and unlicensed, around the greater Primrose area. It is a huge concern for us because the children and families are affected by it, and it is time that we put an end to it. I mean, let's look at it: how many more licensed or unlicensed liquor establishments do we need? No new licences should be approved for the greater Primrose area…"*

Another resident, who echoed Piet's concerns, attributed the proliferation of outlets to "*..., corruption…corruption…corruption. The other guy goes there…, says here's my application, with R2000 under the application, and everything goes through without legal things, or anything. And that's what we need to do everything, that's what we can, that's what's good in South Africa. If you don't do corruption, you won't get anything."*

A member of the PBF held a view that the number of outlets or proliferation is not a challenge, but poor law enforcement "…*you can give me a hundred bottle stores or 100 onwards. You know, if we follow the law, we follow the same route, why not, as long as it's legal and straight*".

This view was rejected by her colleagues, who emphasised that the number of outlets has a telling impact on the extent of challenges presented by the outlets and the inability of law enforcement to resolve their problems.

Finally, the participants were adamant that the granting of licences was in non-adherence to the GLA, the By-Law, and related legislative prescripts. They, without doubt, alleged that most of the fifty-five (55) licences were irregularly or unlawfully granted by corrupt officials. The community lacks confidence in the current Liquor Board, its licensing processing, and the inspectorate, which is tasked with inspections and advising the Board on where the premises are located and their suitability to be granted a licence.

Finding: The study found that the densification or proliferation of outlets is lawful and is permissible, subject to compliance with the municipal by-laws, because the property where the outlet is located has complementary or multiple use or zoning rights. In addition, the study found that the contravention of the GLA does not necessarily constitute a contravention of the City of Ekurhuleni's Spatial Planning and Land Use Scheme.

5.3.1.4 Contravention of Licence Conditions

A liquor licence grants the licensee the rights and privileges to operate a legitimate business, sell and supply liquor (for on or off-consumption), collect revenue, and protection from the law. On the other hand, the licensee has corresponding obligations and responsibilities to comply with the GLA, the By-Laws, Regulations, and the rule of law. Tables 3 and 5, above, illustrate the trends of complaints that emanate from and/ or in the vicinity of licensed outlets. The GLA prohibits the sale and supply of liquor to minors and visibly intoxicated patrons, consumption of liquor in public spaces, trading beyond prescribed hours, trading without a valid licence or permit, and trading in non-adherence to By-Laws. Here are some of the excerpts comprising verbatim comments and responses provided by the residents during the fieldwork.

Manny - *"The biggest issues that we have are the public drinking, public urination, uh, noise, drunk in public, we are having people who are jaywalking in the streets. There's fighting. We sit with other criminal issues."*

Dube - *"And I've put what the complaints are, it's the public drinking, the noise, screaming and shouting, fighting, the revving cars outside in the street, nuisance, uh, it's just so much public indecency."*

Ntoyi chipped in, *"...the problems that arise from some of the liquor shops, non-compliance open after hours, um, you know, not looking after the patrons outside, drinking in public. You need to curb that, that's the most important thing.*".

Some residents dreaded weekends because of the extent of lawlessness, "*It's our weekends and when I say weekends, our weekends in Primrose, start on a Thursday, and they go straight through until wee hours of Monday. And in some liquor stores, it's like a street party outside. Community members actually bring their chairs, uh, camp chairs, put them outside the bottle stores or the pubs, and they're drinking, their car boots are open, music blasting out of their boots. They block roads with their cars.".*

Paula - *"...kids who drink in the taxi. The taxis were actually emptied out, and it wasn't one bottle of alcohol; we are talking school kids in uniform with cases of alcohol, and this was early morning. They were actually on their way to school, and I think in the afternoon as well.*".

The drinking spree occurred on a "*...normal school day, Monday to Friday, alcohol is found in their bags, and alcohol was found hidden on the school grounds. Sometimes they are drinking in the park, quite often…quite often they are not even at school. They've decided not to go to school in uniform, and we found them sitting, drinking in our parks. It was about a month ago. One of our high schools over here, uh, kicked a lot of the kids out of the school because they hadn't come to school in uniform. They were trying to do like a little stand-off against the school because they weren't happy about something happening with the matric dance.*", shared Gloria.

This prompted the local police to search taxis and school grounds whenever there are activities at local schools, Jabu confirmed and said "*...they go check on the schools, they go do searches and things there. The amount of alcohol found in the school grounds.*".

Van Niekerk - "*There is a lack of law enforcement with all the current outlets that are in Primrose. There's a lack of enforcement of regulations by the EMPD, the health departments,*

the Liquor Board, SAPS are just driving past the public drinking, the noise, the screaming shouting.

Finally, there is a legitimate expectation for the SAPS to respond promptly, show keen interest, and enforce compliance at all outlets. Failure to respond, as expected, has fuelled undocumented claims that the local SAPS station is protecting the problematic outlets. The Designated Police Officer (DPO), tasked with leading a team assigned to outlets, has not been spared from allegations that some police are protecting rogue traders and accepting bribes in return for the protection provided.

Finding: The study found that the Liquor Board lacks the capacity to effectively regulate and enforce compliance within the liquor industry, while the EMPD members are not experts and not trained to enforce the GLA.

5.3.1.5 Criminal Activities

Haleem et al (2020) identified patrons as a "population-at-risk" of being involved in crime, as a perpetrator, victim, or an associate of someone who is directly experiencing crime because of their location or proximity to a liquor outlet. The PCPF and PRA decried the high level of crimes emanating from and/ or near liquor outlets. The trends of criminal activities referred to in the media include, amongst others, public disorder, violence, vagrant behaviour, public drinking, sale and abuse of illegal substances, illegal dumping, as shown in Tables 3 and 5, above.

Crime has reached unprecedented proportions, and it is impacting everyone's daily life and routine, including the churches and their members, customers at local shops, SAPS and community policing forum members, and local businesses in Primrose. Here are some excerpts comprising verbatim comments and responses provided by the residents during the fieldwork.

Maria, "…*there is a concern with, um, church robberies. It's got to a point where we've put messages out to the churches and their members, not to take their cellphones to church now. Try not to take any valuables.*". Further, the situation has gotten desperate, resulting in local churches requesting "*…CPF members, to actually sit outside and watch their cars. A lot of the churches have their security now, and they lock their gates during services.*".

In addition, the PCPF reported that some of the church members lost valuable items, "*It's actually very sad because we all lock our gates, 15 minutes into the service. You don't feel safe because they are stealing cars…they stole 2 cars there.*".

On the other hand, the PCPF and PRA alleged that residents are threatened by the vagrants, "*…because they sit outside, there are so many of them and they actually get quite aggressive, um, if you try and chase them. The residents are scared to go to those businesses for anything, which is going to cause those businesses to close down".* In addition, there are reports where "*The vagrants approached people and threatened them after they refused to give them money. And those business owners are also afraid for their businesses because their businesses are going to get broken into and vandalised. It's just a cycle of nonsense, but it just it's got an impact on everybody.".*

In addition, the members of the PBF reported that "*It's difficult for them to chase the people because a lot of them get aggressive and things like that. AS a result, I think 90% of them have armed response. It is now the responsibility of the security company to chase the vagrants away. Alternatively, the businesses have to phone the CPF or SAPS to come and help them*". Patricia referred to the desperation of local businesses for intervention from the law enforcement entities.

The participants shared instances where cases of murder were reported to the Primrose SAPS, following shooting incidents at local outlets. These claims were confirmed by the members of the EMPD: *"People got shot in front of that liquor store. We had two murders there, …people coming there, wanting to drink, security saying we have to search first, pulling a firearm and shooting the security and another person dead.".* This was confirmed by the EMPD, "*…we experienced challenges of shooting where murder cases were opened in two instances. One was from PJ Liquor Store, and the other was H2O, in July. One was inside and the other was outside.".*

Of grave concern was a recent incident where SAPS and PCPF members were outnumbered and intimidated by the vagrants during a night law enforcement blitz, "*…, we stopped there with SAPS and a security company as well as CPF. They surrounded us, those patrons of that place, surrounded us. I could see that SAPS and private security were nervous because they*

were carrying firearms and were concerned that somebody could grab their firearms. Eventually, we had to just walk away and leave them, because there was no way of getting all of those people to leave, because they were so aggressive." In a separate incident, "…*at a bottle store, they assaulted one of my patrollers.".*

Finally, the investigation of criminal activities registered against licensed outlets falls within the competence of the SAPS, which are empowered and mandated to serve and protect the citizens through the monitoring and enforcement of various pieces of legislation, including the GLA. On the other hand, the Criminal Procedure Act 51 of 1977 grants the SAPS exclusive powers in pursuit of the mandate to serve and protect. On the other hand, the Liquor Board is obligated to investigate the alleged causal link between the outlet and the alleged or registered criminal activity.

Finding: The study found that the lack of cooperation between the EMPD and SAPS impacts effective policing, law enforcement, and the eradication of crime in Primrose.

5.3.2 Communication Tools

The participants raised concerns regarding the lack of and/ or inadequate communication by the Liquor Board during the adjudication of applications and the decision-making process. This impacted public participation in the licensing process because the GLA does not obligate or make provision for the Liquor Board to inform the public about new and/ or pending licence applications. However, section 24 compels an applicant to publish their intention to apply for a liquor licence, within seven (7) days before the lodgment of the application, in at least two (2) newspapers circulating in the area where the proposed outlet is/ will be located, pubish a notice in the provincial gazette, and affix a notice at the proposed outlet.

On the other hand, sections 25, 26, and 27 of the GLA allow the surrounding community or interested parties to object against the licence application, require the applicant to respond within seven (7), and the Liquor Board may convene a hearing to consider the objection before deciding to either approve or decline the application. However, the participants claim that failure by the Liquor Board to notify them about new and pending licence applications undermines public participation, and renders sections 24, 25, 26, and 27 of no use or effect to would-be-affected residents or interested parties.

As a result, the residents of Primrose relied on word-of-mouth, the internet, and/ or social media for information regarding new and pending licence applications awaiting adjudication before the Liquor Board.

5.3.2.1 Word-of-Mouth

Primrose community representatives and residents have strongly relied on this form of communication to promote awareness and resolve matters affecting the city, including the liquor industry, unintended consequences of the liquor trade, and related challenges. Gildin (2022) opines that word-of-mouth is the most cogent and dominant tool of communication, which is used to inform and express compassion, and involve others in matters that concern their lives. Here are some of the excerpts from the residents' responses obtained during the fieldwork.

The PBF, PCPF, and PRA appeared to have championed the interests of their members and residents through the sourcing and sharing of information regarding the mandate of the Liquor Board, the licence application process, licence conditions, and the responsibility to enforce compliance at outlets. This was confirmed by the participants who declared that "*We are in business, by word of mouth", "We heard about it from other members of the forum who advised the community where to go when they have problems", "We have all heard about the liquor board and um gosh, thank you, after joining the CPF*", and "*It's been mentioned in social circles as well as CPF, and law enforcement and I've heard about it from EMPD.*".

Another participant had this to say, after the fieldwork engagements, "*We need more communication between the liquor board and associations, like the Primrose Ratepayers' Association and other groups.".*

5.3.2.2 Internet & Social Media

The residents of Primrose also rely on the internet and social media to engage, inform, and report on matters that impact livelihood and wellbeing. This includes promoting awareness and sharing information on applications for licences, the licensing process, and the interventions to curb the contravention of licence conditions and the rule of law. Notably, the PCPF maintains

an active Facebook Page (Primrose Community and Business Forum, and Primrose CPF), while the PRA maintains an active Facebook Page (Primrose Ratepayers Association) and a Website (https://primroserpa.co.za). See below, two excerpts from the residents.

"*We have been advised through community social network groups that a licence has been applied for*", and "*I mean, I was immediately informed about who to contact at the liquor board, but I mean my whole adult life, I've known that we have a liquor board. I think through social media,..*".

Finally, the Promotion of Access to Information Act (PAIA), Act No. 2 of 2000, promotes the right of citizens to access any information that is held by the government, and any other person, that is necessary to advance the exercise and protection of their constitutional rights. The provisions of PAIA cannot be overemphasised under the current circumstances, where there is a lack of or inadequate sharing of critical information that directly impacts the lives of the residents of Primrose. The inadequate knowledge and understanding of the role of the Liquor Board, limiting access to information in the classified section of two newspapers, and the government gazette, raises the question whether these are effective means of communicating with the citizens of the Gauteng Province.

Finding: The study found that the Liquor Board does not have adequate platforms to keep the stakeholders informed of its offerings: applications for licences, declined and granted licences and event permits, renewed and active licences, section 106 hearings, and section 107 sanctions.

5.3.3 Regulatory and Law Enforcement Authority

The government's commitment to effectively regulate and enforce liquor laws is impacted by the limited capacity (i.e. resources, systems, and legislation), communities where outlets are located, limited awareness in operations, and consequences of consumption and abuse (Nurhayati, Purnawan and Maerani, 2019). This resonates with ineffective regulation of the liquor industry and the lawlessness in Primrose. The representatives of the PBF, PCPF, and PRA demonstrated a fair understanding of the mandate and functions of the Liquor Board and Ekurhuleni Metropolitan Municipality, including town planning and EMPD. For example, most representatives were aware of the Liquor Board's existence and its responsibility to

receive and process licence applications, the inspector's duty to inspect all premises applying for a licence, the Board's adjudication of licence applications, and the enforcement of licence conditions. Furthermore, most representatives were also knowledgeable about the land use and planning requirements, by-laws related to properties zoned for commercial and residential purposes, and the Ekurhuleni Metropolitan Municipality and EMPD's responsibility to enforce compliance. Therefore, their participation and narration of the lived experiences of Primrose residents were informed by actual encounters.

Here are some excerpts that include comments and responses regarding the challenges arising from the mandate of the Liquor Board.

Firstly, residents know that there is a Liquor Board and that it is mandated to issue licences and enforce compliance with the licence conditions, and responded as follows: "*Yes, I am familiar with the Gauteng Liquor Board, and I have extensive experience in the liquor industry as a supplier, having worked for a company by the name of Distel. I resigned ten years ago, but I still have contacts in the industry"*. "*We are in business, so we know about the Gauteng Liquor Board. I have a liquor shop myself. So I know about the liquor board and some of the processes that need to take place to apply for a licence*", and "*My understanding, the mandate of the Gauteng Liquor Board is to ensure that there is compliance before a liquor licence is issued to an establishment and then to monitor that such establishment is compliant to the provisions of said liquor licence"*. "*According to my knowledge and understanding, GLB is responsible for applications for liquor licences. This is regarding the bottle stores, off-consumption premises, and on-consumption premises licences, and for the compliance to get these licences issued.*".

Some residents displayed an in-depth understanding of the Liquor Board and said, "*According to my knowledge and understanding, GLB is responsible for applications for liquor licences. This is regarding the bottle stores, off-consumption premises, and on-consumption premises licences, and for the compliance to get these licences issued*", and *"I was under the impression that when you apply for a liquor licence, it goes to the liquor board, the liquor board is supposed to check where, obviously check the owner of the liquor licence that there's no criminal records, check the area that the bottle store or whatever the liquor outlet is going to open, and then they would grant from there as long as everything was compliance.*"

Conversely, few residents said "*...we have not received any, uh, support, information around what the functions, uh, and the mandate of the board is. So, this is still something open to us, and we are also trying to get more information on these issues. So, it's a good start that we are starting with you and, maybe, you'll be able to take us through this whole process.*".

A concern was also raised regarding the lack of or inadequate enforcement of licence conditions by the Liquor Board, "*So, in my view, if enforcement is actually in place, we would not have this proliferation problem because everyone's been given the impression that they are given a right to open these stores as they see fit instead of benefiting a community. It's not only that they have to benefit from trade, but they should be governed by the GDED and their regulations to do this*", "*My biggest issue that needs to be looked at is if there's a contravention of liquor licence conditions, that liquor licence be revoked not only fines issued because the fines do not deter the outlet operators as warnings are issued, and there's a lot of other matters regarding that*", and "*The Liquor Board must monitor all non-licensed outlets, and licensed outlets closer and engage with community role players so that the community role players can advise the community that the government officials are visible and are in the process of looking into the non-compliance and compliance of set outlets.".*

5.3.3.1 City of Ekurhuleni Metropolitan Municipality

"*The Ekurhuleni Metro was established in 2000 following the amalgamation of nine cities and towns east of Gauteng, and 11 further administrations. Ekurhuleni Metropolitan Municipality's major towns in the region include Alberton, Benoni, Boksburg, Kempton Park, Germiston, Springs, Nigel, Brakpan, Edenvale and Kayalami. The municipality itself is a large suburban region east of Johannesburg, totalling 1975 km2 and with a population of 3,178,870*" (Nyuke, Paradza and Mjoli, 2023). Primrose is the focal point of this study and is located just outside the Germiston CBD, covers 615 Hectares (Ha), and falls under the administration of the City of Ekurhuleni.

Compelling evidence illustrates that the function of municipal by-law enforcement departments is driven by the collection of revenue to fund the municipalities through the imposition and collection of fees, fines, and asset forfeitures. Consequently, this significantly impacts the resolution of violent, property, and other crimes (Goldenstein, Sances and You, 2020). The capability of the Ekurhuleni Metropolitan Municipality, like the Johannesburg and Tshwane

Metropolitan Municipalities, to sustain its operations and delivery services to its residents largely depends on enhanced revenue management strategies, which prioritise revenue collection.

The Municipality was represented by four senior officials from the senior echelons of the by-law enforcement and town planning departments. Here are excerpts comprising comments and responses provided by those officials.

The town planner displayed a fair and reasonable knowledge and understanding of the Liquor Board mandate. He went further and illustrated the nexus between the mandates and functions of the Ekurhuleni Metropolitan Municipality and the Liquor Board as follows: *"The Gauteng Liquor Board is the authority of first instance when it comes to issuing of liquor licences, or trading within the Gauteng Province. They do have their own requirements, amongst them is a requirement for the local authority to give consent to anybody who needs to operate by selling liquor licences.".*

Thereafter, the town planner proceeded to narrate the mandate of the Ekurhuleni Metropolitan Municipality in the liquor licensing value chain, and specifically addressed concerns regarding the location of outlets in proximity to public amenities and proliferation in Primrose. He started by emphasising that *"...the city is the custodian of all land use within the city itself, and for any land use that needs to be happening, or that needs to obtain permission from the city, and whatever the land use, there must be in compliance with provisions of a land use scheme. Its mandate plugs in at the point where the Gauteng Liquor Board requires local authority consent or approval. The city is the one that conducts all those investigations and gives ultimate approval for all liquor outlets to be permitted to operate within the city"*, as provided for in terms of sections 23(1)(b), and 23(4) of the GLA. These legislative provisions stipulate that an application for a liquor licence shall be supported by - "*a detailed sketch plan of the premises showing the rooms, services, buildings, construction material and other pertinent information*" and that "*Applications for tavern, pool club, pub, liquor store and night club liquor licences shall also be accompanied by unequivocal approval by the relevant department of the relevant metropolitan or district council, in addition to any zoning or planning or environmental law requirements.*".

The town planner discussed the City of Ekurhuleni Spatial Planning and Land Use Management By-Laws (By-Laws), which should be read with the City of Ekurhuleni Land Use Scheme (Scheme), as the primary policy framework that enables the municipality to regulate spatial planning and land use. *"The scheme outlines what each property within the city may or may not be used for. For every land development application decision, there are delegated powers that are given.* He indicated that when considering applications from the applicant who is requesting the appropriate rights to trade in liquor at their property, "*I look at the need. I look at the desirability. I look at public interest. Is it within the municipal frameworks? And if it's not, I don't approve. But if it is within, then I can approve. And that is how far my decision-making process goes.".*

However, "*If an application is made and there are objections from the neighbours, then that application is considered by a body we refer to as the Ekurhuleni Metropolitan Municipal Planning Tribunal. So, it's a committee that sits, they consider the application, they listen to the objectors, and they listen to the applicant. They consider everything, then they decide.".*

The town planner deemed it necessary to provide the background and layout of the Primrose CBD and clarified that *"Primrose has been a secondary CBD, the primary one being the Germiston CBD". "Primrose was developed along a spine, we can call it Rietfontein Road". "So, what has happened with Primrose is that, because Rietfontein is a strip of land, one finds properties with residential uses or rights immediately adjacent or behind? So, the perception of a lot of people on the ground is that everything should be residential. Therefore, if I see a tavern, or if I see a liquor establishment, it is assumed that it's illegal."*

A contrary view that is held by the municipality and informed by the By-Laws and the Scheme is *"Yes. It is legal to have a legal liquor establishment. It's within the law, but if they operate outside prescribed hours, cause noise pollution, then it becomes undesirable. So that's said, it's not an ideal situation to have liquor outlets being operated… from residential properties.".*

Typically, it's a normal and universal trend *"…in traditional CBD, to find that properties directly adjacent to the spine are often zoned or allocated business use. A business use, or property with a business zone, there's a plethora of uses that are permitted underneath. Amongst them, you might have dwelling units as an example, you will have, or can have a shop, others you can have a place of education or a place of entertainment, or a place of worship."*

In other instances, *"...you might find that a liquor outlet is situated very close to what would be a church or a school, uh, you know, due largely to, ...a lack of availability of the required land, but also the fact that sometimes we have a basket of rights within an area. And the basket of rights here allows a plethora of land uses. The only thing to consider is the extent to which such uses are compatible."* Notably, the municipality has over the past 30 years *"...grown so much that the existing land uses, which are supplementary or complementary to residential, have not been adequate to meet the demand for land. As a result, people use residential properties to sell liquor. But that's not all."*

"Now, in the planning principle, you mostly have multiple-story buildings, at the bottom, you'll find shops, and residential properties at the top. In some instances, it's just purely a single floor, maybe with a business or residential uses or rights." The other planning principle that is inculcated by the municipality is that *"...we also operate on the basis that no land use should be considered to be more important than another land use. So, inasmuch as you have churches versus taverns and churches versus schools, neither of them is more important than the other. They are all considered to be equally important. That's why when an application comes for consideration, each application is considered on its own merits, whether there is a need, it's desirable, fair, and within the interest of the public."*

To collect sufficient revenue, sustain the operations of the municipality, and deliver services to the residents*, "..., we create an enabling environment for businesses and for the CBD to thrive.* Correlative to the collection of revenue, the municipality holds the view that, *"By granting these licences, on the one hand, one could argue that we are participating, or we are contributing to stimulating the free market economy".* This justifies why "*If you have this property, zone as business, and someone wants to open a church, it's permitted within the scheme, provided there are certain parameters and you comply with parking, hides, and the noise zones. And if this guy next door wants to operate a shop, he should still be able to do that because it's within the CBD, and when or whether the one (right) next to them also wants to open a block of flats, then that might just happen because it's permitted. Obviously, within compliance with certain conditions of the applicable use or zone."*

The town planner concluded by acknowledging that"There are also things that happen that are not so favourable. Those include noise pollution, the use of drugs, proliferation of

prostitution, and all of those things that are the negative effects…" However,*"…we do have a by-law enforcement unit where we have development compliance officers who monitor whether each property is used in compliance with the provisions of the scheme…".*

After hearing about the role and policy framework implemented by the town planning department, the EMPD shared the Municipality's responsibility to monitor and ensure compliance with its by-laws and regulations. The EMPD officials displayed a rather limited knowledge and understanding of the mandate of the Liquor Board.

The EMPD started by acknowledging that *"The granting of a licence will have positive and negative spin-offs, depending on where one is sitting."* Nonetheless, they unanimously and arrogantly declared that *"We've got by-laws, and also, we've got the regulation in the department of City Planning where they've got DCO or they call them Designated Compliance Officers…".* The DCFs are municipal officials who are appointed as peace officers, police officers, and municipal law enforcement officers, in terms of section 334 Criminal Procedure Act 51 of 1977 and the South African Police Service Act 68 of 1995. The DCOs are empowered to implement and enforce the provisions of the By-Laws.

Section 41(5) of the GLA compels all licensed outlets and licensees to comply with all laws, including the municipal by-laws and regulations, as well as the health and smoking laws. To monitor compliance and enforce compliance with the By-Laws, and related provisions of the GLA, the DCOs and EMPD *"…have site visits and planned operations that are carried out on Fridays, Saturdays, and Sundays".* The purpose of the site visits and operations is *"…to look out for the certificate of acceptability, rezoning certificate, availability of ablution facilities, safety of the patrons, designated smoking area, emergency evacuation or exit, and the capacity of the outlet. Does the establishment meet the required standards of the city planning? Should there be a contravention, they'll issue notices of contravention to whoever is transgressing and instruct them to comply with the land use right or zone. If they fail to do so, the EMPD will act according to its powers and issue an administrative penalty. The liquor outlets also cause public disorder and nuisance when drinking in public. They tend to fight, assault one another".*

The EMPD has lamented the deplorable state, the lawlessness, and crime in Primrose and thinks, *"Primrose is a time bomb because of these liquor outlets causing nuisance on Friday, Saturday, and Sunday. This requires the EMPD to plan for the weekend; if their plans are not*

in order, there will be chaos, and things will go haywire.". Furthermore, the EMPD raised concerns about its limited knowledge and capacity to monitor and enforce compliance with the GLA and believe that, *"…if we can be provided with training and be recognized as part of the structure of the GLA, not just as municipality, we can provide adequate support and play a meaningful role in the regulation of the liquor industry, in Primrose."*

Notwithstanding, section 113 of the GLA requires that members of the EMPD, SANDF, and SAPS accompany and provide support to the inspectors of the Liquor Board. Finally, section 130 of the GLA also makes it an offence for any person to impersonate a police officer; hinder or obstruct a police officer when enforcing the law, and to refuse or fail to comply with any lawful instruction of a police officer.

5.3.3.2 Gauteng Liquor Board

The entity is a Chief Directorate which accounts to the Member of the Executive Council responsible for Economic Development, in Gauteng, established in terms of the Gauteng Liquor Act 2 of 2003. It is mandated to provide effective governance and regulation of the liquor industry, ensure ethical business practice and empower stakeholders, promote and maintain an effective and efficient regulatory system for the liquor industry, and create jobs through the issuance of licences to prospective liquor establishments as part of regulating the industry and maintaining a regulated environment.

The entity was represented by a member of the adjudication board and a senior manager responsible for the registration and issuing of liquor licences. Here are excerpts comprising comments and responses provided by the officials from the Liquor Board.

The participants displayed an expert knowledge and understanding of the mandate and function Liquor Board, since they were senior officials and were central to the adjudication of licence applications and decision-making processes. To address the research question, this warranted that focus be shifted to the Liquor Board's decision-making processes, which resulted in the issuance of licences to outlets that are located in proximity to public amenities and proliferation in Primrose, in non-adherence to sections 30(2), and 30(3) of the GLA.

A bare denial to the Liquor Board's repeated decision to issue licences in non-adherence to the provisions of the GLA was provided, with the statements, *"Yes, I can confirm that the Board complies with the provisions of Section 30(2), as well as Section 30(3)…", and "…if it's within a 500-meter radius and in a residential area, …not a mall, …not a business precinct, …there are schools, there are churches, and there's also public transport and issues of proliferation, we invoke the provisions of section 30(3), and the board will not grant that application".*

Conversely, the current licence database of the Liquor Board illustrates that fifty-eight (58) liquor licence applications were approved and licences issued in Primrose, with an additional three (3) licences issued recently. Distressingly, thirty-one (31) licences are located along the Rietfontein Road, which stretches over 3.1 kilometres, and in non-adherence to section 30(3) of the GLA. The officials remained unrelenting and said, *"Currently, we've been strict, especially in the Primrose area, regarding the very issue of proliferation, and we've been declining applications that come from that area. We've also been receiving a lot of objections from the community there. As the current board, we've been very strict in that area in terms of minimising, you know, over supply of liquor establishments in the area.".*

In addition, the member responsible for the adjudication of applications bemoaned that *"There is an outcry from the liquor traders' association that we are declining way too many applications. Unfortunately, we are applying the law strictly and making sure that we also protect the public because we are not just a licensing authority. However, there were instances where previous boards advised the applicants to go and request support from the surrounding churches and schools to motivate their applications".* This exposed the residents, from the churches and schools to intimidation and as cofirmed by the officials "*...when the applicant approaches an individual to obtain their support, …the residents cannot and were free to object to the application, the support was just provided under duress".*

Furthermore, the officials advised that sections 25, 26, and 27 provide residents and other interested parties with an opportunity to object to licence applications. *"...the interested and affected parties have an opportunity to object to licence applications in terms of section 25 of the Act. Once those objections have been lodged, the regional offices or the local committees of the liquor board consider those objections and make a recommendation to the adjudication board.* However, *"The final decision comes from the board. The board may call a hearing and*

invite all those interested to consider the objection. So, once they heard all the merits of the objection and response from the applicant, the board would decide to decline or grant the application.".

Disturbingly, the Primrose situation does not represent a well-structured, consistent, and purposeful objection procedure that allows for meaningful public participation. The Liquor Board's objection procedure and decision-making processes were not predicated on a commitment to protect the public interest in terms of section 30(2) of the GLA, and this was confirmed by one of the officials, "*I believe that the GDED and the GLB have overstepped their authority in Primrose. I believe that there has been zero chance for public participation, and due to this, it has allowed for the problem of the proliferation of liquor stores in our area.".*

Section 29(1) of the GLA stipulates that the licence grants the holder such rights and privileges, as well as corresponding obligations to comply with the licence conditions and the rule of law. However, Tables 3 and 5, above, illustrate the trends of complaints that emanate from and/ or in the vicinity of licensed outlets. The GLA prohibits the sale and supply of liquor to minors and visibly intoxicated patrons, consumption of liquor in public spaces, trading beyond prescribed hours, trading without a valid licence or permit, and trading in non-adherence to By-Laws. These contraventions were confirmed by the officials and said, *"In my opinion, the granting of licences in residential areas impacts the lives of residents, because there are lots of contraventions, especially around the issue of noise, and some outlets are not operating within the prescribed hours. They go beyond the operating hours.*

Sections 105, 106, 107, and 109 of the GLA enjoin the Liquor Board to monitor and enforce compliance with the licence conditions. In addition, section 41(5) compels all outlets to comply with all laws and municipal by-laws and regulations. *"The Liquor Board has a mandate and an obligation to protect the public against abuse, when and where liquor traders don't trade responsibly and in compliance with the rule of law. "…in terms of section 106 of the Act, the Liquor Board has the powers to conduct hearings, and we can revoke or fine, or suspend such a licence, where traders are not observing the regulations as provided for by the Liquor Act. We also have a mechanism that enables us to reduce the number of outlets, the oversaturation, in that area, to rectify the errors of the past.".*

Realistically, the issuing of licences in proximity to public amenities and the proliferation of outlets is prohibited by law, and impacts negatively on the rights of residents and the quality of life in Primrose. Unquestionably, *"It has a lot of impact on people there. Unfortunately, alcohol is a substance and stands to be abused…", "…this impacts the communities because there's a lot of proliferation of these outlets", "…you can imagine why they are going to experience the types of nuisance, parking, people parking and people's yards, urinating on people's walls, and the crime that then comes with the liquor establishments", and "The South African Police Service has indicated that most of the contact crime that they have in their stats, …emanate from liquor establishments, either people are coming back from there or they are there."*.

While the Liquor Board, EMPD, and SAPS are obligated and resourced to enforce the rule of law, the challenges and impact of the Liquor Board's decision-making and the unintended consequences of the liquor trade remain unresolved. This erodes public confidence in the government and the legitimacy of the Liquor Board processes. This is exemplified by admissions which suggest that the regulatory authorities are not fit for purpose, *"…unfortunately, as an organisation, as a liquor board, we don't have our enforcers, we rely on the South African Police Services to do enforcement", "If our liquor inspectors can be empowered or any amendment to the act that will allow liquor inspectors to have that power and authority to shut down premises", "Unfortunately, we have no control over the enforcement arm. The only authority we have is revocation of licences, even after revoking a licence, we don't have the powers as a board to come and forcefully close the place without the assistance of the South African Police Services", "Perhaps only call on SAPS or EMPD as an additional manpower…", and "If SAPS enforce the laws as they are, there will be less non-compliance"*.

Finally, officials acknowledged that the Liquor Board is a creature of statute, and its functions and powers are clearly defined in the GLA. The legislature deliberately opted to utilise the phrase "*shall*", which is mandatory or peremptory, in an attempt to mitigate against the challenges associated with the liquor trade and abuse. Therefore, the Liquor Board cannot and should not grant any licence in contravention, directly or indirectly, of section 30(2) and (3).

Finding: The study found that the Liquor Board lacks the capacity to effectively regulate and enforce compliance within the liquor industry, while the EMPD members are not experts and

not trained to enforce the GLA. Furthermore, the study found that the lack of cooperation between the EMPD and SAPS impacts effective policing, law enforcement, and the eradication of crime in Primrose.

5.3.4 Government Interventions

The regulators of the liquor industry concur with the urgency of enhancing compliance. However, the effective regulation of the industry is impacted by the conflicting interests presented by economics and politics. The economic interests are informed by a commitment to lowering manufacturing and distribution costs, eradicating trade barriers, increasing competition, and consumer choice. On the other hand, the political interests are driven by a commitment to enhance revenue collection, sustaining jobs created by the industry, and strengthening regulations to minimise the socio-economic impact (Crowley, 2017).

This conflict is embedded in the objectives and annual plans of the Liquor Board, an entity of the Department of Economic Development, which commits the provincial government to "*create jobs through issuance of licences to prospective liquor establishments as part of regulating the industry and maintaining a regulated environment*". Furthermore, the Liquor Board is required to generate R75 million in the current financial year (2024/ 25) and R80 million (2025/ 26).

As in the case of the City of Ekurhuleni Metropolitan Municipality, this target results in more focus being placed on issuing licences, even where it is undesirable to do so, as a vehicle to achieve sufficient revenue collection, rather than effective regulation of the industry.

5.3.4.1 Accountability

The 2024 tragic loss of life involving twenty-one teenagers at Enyobeni Tavern in East London highlighted the failure by the Eastern Cape Liquor Board to effectively regulate the industry. The South African Human Rights Commission, in its investigation report, was scathing in its criticism against the Eastern Cape Liquor Board, Buffalo City Metropolitan Municipality, the South African Police Service, and the national government for their failure to enforce compliance with respective pieces of legislation. Root (2019) opined that the challenges and failure to achieve the mandate are largely caused by the lack of commitment to hold the

executive and officials accountable for non-adherence to legislation, the rule of law, set objectives, performance standards, and established industry practices.

The paragraphs below highlight a few excerpts comprising comments and responses provided by the participants.

Following engagements with the PBF, PCPF, and PRA, and the lack of evidence to justify the Liquor Board's decision-making processes, which resulted in the licensing of fifty-five (55) outlets, in non-adherence to the rule of law and By-Laws, and failure to enforce compliance, serious concerns were raised against the lack of accountability by the EMPD, Liquor Board, and the SAPS: *"We have so many liquor venues and establishments, licensed and unlicensed, around the greater Primrose area. It is a huge concern for us because the children and families are affected by it, and it is time that we need to put an end to it. I mean, let's look at it: how many more licensed or unlicensed liquor establishments do we need? No new licences should be approved for the greater Primrose area…", "They will just go through the paper and ask if everything is okay? And they don't come to verify. That's how big is the problem.", "..., how SAPS is just driving past the public drinking, the noise, the screaming shouting there is a couple, like I said, SAPS are scared to do anything because of this", "There is a lack of law enforcement with all the current outlets that are in Primrose. There's a lack of enforcement of regulations by the EMPD, a lack of enforcement by SAPS, a lack of enforcement from health departments, and a lack of enforcement from the GLB", and "So accountability is out of the door and there's nothing that we as a business can do about it because it's going to be granted that anyway.".*

The lack of accountability and impunity, which has exposed the residents of Primrose to perpetual abuse, lawlessness, and poor quality of life, has left most residents disheartened about the government's commitment to assert the authority of the state. *"I just wanted to say that, you know, it's senseless discussions …because there's no accountability where it starts, which is your city planning, all those officials sitting there, there's no accountability. It's a waste of time. It's a waste of time, nobody adheres to the regulations*".

Finally, consideration should be given to a possible review of the appointment process for the Liquor Board members, review of the Gauteng Liquor Act of 2003, review of the Liquor

Board's policy and decision-making processes and systems, accountability, and feasible intervention mechanisms for the regulatory authority.

5.3.4.2 Amendment/ Review of Legislation

The Gauteng Liquor Act 2 of 2003 was assented into law on 2 July 2003 by then Premier of Gauteng, Honourable Mbazima Shilowa. The Act came into effect on 1 November 2004 after the promulgation of the Regulations, and established the Gauteng Liquor Board and empowered it to regulate the retail sale and supply of liquor in Gauteng. The Act remains the primary policy framework that informs the government's responsibility to regulate the industry.

Efforts to review and amend the Act, by promulgating the Gauteng Liquor Act 3 of 2014, failed after the provincial government omitted to publish the date of implementation and regulations thereto. This Act sought to cure challenges and loopholes that were identified by the courts and various stakeholders within the industry, and subsequently enhance the government's capacity to regulate the industry. Here are excerpts comprising comments and responses provided by the participants, pointing to deficiencies and loopholes in the Gauteng Liquor Act 2 of 2003.

The PBF, PCPF, and PRA highlighted the areas that should be reviewed and possibly amended to promote public participation, the public interest, loyal and lawful application of the rule of law, and support effective regulation of the liquor industry.

Firstly, concerns were raised about the lack of or inadequate access to information, publication of notices and public participation regarding on new liquor licence applications, namely "*if it goes on the newspaper, it goes on classified, and how many people go to the classified to see how many liquor outlets are opening or closing*", "*And there's been no formal government communication, and there never has been. I've been with CPF for 8 years, I've never received any kind of formal communication*", *"...we drove around and observed that there's a new liquor outlet. There's no government body or ward councilor or anything that ever informs us", and "No formal consultation was conducted about any applications to the opening of the 55 outlets that are operating in Primrose.".*

Secondly, the location of outlets in proximity to public amenities and proliferation was prominent throughout the engagements, "*These are examples of licences that were granted by the Liquor in non-adherence to sections 30(2) and (3) of the GLA:* ***Hideout:*** *Blessed Sacrament Church (145m), Assumption Convent (200m), Pitter Patter Day Care (270m), Wychwood Primary School (309m), and Bedfordview High School (420m);* ***JB Liquors:*** *Cemetery (121m), Red Cross Nursing Home for the Aged (214m), St Johns Baptist Greek Church (321m);* ***Kib Rikah Club:*** *Primrose High School (46m), Cemetary (95m), Greek Church 290m, and El Shammah Home for Abandoned Babies (370m);* ***H20:*** *Red Cross Home for the Aged (125m), Jewish Cemetery & Place of Worship (185m), El-Shammah Home for Abandoned Babies (198m), Primrose High School (203m), and ST Johns Baptist Greek Church (460m); and* ***Rainbow Restaurant:*** *Jewish Cemetery & Place of Worship (121m), Red Cross Nursing Home for the Aged (214m), and ST Johns Baptist Greek Church (321m).".*

Thirdly, the Municipality's approval of applications for permission, use, and zone rights to operate outlets in proximity to public amenities and residential properties seemed to favour revenue collection, more than promoting the pubic interest. *"..., we create an enabling environment for businesses and for the CBD to thrive.', "So, what has happened with Primrose is that, because Rietfontein is a strip of land, one finds properties with residential uses or rights immediately adjacent or behind? So, the perception of a lot of people on the ground is that everything should be residential. Therefore, if I see a tavern, or if I see a liquor establishment, it is assumed that it's illegal", and "Yes. It is legal to have a legal liquor establishment. It's within the law, but if they operate outside prescribed hours, cause noise pollution, then it becomes undesirable. So that's said, it's not an ideal situation to have liquor outlets being operated… from residential properties.".*

Fourth, the residents also decried the blatant non-compliance with the licence conditions, the rule of law, and the state of lawlessness in Primrose. *"Most of the off-premises outlets are actually acting as shebeens or taverns, on-premises where the consumers are drinking in a liquor store, which violates their licence terms and conditions", "...it also causes a nuisance, public nuisance where people are drinking public, where people if they're drinking in public, they tend to fight assault one another also, it makes people to consume or to drink alcohol where it is not supposed to be", and "The biggest issues that we have are public drinking, public urination, uh, noise pollution, drunk in public, we are having people who are jaywalking in the streets. There's fighting. We sat with other criminal issues. We have so many liquor*

venues and establishments, licensed and unlicensed, around the greater Primrose area. It is a huge concern for us because the children and families are affected by it, and it is time that we need to put an end to it.".

The allegations of shooting and murder were confirmed by the EMPD. *"Also, there we experienced challenges of shooting, where murder cases were opened in two instances. One was PJ liquor store, and the other was H2O, this year in July. I've got their cases if it is applicable.".*

Fifth, there is consensus about ineffective regulation of the liquor industry and poor law enforcement in Primrose. *"There is a lack of law enforcement with all the current outlets that are in Primrose. There's a lack of enforcement of regulations by the EMPD, a lack of enforcement by SAPS, a lack of enforcement from health departments, and a lack of enforcement from the GLB", "So, in my view, if enforcement was in place, we would not have this proliferation problem because everyone's been given the impression that they are given a right to open these stores as they see fit instead of benefiting a community", and "It's a lack of resources. not enough people to do the policing and to check that everything is in place.".*

Finally, the EMPD and Liquor Board acknowledged that the inspectorate lacks the capacity to monitor and enforce compliance in Primrose and the provincial liquor industry. *"The only authority we have is revocation of licences, even after revoking a licence, we don't have the powers as a board to come and forcefully close the place without the assistance of the South African Police Service", "If our liquor inspectors can be empowered or any amendment to the act that will allow liquor inspectors to have that power and authority to shut down premises.".* To that end,*"...that's where we will say, should we have been trained beyond and get knowledge of what the role of EMPD is within the Gauteng Liquor Act? Then, it was going to give us more clarity on how to plan, when it comes to addressing the issue of liquor outlets", and "So now, if we need training so that we can be competent as well as recognised as liquor officers.".*

Finding: The study found that the Liquor Board's decision-making processes, in the licensing of Primrose outlets, are inconsistent with the provisions of the GLA. Furthermore, the study found that the Liquor Board's lack of accountability, ineffective performance, and consequence management resulted in decisions that are inconsistent with the GLA. Finally, the study found

that the provincial regulatory policy framework is outdated, has glaring inconsistencies and deficiencies, is not informed by current policy, hampers the regulation of the liquor industry, and, by extension, the function of the Liquor Board.

5.4 Chapter Summary

This chapter provided an objective presentation of the data collected, the research themes, and the findings of the study. In addition, this chapter provided the intricate details of the research participants' behaviour, attitudes, and lived experiences, while emphasising the exploration of nuances and context to ensure the credibility and reliability of the findings of the research. The chapter concludes by highlighting the results of the study, narrowing down the issues raised, and highlighting areas requiring possible intervention.

The next chapter presents an in-depth discussion of the research findings and an overview of the overall outcomes of the research. The chapter will also interpret the research findings in consideration of the identified themes to provide a broader understanding of the extent to which the Gauteng Liquor Board's decision-making processes and systems in the issuing of licences impact the lives of the residents of Primrose, in Ekurhuleni.

Chapter 6
Discussion of Research Findings

6.1 Introduction

This chapter presents an in-depth discussion of the research findings and an overview of the overall outcomes of the research, contextualising them in line with the literature review. Furthermore, the chapter echoes the research problem that the study is set out to address. The findings will be interpreted in consideration of the identified themes to provide a broader understanding of the extent to which the Gauteng Liquor Board's decision-making processes and systems in the issuing of licences impact the lives of the residents of Primrose, in Ekurhuleni.

6.2 Overview of the Research Outcomes

Chapter 5 provided an in-depth presentation of the research themes, the research results, the intricate details of the research participants' behaviour, attitudes, and lived experiences, and a high-level presentation of the research findings. The results of the research focused on four critical themes, which were identified and explored during the analysis of the collected data, namely:

Theme 1: Community Representatives and Complaints
Theme 2: Communication Tools
Theme 3: Regulatory & Law Enforcement Authority
Theme 4: Government Interventions

These themes were broken down into sub-themes to provide context and meaning, and to assist in categorising the outcomes of the research. The following paragraph provides a summary of the research outcomes, which were gleaned from the discussion in Chapter 5.

6.2.1 Community Representatives and Complaints

Five (5) sub-themes were identified to assist in providing a clear understanding of this theme.

6.2.1.1 Public Participation

The participants were unanimous that the Liquor Board did not consult and inform them about the applications for most or all of the fifty-five (55) licences that were granted in Primrose. They were agitated that the number of licensed outlets increased to fifty-eight (58) and claimed they would not have known, had it not been for the engagement during the field work. The participants feel that the lack of consultation and information creates an opportunity for outlets to trade without valid licences, as it is alleged within the surrounding informal settlements of Delport, Makause, and Marathon.

6.2.1.2 Locations of Outlets

There was consensus from the residents that they were opposed to the licensing of outlets within the residential area, and in proximity to places of learning, places of worship, public parks, public transport facilities, and other public amenities. The participants expressed their intention to continue lodging complaints against problematic outlets and object to all future applications for licences.

6.2.1.3 Proliferation of Outlets

The residents were adamant that the granting of licences was in non-adherence to the GLA, the By-Law, and related legislative prescripts. They, without doubt, alleged that most of the fifty-five (55) licences were irregularly or unlawfully granted by corrupt officials. The community lacks confidence in the current Liquor Board, its licensing processing, and the inspectorate, which is tasked with inspections and advising the Board on where the premises are located and their suitability to be granted a licence.

6.2.1.4 Contravention of Licence Conditions

The residents have a legitimate expectation that law enforcement entities, particularly Primrose SAPS, should respond promptly, show keen interest in resolving reported cases, and enforce compliance at all outlets. Failure to respond, as expected, has fuelled undocumented claims that the local SAPS station is protecting the problematic outlets. The Designated Police Officer (DPO), tasked with leading a team assigned to outlets, has not been spared from allegations

that some police are protecting rogue traders and accepting bribes in return for the protection provided.

6.2.1.5 Criminal Activities

The investigation of criminal activities registered against licensed outlets falls within the competence of the SAPS, which is empowered and mandated to serve and protect the citizens through the monitoring and enforcement of various pieces of legislation, including the GLA. On the other hand, the Criminal Procedure Act 51 of 1977 grants the SAPS exclusive powers in pursuit of the mandate to serve and protect. On the other hand, the Liquor Board is obligated to investigate the alleged causal link between the outlet and the alleged or registered criminal activity.

6.2.2 Communication Tools

Two (2) sub-themes, Word-of-mouth and Internet and Social Media, were identified to assist in providing a clear understanding of this theme.

The Promotion of Access to Information Act (PAIA), Act No. 2 of 2000, promotes the right of citizens to access any information that is held by the government, and any other person, that is necessary to advance the exercise and protection of their constitutional rights. The provisions of PAIA cannot be overemphasised under the current circumstances, where there is a lack of or inadequate sharing of critical information that directly impacts the lives of the residents of Primrose. The inadequate knowledge and understanding of the role of the Liquor Board, limiting access to information in the classified section of two newspapers, and the government gazette, raises the question whether these are effective means of communicating with the citizens of the Gauteng Province.

6.2.3 Regulatory and Law Enforcement Authority

Two (2) sub-themes were identified to assist in providing a clear understanding of this theme.

6.2.3.1 Gauteng Liquor Board

The officials acknowledged that the Liquor Board is a creature of statute, and its functions and powers are clearly defined in the GLA. The legislature deliberately opted to utilise the phrase "*shall*", which is mandatory or peremptory, in an attempt to mitigate against the challenges associated with the liquor trade and abuse. Therefore, the Liquor Board cannot and should not grant any licence in contravention, directly or indirectly, of section 30(2) and (3).

6.2.3.2 City of Ekurhuleni Metropolitan Municipality

Compelling evidence illustrates that the function of municipal by-law enforcement departments is driven by the collection of revenue to fund the municipalities through the imposition and collection of fees, fines, and asset forfeitures. Consequently, this significantly impacts the resolution of violent, property, and other crimes (Goldenstein, Sances, You, 2020). The capability of the Ekurhuleni Metropolitan Municipality, like the Johannesburg and Tshwane Metropolitan Municipalities, to sustain its operations and delivery services to its residents largely depends on enhanced revenue management strategies, which prioritise revenue collection.

6.2.4 Government Interventions

Two (2) sub-themes, Accountability and Amendment/ Review of Legislation, were identified to assist in providing a clear understanding of this theme.

Consideration should be given to a possible review of the appointment process for the Liquor Board members, review of the Gauteng Liquor Act of 2003, review of the Liquor Board's policy and decision-making processes and systems, accountability, and feasible intervention mechanisms for the regulatory authority.

6.3 Discussion of Findings

6.3.1 Community Representatives and Complaints

6.3.1.1 Public Participation

David (2020) opines that involving residents in the liquor licensing decision-making process affords them a platform to voice their opinion and influence the entertainment industry in their locations. The adjudication of licence applications and decision-making processes of the Liquor Board impact the lives of all residents and various sectors in the community. The preamble to the Constitution commits the government to, amongst others, create a democratic and open society where the government recognises the will of the citizens, equal protection of the law, and improve the quality of life for all citizens.

In an attempt to promote public participation, section 24 of the GLA compels the applicant to publish his/ her intention to apply for a licence in at least two (2) newspapers circulating in the area where the outlet will be located, publish a notice in the provincial gazette, and place a notice at the proposed outlet. On the other hand, sections 25, 26, and 27 empower the interested parties that would be affected by the granting of a licence to object to the application, inform the applicant of te intention to object, furnish the applicant with a copy of the objection and attend a hearing where the Liquor Board will listen to the substantive grounds for the objection, and afford the applicant the right of reply.

The study found that the Liquor Board did not consult or notify the residents of Primrose about new licence applications, the right to object to a licence application, and the decision to issue licences to fifty-five (55) outlets that are operating in Primrose. Furthermore, the study found that the provisions of Sections 24, 25, 25 and 27 are ineffectual and do not promote public participation, because the notices that are aimed at informing interested parties about new licence applications are posted in the classified section of the newspapers, the provincial gazette, and another notice affixed to the premises. Further, no ordinary or reasonable person reads the classified section of a newspaper unless the person is a job seeker.

Further, the advent of smartphones has seen the decline in the circulation or distribution of newspapers, which suggests that fewer people are reading newspapers. In addition, the provincial gazette is a government publication that can only be obtained from the Government Printing Works, which makes it inaccessible and costly to an ordinary or reasonable person. Besides, the size and location of the notice that is placed at the proposed outlet are not prescribed in the GLA. This omission leaves the implementation of this legislative requirement at the sole discretion of the applicant, and compliance with that provision is not monitored and enforced. Conversely, the GLA does not place an obligation, nor does the Liquor Board assume the responsibility to inform the community of new, pending, or the outcome of applications for licences.

Astonishingly, the requirement for the objector to inform the applicant of his intention to object against the application and furnish a copy of the objection is frowned upon, because it exposes the objector to the risk of intimidation and physical harm by the applicant. South Africa is still reeling from an ugly past where people who objected to and reported wrongdoing were labelled "informers" and "izimpipi". These persons would be castigated or murdered. That mentality remains rife in our communities, as evidenced by the gruesome murder of persons who reported crimes linked to the Covid-19 PPEs, key witnesses to high-profile murder cases, etc. The fear of intimidation and physical remains realistic in South Africa, and asking interested parties to approach and openly object to their business venture is not realistic.

The researcher found that the residents were not consulted and informed about all fifty-five (55) licence applications and their right to object against any application, should they wish to do so, until they were granted and outlets started operating. Hammes et al (2022) stated that participation in the licensing processes remains limited and deficient because the community lacks motivation, the information, and the process is cumbersome and pits them against the applicant for a licence.

Finally, the lack of consultation compromised the safety of the residents and created a fertile ground for outlets to trade without a valid licence, as evidenced by the number of outlets that are reportedly trading without valid licences within the informal settlements of Delport, Makause and Marathon.

6.3.1.2 Location of Outlets

Section 30(3) prohibits the Liquor Board from granting licences to proposed outlets that are located within a 500-metre radius of public amenities, specifically educational institutions, places of worship, similar licensed outlets, and transport hubs. Nkosi (2024) opines that the granting of liquor licences within residential areas and dwelling properties violates the right of a child to a secure and healthy living environment. In addition, Nkosi opines that the 500-meter radius prohibition and rule do not safeguard the plight of a child, as it is often overruled, under the guise of a *discretionary power*, and where the home of that child is licensed to trade in, with the dwelling area shared with patrons.

The residents' representatives provided substantive evidence in support of their allegations against non-adherence to the provisions of section 30(3) of the GLA. For example, **1) Hideout:** Blessed Sacrament Church (145m), Assumption Convent (200m), Pitter Patter Day Care (270m), Wychwood Primary School (309m), and Bedfordview High School (420m); **2) JB Liquors:** Cemetery (121m), Red Cross Nursing Home for the Aged (214m), St Johns Baptist Greek Church (321m); **3) Kib Rikah Club:** Primrose High School (46m), Cemetary (95m), Greek Church 290m, and El Shammah Home for Abandoned Babies (370m); **4) H20:** Red Cross Home for the Aged (125m), Jewish Cemetery & Place of Worship (185m), El-Shammah Home for Abandoned Babies (198m), Primrose High School (203m), and ST Johns Baptist Greek Church (460m); and **5) Rainbow Restaurant:** Jewish Cemetery & Place of Worship (121m), Red Cross Nursing Home for the Aged (214m), and ST Johns Baptist Greek Church (321m).

The study found that trading in liquor within a residential area and the proximity of outlets to public amenities are lawful and permissible in Primrose, subject to compliance with the municipal by-laws.

Further, the City of Ekurhuleni advised that Rietfontein Road is regarded as the "*spine*" of Primrose, with most buildings that are located adjacent to the road zoned for business use, and properties located behind the main road (Rietfontein Road) are zoned for residential use. In addition, the buildings that are located adjacent to the Rietfontein Road are mostly multi-story, with businesses located on the ground and dwelling properties on the upper or top floors. The City of Ekurhuleni's Scheme permits different uses on the same site, and this is attributed to the scarcity of suitable land in Primrose. On the other hand, the City of Ekurhuleni's decisions

are informed and motivated by a commitment to create an enabling environment for businesses to thrive and provide the much-needed revenue.

The stance presented by the City of Ekurhuleni throws a spanner in the works against the provisions of section 23 of the GLA, which requires applicants to obtain the necessary business or zoning rights or consent to use from the municipality. Further, this might sway the Liquor Board's decision to grant a licence where it would ordinarily invoke section 30(3) and decline the application. This provides credence to some court decisions, where the Liquor Board's decision to decline licence applications was reviewed and set aside, because the municipality had granted the site or outlet consent, use or business rights to operate a liquor trade.

6.3.1.3 Proliferation of Outlets

Section 30(2)(c) stipulates that "*The Board shall grant an application for any licence if-*
(c) the granting of the licence is in the public interest."

On the other hand, Section 30(3) prohibits the Liquor Board from granting licences to proposed outlets that are located within a 500-meter radius of public amenities, specifically educational institutions, places of worship, **similar licensed outlets (my emphasis)**, and transport hubs.

Rautela, Reddy, Singh, and Gupta (2018) indicated that China's most populated residential area recorded the highest outlet densification at 0.9 to 10.9/ 100m radius, with 33% of those outlets operating for 24 hours. Nkosi (2024) opined that societal challenges and related harm increase where there is a high density of liquor outlets, licensed or unlicensed, with off-consumption outlets, with a substantial contribution from the bottle stores. He went further and argued that resolving liquor outlet density is critical to reducing societal liquor-related challenges.

Primrose has approximately 55 licensed outlets, which are largely located within the residential areas and closer to public amenities, with 31 (of the 55) licensed outlets located along the Rietfontein Road, which is regarded as the spine of Primrose and stretches over a distance of 3.1 kilometres. Table 7 (above) illustrates the extent of proliferation in Primrose and provides compelling evidence and credence to the allegation of proliferation. The high densification or proliferation of liquor outlets, the location of outlets in prohibited areas, and ineffective

regulation, as well as poor enforcement and resultant unintended consequences of the liquor trade, have thrown a monkey wrench into the celebrations and the dream of peaceful enjoyment of human rights. There is indeed a proliferation of outlets in Primrose, and the Liquor Board granted the licences in contravention of section 30(2) and (3).

Furthermore, the City of Ekurhuleni argues that the decision to either trade in liquor or conduct any form of business is, according to the Spatial Planning and Land Use Scheme, informed by the primary land use or zoning rights attached to the land or site, where the outlet is located. Further, where the primary or zoning right does not permit liquor trade, the Spatial Planning and Land Use Scheme makes provision for the lodgment of an application for "consent use" or re-zoning of the land or site where the outlet is located. Once granted, the applicant or outlet will be permitted to trade in liquor, subject to adherence to the applicable by-laws and the rule of law.

In addition, the City of Ekurhuleni advised that Rietfontein Road is regarded as the "*spine*" of Primrose, with most buildings that are located adjacent to the road zoned for business use, and properties located behind the main road (Rietfontein Road) are zoned for residential use. In addition, the buildings that are located adjacent to the Rietfontein Road are mostly multi-story, with businesses located on the ground and dwelling properties on the upper or top floors. The City of Ekurhuleni's Scheme permits different uses on the same site, and this is attributed to the scarcity of suitable land in Primrose. On the other hand, the City of Ekurhuleni's decisions are informed and motivated by a commitment to create an enabling environment for businesses to thrive and provide the much-needed revenue.

The study found that the densification or proliferation of outlets is lawful and is permissible in Primrose, subject to compliance with the municipal by-laws, because the property where the outlet is located has complementary or multiple use or zoning rights. In addition, the study found that the contravention of the GLA does not necessarily constitute a contravention of the City of Ekurhuleni's Spatial Planning and Land Use Scheme.

The Ekurhuleni Metropolitan Municipality's views and policy stance has a significant impact in the Liquor Board's legislative obligation to decline applications for outlets that are located within a 500-radius of public amenities and throws a spanner in the works against the

provisions of sections 30(2) and (3) of the GLA, which requires applicants to obtain the necessary business or zoning rights, or consent use from the municipality.

6.3.1.4 Contravention of Licence Conditions

The government's objective for issuing liquor trading licences is to enable owners to earn an income and promote responsible trade and consumption. Unfortunately, neither of the objectives is achieved because of non-adherence to licence conditions and the rule of law (d'Abbs and Hewlett, 2023). Section 29(1) of the GLA stipulates that issuing a liquor licence grants the licensee or owner such rights and privileges, as well as obligations and responsibilities, while section 41(5) compels all outlets or traders to comply with all laws, including municipal by-laws and regulations.

The sale and supply of liquor to minors and visibly intoxicated persons are prohibited in terms of sections 46 and 47 of the GLA, respectively. On the other hand, section 127 of the GLA prohibits public drinking (including consuming liquor in a vehicle that is driven and/ or is parked in a public place or road), public disorder, and vagrant behaviour. The challenges that are listed in Table 3 above, on the trends of complaints emanating from the Primrose licensed liquor outlets, and non -adherence to the provisions of the GLA are compounded by twenty-one (21) illegal liquor outlets and shebeens that are allegedly causing nuisance and promoting lawlessness in the surrounding Delport, Makause, and Marathon informal settlements. These outlets are trading without a valid liquor licence (or permit) and in contravention of Section 127(a) of the GLA.

The non-adherence to licence conditions is a criminal offence which is punishable in terms of the GLA and relevant national legislation. The GLA makes provision for the issuing of a compliance or non-compliance notice (section 116), quasi-judicial process (section 106), penalty, review licence conditions, or suspend, or revoke the licence (section 107), and/ or imposition of a financial penalty and/ or imprisonment (section 133). In addition, section 113 of GLA makes provision for the Metro or Municipal Police Departments and the SAPS to accompany and support the Liquor Board inspectors in the monitoring and enforcement of compliance at outlets.

On the other hand, the Spatial Planning and Land Use Management Act of 2016 mandates members of the EMPD to independently monitor and enforce compliance at all premises, including outlets. The EMPD's mandate includes the policing of municipal by-laws and regulations is through the issuing of citations or fines, and/ or through the municipal courts.

The South African Human Rights Commission (2024), in re "Enyobeni: A Sobering Account" found amongst others that the Eastern Cape Liquor Board failed to adequately enforce the regulations, the Buffalo City Metropolitan Municipality failed to perform oversight regarding compliance to zoning and building regulations, and national government failed to prioritise the passing of laws that are aimed at curbing alcohol abuse.

The investigation was prompted by the tragic death of twenty-one (21) teenagers at a licensed outlet, trading under the name and style of "Enyobeni Tavern" and located at Scenery Park, East London in the Eastern Cape, on the 26th of June 2024, while attending a 'pens-down' event. The licensee and owner of the outlet was found guilty and fined five thousand rand only R5000-00. The sentence is a subject of a review process, following an appeal lodged against the sentence which is largely viewed as not being commensurate with the offences and the tragic death os twenty-one teenagers.

The study found that the Liquor Board lacks the capacity to effectively regulate and enforce compliance within the liquor industry, while the EMPD members are not experts and are not trained to enforce the GLA.

6.3.1.5 Criminal Activities

Various governments have introduced restrictions on liquor trading hours and related practices in response to reports of crime and nuisance at and near outlets (McKee-Darin, 2017). The SAPS has always argued that liquor outlets and alcohol abuse are crime generators, and they provide quarterly reports on criminal activities occurring at and around liquor outlets. Primrose is not an exception, as reports of criminal activities and victims have been filed with various law enforcement entities.

The extent of heinous crimes emanating from the local outlets, birthed by the complete disregard of the law and municipal by-laws and regulations, reported stand-off and intimidation

of officers and CPF members, and the assault on community patrollers is an assault on the government and our Constitution. The EMPD representatives referred to Primrose as "*...a ticking time bomb*", which should not have materialised. Outlets are licensed to trade in liquor, and the licensee or appointed manager (section 40 of the GLA) is obligated to ensure that its operations are adherent to all applicable laws in South Africa and not use or allow the outlet to orchestrate criminal activities.

Section 23(1)(j) of the GLA compels all applicants for licences, appointments as managers and transferees to submit a "*certificate of suitability from the South African Police Services*". Further, section 120 of the GLA requires the SAPS to furnish the Liquor Board with any reports of conviction and admission of guilt payments by licensee or license holder to enable the Liquor Board to convene a section 106 hearing and decide to either review the licence conditions, suspend or revoke a liquor licence. This is aimed at preventing the granting of licences and infiltration of the industry by criminal elements. On the other hand, section 37(b) of the GLA disqualifies any person who has, in the past five (5) years, been found guilty and upon conviction "*was sentenced to a fine of not less than R200 or to imprisonment without the option of a fine or both imprisonment and fine or has paid an admission of guilt fine of not less than R200 unless the sentence has been set aside by a court or such a person has received a grant of amnesty or a free pardon in respect of any one of the sentences or the fine has been remitted;*", from holding a licence or trading in liquor.

Upon successfully establishing a causal link between the criminal activity and the licensee, or any third party acting on behalf of the licensee, who is found guilty by a competent court, the Liquor Board inspector is expected and empowered to escalate the matter for a section 106 hearing and a section 107 sanction. Considering the above, the EMPD, Liquor Board, and SAPS failed to hold the respective licensees accountable, through their legislated mandates, and contribute towards eradicating the crime that is ravaging Primrose.

The study found that the lack of cooperation between the EMPD and SAPS impacts effective policing, law enforcement, and the eradication of crime in Primrose.

6.3.2 Communication Tools

Regulators must disseminate information about their role and the matters affecting the community to ensure meaningful participation in the formulation of policies and decision-making processes (Hammes *et al*, 2022). Sections 24, 25, 26, and 27 of the GLA make provision for public participation, including a process for resolving objections or disputes arising from the Liquor Board's decision-making and liquor trade. Furthermore, section 38 of the GLA establishes the Gauteng Liquor Traders Association and all licensed liquor traders are required to produce proof of affiliation when applying for licences and conducting liquor trade.

The Liquor Board has a responsibility, amongst others, to regularly conduct education and awareness for the licensees or licence holders, the residents, and the government departments. The key stakeholders and intended beneficiaries mainly include the youth formations, municipalities, outlet operators, religious formations, and the SAPS. The purpose of these sessions is to provide information about the Liquor Board, licensing processes and procedures, public participation, licence conditions, the trends of non-adherence, build relations, promote compliance, and complaint processes.

The inadequate knowledge and understanding of the role of the Liquor Board, limiting access to information in the classified section of two newspapers and the government gazette, raises the question whether these are effective means of communicating with the citizens of the Gauteng Province. The following paragraphs, on 'Word-of-Mouth' and 'internet & Social Media', are aimed at further elucidating the importance of using reliable communication to promote education and awareness, and build a vibrant citizenry to help rid Primrose of all its social ills.

6.3.2.1 Word-of-Mouth

Gildin (2022) opined that "word-of-mouth" is regarded as the most effective tool of communication in various life disciplines, more so where building sustainable relations with stakeholders is critical. Primrose community representatives and residents have strongly relied on this form of communication in their efforts to promote awareness and resolve matters affecting the city. This became apparent during the interview processes where participants displayed trust and reliance in this form of communication, to coordinate and consolidate

residents' complaints, registration of cases with the EMPD and SAPS, as well as preparation for this study.

6.3.2.2 Internet & Social Media

Media personnel argue that the Internet and Social Media, in particular, play a critical role in vigorously communicating and garnering support for economic, political, and cultural grievances in established democracies globally. The tool is also used effectively to coordinate protests and provide a voice against undemocratic governments as a liberation technology (Zhuravskaya, Petrova and Enikolopov, 2020).

The Liquor Board has a responsibility, amongst others, to regularly conduct education and awareness for the licensees or license holders, the residents, and the government departments. The key stakeholders and intended beneficiaries mainly include the youth formations, municipalities, outlet operators, religious formations, and the SAPS. The purpose of these sessions is to provide information about the Liquor Board, licensing processes and procedures, public participation, licence conditions, the trends of non-adherence, build relations, promote compliance, and complaint processes.

The study found that the Liquor Board does not have adequate platforms to keep the stakeholders informed of its offerings: applications for licences, declined and granted licences and event permits, renewed and active licences, section 106 hearings, and section 107 sanctions.

Furthermore, this was found to be a common challenge experienced by citizens regarding all the Gauteng Provincial government departments. Instead, the citizens or interested parties are only provided high-level information, which introduces the political heads, the broad mandate of each department, and contact details. This appears to be a conscious and deliberate decision, to either minimise information or an overreliance on other communications which are not directly or indirectly owned and financed by the government.

6.3.3 Regulatory and Law Enforcement Authority

The government's commitment to effectively regulate and enforce liquor laws is impacted by internal and external challenges: 1) limited human capacity, resources, systems, and legislation; 2) communities where outlets are located, limited awareness in operations, which impacts the regulatory function, and consequences of consumption and abuse (Nurhayati, Purnawan and Maerani (2019).

6.3.3.1 City of Ekurhuleni Metropolitan Municipality

"*The Ekurhuleni Metro was established in 2000 following the amalgamation of nine cities and towns east of Gauteng, and 11 further administrations. Ekurhuleni Metropolitan Municipality's major towns in the region include Alberton, Benoni, Boksburg, Kempton Park, Germiston, Springs, Nigel, Brakpan, Edenvale, and Kayalami. The municipality itself is a large suburban region east of Johannesburg, totalling 1975 km² with a population of 3,178,870*" (Nyuke, Paradza and Mjoli, 2023). Primrose is the focal point of this study and is located just outside the Germiston CBD, covers 615 Hectares (Ha), and falls under the administration of the City of Ekurhuleni.

Compelling evidence illustrates that the function of municipal by-law enforcement departments is driven by the collection of revenue to fund the municipalities through the imposition and collection of fees, fines, and asset forfeitures. Consequently, this significantly impacts the resolution of violent, property, and other crimes (Goldenstein, Sances, You, 2020). The capability of the Ekurhuleni Metropolitan Municipality, like the Johannesburg and Tshwane Metropolitan Municipalities, to sustain its operations and delivery services to its residents depends largely on its enhanced revenue strategy, which prioritises revenue collection.

6.3.3.2 Gauteng Liquor Board

The entity is a Chief Directorate which accounts to the Member of the Executive Council responsible for Economic Development, in Gauteng, established in terms of the Gauteng Liquor Act 2 of 2003. It is mandated to: provide effective governance and regulation of the liquor industry, ensure ethical business practice and empowered stakeholders, promote and maintain an effective and efficient regulatory system for the liquor industry, and create jobs

through issuance of licences to prospective liquor establishments as part of regulating the industry and maintaining a regulated environment.

The Liquor Board is a creature of statute, and its functions and powers are clearly defined in the GLA, which in the main include the adjudication of liquor licence applications, the discretion to decline or grant an application for a liquor licence, dismiss or uphold an objection against an application for a licence, the determination of the suitability of the applicant and proposed outlet to trade in liquor, adjudication of the application for the procurement of a controlling or financial interest to a third party, adjudication of the application to appoint a manager, the adjudication of the application to effect structural alterations or extensions to a licensed outlet, the sanctioning of an investigation of non-adherence, conducting hearings or inquiries into alleged non-adherence to licence conditions and related pieces of legislation, the determination on whether to review licence conditions or suspend licence or revoke licence or impose a financial penalty, and being the litigant on behalf of the Liquor Board. The entire legislation is aimed at promoting legitimate enterprises as well as promoting lawful and fair business practices.

To balance the interests of the would be affected parties, section 30(2) compels the Liquor Board to grant a licence: the outlet will, on completion, be suitable for the licence applied for, the applicant is fit and proper to hold a licence, **the granting of the licence is in the public interest (my emphasis)**, the granting of the licence shall not cause harmful monopoly, and 4) **the applicant, outlet and its operation shall be in complete adherence to the GLA (my emphasis)**. Furthermore, section 30(3) prohibits the Liquor Board from granting and issuing a licence to an outlet that is located within a five hundred (500) meter radius of places of learning, places of worship, public transport hubs, and a similar licensed outlet.

The interpretation and application of section 30(2) and (3) is central to this study, insofar as the Liquor Board's decision-making process to either decline or grant an application for a liquor licence. This section forms the cornerstone of the intention of the legislature and the commitment to protect human rights when enacting the GLA into law. The legislature deliberately opted to utilise the phrase "*shall*", which is mandatory or peremptory, in an attempt to mitigate against the challenges associated with the liquor trade and abuse. Therefore, the Liquor Board cannot and should not grant any licence in contravention, directly or indirectly, of section 32(2) and (3), as it proved to be the case in Primrose, with 31 outlets along the

Rietfontein Road, which stretches over 3.1 kilometers, and within proximity of places of interest and proximity of each other. According to the representatives, the entity enforces the provisions of this section and declines all applications where the outlet is located within a 500-meter radius of places of interest and in contravention of section 30(3), and by default 30(2).

6.3.4 Government Interventions

The regulators of the liquor industry concur with the urgency of enhancing compliance. However, the effective regulation of the industry is impacted by the conflicting interests presented by economics and politics. The economic interests are informed by a commitment to lowering manufacturing and distribution costs, eradicating trade barriers, increasing competition, and consumer choice. On the other hand, the political interests are driven by a commitment to enhance revenue collection, sustaining jobs created by the industry, and strengthening regulations to minimise the socio-economic impact (Crowley, 2017).

Section 197 of the Constitution of the Republic of South Africa (the Constitution), Act 108 of 1996, establishes the public service which is required or expected to loyally execute the Constitution and lawful policies or programmes of the government. Furthermore, section 196 establishes the Public Service Commission, which has a mandate to, amongst others, provide guidelines regarding the employment and management of public servants, as well as promote public service values and principles.

The Code of Conduct for Public Servants, Notice 5947, No. R825 of 10 June 1997, provides a guideline for public servants to be faithful to the Constitution of South Africa, conduct their duties in line with all the laws of the country, familiarize themselves with all relevant laws, serve citizens in a fair and unbiased manner, not abuse their employment positions, exercise professionalism at all times and be honest, responsible and transparent. Public servants are expected and required to abide by and be familiar with all legislation and law instructions applicable to their conduct and official duties, report fraud, corruption, nepotism, maladministration, criminal offences, and non-compliance with the Public Service Act of 1994 (Regulations 11, 13 and 14 of Public Service Regulations of 2016).

The employees and members of the Liquor Board are public servants who are obligated to be loyal to the Constitution and the Code of Conduct for the Public Servants, as well as conduct

themselves within the confines of the GLA. The contravention of the GLA, by either members of the Board and Liquor Board employees, is, by implication, a violation of the values enshrined in the Constitution, and a serious misconduct which impacts on the reputation and public confidence in government. The government should invoke consequence management against officials who engage in any misconduct related to failure to uphold the rule and impact the reputation and public confidence in the government.

Further, contravention of any legislation and failure to uphold the rule of law often results in litigation and also has cost implications for the government. In such circumstances, the government should, where the deliberate dereliction of duty, unlawful conduct and complete disregard of law was established, consider recovery of costs against the employees' pension.

The study found that the Liquor Board's decision-making processes, in the licensing of Primrose outlets, are inconsistent with the provisions of the Gauteng Liquor Act of 2003.

The research questions and responses from the participants highlighted areas requiring intervention to strengthen compliance with the provisions of the GLA and the rule of law by all key stakeholders.

6.3.4.1 Accountability

The failure of regulatory authorities to enforce and ensure compliance, regardless of their empowering legislation, commitment, and opportunities presented by the global community. Their challenges and failure to achieve their mandate are largely caused by the lack of commitment to hold their executive and officials accountable by non-adherence to the founding legislative prescripts, the rule of law, set objectives, performance standards, and established industry practices (Root, 2019). The residents' representation has, without mincing their words, expressed the community's perception against the City of Ekurhuleni Metropolitan Municipality, the Gauteng Liquor Board, and the South African Police. This was established during the field, where the following sentiments were expressed:

The residents do not find the Liquor Board's decision-making and licensing processes transparent, promoting public interest, compliant with the GLA, and lawful.

The study found that the Liquor Board's lack of accountability, ineffective performance management, and consequence management resulted in decisions that are inconsistent with the provisions of the Gauteng Liquor Act of 2003.

6.3.4.2 Amendment/ Review of Legislation

The Gauteng Liquor Act 2 of 2003 was assented into law on 2 July 2023 by the Premier of Gauteng, Honourable Mbazima Shilowa. The Act came into effect on 1 November 2004 after the promulgation of the Regulations, and establishes the Gauteng Liquor Board and empowers it to regulate the retail sale and supply of liquor in Gauteng. The Act remains the primary policy framework that informs the government's responsibility to regulate the industry.

Efforts to review and amend the Act, by promulgating the Gauteng Liquor Act 3 of 2014, failed after the provincial government omitted to publish the date of implementation and regulations thereto. This Act sought to cure challenges and loopholes that were identified by the courts and various stakeholders within the industry, and subsequently enhance the government's capacity to regulate the industry.

The study found that the provincial regulatory policy framework is outdated, has glaring inconsistencies and deficiencies, is not informed by current policy, hampers the regulation of the liquor industry, and, by extension, the function of the Liquor Board.

This sub-paragraph is an attempt to address the inconsistencies and deficiencies that impact the effective regulation of the liquor industry in Primrose. Table 9 (below) provides a list of recommended legislative amendments/reviews, which are informed by the data collected and findings of the study.

Table 9: List of Recommended Legislation Amendments/ Reviews

Theme	Sub-Theme	Recommended Amendment/ Review
Community Representatives & Complaints	Public Participation	Definition, Priority & Requirement
	Location of Outlets	Prohibit sec 30(3) grant and strengthen public interest

	Proliferation of Outlets	Definition, Priority & Explicit Prohibition, adopt scientific licensing formula
	Contravention of Licence Conditions	Include "Permitting public drinking within 200 meters of the outlet, promulgate issuing of spot fines/ penalties, strengthen capacity of the Inspectorate, define & clarity the role of EMPD & SAPS, link compliance processes with Metro Police, SAPS and Justice
	Criminal Activities	Summarily suspend licence (+6 months), Revoke licence of guilty verdict and evidence of fronting
Communication Tools	Word-of-Mouth	Define, Priority, Website, Regular Stakeholder Engagements, Applicant to request motivation/ support from local churches, schools, saps & ward councillor
	Internet & Social Media	
Regulatory & Law Enforcement Authority	City of Ekurhuleni	Synchonise definitions, Dos & Don'ts/ Conditions, Business Hours, By-Law/ Regulations & Liquor Act, MoU on universal services
	Gauteng Liquor Board	Synchonise definitions, Dos & Don'ts/ Conditions, Business Hours, By-Law/ Regulations & Liquor Act, MoU on universal services, Strengthen Decision-Making processes/ systems, Strengthen Public Participation, Strengthen powers of inspectors (peace officers), promulgate issuing of fines/ penalties, prohibit grants on sec. 30(3), strengthen public interest clause.
Government Interventions	Amendment/ Review of Legislation (incl Municipal By-Laws/ Regulations	Review 2003, 2014 and publish regulations, reduce number of licences per applicant/ person and the types of licences.

	Accountability	Oath of office for board members, annual performance contracts & reviews, minimise political interference & conflicts of interest, separation of powers, prioritise loyalty & upholding the rule of law, consequence management for dereliction of duty and implementation of unlawful instruction, 100 implementation of an automated licensing system, protect and strengthen the independence of the regulatory authorities.

Sub-Paragraph 3.3 (above) provides an in-depth discussion on the decision-making approaches in public institutions, and delves into two main theories which illustrate the Liquor Board's decision-making process, namely, the Rational Choice and Garbage Can theories. Decision-making was described as an administrative action that relates to the choice of what action to take, which is largely motivated by the perceived advantage resultant from that action, and the kind of advantage that would be favourable (Hristovski, Carvallo, and Keith, 2017). Furthermore, Nibbenk (2018) indicated that experience and instincts, the context or environment, as well as the reflection and understanding of the decision-maker, are critical elements of decision-making.

The Liquor Board is an entity of the Gauteng Department of Economic Development (DED. The DED, in its 2024-25 Annual Performance Plan, committed itself "*to promoting economic growth and rebuilding the provincial economy through infrastructure investment projects, modernization and industrialization of high-growth sectors, increased competitiveness of small businesses, and the facilitation of an inclusive economy*". The Liquor Board committed to issuing 2000 liquor licenses during the 2024-25 financial year. These commitments inculcated a desire, belief and the opportunity for the Liquor Board to believe that it was only rational to grant liquor licenses, to meet the provincial government's political commitment to promote economic growth, small businesses, and an inclusive economy.

However, the desires, beliefs and commitments of the Liquor Board and provincial government contrasted with those presented by the residents during the fieldwork. To that end, the study found that the Liquor Board did not consult or notify the residents of Primrose about new

licence applications, the right to object to a licence application, and the decision to issue licences to fifty-five (55) outlets that are operating in Primrose. Furthermore, the study found that the provisions of Sections 24, 25, 25 and 27 are ineffectual and do not promote public participation, and that the Liquor Board does not have adequate platforms to keep the stakeholders informed of its offerings: applications for licences, declined and granted licences and event permits, renewed and active licences, section 106 hearings, and section 107 sanctions.

Furthermore, the residents blamed the densification or proliferation of outlets, the location in proximity to residential areas and public amenities, on the Liquor Board's lack of transparency and accountability. Hence, the study found that the Liquor Board's lack of accountability, ineffective performance management, and consequence management resulted in decisions that are inconsistent with the provisions of the Gauteng Liquor Act of 2003.

On the other hand, there is an expectation that the Liquor Board's licensing regime should also be premised on a commitment to resolve existing problems impacting the economy of Gauteng and the livelihood of residents through youth employment and township economy (Growing Gauteng Together 2030 and the Township Economic Development Act, 2022). Astonishingly, the Liquor Board's current licensing regime is driven by the government's desperate need for economic growth and job creation, which resulted in a perverse and uncompetitive monopoly, decisions that are inconsistent with the GLA and detrimental to the well-being of society. This approach towards decision-making was regarded as being irrational, as it is based on assumptions that there is a disconnect between, or at least a limited causal link, between the societal problems and the Liquor Board's decision to issue a liquor licence.

Subsequently, the study found that the Liquor Board's decision-making processes, in the licensing of Primrose outlets, are inconsistent with the provisions of the Gauteng Liquor Act of 2003. Finally, the study found that the lack of cooperation between the EMPD and SAPS impacts effective policing, law enforcement, and the eradication of crime in Primrose, while the provincial regulatory framework was found to be outdated, has glaring inconsistencies and deficiencies, is not informed by current policy, hampers the regulation of the liquor industry, and, by extension, the function of the Liquor Board.

6.4 Chapter Summary

This chapter presented an in-depth discussion of the research findings and an overview of the overall outcomes of the research. The chapter also interpreted the research findings in consideration of the identified themes to provide a broader understanding of the extent to which the Gauteng Liquor Board's decision-making processes and systems in the issuing of licences impact the lives of the residents of Primrose, in Ekurhuleni.

The contents of Table 9 will be discussed in more detail in Chapter 7 as part of the conclusion and recommendations of the study.

Chapter 7
Conclusion and Recommendations

7.1 Introduction

This chapter reflects on the purpose of the study, provides a summary of the research objectives and the research findings, provides the conclusion, and offers the recommendations thereto. The purpose of the study was to examine the legislative and policy factors that influence the Gauteng Liquor Board's decision-making processes and contribute to the proliferation of liquor outlets in Primrose, Ekurhuleni.

The researcher conducted this study to improve the knowledge and help identify the factors that are influencing the Gauteng Liquor Board's decision-making processes, resulting in the proliferation of outlets in Primrose, Ekurhuleni. It must be mentioned that the advent of the Gauteng Liquor Act 2 of 2003, which repealed the Liquor Act 27 of 1989, created confusion and conflict between the provincial and local spheres of government regarding the competence to enforce and ensure compliance in the liquor industry. The confusion and conflict resulted in a lack of cooperation, lawlessness, and failure to assert the authority of the state. Furthermore, this resulted in much-needed revenue that is generated by the liquor industry being diverted by criminal syndicates and corrupt government officials.

While the focus of the study was limited to Primrose, the mandate of the Gauteng Liquor Board and the provisions of the Gauteng Liquor Act 2 of 2003 apply to all licensed outlets and impact the lives of all the citizens or inhabitants of Gauteng. Furthermore, the situation and challenges that besiege the community of Primrose seem to be a reflection of what obtains throughout the Gauteng Province.

The lived-in experiences contributed to achieving the objectives of the study, and the presentation of findings on the factors that influence the Liquor Board's decision-making processes, resulting in the proliferation of outlets in Primrose, Ekurhuleni.

7.2 Conclusions of the study

The topic of discussion throughout the study was 'What factors influence the Liquor Board's decision-making processes, resulting in the proliferation of outlets in Primrose, Ekurhuleni. The findings of the study addressed the research question adequately, as shown in Chapters 5 and 6 of this paper.

The analysis of the City of Ekurhuleni Land Use Scheme (2021) and the Ekurhuleni Metropolitan Municipality Spatial Planning and Land Use Management By-Law (2019), the South African Public Service Commission Circular (PSC Circular No. 5 of 2024) on the "Implementation of Unlawful Instructions", the Gauteng Liquor Act (2003), and the Constitution of the Republic of South Africa Act (1996) yielded the following findings, regarading the objective of the research:

The Liquor Board's decision-making processes in the licensing of outlets in Primrose are inconsistent with the provisions of the Gauteng Liquor Act, the lack of accountability, ineffective performance management, and consequence management by or within the Liquor Board resulted in decisions that are inconsistent with the rule of law, and the Liquor Board lacks the capacity to adequate capacity to effectively regulate and enforce compliance within the liquor industry, while the EMPD members are not experts and not trained to enforce the GLA.

On the other, the engagements and responses to the interview questions obtained from the residents of Primrose and officials from the City of Ekurhuleni Metropolitan Municipality and the Gauteng Liquor Board, the analysis of media reports on challenges associated with liquor trade, non-compliance to licence conditions and municipal by-laws, and criminal activities emanating from liquor outlets yielded the following outcomes and findings, concerning the research question:

The Liquor Board did not consult or notify the residents of Primrose about new licence applications, the right to object to a licence application, or the decision to issue licences to fifty-five (55) outlets that are operating in Primrose. In addition, the provisions of Sections 24, 25, 25 and 27 are ineffectual and do not promote public participation, because the notices that are aimed at informing interested parties about new licence applications are posted in the classified section of the newspapers, the provincial gazette, and another notice affixed to the premises.

Furthermore, the Liquor Board does not have adequate platforms to keep the stakeholders informed of its offerings: applications for licences, declined and granted licences and event permits, renewed and active licences, section 106 hearings, and section 107 sanctions. Nonetheless, the GLA does not oblige or make provision for the Liquor Board to notify residents about new applications and the right to object to licence applications.

Trading in liquor within a residential area and the proximity of outlets to public amenities are lawful and permissible in Primrose, subject to compliance with the municipal by-laws. In addition, the densification or proliferation of outlets is lawful and is permissible in Primrose, subject to compliance with the municipal by-laws, because the property where the outlet is located has complementary or multiple use or zoning rights. Furthermore, the contravention of the GLA does not necessarily constitute a contravention of the City of Ekurhuleni's Spatial Planning and Land Use Scheme. The Ekurhuleni Metropolitan Municipality's views and policy stance has a significant impact in the Liquor Board's legislative obligation to decline applications for outlets that are located within a 500-radius of public amenities and throws a spanner in the works against the provisions of sections 30(2) and (3) of the GLA, which requires applicants to obtain the necessary business or zoning rights, or consent use from the municipality.

Finally, the provincial regulatory policy framework is outdated, has glaring inconsistencies and deficiencies, is not informed by current policy, hampers the regulation of the liquor industry, and, by extension, the function of the Liquor Board, and the Liquor Board's lack of accountability, ineffective performance management, and consequence management resulted in decisions that are inconsistent with the provisions of the Gauteng Liquor Act of 2003.

7.3 Limitations of the study

The study has limitations despite its usefulness and conclusion in making definite findings on the factors that influence the Liquor Board's decision-making processes in Primrose, Ekurhuleni. Firstly, the study was restricted to Primrose, even though the outcomes highlighted universal issues impacting liquor licensing and the lives of residents in Gauteng.

Secondly, the South African Police Service did not honour their commitment to participate in the study, resulting in the omission of the major role player in the enforcement of compliance

and the rule of law. The non-participation by the South African Police Service has the potential to downplay the impact of non-adherence, by outlets, to the law has on crime, including murder, attempted murder, rape, assault with the intend to cause grievous bodily harm. Further, the South African Police Service granted permission to use data from the National Crime Register; the report will not address the questions of validity and implications of those statistics.

7.4 Triangulation

The use of the triangulation method increased the credibility and validity of the research findings. Triangulation is a technique that is utilised to improve the credibility and validity of research findings. Credibility is concerned with the trustworthiness and plausability of a study; while validity is concerned with the extent to which a study correctly reflects the subject of the research (Noble &Heale, 2019).

A methodological triangulation technique was utilised to increase the credibility and validity of the research findings by combining interviews, document analysis, and focus group discussions. The research ensured consistency across techniques and provided an extensive understanding of the Gauteng Liquor Board's decision-making processes. Data obtained from the residents' representatives or focus groups, including the Primrose Business Forum, Primrose Community Policing Forum), the senior officials from the Ekurhuleni Metropolitan Municipality and Gauteng Liquor Board, and analysis of media/ newspaper articles, submissions, investigation report, and various pieces of legislation enhanced the contextual accuracy of the research outcomes and findings, while the utilisation of multiple theoretical perspectives deepened the analysis. Combined, these triangulation strategies helped ensure that the findings of this study are both credible and justifiable.

7.5 Recommendations

The study found glaring inconsistencies and deficiencies in the Gauteng Liquor Act 2 of 2003 (GLA). Those inconsistencies and deficiencies hamper the regulation of the liquor industry, and by extension, the function of the Liquor Board. Table 9 (above) highlighted critical areas of the Act, which might have to be amended or reviewed to cure the inconsistencies and deficiencies.

The Liquor Board is a creature of statute and a regulatory authority established to implement and enforce the policy framework of the Gauteng Department of Economic Development, and by extension, the government of the Gauteng Province and the Republic of South Africa. Furthermore, the employees and board members of the Liquor Board are employed in terms of the Public Service Act (1994) and obligated to apply the laws of the land, including the GLA, faithfully and lawfully, and in a manner that promotes and respects human rights.

The study has found, among others, that "*the provincial regulatory policy framework is outdated, has glaring inconsistencies and deficiencies, is not informed by current policy, hampers the regulation of the liquor industry, and, by extension, the function of the Liquor Board, and that the Liquor Board's lack of accountability, ineffective performance management, and consequence management resulted in decisions that are inconsistent with the provisions of the Gauteng Liquor Act of 2003"*.

On the other hand, the liquor industry is dynamic, one of the major contributors to South Africa's revenue generation, as well as hell-bent on influencing the government's policy and decision-making programmes. Therefore, there is an urgent need to update the policy framework and ensure alignment with the National Liquor Norms and Standards, as well as the main objectives of King Code (King IV), namely: promoting an ethical culture, improving performance and value creation, ensuring effective controls, fostering trust with stakeholders and maintaining a good reputation and legitimacy.

This sub-paragraph provides a brief discussion on the recommended legislative amendments or reviews, which are classified under High Priority and Medium/ Low Priority.

High Priority

7.5.1 Accountability: An amendment or revision be considered to make provision for the Oath of office for board members, annual performance contracts & reviews, minimise political interference & conflicts of interest, separation of powers, prioritise loyalty & upholding the rule of law, consequence management for dereliction of duty and implementation of unlawful instruction, 100% implementation of an automated licensing system, protect and strengthen the independence of the regulatory authorities.

7.5.2 Amendment or revision of Legislation: The Liquor Board should prioritise the review of its outdated 2003 Act, unimplementable 2014 Act, reduce the types of licences and number of licences per applicant/ person.

7.5.3 Word-of-Mouth and Internet & Social Media: There seems to overreliance on the placement of notices for the application of licences in the newspapers, gazette and proposed outlets. Recommendation: An amendment or revision should be considered to expressly and tacitly prescribe and define communication platforms, calls for the applicant to seek permission from the surrounding churches, schools, SAPS and Ward Councillor.

7.5.4 Public Participation: This Act does not define and expressly and tacitly address the significance of public participation in the licensing and decision-making processes of the Gauteng Liquor Board. Recommended: An amendment or revision be considered to define this concept. Further, public participation should be prioritised and included in the requirements for the licensing process.

7.5.5 City of Ekurhuleni: The study found glaring inconsistencies and contradictions in the policy framework and application of the law between the EMPD and the Liquor Board. Recommendation: An amendment or revision and consultation should be held to consider the synchronisation of the policy frameworks and definitions, the licence/ trading conditions, and trading hours. On the other hand, the law enforcement entities have a Memorandum of Understanding that regulates their working relations on matters of common interest.

Medium/ Low Priority

7.5.6 Location of Outlets: The Act does not expressly and tacitly prohibit the granting of licensing within a 500-meter radius of places of interest. This provision, if included, and considered as an option that is available as part of the discretionary powers of the Liquor Board. Recommendation: An amendment or revision should be considered to expressly and tacitly craft this provision as a prohibition, and not a discretionary power. This should be coupled with the definition of public interest.

7.5.7 Proliferation of Outlets: This Act does not define and expressly or tacitly address the impact of proliferation in society and industry. Recommendation: An amendment or revision should be considered to define, prioritise and expressly and tacitly prohibit the proliferation of outlets. Further, there is an urgent need to adopt a scientific formula towards the issuing of licences, which will consider the geographical spread or size of an area/ city/ location/township against the number of households/ residents, existing outlets and crime statistics.

7.5.8 Contraventions of Licence Conditions: The section/ provision should be amended or reviewed and strengthened by inserting the words [it is an offence to permit patrons to consume liquor in a public space that is located within 200 meters of your outlet]. Further, an amendment or reviw be considered to appoint the lIquor Board inspectors as 'Peace Officers', promulgate the issuing of fines/ penalties, and expressly and tacitly define/ clarify the role of the Metro/ Municipal Police Department and South African Police Service, and link the compliance proceses to the EMPD and SAPS.

7.5.9 Criminal Activities: An amendment or revision should be considered to summarily suspend the licence (minimum of 6 months) where the licensee/ his employee/ representative, or the outlet is implicated in criminal activities, and recommend revocation where there is a guilty verdict.

7.5.10 Gauteng Liquor Board: The study found glaring inconsistencies and contradictions in the policy framework and application of the law between the EMPD and the Liquor Board. Recommendation: An amendment or revision and consultation should be held to consider the synchronisation of the policy frameworks and definitions, the licence/ trading conditions, and trading hours. There is also a need to strengthen decision-making processes/ systems, public participation, and the powers of inspectors. On the other hand, the law enforcement entities have a Memorandum of Understanding that regulates their working relations on matters of common interest.

Finally, the researcher recommends that further research be conducted on:

- The impact of lapses in the decision-making processes,
- The factors influencing the liquor licence decision-making processes,
- The civil and criminal liability of the licensing authorities or individual members failing to adhere to legislation,
- The conflict between the municipal land use framework and the national/ provincial liquor regulatory framework, and
- The inadequate enforcement is occasioned by competing government competencies and fiscal limitations.

7.6 Conclusion

The goal of this chapter was to highlight the shortcomings of this study, draw conclusions, and provide recommendations on interventions aimed at strengthening the government's regulatory authority in Primrose.

The research findings distinctly illustrate the obligation of government departments, entities, and officials to faithfully and lawfully uphold the rule of law, as required by the Constitution of the Republic of South Africa Act (1996), the Public Service Act (1994), and its Regulations. The study emphasised the crux and significance of the government's decision-making processes, and the need to ensure that such decisions are lawful, promote public interest, consistent, and reasonably fair. On the other hand, the study and the findings highlighted the centrality of access to information and public participation in the quest to legitimise, implement, and enforce government decisions.

Therefore, it is recommended that the government should automate its processes, promote transparency and accountability through effective controls to improve performance and service delivery, reduce political influence, interference, and conflicts of interest, separation of powers, and implement consequence management for dereliction of duty and implementation of unlawful instruction.

In addition, the Gauteng Liquor Board is mandated to regulate the retail sale and supply of liquor through the adjudication of liquor licence applications, stakeholder management, and enforcement of licence conditions, and related provisions of the Gauteng Liquor Act of 2003.

It is critically important for the Gauteng Liquor Board to appreciate the impact of its mandate, discretionary powers, decisions, and officials on businesses and the lives of people who are directly or indirectly affected by the licensed outlets.

Furthermore, the Gauteng Liquor Board should update its regulatory framework, ensure alignment with the National Liquor Norms and Standards, and benchmark with best practices (internationally, regionally, and nationally) to improve the quality of its offerings and decision-making processes.

Moreover, the regulation of land use where the outlets are located falls under the competence of the local government (i.e. Ekurhuleni Metropolitan Municipality). Therefore, the Gauteng Liquor Board should, through the Provincial Intergovernmental Relations Forum, resolve the policy-related inconsistencies, the working relations and act in unison on matters of public interest. On the other hand, the Constitution and the South African Police Service Act of 1995 place an obligation to enforce compliance and assert the authority of the state on the South African Police Service, including the Metropolitan or Municipal Police. Invariably, an urgent need exists for the Gauteng Liquor Board Inspectorate, the Metropolitan or Municipal Police Department, and the South African Police Service to improve working relations and jointly commit to enforcing compliance with the rule of law and protecting the residents of Gauteng.

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Appendices

The following appendices are included as a portfolio of evidence that the study complies with the rules and regulations of the University of Witwatersrand and the Wits School of Governance.

1. Participant Information Letter: Introduction of the researcher to the participants and a brief explanation of the parameters of the research.
2. Ethics Clearance Letter: Confirms that the study complies with the ethical considerations and was approved by the University of Witwatersrand Research Ethics Committee.
3. Approval of Title: Confirms that the new or revised research title was approved by the University of Witwatersrand.
4. City of Ekurhuleni Permission Letter: Grants the researcher permission to conduct the research at the municipality and interview the designated officials or representatives.
5. Gauteng Liquor Board Permission Letter: Grants the researcher permission to conduct the research at the Gauteng Liquor Board and interview the designated officials or representatives.
6. South African Police Service Permission Letter: Grants the researcher permission to conduct the research at the Primrose SAPS and interview the designated officials or representatives. However, the SAPS failed to confirm and participate in the study.
7. Primrose Business Forum Permission Letter: Grants the researcher permission to conduct the research and interview the designated officials or representatives.
8. Primrose Community Policing Forum: Grants the researcher permission to conduct the research and interview the designated officials or representatives.
9. Primrose Ratepayers Association: Grants the researcher permission to conduct the research and interview the designated officials or representatives.
10. Interview Questionnaire - Organs of State: Semi-structured questions for officials or representatives of the City of Ekurhuleni Metro Police Department and Town Planning.
11. Interview Questionnaire - Gauteng Liquor Board: Semi-structured questions for officials or representatives of the Gauteng Liquor Board Licensing and Adjudication Board.
12. Interview Questionnaire – Community Representatives or Focus Groups: Semi-structured questions for officials and representatives of the Primrose Business Forum, Primrose Community Policing Forum and Primrose Ratepayers Association.

University of the Witwatersrand, Johannesburg
P O Box 98, Wits, 2050.
2 St David's Place,
Parktown,
Johannesburg, South Africa

Participant Information Sheet

Dear Sir/ Madam

My name is Otto Mbongeni Shabangu, and I am a Master of Management student in Governance at Wits University in Johannesburg. My supervisor is Dr. TK Pooe. As part of my studies, I have to undertake a research project on Decision-Making processes for liquor outlets in Primrose, Ekurhuleni. The study aims to examine the legislative and policy factors that influence the Gauteng Liquor Board's decision-making processes and contribute to the proliferation of liquor outlets in Primrose, Ekurhuleni.

As part of this project, I invite you to participate in an interview process. This activity will involve answering questions for around thirty (30) minutes. With your permission, I would also like to record the interview using a digital device (optional).

You will not receive any direct benefits from participating in this study, and there are no disadvantages or penalties for not participating. You may withdraw from this study at any time or not answer any question if you do not want to. The interview will be completely confidential and anonymous, as I will not be asking for your names or any identification information, and the information you give to me will be held securely and not disclosed to anyone else. I will be using a pseudonym (false name) to represent your participation in my final research report. If you experience any distress or discomfort, we will stop the interview or resume another time.

If you have any questions afterwards about this research, feel free to contact me at the details provided below. This study will be written up as a research report, which will be available online through the university library website. If you wish to receive a summary report, I will

be happy to send it to you upon request. If you have any queries, concerns or complaints regarding the ethical procedure of this study, you are welcome to contact the University Human Research Ethics Committee (non-medical) by telephone +27(0)11 717 1408, Email address: Shaun.Schoeman@wits.ac.za

Yours sincerely,

Researcher's Name: Otto Mbongeni Shabangu

Email Address: 2452719@students.wits.ac.za

Telephone Number: 078 802 5044

Supervisor's Name: Dr. TK Pooe

Email Address: tk.pooe@wits.ac.za

Telephone Number: 011 717 9999

Ethics Clearance Letter

Research Office:
Lehlohonolo Mmolotsane
Tel: 011 717 3968
Email:Lehlohonolo.mmolotsane@wits.ac.za

Research Ethics Chair:
Rekgotsofetse Chikane
Tel: 0117173869
Email:rekgotsofetse.chikane@wits.ac.za

04 June 2024

Dear Otto Shabangu

Title: Compatible or Incompatible Decision-Making Processes: A Cause for Proliferation of Outlets in Primrose, Ekurhuleni
Student Number: 2452719
Degree: Masters in Management
Ethics Clearance Number: WSG-2024-20

All candidates must satisfy the University's ethical standards for research. Your ethics application has been received and reviewed by the Wits School of Governance Human Research Ethics Committee.

Your ethical clearance has been approved subject to you getting permission to conduct research from all sites where research is conducted. The letter(s) of permission to undertake research must be submitted to the WSG Research Office and kept on file with your final proposal and other ethics documents.

You may commence your data collection under the guidance of your supervisor. In the event that the scope, methodology or nature of the research changes, you are required to submit another ethics application reflecting the changes.

The onus is on you as the candidate, with support from your supervisor, to ensure your research complies with university human research ethics policies and protocols at all stages of the research process.

It is recommended that you keep this letter in a safe place as you are responsible for ensuring you have proof of ethics clearance and have lodged the ethics clearance / protocol number with Faculty before final submission of your research report. If you do not have an ethics clearance number, you are not permitted to graduate.

Please do not hesitate to contact me if you have any queries.

Yours sincerely,

Rekgotsofetse Chikane
Research Ethics Chair

Approval of Title

UNIVERSITY OF THE
WITWATERSRAND,
JOHANNESBURG

Private Bag 3 Wits, 2050
Fax:
Tel:

Reference: Ms Jennifer Mgolodela
E-mail: jennifer.mgolodela@wits.ac.za

23 April 2025
Person No: 2452719
PAG

Mr OM Shabangu
51
Russel Road
Lambton
1414
South Africa

Dear Mr Otto Shabangu

Master of Management: Approval of Title

We have pleasure in advising that your proposal entitled *Decision-Making processes for liquor outlets in Primrose, Ekurhuleni* has been approved. Please note that any amendments to this title have to be endorsed by the Faculty's higher degrees committee and formally approved.

Please take note that any study involving human or animal participants must receive ethics clearance from the relevant Research Ethics Committee before the study commences. It is the student's responsibility to apply for ethics clearance before starting any data collection/research activity involving human or animal participants.

Yours sincerely

Mrs Marike Bosman
Faculty Registrar
Faculty of Commerce, Law and Management

Permission Letters

OFFICE OF THE CITY MANAGER

To: Otto Shabangu

Enq: Zanelel.katembo@ekurhuleni.gov.za

City of Ekurhuleni

Cnr Cross and Roses Streets
Germiston
Private Bag X1069
Germiston 1400
South Africa
Tel: (011) 999-0796
Fax: (011) 999-1811
city.manager@ekurhuleni.gov.za
www.ekurhuleni.gov.za

APPROVAL FOR THE REQUEST TO CONDUCT RESEARCH EXAMINING COMPATIBLE OR INCOMPATIBLE DECISION-MAKING PROCESS: A CAUSE FOR PROLIFERATION OF LIQUOR OUTLETS IN PRIMROSE, EKURHULENI

The City of Ekurhuleni acknowledges receipt of your request to conduct research examining compatible or incompatible decision-making process: a cause for the proliferation of liquor outlets in Primrose, Ekurhuleni.

Permission to conduct research in the City Planning Department is granted, and the Intergovernmental Relations Unit will in conjunction with the Strategy Department provide the necessary administrative and logistical support you may require.

APPROVED	X	NOT APPROVED	

Yours sincerely,

Dr Imogen Mashazi
CITY MANAGER

15/7/24
DATE

GAUTENG PROVINCE
ECONOMIC DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

Enquiries: Kanyisiwe Mkonza
PA-Chief Director: GLB
Tel: +27 (0)11 085 2577
Email: Fati.Manamela@gauteng.gov.za

RE: PERMISSION LETTER

To whom it may concern

Permission is granted for Mr. Otto Mbongeni Shabangu to conduct interviews at the Gauteng Liquor Board.

I also understand that the interview will be conducted in fulfilment of Masters' research themed "Compatible or Incompatible Decision-Making Processes: A Cause for Proliferation of Liquor Outlets in Primrose, Ekurhuleni".

However, permission is granted on condition that the integrity of our organization will be respected and the names of our staff members will be kept confidential.

Regards,



_____

Name: FK Manamela
Designation: Chief Director: Gauteng Liquor Board
Date: 16 July 2024
Contact Details: 0824507592

South African Police Service *Suid-Afrikaanse Polisiedienste*

Privaatsak Private Bag X94	Pretoria 0001	Faks No. Fax No.	(012) 232 7866

Your reference/U verwysing:

My reference/My verwysing: **3/34/2**

THE HEAD: RESEARCH
SOUTH AFRICAN POLICE SERVICE
PRETORIA
0001

Enquiries/Navrae: **Col (Dr) Smit**
W/O Thenga
Tel: **(012) 432 7866**
Email: ThengaS@saps.gov.za

OM Shabangu
UNIVERSITY OF WITWATERSRAND

RE: PERMISSION TO CONDUCT RESEARCH IN THE SOUTH AFRICAN POLICE SERVICE: UNIVERSITY OF WITWATERSRAND: MASTERS DEGREE: COMPATIBLE OR INCOMPATIBLE DECISION-MAKING PROCESS: A CAUSE FOR PROLIFERATION OF LIQUOR OUTLETS IN PRIMROSE, EKURHULENI: RESEARCHER: OM SHABANGU

1. The above subject matter refers.

2. You are hereby granted approval for your research study on the topic mentioned above in terms of National Instruction 4 of 2022.

3. Further arrangements regarding the research study may be made with the following office:

   The Provincial Commissioner: Gauteng:

   - **Contact Person:** Colonel Peters
   - **Contact Details:** 011 247 7881/ 082 769 5690
   - **Email Address:** PetersNS@saps.gov.za

   - **Contact Person:** Lt Colonel Nevumbani
   - **Contact Details:** 011 547 9129
   - **Email address:** NevumbaniVJ@saps.gov.za

4. Kindly adhere to paragraph 8 of our attached letter signed on **2024-08-14** with the reference number above.

BRIGADIER
THE ACTING HEAD: RESEARCH
DR GJ SCHWARTZ

Date: 2024.09.12.

PRIMROSE BUSINESS FORUM

PRIMROSE BUSINESS FORUM

"Connecting Communities, One Discussion at a Time"

Permission Letter

To whom it may concern

Permission is granted for **Mr. Otto Mbongeni Shabangu** to conduct interviews with the Better Primrose Exec Committee.

I also understand that the interview will be conducted in fulfilment of Masters' research themed **"Compatible or Incompatible Decision-Making Processes: A Cause for Proliferation of Liquor Outlets in Primrose, Ekurhuleni".**

However, permission is granted on condition that the integrity of our organization will be respected, and the names of our staff members will be kept confidential.

Regards,

Name: Pierre Eksteen

Designation: Safety and Security - Better Primrose

Date: 17/07/2024

Contact Details: 0826008663

Permission Letter

To whom it may concern

Permission is granted for **Mr. Otto MbongeniShabangu** to conduct interviews at the…

I also understand that the interview will be conducted in fulfillment of Masters' research themed **"Compatible or Incompatible Decision-Making Processes: A Cause for Proliferation of Liquor Outlets in Primrose, Ekurhuleni".**

However, permission is granted on condition that the integrity of our organization will be respected and the names of our staff members will be kept confidential.

Regards,

Enslin

Name: TRACY ENSLIN

Designation: CHAIRPERSON PRIMROSE CPF

Date: 8 JULY 2024

Contact Details: 0609718237
tracycpfprimrose@gmail.com.

Permission Letter

To whom it may concern

Permission is granted for **Mr. Otto Mbongeni Shabangu** to conduct interviews at the **Primrose Ratepayers Association**.

I also understand that the interview will be conducted in fulfillment of Masters' research themed **"Compatible or Incompatible Decision-Making Processes: A Cause for Proliferation of Liquor Outlets in Primrose, Ekurhuleni".**

However, permission is granted on condition that the integrity of our organization will be respected and the names of our staff members will be kept confidential.

Regards,



Name: David Hutch-Barr

Designation: Vice Chairperson, Primrose Ratepayers Association

Date: 7 July 2024

Contact Details: 061 155 3748, vicechair@primroserpa.co.za

Interview Questionnaire: Organs of State

City of Ekurhuleni Metropolitan Municipality

a) What is your designation in the City of Ekurhuleni?
b) How long have you worked for the City of Ekurhuleni and your current designation?
c) Do you have any knowledge or understanding of the licensing process/ procedure and the Gauteng Liquor Act 2 of 2003?
d) What do you think is the role of the City of Ekurhuleni in the licensing of liquor outlets in Primrose?
e) Section 45(1) of the Gauteng Liquor Act compels all liquor outlets to comply with all laws, including municipal and district by-laws and regulations. How does the City of Ekurhuleni monitor and enforce compliance at liquor outlets? Which legislation empowers the City of Ekurhuleni to monitor and enforce compliance at liquor outlets?
f) In your opinion, what impact does the granting and issuing of a liquor licence have on the role of the City of Ekurhuleni and the surrounding community?
g) Is there any other comment or input you would like to provide to the researcher?

Gauteng Liquor Board

a) What is your designation in the Gauteng Liquor Board?
b) How long have you worked for the Gauteng Liquor Board?
c) Do you have any knowledge or understanding of the licensing process/ procedure and the Gauteng Liquor Act?
d) Section 30(2) obliges the Board to grant a licence where it is in the public interest to do so; while section 30(3) prohibits the granting of licences to outlets located within a 500-meter radius of places of learning, places of worship, public transport facilities and similar licensed outlets. Based on your experience, does the Gauteng Liquor Board's licensing process/ procedure and decision to grant licences comply with these legislative provisions?
e) If yes or no to (d) above, why or what makes you think/ say so?
f) In your opinion, what impact does the granting and issuing of a licence have on the residents and the broader community?

Interview Questionnaire: Community Representatives – Focus Groups

Primrose Business Forum, Primrose Community Policing Forum and Primrose Ratepayers Association

a) Have you heard about the Gauteng Liquor Board, and from where?
b) According to your knowledge/ understanding, what is the mandate or function of the Gauteng Liquor Board?
c) Do you have any knowledge or understanding of the licensing process/ procedure and the Gauteng Liquor Act?
d) Of the 55 liquor licences that were granted and issued in Primrose by the Gauteng Liquor Board, how did you become aware, or who informed you about those applications/ licences?
e) Were you or any community-based organisation/ interested parties consulted/ informed about the application for any liquor licence?
f) Were you or any community-based organisation/ interested parties informed about your right to/allowed to object to the granting of any liquor licence, in Primrose?
g) What impact do existing operating liquor outlets have on your life and the broader community?
h) Any concern or matter you think requires attention as part of this study?