



**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2019-02-08

**MAYORAL COMMITTEE MEETING**  
**WEDNESDAY, 2019-02-13 AT 10:00**

**TO** The Executive Mayor, Ald G Van Deventer (Ms)  
The Deputy Executive Mayor, Cllr N Jindela

**COUNCILLORS** P Crawley (Ms)  
J De Villiers  
AR Frazenburg  
E Groenewald (Ms)  
XL Mdemka (Ms)  
S Peters  
M Pietersen  
Q Smit

Notice is hereby given that a Mayoral Committee Meeting will be held in the Council Chamber, Town House, Plein Street, Stellenbosch on **Wednesday, 2019-02-13 at 10:00** to consider the attached agenda.

EXECUTIVE MAYOR, ALD GM VAN DEVENTER (MS)

**CHAIRPERSON**

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**2019-02-13**  
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Minutes: Mayoral  
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2019-01-23**



**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/2/5

2019-01-23

**MINUTES**

**MAYORAL COMMITTEE MEETING:**

**2019-01-23 AT 10:00**

**MINUTES  
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**PRESENT:** Executive Mayor, Ald GM Van Deventer (Ms) (**Chairperson**)  
Deputy Executive Mayor, Cllr N Jindela

**Councillors:** PR Crawley (Ms)  
JN De Villiers  
A Frazenburg  
E Groenewald (Ms)  
XL Mdemka (Ms)  
S Peters  
M Pietersen  
Q Smit

**Also Present:** Alderman PW Biscombe  
Councillor WC Petersen (Ms)  
Councillor WF Pietersen  
Alderwoman J Serdyn (Ms)

**Officials:** Municipal Manager (G Mettler (Ms))  
Acting Chief Financial Officer (K Carolus)  
Acting Director: Community and Protection Services (A van de Merwe)  
Director: Planning and Economic Development (T Mfeya)  
Director: Corporate Services (A de Beer (Ms))  
Director: Infrastructure Services (D Louw)  
Chief Audit Executive (F Hoosain)  
Senior Manager: Governance (S de Visser (Ms))  
Manager: Secretariat (EJ Potts)  
Senior Administration Officer (B Mgcushe (Ms))  
Committee Clerk (N Mbali (Ms))  
Interpreter (J Tyatyeka)

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<b>1.</b>	<b>OPENING AND WELCOME</b>
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The Executive Mayor welcomed everyone present at the first Mayoral Committee Meeting for 2019.

The Executive Mayor extended a warm welcome to Councillor AR Frazenberg as a Mayco member and the Chairperson for Corporate Services.

<b>2.</b>	<b>COMMUNICATION BY THE CHAIRPERSON</b>
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**Goeiedag, Good Morning, Molweni, As-salaam Alaikum**

- Welkom terug aan al die raadslede, direkteure, amptenare
  - Hoop almal het 'n lekker vakansie gehad en goed gerus het
  - Nog 'n groot jaar vir Stellenbosch Munisipaliteit

- Thank you to all the officials who have been working throughout the Festive Season to ensure that our day to day operations continues as normal.
- Thank especially to our law enforcement officials and fire fighters who had a very busy season.
- Our fire fighters were active within our own municipality but have also been assisting our neighbours in Drakenstein and Overberg, battling some of the most destructive fires in the province.
- I received a letter last week, from my colleague and the Executive Mayor of Overstrand Municipality, Alderman Dudley Coetzee.

- I would like to read his message and ask that his and my sincere gratitude be conveyed to our fire fighters.
- ***On behalf of the Municipality and the community of Overstrand, I would like to extend my heartfelt thanks towards your municipality for the assistance rendered during the recent fires in the Overstrand area.***

***Without the help of your fire fighting vehicles and staff I can assure you that the fire raging in those strong winds could easily have turned into a huge disaster with excessive damages. Please extend my personal gratitude towards each and every one involved.***

- Die komende naweek is die finale registrasienaweek veldtog van die OVK (onafhanklike Verkiesingskommissie) vir die opkomende provinsiale en nasionale verkiesing.
- Alle inwoners wat 18 jaar sal wees ten tye van die verkiesing sal kan stem mits die persoon beskik oor 'n geldige Suid-Afrikaanse ID-dokument en geregistreer is op die kiesersrol
- Ek wil graag almal aanmoedig om asseblief hierdie naweek seker te maak dat u korrek geregistreer is.
- Onthou, jy sal net kan stem as jy korrek geregistreer is in die provinsie waar jy bly.
- Om te kan stem gaan oor baie meer as net party politiek, dit gaan oor die demokratiese reg van elke inwoner om te kan kies wat hy/sy vir sy toekoms wil hê.
- Die reg om te stem is iets wat nie altyd aan al ons land se inwoners beskikbaar was nie en mense het geveg en gesterf om seker te maak dat elke persoon wat hier sit, sy of haar keuse kan uitoefen.
- Ons is bevoorreg om in 'n land te kan bly waar ons grondwet ons reg tot vry en regverdige verkiesings verdedig en bewaar.
- Inwoners kan ook gebruik maak van die OVK se webblad om uit te vind waar hul naaste en korrekte registrasiesentrum gaan wees die naweek.
- Gaan na [www.elections.org.za](http://www.elections.org.za) of SMS jou ID nommer na 32810.

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3.1	<b>DISCLOSURE OF INTERESTS</b>
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NONE

3.2	<b>APPLICATIONS FOR LEAVE OF ABSENCE</b>
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NONE

4.	<b>CONFIRMATION OF PREVIOUS MINUTES</b>
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The minutes of the Mayoral Committee Meeting held on 2018-11-09 were **confirmed as correct.**

5.	<b>STATUTORY MATTERS</b>
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NONE

6.	<b>REPORT/S BY THE MUNICIPAL MANAGER RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS MAYORAL COMMITTEE MEETINGS</b>
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NONE

7.	<b>CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: [ALD G VAN DEVENTER (MS)]</b>
7.1	<b>COMMUNITY AND PROTECTION SERVICES: (PC : CLLR J DE VILLIERS)</b>
7.1.1	<b>SHARED SERVICE AGREEMENT WITH SURROUNDING MUNICIPALITIES TO RENDER SUPPORT AND ASSISTANCE FOR CERTAIN SERVICES</b>

Collaborator No:

IDP KPA Ref No:

Meeting Date:

*Safest Valley*

23 January 2019

1. **SUBJECT: SHARED SERVICE AGREEMENT WITH SURROUNDING MUNICIPALITIES TO RENDER SUPPORT AND ASSISTANCE FOR CERTAIN SERVICES**
2. **PURPOSE**  
  
To obtain a shared service agreement with surrounding municipalities to lend support to each other in respect of certain service delivery areas.
3. **DELEGATED AUTHORITY**  
  
Council
4. **EXECUTIVE SUMMARY**  
  
The shared service agreement has been drafted to render support and assistance to surrounding municipalities in need of assistance in respect of certain service delivery areas. Stellenbosch Municipality can benefit from such an agreement in the sense that we will be able to rely on surrounding municipalities to assist us in service delivery areas, when needed.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.1.1**

- (a) that the proposed draft agreement be considered and approved by Council;
- (b) that the Municipal Manager be authorized to sign the agreement on behalf of Council;  
and
- (c) that the Director: Community and Protection Services be represented on the Committee as per clause 9 of the agreement.

7.2	<b>CORPORATE SERVICES: (PC: CLLR E GROENEWALD (MS))</b>
7.2.1	<b>APPOINTMENT OF ACTING DIRECTORS WHEN THE DIRECTORS ARE NOT AVAILABLE</b>

Collaborator No:

IDP KPA Ref No:

Meeting Date:

*Good Governance and Compliance*

23 January 2019

**1. SUBJECT: APPOINTMENT OF ACTING DIRECTORS WHEN THE DIRECTORS ARE NOT AVAILABLE**

**2. PURPOSE**

To appoint acting Directors when the Directors are not available.

**3. DELEGATED AUTHORITY**

**COUNCIL.**

Council has to appoint acting section 56 managers when the appointed managers are not available. It is not practical to call a council meeting every time a person must act when a director is on leave, on sick leave or out of office. Council therefore appoints acting managers on a roster similar to the acting municipal manager appointments that were approved.

**4. EXECUTIVE SUMMARY**

The Local Government Systems Act is silent on acting arrangements other than determining that Council must appoint a suitably qualified person to act as Manager that reports directly to the Municipal Manager (the Section 56 Managers), (section 56(1)(a)(ii)). It has to be noted that when acting, the incumbent is still responsible for his/her own functions. An acting allowance is therefore paid for the additional workload and responsibilities taken on of a higher position, given that the person in the higher position is paid a higher salary than the acting incumbent. Council approved an acting policy in November 2018 in terms of which the acting allowances are set out.

In 2012 Council approved a roster of Directors to act when the Municipal Manager is out of office. In the meantime, some of the individuals have left and the new organisational structure was approved in October 2017. The new structure is implemented on an operational level after placements, and the acting arrangements must therefore be updated.

Section 56 (1) (a) of the Municipal Systems Act provides that the Municipal Council must appoint an acting Municipal Manager under circumstances and for a period as prescribed. Section 56 (1) (b) provides that such an acting person must at least have the skills, expertise, competencies and qualifications as prescribed.

It must be noted that the requirements are contained in the regulations published by the Department of Finance, a copy of which is attached as **APPENDIX A**, for reference purposes.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.2.1**

(a) that the following acting arrangements be approved:

SECTION 56 POST	PERSON ACTING	POST OF ACTING INCUMBENT	ACTING PERIOD APPROVED
<b>DIRECTOR: CORPORATE SERVICES: ANNALENE DE BEER</b>			
	Alexander Kannemeyer	Senior Manager: Human Resources	January; March; May; July; September; November
	Piet Smit	Manager: Property Management and Building Maintenance	February; April; June; August; October; December
<b>DIRECTOR: INFRASTRUCTURE SERVICES: DEON LOUW</b>			
	Saliem Haider	Senior Manager: Waste Management	December; January; June; July
	Nombulelo Zwane	Senior Manager: Electrical Services	February; March; August; September
	Johan Fullard	Senior Manager: Transport, Roads & Stormwater	April; May; October; November
<b>DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT: TABISO MFEYA</b>			
	Johru Robyn	Manager: Informal Settlements	January; February; November
	Hedre Dednam	Manager: Land Use Management	March; April; December
	Widmark Moses	Manager: Local Econ. Dev. & Tourism	May; June
	Nona Swartbooi	Manager: Housing Administration	July; August
	Bernabe De La Bat	Manager: Spatial Planning	September; October

**DIRECTOR: FINANCIAL SERVICES (CFO): CURRENT VACANT POST**

	Kevin Carolus	Senior Manager:	January – March 2019; Council resolution dated 10/12/2018
	Kevin Carolus	Senior Manager:	January – December

**DIRECTOR: PROTECTION AND COMMUNITY SERVICES: CURRENT VACANT POST**

	Albert van der Merwe	Senior Manager:	1 December 2018 – 28 Feb. 2019; Council resolution dated 09/11/2018
	Albert van der Merwe	Senior Manager:	January; March; April; July; September; November
	Charl Kitching	Senior Manager:	February; May; June; August; October; December

- (b) that the Manager next on the rotation schedule acts when the relevant Manager for that month is not available as per the schedule;
- (c) that an acting allowance be paid in terms of the Acting Policy approved by Council;
- (d) that the acting arrangements be reviewed every 6 months to ensure it remains relevant, and when changes are necessary, a revised proposal be brought to Council for approval; and
- (e) that the acting arrangements approved by council whilst the posts are vacant will take preference over the normal roster arrangements.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	Annalene de Beer
<b>POSITION</b>	<b>DIRECTOR: CORPORATE SERVICES</b>
<b>DIRECTORATE</b>	<b>Corporate Services</b>
<b>CONTACT NUMBERS</b>	<b>021 808 8018</b>
<b>E-MAIL ADDRESS</b>	<b>Annalene.debeer@stellenbosch.gov.za</b>
<b>REPORT DATE</b>	<b>8 January 2019</b>

7.2.2	<b>IMPLEMENTATION OF THE DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS</b>
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

*Good Governance and Compliance*

23 January 2019

**1. SUBJECT: IMPLEMENTATION OF THE DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS**

**2. PURPOSE OF REPORT**

To inform Council of the provisions of Notice 1426 dated 21 December 2018, published in Government Gazette 42134 dated 21 December 2018 in regard to the determination of the upper limits of salaries, allowances and benefits for different members of Municipal Councils, and to request Council to resolve on the implementation of the provisions.

**3. DELEGATED AUTHORITY**

**COUNCIL.**

The notice is published on a yearly basis in terms of the Remuneration of Public Office Bearers Act, Act 20 of 1998. The notice requires full council to resolve on the implementation of the provisions in the Upper Limits Notice.

**4. EXECUTIVE SUMMARY**

The Minister of Local Government, on a yearly basis, publishes a notice that provides for the upper limits of salaries, allowances and benefits of different members of Municipal Councils. The notice that provides for the period 1 July 2018 to 30 June 2019, or until a new notice is published and implemented, was published on 21 December 2018 and is attached hereto as **APPENDIX A**.

The provisions indicate an increase of around 4% for the full-time Councillors and part-time Councillors. The cell phone allowances indicated in the provisions stayed the same as indicated in 2017 at R3 400.00 per month. Council did not implement the full allowance last year, and it is recommended that the allowance be implemented this year. The data allowance also stayed the same as the previous year at R300 per month.

Council resolved during 2017 to provide laptops to all councillors as a tool of the trade, which was implemented during the 2017/18 financial year. Agendas are now distributed electronically.

The notice requires Council to consider the provisions and by resolution of a supporting vote of the majority of its members to determine the implementation of the provisions as set out in the Notice. Stellenbosch Municipality is a category 4 (58.33%) municipality as indicated in the calculations in **APPENDIX B**. In making the decision the Municipal Council must have regard for the financial situation of the municipality and the affordability of implementing the provisions set out in the Notice. A copy of the financial implications is attached as **APPENDIX B**. The Municipality must obtain the concurrence of the Member for Local Government in the Province before the Council resolution can be implemented.

The tools of the trade make provision that security may be provided to the Executive Mayor, Speaker, and other councillors subject to a threat and risk analysis by the South African Police Service. In deciding on whether to grant tools of the trade Council has to take into account accessibility, affordability and cost control, equity, flexibility, simplicity, transparency, accountability and value of tools of trade.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.2.2**

- (a) that Council notes the provisions of Notice 1426 dated 21 December 2018;
- (b) that Council approves the implementation of the Upper Limits of the annual remuneration packages of full-time and part-time councillors as set out in paragraphs 5 to 8 of Government Notice 1426 dated 21 December 2018, as from 1 July 2018;
- (c) that the implementation will be effected by the Administration after due process has been followed and the MEC has given his concurrence with Council's resolutions;
- (d) that Council approves a cell phone allowance of R3 400.00 per month to all councillors (including all office bearers);
- (e) that Council notes that the total cost for the Municipality of all councillor salaries, allowances and reimbursement benefits will amount to R18 807 706.00 which expenditure is R114 966 more than the budgeted amount, and the shortfall will be covered through a correction in the 2018/19 adjustment budget from savings within the 2018/2019 operating budget;
- (f) that it be noted that all councillors have been provided with the opportunity to receive a laptop as a tool of trade, and that the tools of trade as set out in paragraph 15(1)(b),(d) be extended to councillors as indicated in the Notice, as well as business cards and diaries to all councillors;  
Part-time PR Councillors to have access to multi-digital facilities including facsimile, printer, photocopier and scanner through the Office of the Speaker or Chief Whip. It is noted that such facilities are available to part-time ward councillors at the Ward Office;
- (g) that it be noted that Councillors are entitled to a R300 per month data allowance (paragraph 12 of the Notice) to provide for data bundles for, inter alia the laptop as all cell phone contracts cater for data as part of the contract;
- (h) that Council considers the provision of security under the circumstances set out in item 15(g) in the Notice, subject to a threat and risk assessment as and when required and after the elements referred to that have to be taken into account, is available for Council consideration; and
- (i) that the written concurrence from the Minister of Local Government in the Western Cape be obtained for the payment of the above salaries, allowances and reimbursement benefits retrospectively as from 1 July 2018 and the extension of the tools of trade as indicated above, before it be implemented.

**FOR FURTHER DETAILS CONTACT:**

<b><i>NAME</i></b>	<b>Annalene de Beer</b>
<b><i>POSITION</i></b>	<b><i>DIRECTOR: CORPORATE SERVICES</i></b>
<b><i>DIRECTORATE</i></b>	<b><i>CORPORATE SERVICES</i></b>
<b><i>CONTACT NUMBERS</i></b>	<b><i>021-808 8018</i></b>
<b><i>E-MAIL ADDRESS</i></b>	<b><i>Annalene.deBeer@stellenbosch.gov.za</i></b>
<b><i>REPORT DATE</i></b>	<b><i>16 January 2019</i></b>

7.2.3	<b>PROPOSED LEASE AGREEMENT: AITSA! AFTER-CARE CENTRE: ERF 192, KYLEMORE</b>
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**Collaborator No:**

**IDP KPA Ref No:**

**Meeting Date:**

**Institutional Transformation**

**23 January 2019**

**1. SUBJECT: PROPOSED LEASE AGREEMENT: AITSA! AFTER-CARE CENTRE: ERF 192, KYLEMORE**

**2. PURPOSE**

To consider a request from Aitsa After-care Centre for the lease of a portion of erf 192, being used as the municipal sportsground in Kylemore.

**3. DELEGATED AUTHORITY**

Council to consider the request.

**4. EXECUTIVE SUMMARY**

Aitsa After-care Centre in Kylemore submitted a request to put up temporary structures on a portion of the Sportsgrounds, situated on erf 192, Kylemore, for the use of an after-care centre.

The request is supported by the Department of Community Services, the sporting body, as well as the two adjacent schools.

The land, however, is still registered in the name of the National and Provincial departments of public works. Council will therefore not be in a position to make a decision until the registration in Stellenbosch Municipality's name has taken place.

The sportsground is therefore also not registered in the name of the Municipality, although the Municipality has been using it as such since 1989. The Department of Public Works did not as yet register the consolidated erf 192 in the name of the Municipality.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.2.3**

- (a) that Council takes note of the application from Aitsa After-care Centre;
- (b) that the Municipality requests the Departments of National and Provincial government to urgently finalize the transfer of the consolidated erf 192, Kylemore, to Stellenbosch Municipality;
- (c) that the applicants be requested to get permission from the Department of Public Works to lease the land, subject to the transfer to the Municipality;
- (d) that it be noted that Council noted the importance of the establishment of the proposed after-care centre and supports the establishment of the centre; and
- (e) that the applicants will be responsible for the payment of any services used by the applicants, irrespective of who the owner of the land is.

**FOR FURTHER DETAILS CONTACT:**

<b><i>NAME</i></b>	<b>Piet Smit</b>
<b><i>POSITION</i></b>	<b><i>Manager: Property Management</i></b>
<b><i>DIRECTORATE</i></b>	<b><i>Corporate Services</i></b>
<b><i>CONTACT NUMBERS</i></b>	<b><i>021-8088189</i></b>
<b><i>E-MAIL ADDRESS</i></b>	<b><a href="mailto:Piet.smit@stellenbosch.gov.za">Piet.smit@stellenbosch.gov.za</a></b>
<b><i>REPORT DATE</i></b>	<b><i>2019-01-17</i></b>

<b>7.2.4</b>	<b>PROPOSED RENEWAL OF LEASE AGREEMENT: ERF 52, STELLENBOSCH, SUPERGROUP DEALERSHIP</b>
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**Collaborator No:**

**IDP KPA Ref No:**

**Meeting Date:**

**Good Governance and Compliance**

**23 January 2019 & 30 January 2019**

**1. SUBJECT: PROPOSED RENEWAL OF LEASE AGREEMENT: ERF 52, STELLENBOSCH, SUPERGROUP DEALERSHIP**

**2. PURPOSE**

To consider the renewal of the lease agreement in the light of the objections/counter proposals received during the public participation process after the official notice was published to invite same and to determine a fair market rental.

**3. DELEGATED AUTHORITY**

For decision by the Municipal Council.

**4. EXECUTIVE SUMMARY**

Council on 2018-05-23 resolved to, in principle; approve the renewal of the lease agreement with the Supergroup Dealership in relation to erf 52, Stellenbosch. A notice was published, as the public participation process, calling for objections or alternative proposals.

Two objections/alternative proposals were received, which must now be considered by Council.

Council must also determine the fair market rental. HCB Property Valuations was appointed to advise on a market-related rental. A valuation report was received on 16 January 2019, a copy of which is attached as **APPENDIX G**. In terms thereof the market-related rental for Erf 52 was determined at between R21 120.00 and R30 166.00, but it is advised that a 10% rate of return be approved, i.e. a monthly rental of R30 166.00.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.2.4**

- (a) that Council notes the objections/counter proposal; and
- (b) that Council approves the renewal of the Lease Agreement with the Supergroup Dealership for a period of 5 years, at a monthly rental of R30 160.00 (Inclusive of VAT), with an annual escalation of 7%.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<b>Piet Smit</b>
<b>POSITION</b>	<b>Manager: Property Management</b>
<b>DIRECTORATE</b>	<b>Corporate Services</b>
<b>CONTACT NUMBERS</b>	<b>021-8088189</b>
<b>E-MAIL ADDRESS</b>	<b><a href="mailto:Piet.smit@stellenbosch.gov.za">Piet.smit@stellenbosch.gov.za</a></b>
<b>REPORT DATE</b>	<b>2019-01-17</b>

7.2.5	<b>PROPOSED EXCHANGE OF LAND: A PORTION OF FARM 183 (CLOSED STREET) FOR A PORTION OF FARM 183/7: WOODMILL DEVELOPMENT</b>
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**Collaborator No:**

**IDP KPA Ref No:** Good Governance and Compliance

**Meeting Date:** 23 January 2019 & 30 January 2019

**1. SUBJECT: PROPOSED EXCHANGE OF LAND: A PORTION OF FARM 183 (CLOSED STREET) FOR A PORTION OF FARM 183/7: WOODMILL DEVELOPMENT**

**2. PURPOSE**

To consider inputs/objections received during the public participation process and to consider the fair market values.

**3. DELEGATED AUTHORITY**

For decision by Municipal Council.

**4. EXECUTIVE SUMMARY**

On 2018-03-28 Council decided, *inter alia*, to approve the exchange of two portions of land, as to enable the construction of a new intersection at the proposed Woodmill Development.

Following the above decision:

- (a) a notice was published, calling on interested and affected parties to submit comments/input on the proposed exchange of land; and
- (b) a valuer was appointed to determine a fair market value for the two portions of land.

Council must now consider these objections and must make a determination on the fair market value of the respective properties.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.2.5**

- (a) that Council notes the objection(s) received; and
- (b) that Council approves the exchange of Portion A, measuring 5560m<sup>2</sup>, for Portion B, measuring 5560m<sup>2</sup>, at equal value, i.e. R6 120 000.00 per portion, on condition that:
  - (i) the Developer be responsible for all associated cost, such as the rezoning and subdivision, transfer cost, etc.; and
  - (ii) that portion A be consolidated with Farm 183/57.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<i>Piet Smit</i>
<b>POSITION</b>	<i>Manager Property Management</i>
<b>DIRECTORATE</b>	<i>Corporate Services</i>
<b>CONTACT NUMBERS</b>	<i>021-8088189</i>
<b>E-MAIL ADDRESS</b>	<a href="mailto:Piet.Smit@stellenbosch.gov.za">Piet.Smit@stellenbosch.gov.za</a>
<b>REPORT DATE</b>	<i>2019-01-18</i>

7.2.6	<b>PROPOSED CONCLUSION OF LEASE AGREEMENTS: LEASE FARMS 502 AX AND 502 AY</b>
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Institutional Transformation

23 and 30 January 2019

**1. SUBJECT: PROPOSED CONCLUSION OF LEASE AGREEMENTS: LEASE FARMS 502 AX AND AY**

**2. PURPOSE**

To obtain Council approval for the cancellation of the lease agreements with HC Myburgh Boerdery and the in principle approval of a lease agreement for the identified properties be concluded with Mr Jacques Olivier.

**3. DELEGATED AUTHORITY**

**Council**

**4. EXECUTIVE SUMMARY**

Stellenbosch Municipality concluded three (3) long-term Lease Agreements with HC Myburgh Boerdery on 1 April 1991.

During 2013 Mr Myburgh approached the Municipality with a written request to cede the lease agreements to the Heldervalley Farming Association, which, at the time included Mr Jacques Olivier. Before a formal agreement in this regard could be reached, Mr Myburgh passed away. Although the ceding was never formalised, women used the land for farming purposes as from 2008 under the supervision of Mr Olivier. The lease agreements with HC Myburgh Boerdery have not been formally terminated nor has the estate chosen to take over the rights and responsibilities in terms of the agreements.

We received a request from Heldervalley Farming Association to rent the farm (**APPENDIX A**). Item served before Mayco and was referred back to determine exactly who the members of Heldervalley Farming Association are and what type of legal entity is applicable. We have, despite several attempts, not received feedback from the association. Councillors on Mayco were requested to investigate the matter, including the reference to the Eco-sensitive area. It is confirmed that the land pieces referred to above exclude the eco-sensitive area.

We have received feedback from Councillor Crawley and also received a letter from Mr Jacques Olivier explaining his involvement and the empowerment farming currently done by women. **APPENDICES B- D.**

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.2.6**

- (a) that it is noted that Mr H C Myburgh passed away and that the current lease agreements with HC Myburgh Boerdery with regard to the lease agreements for Lease Farms 502AY; AX and BC, therefore be cancelled;

- (b) that the following properties be identified as land **not needed for own use** during the period for which such rights are to be granted, as provided for in Regulation 36 of the Asset Transfer Regulation 5:

Property description	Size	Water rights
Farm 502 AX	6.96 ha	2.3ha
Farm 502AY	4.28 ha	1.3ha

- (c) that Council, in principle, approves the leasing of the properties to Mr Jacques Olivier provided that the current farming continues and that the land is only used for bona fide farming for a period of 9 years and 11 months, subject thereto that Council's intention to lease the properties be advertised for public inputs, as provided for in paragraph 9.2.2 of the Property Management Policy;
- (d) that Council determines the rental at 20% of market value, that is R438.85 ha/per annum, as provided for in paragraph 22.1.4 of the Property Management Policy (below market value rental);
- (e) that the matter be referred back to Council after the public participation process indicated in (c) above; and
- (f) that the outstanding debt in relation to Lease Farms 502AY, AX and BC be investigated by the acting CFO and a report be provided as to whether it can be recovered or should be written off as irrecoverable.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<b>ANNALENE DE BEER</b>
<b>POSITION</b>	<b>DIRECTOR: CORPORATE SERVICES</b>
<b>DIRECTORATE</b>	<b>CORPORATE SERVICES</b>
<b>CONTACT NUMBERS</b>	<b>021-808 8106</b>
<b>E-MAIL ADDRESS</b>	<a href="mailto:Annalene,deBeer@ Stellenbosch.gov.za">Annalene,deBeer@ Stellenbosch.gov.za</a>
<b>REPORT DATE</b>	<b>2019-01-22</b>

7.3	FINANCIAL SERVICES: (PC: CLLR P CRAWLEY (MS))
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7.3.1	MFMA S116(2)(d) REPORT: MANAGEMENT OF CONTRACTS OR AGREEMENTS AND CONTRACTOR PERFORMANCE FOR THE PERIOD 01 JULY 2018 TO 30 NOVEMBER 2018
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Collaborator No: 624718  
 IDP KPA Ref No: *Financial Sustainability*  
 Meeting Date: 23 January 2019

1. **SUBJECT: MFMA S116(2)(d) REPORT: MANAGEMENT OF CONTRACTS OR AGREEMENTS AND CONTRACTOR PERFORMANCE FOR THE PERIOD 01 JULY 2018 TO 30 NOVEMBER 2018**

2. **PURPOSE OF REPORT**

To report in accordance with MFMA Section 116(2)(d) on the management of contracts or agreements and the performance of contractors.

3. **DELEGATED AUTHORITY**

**COUNCIL.**

**FOR INFORMATION**

4. **EXECUTIVE SUMMARY**

Council must maintain oversight over the implementation of the SCM Policy and Chapter 11 of the MFMA. For the purpose of such oversight the accounting officer must regularly submit a report on the management of contracts or agreements and the performance of contractors to the Council of the municipality in terms of MFMA S116(2)(d).

Council is hereby informed of the performance of service providers who were active on contracts secured by means of a competitive bidding process for the period 01 July 2018 – 30 November 2018. This report also indicates the activities currently being undertaken to improve the current status as well as future endeavors which will ensure compliance with the requirements of MFMA Section 116.

**RECOMMENDATION FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.3.1**

that the MFMA S116(2)(d) Report: Management of contracts or agreements and contractor performance from 01 July 2018 till 30 November 2018, **be noted**.

7.3.2	<b>MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR DECEMBER 2018</b>
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Collaborator No:	624715
IDP KPA Ref No:	<i>Good Governance and Compliance</i>
Meeting Date:	23 January 2019

**1. SUBJECT: MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR DECEMBER 2018**

**2. PURPOSE**

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy 2018/2019 to report the deviations and ratifications to Council.

**3. DELEGATED AUTHORITY**

**COUNCIL**

FOR NOTING.

**4. EXECUTIVE SUMMARY**

Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy (2018/2019) stipulate that SCM deviations and ratifications be reported to Council. In compliance thereto, this report presents to Council the SCM deviations that occurred during December 2018.

**RECOMMENDATION FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.3.2**

that Council notes the deviations as listed below for the month of December 2018.

DEVIATION NUMBER	CONTRACT DATE	NAME OF CONTRACTOR	CONTRACT DESCRIPTION	REASON	SUBSTANTIATION WHY SCM PROCESS COULD NOT BE FOLLOWED	TOTAL CONTRACT PRICE (R)
D/SM 28/19	03/12/2018	Webber Wentzel	Easy Pay (PTY) LTD / Stellenbosch Municipality and two others	Exceptional case and it is impractical or impossible to follow the official procurement processes	Stellenbosch Municipality went out on an invitation for a formal quotation to appoint an attorney firm to oppose the indirect and review application instituted by EasyPay (Pty) Ltd ("EasyPay") against Stellenbosch Municipality under case number 20545/18 with regard to the tender award made by Stellenbosch Municipality under tender B/SM 104/18.  Three attorneys firms were informed of the formal quotation. Three formal quotations were received i.e. from Fairbridges, Van Der Spuy Attorneys and Webber Wentzel on 21 November 2018 at 10h00.	Estimate - R 363 200.00 (including VAT)
D/SM 30/19	14/12/2018	Hydro-Tech Systems PTY LTD	Emergency repairs and safeguarding of vandalised Klapmuts water pump station	Emergency Exceptional case and it is impractical or impossible to follow the official procurement processes	Klapmuts water pump station needs immediate repairs after severe vandalism took place. The infrastructure consisting of the building, pumps, motor controls, telemetry station, chlorine equipment, low voltage cabling, security system etc. were demolished leaving the Klampmuts community's essentials water supply under threat. Immediate repair is crucial to sustain the essential water service to the whole of Klampmuts community including the business sector and surrounding farms.	R174 831.73 (Incl. VAT )
D/SM 31/19	21/12/18	I Bester Staal BK	Repairs on the vandalized doors of Mini Substation Bassi/Long & Mini Substation Papegaaiberg	Emergency Goods or services are produced or available from a single provider. Exceptional case and it is impractical or impossible to follow the official procurement	Due to ever increasing vandalism and electricity theft for these particular miniature substations it is important to repair as soon as possible after occurring, the department must take urgent action to prevent unauthorised entry and vandalism in order to continue to deliver a safe and efficient service to the customers. Papegaaiberg pump station supplies	R 4 025.00 (incl. VAT)

				processes	water to the Kayamandi area. As soon as a problem occurs, the power needs to be restored within a few hours.	
D/SM 32/19	21/12/18	Leelyn Management	Parking Management	Exceptional case and it is impractical or impossible to follow the official procurement processes	The successful bidder that is recently appointed and is not in a position to render the services as from 01 January 2019.	Estimate – R64 625 (Incl. VAT) per month
D/SM 33/19	27/12/18	Liquid Telecom	Appointment of Liquid Telecom for the provision of voice services for a period not exceeding 6 months starting from 1 Jan 2019 – 30 June 2019	Exceptional case and it is impractical or impossible to follow the official procurement processes	Telkom SA SOC is the sole provider that can offer a vendor owned copper based PRI services directly to the Stellenbosch Municipality. Telkom was appointed on the basis of sole provider to provision voice services for a period ending 30 June 2021, implemented by the 1 <sup>st</sup> January 2019. On the 24 <sup>th</sup> December 2018, Telkom SA SOC issued a formal letter to the Stellenbosch Municipality stating that they will not be able to meet the deadline to provision and implement voice services by 1 <sup>st</sup> January 2019 as they require an additional 3-6 months in order to best implement voice services.	R 515 959.60 (Incl VAT)
D/SM 34/19	27/12/18	Farmgaard Security	Extension on security contracts	Emergency Exceptional case and it is impractical or impossible to follow the official procurement processes	Tender 87/18 for "Rendering of security services for various areas within the WC024 municipal jurisdiction until 30 June 2018" has been advertised by SCM on 26 April 2018 and closed on 01 June 2018. Currently the municipality is in a legal dispute with the preferred Service provider.	R 197 373.00 (Incl VAT)

7.3.3	<b>REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: QUARTER 2: OCTOBER 2018-DECEMBER 2018</b>
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Collaborator No: 624716  
 IDP KPA Ref No: *Financial Sustainability*  
 Meeting Date: 23 January 2019

**1. SUBJECT: REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: QUARTER 2: OCTOBER 2018 - DECEMBER 2018**

**2. PURPOSE**

To submit to a report for the period 01 October 2018 – 31 December 2018 on the implementation of Council's Supply Chain Management Policy. The report covers the performance of the various delegated functions and the implementation thereof.

**3. DELEGATED AUTHORITY**

**MUNICIPAL COUNCIL**

Section 2(3) & 4 of the SCM Policy 2018/2019 determines that the Accounting Officer must within 10 days of the end of each quarter submit a report on the implementation of the SCM Policy to the Executive Mayor. This report must be made public in accordance with section 21A of the Municipal Systems Act (32 of 2000).

**4. EXECUTIVE SUMMARY**

On a quarterly basis the Accounting Officer must submit a report on the implementation of the Supply Chain Management Policy. In terms of the SCM Regulations and Council's SCM Policy the SCM Unit has been delegated to perform powers and functions that relate to the procurement of goods and services, disposal of goods no longer needed, and the selection of contractors to provide assistance in the provision of municipal services. This report contains the details of the implementation of the SCM Policy for Quarter 2: October – December 2018.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.3.3**

- (a) that Council takes note of this report and **ANNEXURE A** attached to the report; and
- (b) that the report be made public in accordance with Section 21A of the Municipal Systems Act.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<i>Dalleel Jacobs</i>
<b>CONTACT NUMBERS</b>	<i>021 808 8137</i>
<b>E-MAIL ADDRESS</b>	<i>Dalleel.Jacobs@stellenbosch.gov.za</i>
<b>DIRECTORATE</b>	<i>Financial Services</i>
<b>REPORT DATE</b>	<i>03 January 2019</i>

<b>7.3.4</b>	<b>MID-YEAR ADJUSTMENTS BUDGET FOR 2018/2019</b>
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Collaborator No:

File nr:

**8/1**

IDP KPA Ref No:

**Good Governance and Compliance**

Meeting Date:

**23 January 2019**

**1. SUBJECT: MID-YEAR ADJUSTMENTS BUDGET FOR 2018/2019**

**2. PURPOSE OF REPORT**

To table the adjustments budget as envisaged by section 28 of the Municipal Finance Management Act (Act No.56 of 2003), for the 2018/2019 financial year, for approval.

**3. DELEGATED AUTHORITY**

**FOR APPROVAL BY MUNICIPAL COUNCIL**

**4. EXECUTIVE SUMMARY**

This adjustments budget addresses adjustments in terms of section 28 (2) a, b, d & f of the MFMA and is further explained as required by section 28 (2) (5) of the legislation. Attached as **APPENDIX A** is an executive summary by the Accounting Officer.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.3.4**

- (a) that the Adjustments Budget as prescribed by the Budgeting and Reporting Regulations, as set out in **APPENDIX A and B**, be approved;
- (b) that the following capital projects be adjusted over the MTREF (2018/2019) as follows:

<b>Project</b>	<b>2019/2020</b>	<b>2020/2021</b>
Establishment of Informal Trading Sites: Klapmuts	3,000,000	-
Establishment of Informal Trading Sites: Groendal	2,000,000	-
Heritage Tourism Center - Jamestown	640,000	-
Klapmuts: Erf 2181 (298 serviced sites)	1,259,000	-
Smartie Town, Cloetesville	4,900,000	-
Stellenbosch: Social Housing	200,000	2,000,000
Purchasing of land	65,626,490	10,000,000
Structural Upgrading: Community Hall La Motte	1,700,000	-
Upgrading of Stellenbosch Fire Station	7,000,000	-
Hydraulic Ladder Fire Truck	12,000,000	-
Mont Rochelle Nature Reserve: Upgrade of Facilities.	800,000	-

- (c) that the Service Delivery and Budget Implementation Plan be adjusted accordingly, inclusive of the non-financial information (performance measurement).

**FOR FURTHER DETAILS CONTACT:**

<b><i>NAME</i></b>	<b>KEVIN CAROLUS</b>
<b><i>POSITION</i></b>	<b><i>ACTING CHIEF FINANCIAL OFFICER</i></b>
<b><i>DIRECTORATE</i></b>	<b><i>FINANCIAL SERVICES</i></b>
<b><i>CONTACT NUMBERS</i></b>	<b><i>021 808 8512</i></b>
<b><i>E-MAIL ADDRESS</i></b>	<b><i>Kevin.Carolus@stellenbosch.gov.za</i></b>
<b><i>REPORT DATE</i></b>	<b><i>21 January 2019</i></b>

<b>7.3.5</b>	<b>MFMA SECTION 52 QUARTERLY REPORTING FOR THE PERIOD 01 OCTOBER 2018 TO 31 DECEMBER 2018</b>
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Collaborator No:

File nr:

8/1

IDP KPA Ref No:

Good Governance and Compliance

Meeting Date:

23 January 2019

**1. SUBJECT: MFMA SECTION 52 QUARTERLY REPORTING FOR THE PERIOD 01 OCTOBER 2018 TO 31 DECEMBER 2018**

**2. PURPOSE**

To comply with Section 52(d) of the Municipal Finance Management Act and report to Council on the implementation of the budget as well as the non-financial performance of the municipality for quarter 2 of the 2018/19 financial year.

**3. DELEGATED AUTHORITY**

**THE EXECUTIVE MAYOR TO SUBMIT TO COUNCIL**

In terms of section 52 (d) of the Municipal Finance Management Act:

*“The mayor of a municipality—*

*(d) must, within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget as well as the non-financial performance of the municipality;”*

**4. EXECUTIVE SUMMARY**

The Executive Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and is required by Section 52(d) of the Municipal Finance Management Act to submit a report on the implementation of the budget and the financial and non-financial performance of the Municipality to the Council within 30 days after end of each quarter.

**RECOMMENDATION FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.3.5**

that Council notes the Section 52 Report (including quarterly performance report) – Second Quarter 2018/2019.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	Kevin Carolus
<b>POSITION</b>	Acting Chief Financial Officer
<b>DIRECTORATE</b>	Financial Services
<b>CONTACT NUMBERS</b>	021 – 807 8528
<b>E-MAIL ADDRESS</b>	Kevin.Carolus@ Stellenbosch.gov.za
<b>REPORT DATE</b>	17 January 2019

7.4	<b>HUMAN SETTLEMENTS: (PC: CLLR N JINDELA)</b>
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NONE

7.5	<b>INFRASTRUCTURE SERVICES: (PC: CLLR Q SMIT)</b>
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NONE

7.6	<b>PARKS, OPEN SPACES AND ENVIRONMENT: (PC: XL MDEMKA (MS))</b>
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7.6.1	<b>INTRODUCTION OF A CASHLESS REVENUE COLLECTION SYSTEM AT JONKERSHOEK PICNIC SITE</b>
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Collaborator No: 597657  
 IDP KPA Ref No: Good Governance and Compliance  
 Meeting Date: 23 January 2019

**1. SUBJECT: INTRODUCTION OF A CASHLESS REVENUE COLLECTION SYSTEM AT JONKERSHOEK PICNIC SITE**

**2. PURPOSE**

To inform Council about:

- a) The improvement in the revenue collection control systems at the holiday resorts and campsites by designing and implementing of a cashless system.
- b) A comparative report on the revenue and patrons for the 2015/16, 2016/17 and 2017/18 season to date

**3. DELEGATED AUTHORITY**

**COUNCIL**

FOR INFORMATION

**4. EXECUTIVE SUMMARY**

Key Performance Indicator (D757) stipulates the Improvement in the revenue collection control systems at the holiday resorts and campsites by March 2018. To achieve this KPI, a Standard Operating Procedure (SOP) had to be developed.

**RECOMMENDATION FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.6.1**

that Council takes note of the introduction of a Cashless Revenue Collection System at Jonkershoek Picnic Site.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<i>Leon Lourens/Albert van der Merwe and Tazmynn Linders</i>
<b>POSITION</b>	<b><i>Superintendent: Nature Conservation</i></b>
<b>DIRECTORATE</b>	<b><i>Community and Protection Services</i></b>
<b>CONTACT NUMBERS</b>	<b><i>021 808 8161</i></b>
<b>E-MAIL ADDRESS</b>	<b><i>Leon.lourens@stellenbosch.gov.za</i></b>
<b>REPORT DATE</b>	<b><i>24 April 2018</i></b>

7.6.2	<b>STELLENBOSCH MUNICIPALITY: AIR QUALITY MANAGEMENT PLAN (5-YEAR REVIEW)</b>
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Collaborator No: 617203  
 IDP KPA Ref No: D 435  
 Meeting Date: 23 January 2019

**1. SUBJECT: STELLENBOSCH MUNICIPALITY: AIR QUALITY MANAGEMENT PLAN (5-YEAR REVIEW)**

**2. PURPOSE**

The Stellenbosch Municipality: Air Quality Management Plan (August 2013) has been reviewed in terms Section 15 (1) of the National Environmental Management: Air Quality Act, 39 of 2004.

The Stellenbosch Municipality: Air Quality Management Plan (October 2018) (**ANNEXURE A**) has been finalized in collaboration with the Cape Winelands District Municipality Air Quality Officer, the Department of Environmental Affairs and Development Planning's Directorate: Air Quality Management and has been advertised for public input for a period of 30 days (**ANNEXURE B**). This process has culminated in the above document herewith being presented to Council for approval.

**3. DELEGATED AUTHORITY**

**COUNCIL.**

There is no clear delegation in the current System of Delegations dated May 2015 for this item. Stellenbosch Municipality has, however, defined obligations as contained in the National Environmental Management: Air Quality Act, 39 of 2004, to:

- a) Compile an Air Quality Management Plan (AQMP)
- b) Designate an Air Quality Officer (AQO)
- c) Report on the implementation of the AQMP

In terms of the Constitution of the Republic of South Africa, 1996, Section 156, a municipality has executive authority in respect of, and has the right to administer -

- i. local government matters listed in Part B of Schedule 4 and Part B of Schedule 5; and
- ii. any other matter assigned to it by national or provincial legislation.

Schedule 4, Part B, referred to above include air pollution.

**4. EXECUTIVE SUMMARY**

Section 15 (1) of the National Environmental Management: Air Quality Act, 39 of 2004, places an obligation on municipalities to develop Air Quality Management Plans (AQMPs) to manage air quality in their regions. Stellenbosch Municipality's 1<sup>st</sup> Generation AQMP dates back to 2013. The Stellenbosch Municipality: AQMP (October 2018) (**ANNEXURE A**) serves as Stellenbosch Municipality's 2<sup>nd</sup> Generation AQMP, 5-year review and update of the latter. The Stellenbosch Municipality: AQMP (October 2018) is based on the above (2013) plan and is informed by the updated Western Cape AQMP (2016) and the Cape Winelands District Municipality AQMP (2018).

The Stellenbosch Municipality: AQMP, as contained in this item, has been finalized in collaboration with the Cape Winelands District Municipality Air Quality Officer. This document was advertised in the Eikestad News on the 6<sup>th</sup> of September 2018 inviting written comment by 5 October 2018. Hard copies of the above document were made available at the municipality's advice centres in both Stellenbosch and Franschoek as well as libraries in both Stellenbosch and Franschoek.

The Department of Environmental Affairs and Development Planning's Directorate: Air Quality Management submitted comment (**Annexure C**) during the above commenting period, which has been incorporated in the Stellenbosch Municipality: AQMP (October 2018), now being brought to Council for adoption as its 2<sup>nd</sup> Generation AQMP, which will again be reviewed in 2022.

**RECOMMENDATION FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.6.2**

that Council approves and adopts the Stellenbosch Municipality: Air Quality Management Plan (October 2018) as it's 2<sup>nd</sup> Generation Air Quality Management Plan.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<b>Schalk van der Merwe</b>
<b>POSITION</b>	<b>Environmental Planner</b>
<b>DIRECTORATE</b>	<b>Community and Protection Services</b>
<b>CONTACT NUMBERS</b>	<b>021 808 8679</b>
<b>E-MAIL ADDRESS</b>	<b>schalk.vandermerwe@stellenbosch.gov.za</b>
<b>REPORT DATE</b>	<b>17 October 2018</b>

<b>7.6.3</b>	<b>FUTURE MANAGEMENT OF STRONGYARD HALL, KAYAMANDI</b>
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Collaborator No: 617415  
 IDP KPA Ref No: Good Governance and Compliance  
 Meeting Date: 23 January 2019

**1. SUBJECT: FUTURE MANAGEMENT OF STRONGYARD HALL, KAYAMANDI**

**2. PURPOSE**

To obtain Council approval to enter into a long term lease agreement for the management of Strongyard Community Hall, Kayamandi.

**3. DELEGATED AUTHORITY**

**COUNCIL**

**4. EXECUTIVE SUMMARY**

Strong Yard Hall is located in the heart of Kayamandi. Since 2000/2001 the hall was utilised by the ZCC Church. The hall belonged to Kuyasa at the time, who rented the hall to the ZCC Church. The hall was handed over to Stellenbosch Municipality. From 2017, major renovations were done at the facility. The Strongyard Hall was used for community activities, church services, workshops and training before the renovations took place. The premises are currently being used illegally, without any payment. Currently, only one church is utilising the hall, while the hall is being used for various community programmes. The keys of the aforementioned hall are regulated by a member of the community who allows access to the facility. Currently, the management of Strongyard is challenging in terms of capacity and the various conflicting applications which cause tension among community members and -leaders. Due to this situation, four options are proposed to improve the management of the facility in the heart of Kayamandi.

**RESOLVED**

that the item be referred back for refinement, whereafter it be submitted directly to Council.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	Albert van der Merwe
<b>POSITION</b>	<b>Manager: Community Services</b>
<b>DIRECTORATE</b>	<b>Community and Protection Services</b>
<b>CONTACT NUMBERS</b>	<b>021 808 8161</b>
<b>E-MAIL ADDRESS</b>	<b>albert.vandermerwe@stellenbosch.gov.za</b>
<b>REPORT DATE</b>	<b>04 May 2018</b>

7.6.4	<b>PROPOSAL FOR THE IMPLEMENTATION OF THE REVISED PARKS BY-LAW RELATING TO PLANTATIONS, PLAY PARK, GARDENS, RECREATION FACILITIES, NATURE RESERVES AND PUBLIC OPEN SPACES</b>
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

D 435

23 January 2019

**1. SUBJECT: PROPOSAL FOR THE IMPLEMENTATION OF THE REVISED PARKS BY-LAW RELATING TO PLANTATIONS, PLAY PARK, GARDENS, RECREATION FACILITIES, NATURE RESERVES AND PUBLIC OPEN SPACES**

**2. PURPOSE**

To inform Council about:

- 2.1 a revised By-law relating to plantations, play parks, gardens, recreation, facilities, nature reserves and public open spaces.
- 2.2 the admission of persons, animals and vehicles to public parks, to provide for the use and enjoyment of public parks, to determine conduct that will not be permitted within public parks, and to provide for the matters incidental therefor.
- 2.3 the way in which the Greater Stellenbosch Municipality controls, manages and develops parks and public open spaces, in an environmentally sustainable way and is in the long-term interest of the whole community of the WC024, including future generations; and which clearly defines the rights and obligations of the public in relation to parks and public open spaces.
- 2.4 the achievement of a safe and peaceful environment; and.
- 2.5 procedures, methods and practices to regulate the use and management of public amenities.

**3. DELEGATED AUTHORITY**

**COUNCIL**

**4. EXECUTIVE SUMMARY**

The By-law (**ANNEXURE B**) was revised and served before the Standing Committee. The following decision was taken:

- (a) *That it be recommended to Council that the attached revised Parks By-law, be approved.*

The By-law was advertised for public comments. No comments were received.

**RECOMMENDATION FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.6.4**

that the revised the By-law relating to plantations, play parks, gardens, recreation, facilities, nature conservation and public open spaces, be approved.

7.7	<b>PLANNING AND ECONOMIC DEVELOPMENT: (PC:CLLR E GROENEWALD (MS))</b>
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7.7.1	<b>DRAFT STELLENBOSCH JOBSEEKERS POLICY</b>
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**Collaborator No:**

**File No:**

9/2/1/1/2/1 x 13/6/10

**IDP KPA Ref No:**

065

**Meeting Date:**

23 January 2019

**1. SUBJECT: DRAFT STELLENBOSCH JOBSEEKERS POLICY**

**2. PURPOSE**

To submit the Draft Stellenbosch Jobseekers Trading Policy (ANNEXURE A) to Council for consideration, whereafter it could be published for public participation as envisaged in sections 12 to 15 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

**3. DELEGATED AUTHORITY**

**COUNCIL**

**4. EXECUTIVE SUMMARY**

In terms of Section 156 (2) of Constitution of the Republic of South Africa,

"a municipality may make and administer by-laws for the effective administration of matters which it has the right to administrate".

In this instance the Draft Stellenbosch Jobseekers Policy seeks to set out the management and implementation guidelines for employment opportunities in the Stellenbosch Municipal Area.

The item relates to a new policy to accommodate the change in focus of the unemployed database to a Jobseekers database in order to increase the scope and purpose of the current policy to include the unemployed as well as qualified employed people who are looking for better employment opportunities.

**RESOLVED**

that the item be referred back for refinement, whereafter it be submitted directly to Council.

**FURTHER DETAILS CONTACT:**

<b>Name</b>	<b>Widmark Moses</b>
<b>Position</b>	<b>Manager: Economic Development &amp; Tourism</b>
<b>Directorate</b>	<b>Planning and Economic Development</b>
<b>Contact Numbers</b>	<b>021 808 8179</b>
<b>E-mail Address</b>	<b>widmark.moses@stellenbosch.gov.za</b>
<b>Report Date</b>	<b>18-06-2018</b>

7.7.2	<b>DRAFT STELLENBOSCH INFORMAL TRADING POLICY</b>
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**Collaborator No:**

**File No:**

7/4/2/2/1 x 7/4/2/2/1-9

**IDP KPA Ref No:**

065

**Meeting Date:**

23 January 2019

**1. SUBJECT: DRAFT STELLENBOSCH INFORMAL TRADING POLICY**

**2. PURPOSE**

To submit the Draft Stellenbosch Informal Trading Policy to Council for consideration, whereafter it could be published for public participation as envisaged in sections 12 to 15 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

**3. DELEGATED AUTHORITY**

**COUNCIL**

**4. EXECUTIVE SUMMARY**

In terms of Section 156 (2) of Constitution of the Republic of South Africa,

"a municipality may make and administer by-laws for the effective administration of matters which it has the right to administrate".

In this instance the Draft Stellenbosch Informal Trading Policy seeks to set out the strategic objectives, planning and management guidelines for informal trading in the Stellenbosch Municipal Area.

The Draft Stellenbosch Informal Trading Policy (**Annexure A**) is one of two related documents. The Policy sets the strategic direction for the municipality's developmental response to the informal trading sector. The reasons for having an Informal Trading Policy can be summarized as follows:

- It clarifies Council's policy to all relevant stakeholders;
- It forms the basis for the By-laws that regulate Informal trading in the Stellenbosch Municipal area;
- It provides a basis for resource allocation decisions;
- It establishes the basis for a monitoring and evaluation process, with clearly defined key objectives.

**RESOLVED**

that the item be referred back for refinement, whereafter it be submitted directly to Council.

<b>7.7.3</b>	<b>REVIEWED STELLENBOSCH LIQUOR TRADING HOURS BY-LAW</b>
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**Collaborator No:**

**File No:**

**1/3/1/15**

**IDP KPA Ref No:**

**065**

**Meeting Date:**

**23 January 2019**

**1. SUBJECT: REVIEWED STELLENBOSCH LIQUOR TRADING HOURS BY-LAW**

**2. PURPOSE**

To submit the Reviewed Stellenbosch Liquor Trading Hours By-law (**ANNEXURE A**) to Council for consideration, whereafter it could be published for public participation as envisaged in section 12 to 15 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

**3. DELEGATED AUTHORITY**

**COUNCIL**

**4. EXECUTIVE SUMMARY**

In terms of Section 156 (2) of Constitution of the Republic of South Africa, “a municipality may make and administer by-laws for the effective administration of matters which it has the right to administrate”.

In this instance, the Reviewed Liquor Trading Hours By-law seeks to regulate liquor trading hours in the Stellenbosch Municipal area, and to rectify various shortcomings in the current Liquor Trading Hours By-law. These shortcomings, amongst others, relate to the jurisdiction of power and delegated powers to enforce the aforementioned By-law.

**RESOLVED**

that the item be referred back for refinement, whereafter it be submitted directly to Council.

**FURTHER DETAILS CONTACT:**

<b>NAME</b>	Widmark Moses
<b>POSITION</b>	<i>Manager: Economic Development &amp; Tourism</i>
<b>DIRECTORATE</b>	<i>Planning and Economic Development</i>
<b>CONTACT NUMBERS</b>	<b>021 808 8179</b>
<b>E-MAIL ADDRESS</b>	<i>widmark.moses@stellenbosch.gov.za</i>
<b>REPORT DATE</b>	<b>18-06-2018</b>

7.8	RURAL MANAGEMENT AND TOURISM: (PC: CLLR S PETERS)
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NONE

7.9	YOUTH, SPORTS AND CULTURE: (PC: M PIETERSEN)
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7.9.1	STATUS QUO REPORT ON ALL THE SPORT FACILITIES IN THE GREATER STELLENBOSCH (WC024)
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Collaborator No: 617418  
 IDP KPA Ref No: Good Governance and Compliance  
 Meeting Date: 23 January 2019

1. **SUBJECT: STATUS QUO REPORT ON ALL THE SPORT FACILITIES IN THE GREATER STELLENBOSCH (WC024)**
2. **PURPOSE**  
 To inform Council of the status quo of all the sport facilities in the Greater Stellenbosch (WC024).
3. **DELEGATED AUTHORITY**  
**COUNCIL**  
 FOR INFORMATION
4. **EXECUTIVE SUMMARY**  
 A Facilities Audit must be conducted on all municipal sport facilities in order to inform Council of the current status and condition of the municipal sport facilities.

**RECOMMENDATION FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.9.1**

that Council takes note of the current status of all the sport facilities in the Greater Stellenbosch (WCO24).

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	Albert van der Merwe
<b>POSITION</b>	<i>Manager: Community Services</i>
<b>DIRECTORATE</b>	<i>Community and Protection Services</i>
<b>CONTACT NUMBERS</b>	021 808 8161
<b>E-MAIL ADDRESS</b>	<i>albert.vandermerwe@stellenbosch.gov.za</i>
<b>REPORT DATE</b>	14-11-2018

7.10	<b>REPORTS SUBMITTED BY THE MUNICIPAL MANAGER</b>
7.10.1	<b>DRAFT ANNUAL REPORT 2017/18 AND REFERRAL OF DRAFT ANNUAL REPORT TO MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) FOR CONSIDERATION</b>

Collaborator No:

File No:

3/4/5/2/32 X 8/1/2/6

IDP KPA Ref No:

Good Governance and Compliance

Meeting Date:

23 January 2019 & 30 January 2019

**1. SUBJECT: DRAFT ANNUAL REPORT 2017/18 AND REFERRAL OF DRAFT ANNUAL REPORT TO MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) FOR CONSIDERATION**

**2. PURPOSE**

To table to Council the Draft Annual Report for 2017/18, as per legal prescripts and to confirm that the Municipal Public Accounts Committee (MPAC) serve as the Oversight Committee as resolved at the Council meeting of 16 February 2017, item 5.2.5. It is furthermore recommended that the draft Annual Report 2017/18 be referred to the MPAC Committee to fulfill the role of an Oversight Committee and make a recommendation to Council as contemplated in section 129(1) of the Municipal Finance Management Act (MFMA), Act 56 of 2003, as amended.

**3. DELEGATED AUTHORITY**

The Executive Mayor must table the Annual Report in Council in terms of Section 127(2) read with 121 and 129 of the MFMA. The report must be considered by Council to resolve on the Annual Report as contemplated in section 129(1) of the MFMA. The Oversight Committee must consider the Annual Report and submit an Oversight Report to Council in terms of Section 33 and 79 of the Local Government Municipal Systems Act, 32 of 2000 read with the terms of reference of the MPAC committee.

**4. EXECUTIVE SUMMARY**

The Annual Report must be tabled by the Executive Mayor within 7 months after the end of the financial year. The draft Annual Report must be made public and the Municipal Manager must invite the public to provide input into the report. It has become practice that the Oversight Committee also invites the public to make verbal representations at meetings where the report is discussed. A schedule with proposed dates for the meetings is also included. Council resolved in 2017 that MPAC has as part of their terms of reference the role to sit as Oversight Committee to consider the Annual Report.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.10.1**

- (a) that Council notes the Draft Annual Report of 2017/18 for Stellenbosch Municipality;
- (b) that Council takes note that the Municipal Manager will make the Draft Annual Report 2017/18 public for comment on the official website of the Stellenbosch Municipality and at the offices of the Municipality for a period of 21 days; the public will be invited through local print media to provide written inputs / comments on the draft report on or before 1 March 2019;

- (c) that Council refers the Draft Annual Report 2017/18 to MPAC to consider the Annual Report 2017/18 and make recommendations to Council as contemplated in Section 129(1) of the MFMA; the following dates are proposed for the MPAC / Oversight meetings, where the Draft Annual Report of 2017/18 will be discussed:

<b>Date *</b>	<b>Agenda</b>	<b>Venue</b>	<b>Time</b>
1 February 2019	Orientation: Annual Report	Stellenbosch Council Chamber	13:00 – 15:00
5 February 2019	Chapters 1 and 2	Stellenbosch Council Chamber	09:00 – 13:00
15 February 2019	Chapter 3	Stellenbosch Council Chamber	12:00 – 18:00
18 February 2019	Chapters 4, 5 and 6	Stellenbosch Council Chamber	12:00 – 18:00
22 February 2019	Public Hearing	Stellenbosch Council Chamber	09:00- 14:00
28 February 2019	Discussion with Municipal Manager, Executive Mayor and Directors	Stellenbosch Council Chamber	09:00-16:00
8 March 2019	Finalising Oversight Report	Stellenbosch Council Chamber	12:00-14:00

\* It should be noted that the above are proposed dates which must still be confirmed by the MPAC Chairperson, and the final dates will be advertised in local print media.

- (d) that Council approves MPAC's mandate to co-opt two members of the public with expertise in specific fields to assist and advise the Committee;

*Rates for additional nominated community members as per Treasury Regulation 20.2.2: The once-off preparation tariff was used as a guide since the National Treasury does not have guidance in that regard. Consultation must take place to decide if the rate will remain the same.*

<b>Tariff</b>	<b>Number of co-opted Members</b>	<b>Not exceeding no. of hours</b>	<b>Remuneration</b>
<i>Per hour tariff for attendance of meeting as a member</i>	2	45 hours	R 327.00 per hour
<i>Once-off Tariff for duties performed in preparation</i>	2	6 hours	R 1500 (for six hours)

- (e) that Council approves that the co-opted members can be remunerated in line with the recommendations of National Treasury Regulation in this regard.

7.10.2	<b>REVISED TOP LAYER SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN 2018/19</b>
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**Collaborator No:**

**File nr:**

**3/4/5/2/32 X 8/1/2/6**

**IDP KPA Ref No:**

**Good Governance and Compliance**

**Meeting Date:**

**23 January 2019**

**1. SUBJECT: REVISED TOP LAYER SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN 2018/19**

**2. PURPOSE**

To obtain Council's approval for the revisions made to the Top Layer (TL) Service Delivery and Budget Implementation Plan (SDBIP) 2018/19.

**3. DELEGATED AUTHORITY**

Council.

In terms of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), section 54(1)(c) *"the mayor must, consider and, if necessary, make any revisions to the service delivery and budget implementation plan, provided that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the council following approval of an adjustments budget..."*

**4. EXECUTIVE SUMMARY**

The TL SDBIP 2018/19 was approved by the Executive Mayor on 21 June 2018. It is common practice for a municipality, as provided for in the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA), to review its performance indicators and targets in line with the adjustments budget.

The TL SDBIP 2018/19 (as approved by the Executive Mayor) is attached hereto. All changes (for ease of reference) which should be deleted and or amended are indicated with a *strikethrough* and an *underline* respectively.

It must also be noted that the TL SDBIP 2018/19 is the in-year plan of the municipality and amendments made to the TL SDBIP 2018/19 must also be read in conjunction with the Integrated Development Plan (IDP). Therefore, changes made to the TL SDBIP 2018/19 are considered to be made in the IDP as well.

The reasons for the amendments to the following KPIs are as follows:

- a) TL7 contained two deliverables, hence the KPI was split into two indicators;
- b) TL18 was a composite indicator measuring various services (water, sanitation, refuse removal and electricity) in one KPI. This KPI was split into the four services to enable appropriate measurement of these services individually;
- c) TL19 was deleted as it is already being measured on the TL SDBIP 2018/19;
- d) TL23 was deleted from the TL SDBIP 2018/19 as it measures a purely operational activity and has to be shifted to the departmental SDBIP.

- e) TL16 was deleted from the TL SDBIP 2018/19 as it measures a purely operational activity and has to be shifted to the departmental SDBIP.
- f) TL40 was deleted from the TL SDBIP 2018/19 as it measures a purely operational activity and has to be shifted to the departmental SDBIP.
- g) TL44 was moved from the TL SDBIP 2018/19 to the Departmental SDBIP 2018/19. This is due to the fact that Council eased water restrictions. However, this KPI will still be measured on the Departmental SDBIP 2018/19.

The balance of the indicators, unit of measurements and targets were revised in accordance with the SMART principle. This is in an attempt to ensure that the Municipality's TL SDBIP 2018/19 conforms to the requirements of both Internal Audit and the Auditor-General of South Africa.

**RECOMMENDATIONS FROM THE EXECUTIVE MAYOR, IN CONSULTATION WITH THE EXECUTIVE MAYORAL COMMITTEE, TO COUNCIL: 2019-01-23: ITEM 7.10.2**

- (a) that the Revised TL SDBIP 2018/19 be approved;
- (b) that the Revised TL SDBIP 2018/19 be published on the Municipal Website; and
- (c) that the Revised TL SDBIP 2018/19 be submitted to:
  - (i) Internal Audit Unit (for notification);
  - (ii) Department of Local Government: Western Cape;
  - (iii) (iii)Provincial Treasury: Western Cape;
  - (iv) Auditor General of South Africa; and
  - (v) National Treasury.

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	Gurswin Cain
<b>POSITION</b>	Manager: IDP and PMS
<b>DIRECTORATE</b>	Office of the Municipal Manager
<b>CONTACT NUMBERS</b>	021 – 808 8717
<b>E-MAIL ADDRESS</b>	<a href="mailto:Gurswin.cain@stellenbosch.gov.za">Gurswin.cain@stellenbosch.gov.za</a>
<b>REPORT DATE</b>	14 January 2019

<b>8.</b>	<b>REPORTS SUBMITTED BY THE EXECUTIVE MAYOR</b>
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NONE

<b>9.</b>	<b>URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER</b>
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NONE

<b>10.</b>	<b>MATTERS TO BE CONSIDERED IN-COMMITTEE</b>
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NONE

The meeting adjourned at 11:50.

**CHAIRPERSON:** .....

**DATE:** .....

**Confirmed on** ..... **with/without amendments.**

5.	<b>STATUTORY MATTERS</b>
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NONE

6.	<b>REPORT/S BY THE MUNICIPAL MANAGER RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS MAYORAL COMMITTEE MEETINGS</b>
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NONE

7.	<b>CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: [ALD G VAN DEVENTER (MS)]</b>
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7.1	<b>COMMUNITY AND PROTECTION SERVICES: (PC : CLLR J DE VILLIERS)</b>
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NONE

7.2	<b>CORPORATE SERVICES: (PC: CLLR AR FRAZENBURG)</b>
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7.2.1	<b>PROPOSED EXCHANGE OF LAND: DISPOSAL OF ERF 15323 TO THE SEVENTH DAY ADVENTIST CHURCH IN EXCHANGE FOR ERF 718, KAYAMANDI</b>
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**Collaborator No:**

**IDP KPA Ref No:**

**Meeting Date:**

*Good Governance and Compliance*

13 February 2019

**1. SUBJECT: PROPOSED EXCHANGE OF LAND: DISPOSAL OF ERF 15323 TO THE SEVENTH DAY ADVENTIST CHURCH IN EXCHANGE FOR ERF 718, KAYAMANDI**

**2. PURPOSE**

To authorise the exchange of erf 1523 for erf 718, Kayamandi to the Seventh Day Adventist Church.

**3. DELEGATED AUTHORITY**

The Municipal Council must consider the matter.

**4. EXECUTIVE SUMMARY**

Following the allocation of erf 718 to the Seventh Day Adventist Church in 1997, they paid the sales price of R11 286.00 in full during 2002.

Before the property could be transferred to them, it became evident that the Municipal Clinic Building (now a Provincial clinic) was encroaching onto erf 718.

Following a request by the Provincial Government of the Western Cape to acquire erf 718, in order for them to enlarge the current building, the Seventh Day Adventist Church was approach to accept an alternative site (erf 1523, Kayamandi).

They have now confirmed in writing that they will accept the exchange of land, subject to certain conditions. Council must now decide on the matter.

## 5. RECOMMENDATIONS

- (a) that erf 1523 be identified as land not needed to provide the minimum level of Municipal Services;
- (b) that Council in principle approve the exchange of erf 718 for erf 1523 at equal value;
- (c) that Council's intention to do the exchange of land be advertise for public inputs/objections/alternative proposals; and
- (d) that the item be brought back to Council following the public notice period to make a final decision in this regard.

## 6. DISCUSSION

### 6.1 Background

#### 6.1.1 Allocation of tender

Following a public tender process (tender 14/1996) erf 718, measuring 990m<sup>2</sup>, was awarded to the Seventh Day Adventist Church on 21 May 1996 at a Sales Price of R10/m<sup>2</sup>. A copy of the agenda item is attached as **APPENDIX 1**

#### 6.1.2 Sales Agreement

A Sales Agreement was concluded on 3 January 1997, indicating the sales price at R11286.00 (Inclusive of VAT).

On 4 September 2002 the Finance Department confirmed that the sales price of R11 286.00 was paid in full. A copy of the memo is attached as **APPENDIX 2**.

Cluver Markotter Attorneys were subsequently requested to attend to the transfer of erf 718 to the Seventh Day Adventist Church.

#### 6.1.3 Transport Documents

On 2011-08-19 a Power of Attorney to pass transfer was submitted to Stellenbosch Municipality for signature, copies of which are attached as **APPENDIX 3**.

#### 6.1.4 Encroachment of Clinic onto erf 718

During May 2011, however, it was brought to our attention that the clinic (erf 719 and 720) was encroaching onto erf 718. See attached letter (**APPENDIX 4**) received from CWA Surveys, who was appointed by the Provincial Government to attend to the transfer of the various clinic sites.

This left the Municipality with three choices:

- a) demolish a portion of the clinic;
- b) cut off the encroachment area from the church site; or
- c) Offer the church an alternative site.

On 28 September 2011 a letter was written to the church requesting them to consider an alternative site, a copy of which is attached as **APPENDIX 5**.

On 27 October 2011 the Seventh Day Adventist Church indicated in writing that they would not be interested in an alternative site, but would be willing to take transfer of the remainder portion measuring ±823m<sup>2</sup> in extent, on condition that the sales price be adjusted downwards in proportion to the smaller area.

A copy of their letter is attached as **APPENDIX 6**. The Provincial Government and the Transferring Attorney were informed accordingly, copies of which is attached as **APPENDIX 7**.

#### 6.1.5 Valuation

During 2015 two (2) independent valuers were appointed to advise the Municipality on a reasonable re-imbusement, taking into account the portion of land to be cut off from erf 718. Hereto attached as **APPENDIX 8** and **9**, respectively valuations compiled by Cassie Gerber Property Valuers cc and Knight Frank.

In terms hereof they valued the difference in price as follows:

- Cassie Gerber: R18 370.00\*
- Knight Frank: R5 000.00

\*This valuation does not take into account the fact that the land was sold at 20% of market value. Should this be taken into account the valuation should look as follows:

- Cassie Gerber: R3674.00
- Knight Frank: R5000.00
- Weighted average: R4337.00 (Exclusive of VAT)

#### 6.1.6 Subdivision

On 3 November 2017 David Hellig & Abrahams Land Surveyors confirmed that the subdivision of erf 718, to allow for the encroachment area to be cut off, was approved. A copy of the letter and diagrams are attached as **APPENDIX 10**. Although these diagrams have been approved and registered at the Surveyor General's Office, it must still be registered at the Deeds Office.

#### 6.1.7 Consideration of request

During August 2018 the Mayoral Committee considered a report, recommending that the church be reimburse for the area that was encroached upon. Having considered the report, the Mayoral Committee decided to refer the matter back to the Administration with the request to (again) offer the church an alternative site, or "buy back" erf 718, as to allow the Provincial Department of Public Works to extend the clinic.

#### 6.1.8 Offer to consider alternative site

On 2018-09-04 a letter was send to the church, informing them of the outcome of the Mayoral Committee meeting. They were requested to consider erf 1523, Kayamandi as an alternative for erf 718. A copy of the letter is attached as **APPENDIX 11**.

#### 6.1.9 Acceptance of alternative offer

On 2018-11-08 the church confirmed in writing that they will indeed accept the alternative site, being erf 1523, Kayamandi, subject to certain conditions. Their letter is attached as **APPENDIX 12**.

## 6.2 Location and context

Erf 718, measuring 990m<sup>2</sup> in extent, is situated in Bassi Street, as shown on Fig 1 and 2 below.



**Fig 1: Location and context**



**Fig 2: Erf 718**

Erf 1523, alternatively site, measuring 1140m<sup>2</sup> in extent, is situated in Sokuquala Street, as shown on Fig 3 and 4 below.



Fig 3: Location and context



Fig 4: Erf 1523

### 6.3 Legal Requirements

#### 6.3.1 MFMA

In terms of section 14(1) a municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.

In terms of subsection (2), a municipality may transfer ownership or otherwise dispose of a capital asset other than those contemplated in subsection (1), but only after the municipal council, in a meeting open to the public-

- (a) has decided on reasonable grounds that **the asset is not needed to provide the minimum level of basic municipal services**; and
- (b) has considered the **fair market value** of the asset and the **economic and community value** to be received in exchange for the asset.

### 6.3.2 Asset Transfer Regulation (ATR)

#### 6.3.2.1 Transfer or disposal on non-exempted capital assets

In terms of Regulation 5(1)(b) a municipal Council may transfer or dispose of a non-exempted capital asset only after-

- a) the accounting officer has in terms of regulation 6 conducted a public participation\* process to facilitate the determinations a municipal council must make in terms of Section 14(2)(a) and (b) of the Act; and
- b) the municipal council-
  - i) has made determinations required by section 14(2) (a) and (b)\* and
  - ii) has, as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.

#### 6.3.2.2 Consideration of proposals to transfer or dispose of non-exempted capital assets

In terms of Regulation 7 the municipal council **must**, when considering any proposed transfer or disposal of a non-exempted capital asset in terms of regulation 5(1)(b)(i) and (ii), **take into account**—

- (a) whether the capital asset may be **required for the municipality's own use** at a later date;
- (b) the **expected loss or gain** that is expected to result from the proposed transfer or disposal;
- (c) the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a **significant economic or financial cost or benefit** to the municipality;
- (d) the **risks and rewards** associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests;
- (e) the **effect** that the proposed transfer or disposal will have on the **credit rating** of the municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow;
- (f) any **limitations or conditions** attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions;
- (g) the estimated **cost** of the proposed transfer or disposal;
- (h) the transfer of any **liabilities** and reserve funds associated with the capital asset;
- (i) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons; (if applicable)

- (j) any written views and recommendations on the proposed transfer or disposal by the National Treasury and the relevant provincial treasury; (if applicable)
- (k) the interests of any affected organ of state, **the municipality's own strategic, legal and economic interests** and the interests of the local community; and
- (l) **compliance** with the **legislative regime** applicable to the proposed transfer or disposal.

#### 6.3.2.3 **Conditional approval of transfer or disposal of non-exempted capital assets**

Further, in terms of Regulation 11, an **approval in principle** in terms of regulation 5(1)(b)(ii) or 8(1)(b)(ii) that a non-exempted capital asset may be transferred or disposed of, **may be given subject to any conditions**, including conditions specifying—

- (a) **the way in which the capital asset is to be sold or disposed of**;
- (b) **a floor price or minimum compensation for the capital asset**;
- (c) whether the capital asset may be transferred or disposed of for **less than its fair market value**, in which case the municipal council must first consider the criteria set out in regulation 13(2); and
- (d) **a framework within which direct negotiations** for the transfer or disposal of the capital asset **must be conducted** with another person, if transfer or disposal is subject to direct negotiations.

#### 6.3.2.4 **Transfer or disposal of non-exempted capital assets to be in accordance with disposal management system**

In terms of Regulation 12(1); if approval has been given in terms of regulation 5(1)(b)(ii) that a non-exempted capital asset may be transferred or disposed of, the relevant municipality may transfer or dispose of the asset only in accordance with its **disposal management system**, irrespective of—

- (a) the value of the capital asset; or
- (b) whether the capital asset is to be transferred to a private sector party or an organ of state.

\*In the case of Stellenbosch Municipality the Policy on the Management of Council-owned property is deemed to be the disposal management system.

#### 6.3.2.5 **Compensation for transfer of non-exempted municipal capital assets**

In terms of Regulation 13, the compensation payable to a municipality for the transfer of a non-exempted capital asset must, subject to sub regulation (2)—

- (a) be consistent with criteria applicable to compensation set out in the disposal management system of the municipality or municipal entity; and

**If a municipality** on account of the public interest, in particular in relation to the plight of the poor, **intends to transfer a non-exempted capital asset for less than its fair market value, the municipality** must, when considering the proposed transfer, **take into account—**

- (a) the **interests of—**
  - (i) the State; and
  - (ii) the local community;
- (b) the strategic and economic interests of the municipality or municipal entity, including the long-term effect of the decision on the municipality or entity;
- (c) the constitutional rights and legal interests of all affected parties;
- (d) whether the interests of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and
- (e) **whether the local community would be better served if the capital asset is transferred at less than its fair market value**, as opposed to a transfer of the asset at fair market value.

#### 6.3.2.6 Transfer agreements

In terms of Regulation 17, a municipality may transfer assets approved for transfer to a private sector party or organ of state, **only by way of a written transfer agreement** concluded between the transferring municipality and the receiving private sector party or organ of state.

A transfer agreement must set out the terms and conditions of the transfer, including, as a minimum—

- (a) a sufficient **description** of the capital asset being transferred in order to identify the asset;
- (b) particulars of any subsidiary assets that are transferred with the capital asset;
- (c) particulars of any liabilities transferred with the asset;
- (d) the **amount of compensation** payable to the municipality or municipal entity for the transfer of the asset or assets, and the terms and conditions of payment; and
- (e) the **effective date** from which the risk and accountability for the asset or assets is transferred to the receiving private sector party or organ of state.

### 6.3.3 Policy on the management of Council-owned property

#### 6.3.3.1 General principles

In terms of paragraph 7.2.1, unless otherwise provided for in the policy, the disposal of Viable Immovable property shall be effected-

- a) by means of a process of **public competition**; and
- b) at **market value** except when the public interest or the plight of the poor demands otherwise.

#### 6.3.3.2 Exchange of land

In terms of paragraph 9.2.3 the disposal by exchange of land will be appropriate when it is advantageous to the Municipality and other parties to exchange land in their ownerships and will achieve best consideration for the municipality.

The Municipal Council must authorise the disposal of land by exchange with another land owner for alternative land. Reasons for justifying this manner of disposal must be recorded in writing.

The exchange should be equal in value. However, an inequality in land value may be compensated for by other means where appropriate. In such circumstances the Municipality must seek an independent valuation to verify that “*best consideration*” will be obtained.

### 6.4 Market value of land

In terms of the two(2) valuations in 2015 obtained (for erf 718) the (weighed average) value of church sites is R130-00/m<sup>2</sup>. If this value is applied the market value of the two properties are as follows:

Erf 718: 990m<sup>2</sup>@ R130-00/m<sup>2</sup> = R128 700.00

Erf 1528: 1140m<sup>2</sup> @ R130-00/m<sup>2</sup> = R148 200.00

Difference in value = R19 500.00

Over the past years church sites were sold at 20% of market value.

If this is applied, the difference in price amount to R3900.00.

In their letter of acceptance of the exchange the Seventh Day Adventist church indicated that they will only accept the exchange of land (alternative land) if no further consideration be payable, seeing that they have paid for erf 718 in full and had no part in allowing the encroachment of the clinic onto their land. Under the circumstances it is recommend that they two erven are exchange at equal value, i.e no further consideration be payable by the church.

### 6.5 Financial implication

As indicated under 6.4, *supra*, it is recommended that the two erven are exchange at equal value, i.e there should be no financial implications to Council.

**6.5 Legal Implications**

See par. 6.3, *supra*.

**6.6 Staff Implications**

There are no additional staff implications.

**6.7 Previous / Relevant Council Resolutions**

MAYCO meeting 21/5/1996

MAYCO meeting 18 July 2018

**6.8 Risk Implications**

This report intends to mitigate any risks for the Municipality.

**6.8 Comments from Senior Management**

The item was not re- circulated to management as this a return item to inform Council of the response of the Church after the items served in July 2018.

**ANNEXURES:**

Appendices 1-12

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	Piet Smit
<b>POSITION</b>	<i>Manager: Property Management</i>
<b>DIRECTORATE</b>	<i>Corporate Services</i>
<b>CONTACT NUMBERS</b>	021-8088189
<b>E-MAIL ADDRESS</b>	<a href="mailto:Piet.smit@stellenbosch.gov.za">Piet.smit@stellenbosch.gov.za</a>
<b>REPORT DATE</b>	2018-03-23

# APPENDIX 1

AGENDA EN NOTULE VAN DIE EERSTE UITVOERENDE KOMITEEVERGADERING  
GEHOU OP 21/5 1996

MINUTES OF THE FIRST EXECUTIVE COMMITTEE MEETING HELD ON  
1996

GEDELEGEERDE BEVOEGDHEDE / DELEGATED POWERS

D3.1 TENDER NO 14 : ALIENATION OF FIXED PROPERTY AT KAYA MANDI  
(7/3/2/5/4) *Erwe 718; 1079 [General Purposes and Technopark]*  
*→ 880; 758 ← KM*

In 1995 Council resolved to alienate plots for church purposes in Kaya Mandi. Three Plots, Nos 758, 880 and 1079 were put out on tender but only one tender was received. A plot was duly allocated to the United Methodist Church of South Africa.

It was further resolved that the future planning of church sites be given urgent attention with report back to Council.

Several requests for church sites in Kaya Mandi as well as Cloetesville have been received since then. The report on church sites was not yet available and therefore Council resolved on 1996-02-27 that Plots 880 and 1079 Kaya Mandi be put on tender again.

The tenders closed on 1996-05-13, but no formal tenders were submitted. However several letters were received from various church groups to buy a plot. Below is a schedule of the interested parties:

Church Group	Plot wanted	price tendered	Detail
Presbyterian Church of Africa Nyanga Circuit			
The Seventh Day Adventist Church	718	R10 - R12 per m <sup>2</sup>	
The Old Apostolic Church of Africa	1 079	R10,00	65 families with a 11 % growth per year

The relevent letters are attached as APPENDIX 2.

RECOMMENDED

- (a) that the undermentioned church erven be sold out of hand;

GOEDGEKEUR DEUR RAAD APPROVED BY COUNCIL RAAD-IN-KOMITEE IN COMMITTEE	
OP/ON	_____
ITEM	_____

Vorm / Form

BYLAE/ANNEXURE D

AGENDA EN NOTULE VAN DIE EERSTE UITVOERENDE KOMITEEVERGADERING  
GEHOU OP 21/5 1996

MINUTES OF THE FIRST EXECUTIVE COMMITTEE MEETING HELD ON  
1996

**GEDELEGEERDE BEVOEGDHEDE / DELEGATED POWERS**

- (b) that the tender of The Seventh Day Adventist Church for Erf 718 be accepted;
- (c) that the tender of The Old Apostolic Church of Africa for Erf 1079 be accepted;
- (d) that the tender price for both plots be R10/m<sup>2</sup>; and
- (e) that a revert back clause on the property be included in the Agreement of Sale.

(Section 124 of the Municipal Ordinance, 1974.)

D3.1 **EXECUTIVE COMMITTEE RESOLUTION** (nem con)

- (a) that the recommendation be approved; and
- (b) that more detail regarding the applications of the Presbyterian Church, as well as the Baptist Church, be obtained.

(ASS/HBO/ST)

GOEDGEKEUR DEUR RAAD  
APPROVED BY COUNCIL  
RAAD-IN-KOMITEE  
IN COMMITTEE

OP/ON \_\_\_\_\_

ITEM \_\_\_\_\_

# **APPENDIX 2**

## MEMORANDUM

AAN: MNR J KRUGER  
DEPARTMENT: KORPORATIEWE DIENSTE

VAN: L WALTERS  
DEPARTEMENT: FINANSIËLE DIENSTE

DATUM: 4 SEPTEMBER 2002

INSAKE: SEWENDAGSE ADVENTISTE KERK: ERF 718, KAYA MANDI

Neem asseblief kennis dat bogenoemde se lening ten volle gedelg is.

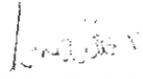
Reël asseblief vir die registrasie van die eiendom.

Die koper se posadres is soos volg:

Posbus 2328, Stellenbosch

Dankie



  
BESTUURDER FINANSIËLE DIENSTE  
LW/ch  
7DAG

Kaya Mandi  
Kerk persele lees  
art. na A35.

# APPENDIX 3



117

Cluver Markotter Inc  
Cluver Markotter Building  
Mill Street  
Stellenbosch  
7600

Prepared by me

---

CONVEYANCER  
L PECORARO

## POWER OF ATTORNEY TO PASS TRANSFER

I/We the undersigned

### **MUNICIPALITY STELLENBOSCH**

Represented herein by **PETRUS DU PLESSIS SMIT** in his capacity as **Manager: Property Management**, duly authorised thereto in terms of the approved system of delegation dated 30 June 2009

do hereby nominate and appoint **ANTON LUTHER POSTHUMUS** or **LIZE PECORARO** or **AREND LEOPOLD DE WAAL** or **JAMES HENRY LAMPRECHT**

with Power of Substitution to be my/our true and lawful Attorney and Agent in my/our name, place and stead to appear at the Office of the REGISTRAR OF DEEDS at Cape Town or any other competent official in the Republic of South Africa and then and there to act as my/our Attorney and Agent and to pass transfer to:

### **SEVENTH DAY ADVENTIST CHURCH**

the property described as:

ERF 718 KAYA MANDI in the Municipality and Division Stellenbosch, Province of the Western Cape

IN EXTENT: 990 (NINE HUNDRED AND NINETY) SQUARE METRES

HELD BY Certificate of Registered Title Number T 59361/2002

SUBJECT to the conditions imposed by the Transferor in the Deed of Sale entered into between the parties on 29 April 1997, which condition will more fully appear from Annexure "A" annexed hereto.

the said property having been sold by the council on 29 April 1997, to the said transferee/s for the sum of R11 286,00 (Eleven Thousand Two Hundred and Eighty Six Rand).

and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property, to promise to free and warrant the said property and also to clear the same from all encumbrances and hypothecations according to law, to draw, sign and pass the necessary acts and deeds, or other instruments and documents; and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes, as the Transferor might or could do if personally present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

Signed at STELLENBOSCH on \_\_\_\_\_ in the presence of the undersigned witnesses.

AS WITNESSES :

1. \_\_\_\_\_
2. \_\_\_\_\_

**ANNEXURE "A"**

1. If the transferee or its successor in title pretends to sell this plot of part thereof, they are bound to offer this plot or any part thereof in writing to the transferor which has a pre-emptive right to buy this plot or part thereof from the transferee against the same purchase price as the transferee originally paid.

This offer is valid for 3 (THREE) months and if the transferor acts according to its pre-emptive right, the owner of the plot must transfer the plot to the transferor in due course and all costs regarding the transfer is payable by the owner.

In the case of the transferor not exercising its pre-emptive right, the plot can be sold to any other party on condition that the buyer adheres to all the conditions of sale.

TD5



## TRANSFER DUTY

**Declaration by transferor and transferee** Part 1  
 where a transaction is subject to VAT and exempt  
 from Transfer Duty in terms of section 9(15) of the  
**Transfer Duty Act.**

Transfer Duty Act, 1949 and Value-Added Tax Act, 1991

## Details of seller/transferor

Full name of seller/ transferor	STELLENBOSCH MUNICIPALITY		
Identity/Trust/CC/ Company number		VAT number	4700102181
Telephone number during office hours	(021) 808-8111		

## Details of purchaser/transferee

Full name of purchaser/ transferee	SEVENTH DAY ADVENTIST CHURCH		
Identity/Trust/CC/ Company number		VAT number or income tax number if not a VAT vendor	
Telephone number during office hours			

## Details of sale transaction

Date of transaction	29 April 1997	Bought by:	<input checked="" type="checkbox"/> Private Treaty	<input type="checkbox"/> Public Auction	
Consideration	R11 286,00	Bond granted by	N/A	Amount of bond	R N/A
Description of property (as per Deeds Registry)	ERF 718 KAYA MANDI in the Municipality and Division Stellenbosch, Province of the Western Cape; IN EXTENT: 990 (NINE HUNDRED AND NINETY) SQUARE METRES				
Physical address				Postal code	7600
Property is:	<input checked="" type="checkbox"/> Improved	<input type="checkbox"/> Unimproved			
Nature of property:	<input type="checkbox"/> Primary residence	<input type="checkbox"/> Other residential property	<input type="checkbox"/> Small holding	<input type="checkbox"/> Farm	
	<input type="checkbox"/> Commercial building	<input type="checkbox"/> Industrial building	<input type="checkbox"/> Other, specify		

## Calculation of VAT payable

VAT rate	<input checked="" type="checkbox"/> Standard	<input type="checkbox"/> Zero	
1. Payment of the VAT is tendered herewith .....			R1 386,00
2. The output tax will be declared in the VAT201 return for the .....	N/A	period	N/A
3. The supply is that of a going concern which qualifies for the zero rate .....			N/A

## Details of estate agency

Name of estate agency	N/A		
Commission payable to agency (incl VAT)	R0,00	VAT registration number of estate agency	N/A
Name of estate agent	N/A		

## Declaration by transferor (seller)/transferee (purchaser)

The transferor(s) and transferee(s) are connected persons as defined in the Value-Added Tax Act, 1991.....  YES  NO

This declaration is made by me/us as \*seller(s)/representative(s) of the seller(s).  
I/We certify that the information furnished in this declaration is true and correct.

Signature of seller	Date	Signature of purchaser	Date
---------------------	------	------------------------	------

## Certificate by Conveyancer/Attorney

I certify that this is a true copy of the declaration held by me, which declaration will be retained by me for 5 years from the date of registration of transfer.

Name of Conveyancer	LIZE PECORARO	Telephone number	+27(0)21 808 5600
SARS reference	Conveyancer's/ Attorneys file	SEV4/0001	Conveyancers Reference no
Signature		Date	LP/rj



Value-Added Tax (VAT) Payment Undertaking  
(in respect of Transfer of Property in Terms of Section 9(15b) of the Transfer Duty Act, No 40 of 1949)

TD-VAT

<b>VAT Vendor Details</b>	
Registered vendor name	STELLENBOSCH MUNICIPALITY
Representative vendor name	
Representative vendor ID No.	
VAT reg No.	4700102181
VAT amount	R 1 3 8 6 . 0 0

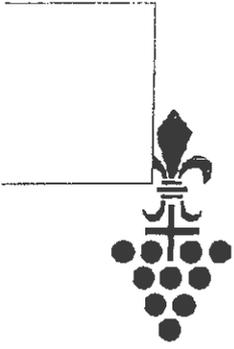
<b>Property Description</b>		<b>Instruction</b>
Description of property (as per Deeds Registry)		I, the undersigned, as representative vendor of the the aforementioned VAT Vendor, do hereby instruct and authorise my above-named attorney to furnish an undertaking to the South African Revenue Service ("SARS") for the payment of the abovementioned VAT amount and to pay such VAT. I hereby indemnify the said attorney and undertake to reimburse him for the payment made on my behalf.
Street no.	Farm/Name of Farm	
Suburb / District	K A Y A M A N D I	
City/Town	S T E L L E N B O S C H	Postal code
		7600
		<b>Signature</b>
		<b>Date (CCYYMMDD)</b>
		For enquiries go to www.sars.gov.za or call 0800 00 SARS (7277)

<b>Attorney Details</b>	
Full name	LIZE PECORARO
Firm name	Cluver Markotter Inc
Email address	l i z e p @ c m . l a w . z a
Id No.	7 9 0 9 0 5 0 1 6 9 0 8 0
Tel No.	+27(0)21 808 5600

<b>Attorney's Physical Address</b>		
Unit no	Complex (if applicable)	
Street no	Street / Name of Farm	Mill Street
Suburb / District		
City / Town	S T E L L E N B O S C H	

<b>Attorney's Postal Address</b>		
Mark here with an "X" if		
Same as above or complete	P O B O X 1 2	
your Postal Address	S T E L L E N B O S C H 7 5 9 9	

<b>UNDERTAKING</b>	
I, the undersigned as duly authorised representative of the above-named firm of attorneys do hereby warrant that I am a practising attorney and undertake to pay SARS the abovementioned VAT amount as per the attached TD5 declaration against registration of transfer of the abovementioned property within 5 working days after registration in the deeds office. This undertaking may be revoked if SARS is immediately notified in writing under the following circumstances:	
<ul style="list-style-type: none"> <li>The Vendor is placed under sequestration/liquidation on or after date of signature of this undertaking AND on or before 5 working days from date of registration in the deeds office;</li> <li>The proceeds in respect of the aforementioned property in the hands of the attorney is attached by court order;</li> <li>The transaction is no longer proceeded with by the above-named attorney, in which case the original exemption certificate must be returned to SARS.</li> </ul>	
<b>Signature</b>	
<b>Date (CCYYMMDD)</b>	
For enquiries go to www.sars.gov.za or call 0800 00 SARS (7277)	



# STELLENBOSCH

Stellenbosch \* Priel \* Franschhoek  
Munisipaliteit \* Umasipala \* Municipality

## RATES CLEARANCE: SUPPLEMENTARY LEVY BELASTING UITKLARING: AANVULLENDE HEFFING

ERF NO. 718 Kanya Maseeli

Should this property be subject to a supplementary valuation during the period of rates clearance and registration, the seller and buyer will be held liable individually for levies applicable to the respective periods.

Indien hierdie eiendom gedurende die tydperk van belasting uitklaring en registrasie onderwerp word aan 'n aanvullende waardasie, sal die koper en die verkoper individueel verantwoordelik gehou word die heffings vir die periodes ter sprake.

I, the undersigned, herewith acknowledge the condition as set out above.

Ek die ondergetekende, erken hiermee die voorwaarde soos hierbo uiteengesit.

.....  
SELLER

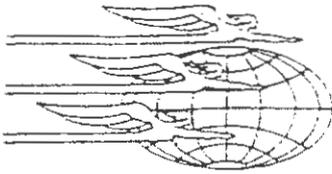
.....  
DATE

.....  
PURCHASER

.....  
DATE

.....  
WITNESS

.....  
DATE



SEVENTH-DAY ADVENTIST CHURCH  
LANGA  
PENINSULA DISTRICT

P. O. Box 9  
Langa  
7455

Junglewalk Street  
Langa  
7455

Telephone: (021) 694-1827

Our Reference: Tel. No. 8681790, MBYMBE

23.12.96.

Mr. J.J. Kruger

Town Hall, Pein Street,

STELLENBOSCH.

7600.

Sir,

SIGNED AGREEMENT FOR CHURCH SITE OF SEVENTH-DAY ADV.

*Ref 718 Khaya Mandi*

Please receive the signed agreement for the above mentioned church:

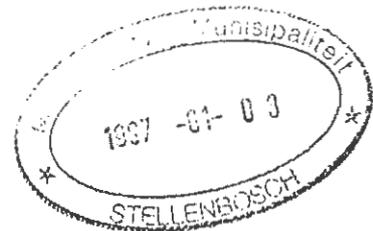
DATED at on this day of 1996.

AS WITNESSES

1.

2.

DSeiler



DATED at KHAYAMANDI on this day of 23.12 1996.

AS WITNESSES

1.

*[Signature]*

2. *[Signature]*

3. PURCHASER SEVENTH-DAY ADVENTIST CHURCH T. BIYANA *Biyana*

*[Faint text and signature]*  
2132

# **APPENDIX 4**

**CWA SURVEYS**

Professional Land Surveyors  
▲ Land Surveyors  
▲ Sectional Title Practitioners  
▲ Engineering & Topographical Surveyors

Telephone: 021 591 7485  
Fax : 086 529 2491  
EMail: survey@cybersmart.co.za  
97 Adam Tas Avenue  
Bothasig  
7441

Your Reference: **PMQ 101/10**

Our Ref: KMD720

Date: 20 May 2011

The Manager  
Provincial Property Management  
Department of Transport and Public Works  
Provincial Government of the Western Cape  
Email Transmission: [Tracy.Davids@pgwc.gov.za]

Attention: Ms. T Davids

Dear Madam

**KAYA MANDI CLINIC (ERVEN 719 & 720 KAYA MANDI) BOUNDARY SURVEY**

Attached please find the Land Surveyors Certificate.

I met with Mr. Piet Smit from the Stellenbosch Municipality and he informed me that there was a suspicion that that clinic precinct encroached onto a neighbouring erf. Upon the survey of the property, it was found that the fence encroached by just over 5 metres into Erf 718, and parts of the clinic buildings also encroached over the boundary.

There are 2 possible solutions: part of the clinic buildings could be demolished and the fence moved onto the boundary or the property which is encroached upon could be acquired.

I would recommend the latter option as it would be highly impractical and expensive to demolish parts of the clinic buildings. I would further recommend that the piece of land that is acquired is consolidated with Erven 719 and 720 to create one Erf for the clinic precinct.

Yours faithfully



---

S R Old  
Professional Land Surveyor

CC: Mr. P Smit (psmit@stellenbosch.org)

DWA SURVEYS 021 591 7485 / 072 620 1058

# LAND SURVEYOR'S CERTIFICATE

FORM (A)

I hereby certify that I have inspected the properties known as Erven 719 & 720 Kaya Mandi situate in Kaya Mandi Township in the Municipality of Stellenbosch

Registered Owner

Deed of Transfer No

and that,

- (A) I have either located or, where necessary, replaced the survey beacons defining the boundaries of such property as shown circled; and
- (B) no encroachments exist upon such property; and
- (C) ~~no building, structures or other things on or connected with such property encroaches on any public street, public place, or private property abutting such property.~~

Dated May 2011

Signed *[Signature]*

S R Old (PLS 0984)  
Professional Land Surveyor



# APPENDIX 5

2011-09-28

Seventh Day Adventist Church  
PO Box 2328  
Dennesig  
7602

Attention: Mr Johannes Matai

Dear Sir

**TRANSFER: STELLENBOSCH MUNICIPALITY/SEVENTH DAY ADVENTIST CHURCH**

My records shows that erf 718 was allocated to your church on 21 May 1996 and that a Sales Agreement was concluded in January 1997.

My records further shows that the sales price of R11 286.00 was paid in full on 4 September 2002.

Notwithstanding the above the property has not yet been transferred to your church.

I have now received the necessary transfer documents to affect the transfer.

It has, however, now come to my attention that, with the enlargement of the clinic, the clinic building is in fact encroaching onto erf 718. See attached lay-out prepared by a land surveyor.

In light of the above, can you please indicate whether your church would be willing to consider another erf in Kayamandi as an alternative. Examples of such alternative erven are:

- Erf 780 – 783
- Erf 1079
- Erf 758
- Erf 916

I await your feedback in this regard.

Yours faithfully

.....  
**PIET SMIT**  
**MANAGER: PROPERTY MANAGEMENT**

# APPENDIX 6

# Seventh Day Adventist Church

Seventh Day Adventist Church  
PO Box 2328  
Dennesig  
7602

The Manager: Property Management  
Stellenbosch Municipality  
PO Box 17  
Stellenbosch  
7600

Dear Mr Smit

**TRANSFER: STELLENBOSCH MUNICIPALITY/SEVENTH DAY ADVENTIST CHURCH: ERF 718, KAYAMANDI**

990m<sup>2</sup>

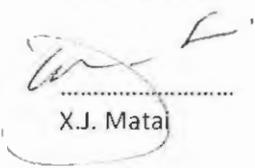
Your letter dated 2011-09-28 refers.

Having considered your proposals for possible alternative land, we have decided not to accept any of the alternatives, but would like to take transfer of the remaining portion of erf 718, being  $\pm 823\text{m}^2$  in extent, on condition that the sales price be adjusted downwards in proportion to the smaller area i.e R9384.00. The municipality will therefor have to refund us the amount of  $\pm R1900-00$  plus interest since 4 September 2002.

I assume that a new Sales Agreement well have to be concluded. Please note that I will sign the agreement on behalf of the Seventh Day Adventist Church. My particulars are as follows:

XOLANI JOHANNES MATAI  
ID: 4412245452084

Yours faithfully

  
.....  
X.J. Matai

# APPENDIX 7

28/10/2011

Piet Smit - Re: Kayamandi Clinic

**From:** Piet Smit  
**To:** Esme Davis  
**Subject:** Re: Kayamandi Clinic

Esme,  
 Thanks for your e-mail. Please find hereto attached a copy of a letter received from the church, in which they indicated that they are NOT interested in considering an alternative erf.....

They are, however, willing to accept the Remainder, after the encroachment portion has been "cut off"

I was on the point of appointing a land surveyor to attend to the subdivision. Please advise on how we should proceed

Piet Smit

>>> Esme Davis <Esme.Davis@pgwc.gov.za> 09/02/2012 09:16 AM >>>  
 Mr Smit,

I refer to the Kayamandi Clinic site and your correspondence dated 28 October 2011.

The Department is interested in obtaining the total erf for future expansion and not just the 5 meters encroached upon. The acquisition of Erf 718 Kayamandi would mean a consolidation with Erven 719 & 720 Kayamandi to create one erf for the clinic precinct.

It would therefore be appreciated if you could contact the owners (Seventh Day Adventist Church) to indicate whether they are willing to consider an alternative site as per your attached letter.

Kindly provide this office with the total extent for Erf 718 Kayamandi.

Kind regards

Esmé Davis  
 Property Development Officer  
 Property Management  
 Department of Transport & Public Works  
 Tel: 021-483 4453  
 Fax: 021-483 8988  
 Email: [edavis@pgwc.gov.za](mailto:edavis@pgwc.gov.za)

-----Original Message-----

From: Piet Smit [<mailto:Psmitt@stellenbosch.org>]  
 Sent: 28 October 2011 08:38 AM  
 To: Esme Davis  
 Subject: RE: Fwd: FW: Transfer of PPHC's

Esme,  
 My apologies for not responding earlier....

Please find hereto attached a copy of a letter addressed to the Seventh Day Adventist Church, the "owners" of the site. As you will see, although they have signed a sales agreement and has paid the purchase price, they have not yet taken transfer. I have now requested them to indicate whether they would be willing to accept an alternative site. I still await their response

Piet Smit

**Piet Smit**

---

**From:** Lize Pecoraro <lizep@cm.law.za>  
**Sent:** Friday, January 20, 2012 1:41 PM  
**To:** Retha Jacobs  
**Subject:** Fwd: TRANSPORT : MUNISIPALITEIT STELLENBOSCH / SEVENTH DAY ADVENTIST CHURCH (ERF 718 KAYA MANDI)

Lize Pecoraro  
 Director  
 Cluver Markotter  
 021-8085663

Begin forwarded message:

**From:** Piet Smit <Psmitt@stellenbosch.org>  
**Date:** 20 January 2012 13:12:30 SAST  
**To:** Lize Pecoraro <lizep@cm.law.za>  
**Subject: Re: TRANSPORT : MUNISIPALITEIT STELLENBOSCH / SEVENTH DAY ADVENTIST CHURCH (ERF 718 KAYA MANDI)**

Jammer dat ek nou eers terugkom na jou, maar ek het nog gewag vir die kerk om aan te dui of hulle n alternatiewe perseel gaan aanvaar al dan nie. Ons is in die proses om alle Klinieke oor te plaas na Provinsie. In die proses het ons agtergekom dat ,met die aanbou aan die kliniek, ons oorskry het op die kerk se grond!.

die kerk het nou bevestig dat ons die gedeelte kan "afsny" en oorplasing gee van die restant( teen n afslagprys).

Ek moet nou eers reel vir die onderverdeling en konsolidasie. Ek laat weet jou sodra ek al die dokumente in plek het.

N nuwe ooreenkoms sal ook opgetrek mopen word.

Ek laat weet jou sodra daardie proses afgehandel is.

Piet Smit

Lize Pecoraro <lizep@cm.law.za> 19/01/2012 16:23:24 PM >>>

Beste Piet

My skrywe gedateer 19 Augustus 2011 verwys.

Ons ontvang graag die ondertekende dokumente van julle terug. Ek bevestig ook net dat ons nog wag op die ondertekende dokumente vanaf die kerk.

Ek hoor graag van jou.

Vriendelike groete

Lize Pecoraro | Direkteur  
BComm LLB

[cid:669473314@19032008-1620]

Cluver Markotter Geïnk  
Cluver Markotter Gebou,  
Meulstraat, Stellenbosch,  
7600

Telefoon  
+27(0)21 808 5663/07

Faks  
+27(0)21 886 5420

[lizep@cm.law.za](mailto:lizep@cm.law.za)<mailto:lizep@cm.law.za>  
[www.cm.law.za](http://www.cm.law.za)<mailto:www.cm.law.za>

--

This message has been scanned for viruses and dangerous content by MailScanner, and is believed to be clean.

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# APPENDIX 8

**CASSIE GERBER  
PROPERTY VALUERS CC**

CK 98/22188/23

**C.L. Gerber, Registered Professional Valuer in Terms of Section 19 of Act 47 of 2000,  
Registration No: 1717/4**

P.O. Box 2217  
DURBANVILLE  
7551

Telephone: (021) 9757240  
Fax: 086 558 6933  
E-mail-caslg@mweb.co.za  
Cell phone- 082 416 2987

**VALUATION REPORT**

**ERF 718, BASSI STREET, KAYAMANDI, STELLENBOSCH**

**OWNERS: MUNICIPALITY STELLENBOSCH**



Market value: As per report, paragraph 12 refers:  
Date: 6 May 2015

=====

## VALUATION REPORT

**ERF 718, BASSI STREET, KAYAMANDI, STELLENBOSCH  
OWNERS: MUNICIPALITY STELLENBOSCH**

### **1. Instructions**

1.1 The Head of the Department of property Management, Stellenbosch, instructed me to value the above-mentioned property.

1.2 A market related value for the vacant land before and after the encroachment is required to determine the difference in the selling price.

1.1 Market value is defined in this report as a price, which the property might reasonably be expected to sell for, in a transaction between a willing, able and informed seller and a willing, able and informed buyer.

### **2. Date of valuation**

6 May 2015

### **3. Description of property**

Erf 718 an unregistered portion of Erf 707, Kaya Mandi

### **4. Extent**

990m<sup>2</sup> (The clinic on Erf 719 encroaches on Erf 718 and the extent of Erf 718 is now 823m<sup>2</sup>)

### **5. Owner**

Stellenbosch Municipality (The property was never transferred)

### **6. Services**

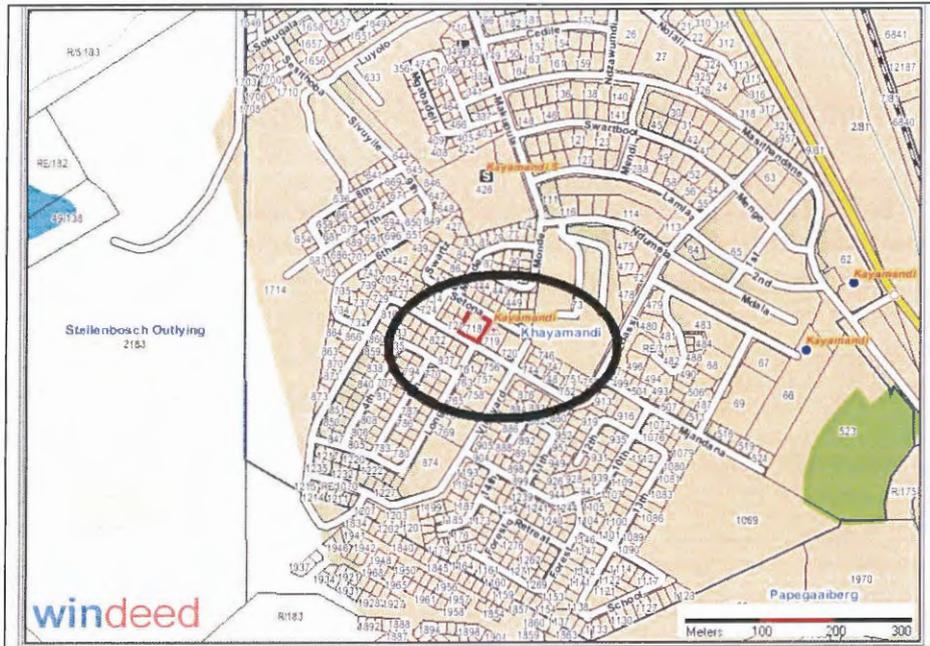
All the necessary municipal services are available.

### **7. Situation and physical aspects**

7.1 The property is situated in Bassi Street, Kaya Mandi, Stellenbosch.

Map page 3 below refers:

7.2 The property consists of vacant land, which is suitable for building purposes.



Location map



Aerial photo

**8. Town Planning**

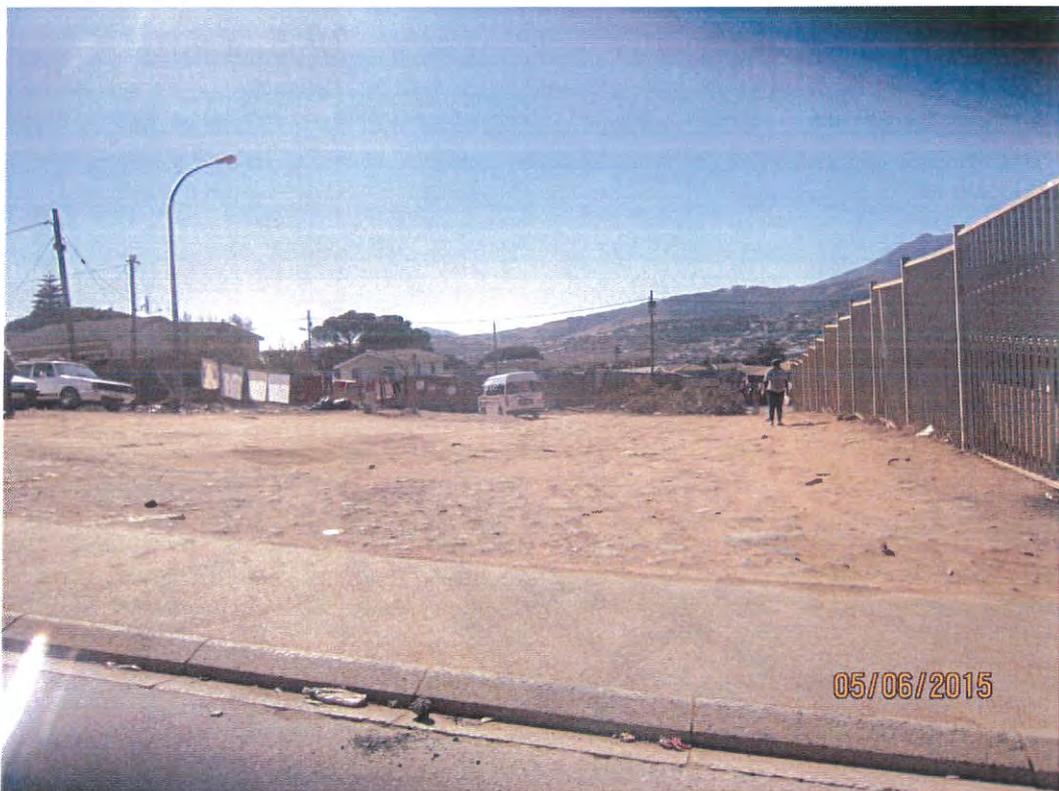
The property is zoned for institutional 1 purpose.

**9. Highest and best use**

The highest and best use of the properties is for single residential purposes.

**10. Improvements**

The property consists of vacant land.



Subject property

**11. Method of valuation**

11.1 It would be appropriate to compare the subject property with similar properties and thus arrive at a market value on the basis of comparison.

11.2 A market research in similar comparable areas was carried out and the following information was obtained:

## 12. Comparable sales

12.1 The following is a list of transactions of church and crèche sites:

NO	ERF	EXTENT	ZONING	MINIMUM OPPORTUNITIES	MARKET VALUE	VALUE IN TERMS OF POLICY
1	30331	789m <sup>2</sup>	Institutional 1 / Creche	4	R88 000	R 22 000
2	30496	662m <sup>2</sup>	Institutional 2 / Church	3	R 66 000	R 16 500
3	28064	1 071m <sup>2</sup>	Institutional 2 / Church	5	R110 000	R 27 500
4	28410	1 041m <sup>2</sup>	Institutional 1 / Creche	5	R110 000	R 27 500
5	28435	1 243m <sup>2</sup>	Institutional 2 / Church	6	R132 000	R 33 000
6	28436	1 112m <sup>2</sup>	Institutional 1 / Creche	6	R132 000	R 33 000
7	28782	780m <sup>2</sup>	Institutional 1 / Creche	4	R88 000	R 22 000
8	28980	847m <sup>2</sup>	Institutional 2 / Church	4	R88 000	R 22 000
9	27294	1 085m <sup>2</sup>	Institutional 1 / Creche	5	R110 000	R 27 500
10	29187	700m <sup>2</sup>	Institutional 2 / Church	3	R 66 000	R 16 500
11	29195	618m <sup>2</sup>	Institutional 1 / Creche	3	R 66 000	R 16 500
12	29433	1 064m <sup>2</sup>	Institutional 2 / Church	5	R110 000	R 27 500

10.2 The following is a list of vacant residential sites

SUBURB: WALLACEDENE (KRAAIFONTEIN)												
Erf	Portion	Sales Date	Reg. Date	Size	Purch Price	Price per m2	Bond Amt	Bank	Seller Name	Seller ID	Buyer Name	Buyer ID
30414	0	20130522	20130712	128	36382	284			CITY OF CAPE TOWN		RUTYU ZOLISA	7903055908089
30412	0	20130522	20130712	128	36382	284			CITY OF CAPE TOWN		PEMBENI MXOLISI AUBREY	7501156140089
30410	0	20130522	20130712	128	36382	284			CITY OF CAPE TOWN		MADUBELA THANDIKHAYA	7206115730083
30409	0	20130522	20130712	132	36382	276			CITY OF CAPE TOWN		MAPHAKADE KHOLEKA BEAUTY	7505150735083
30407	0	20130522	20130712	159	36382	229			CITY OF CAPE TOWN		MASIZANA NOSIPHO PAULINE	7611281170081
30406	0	20130522	20130712	114	36382	319			CITY OF CAPE TOWN		MVAMIE LUBABALO	8206245587089
30403	0	20130522	20130712	116	36382	314			CITY OF CAPE TOWN		SAKE ZOYISILE	7010055896080

## 13. Conclusions

11.1 Kayamandi is an old established and fully developed township and no sales of vacant land took place in the area. The market research was extended to similar areas in the Peninsula.

11.2 Transaction 10.1 is a list of church and crèche sites, which was sold by the City of Cape Town. The properties are situated in Wallacedene, where the living conditions are very similar to the subject property and, therefore, comparable. The land is about

the same size as the subject property and the purchase prices amount to ±R100.00 per m<sup>2</sup>.

11.3 Transaction 10.2 is a list of smaller sites, which were used for GAP housing and their selling prices average about R285.00 per m<sup>2</sup>. An adjustment for size is necessary.

11.4 Based on the above-mentioned comparable sales with the necessary adjustments for location, size and the scarcity of land in Kayamandi, a price of R110.00 per m<sup>2</sup>, in respect of the subject property, is market related.

## 12. Valuation calculations

- Market value of the subject property before the encroachment:  
990m<sup>2</sup> @ R110.00/m<sup>2</sup> = R108 900.00
- Market value of the subject property with the encroachment:  
823m<sup>2</sup> @ R110.00/m<sup>2</sup> = R90 530.00
- Difference: R18 370.00

The market value of the property does not include VAT.

## 13. Market value

The market value is as per paragraph 12 above.

## 14. Certificate

I inspected the subject property described herein. I have no present or prospective interest in the property.

The valuation is independent and impartial and complies with all the ethical standards of the South African Institute of Valuers of which I am a member.

All suppositions and data in this report are to the best of my knowledge, true and correct and I have not attempted to conceal any information.

The valuation has been made to the best of my skill and ability.

I, Casper Louis Gerber, consider the market values of the property before and after encroachment in paragraph 12 to be fair and market related.



C.L. GERBER

Signed at Durbanville on 6 May 2015

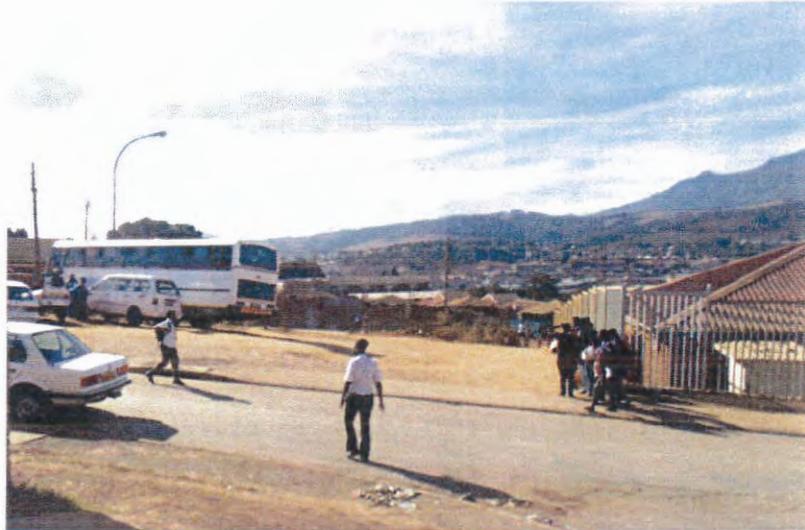
**QUALIFICATION TO VALUE**

I, Casper Louis Gerber, certify with this my qualifications and experience as follows:

- Professional Valuer registered with the South African Council of Valuers in terms of Act 47 of 2000.
- Member of the South African Institute of Valuers since 1974.
- Served as a member on various valuation boards.
- I have been involved in valuing fixed properties since 1965. At present, I am making an average of 15 valuations per month spread over the whole spectrum of the property market.

# APPENDIX 9

**Knight Frank**



---

**ERF 718 KAYA MANDI**

**(Encroachment of Erf 719)**

**VALUATION REPORT**

PREPARED FOR PROPERTY MANAGEMENT DEPARTMENT

STELLENBOSCH MUNICIPALITY

JUNE 2015

---

**Knight Frank**



30<sup>th</sup> June 2015

Stellenbosch Municipality  
Department of Property Management  
3<sup>rd</sup> Floor, ABSA Building  
Plein Street  
Stellenbosch 7599

**Attention: Mr Piet Smit**

Dear Sir,

**ERF 718 KAYA MANDI-REIMBURSEMENT OF PORTION ENCROACHED ON BY ADJOINING CLINIC (Erf 719)**

Further to your request to value the portion of Erf 718 which has been encroached on by the Clinic on Erf 719 in order to compensate the owners of Erf 718 in order that transfer can take place. Erf 718 is outlined in yellow below and the portion encroached on is clearly visible on the aerial photo.





### ERF 718- EXTENT, AREA ENCROACHED, OWNERSHIP

The subject property is situated between Setona and Bassi Streets and is currently vacant land used as a short cut between the two streets. It is described as:

#### Erf 718 Kaya Mandi

In extent: 990 sq metres

We have been informed by yourselves that the area encroached on by the adjoining Clinic (Erf 719) is a rectangular portion, outlined in green below,  $\pm 5.0\text{m} \times 33.0\text{m}$  and in extent 167 m<sup>2</sup>, therefore the actual area of Erf 718 is 823 sq metres.



We have also been informed that Mun Stellenbosch agreed to sell Erf 718 to the Seventh Day Adventist Church in 1997 (prior to encroachment) and that the sales price of R11 286.00 was paid in full on 4.9.2002, however the property was never transferred.

### MUNICIPAL INFORMATION

#### General Valuation

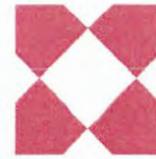
The property appears on the 2013 Valuation Roll of Mun Stellenbosch at an amount of R75 000

### DETERMINATION OF COMPENSATION FOR THE ENCROACHMENT

We have determined the compensation payable as the difference in the current market value of Erf 718 before and after encroachment; in determining the market value we have taken note of the Municipality's policy of the sale price to Non Profit Organisations (NPO's) such as Church's.

We have used a Market Data /Sales Comparison approach to determine the market value.

# Knight Frank



We have researched sales in Kaya Mandi for the last two years and the only sales that are recorded are sales by the Municipality of RDP houses on very small plots (all around 80m<sup>2</sup>) which were sold to the occupiers for R100 000 including the top structure, for example:

Description: Erf 2525 Kaya Mandi  
 Size: 81m<sup>2</sup>  
 Seller/Buyer: Mun Stellenbosch/VS Vokwana  
 Date: 24.2.2014  
 Price: R100 000 (T4571/2015)



However the subject land is situated in a superior part of Kaya Mandi (see photos below) where the surrounding single residential plots are around 200m<sup>2</sup> and the value of an improved property is on average around R150 000- R250 000, indicating a plot value of around R35 000 –R50 000 (R175- R250/m<sup>2</sup>)



Looking up Lang St  
 Erf 825 on right opposite Erf 718



Bassi St

The subject plot is four to five times larger indicating a plot value of R100/m<sup>2</sup> to R200/m<sup>2</sup>

**Knight Frank**



**CALCULATION OF COMPENSATION (Allowing that sales to NPO's are typically 20% of the market value)**

Value before encroachment

990m<sup>2</sup> @ R150/m<sup>2</sup>                      Value, say R150 000 × 20%                      R30 000.00

Value after encroachment

823m<sup>2</sup> @ R150/m<sup>2</sup>                      Value, say R125 000 × 20%                      R25 000.00

Difference                      R 5 000.00

**VALUATION CONCLUSIONS**

We are of the opinion that the compensation, as calculated above, for the portion of Erf 718 that has been encroached upon is an amount, ex vat, at or around:

**R5 000.00**  
**(Five thousand rand)**

We trust that we have fulfilled your instructions and will be glad to answer any queries

Knight Frank Western Cape Pty Ltd

DAT WHITE MRICS FIVSA MRICS  
Chartered Valuation Surveyor  
Registration No 1770

Cape Town

30.6.2015

18/07/2012

## Deeds Office Property

windeed

KAYA MANDI, 758, 0 (Cape Town)

## GENERAL INFORMATION

Deeds Office Cape Town  
 Date Requested 2012/07/18 15:19:27  
 Information Source Deeds Office  
 Reference

## PROPERTY INFORMATION

Property Type Erf  
 Erf 758  
 Portion 0  
 Township KAYA MANDI  
 Local Authority STELLENBOSCH MUN  
 Registration Division STELLENBOSCH RD  
 Province WESTERN CAPE  
 Diagram Deed DU 1000/800  
 Extent 947.0000SQM  
 Previous Description  
 LPI Code C06700250000075800000

## OWNER INFORMATION

Owner 1 of 1  
 Person Type LOCAL AUTHORITY  
 Name MUN STELLENBOSCH  
 Registration Number  
 Title Deed T59361/2002  
 Registration Date 2002/07/15  
 Purchase Price (R) G/P  
 Purchase Date -  
 Share  
 Microfilm Reference 2004 0879 0468  
 Multiple Properties No  
 Multiple Owners No

## ENDORSEMENTS (1)

#	Document	Description	Institution	Amount (R)	Microfilm
1	GENERAL PLAN FROM		TOWN KAYA MANDI ,ERF 707 ,PRTN 0	Unknown	

## HISTORIC DOCUMENTS

No documents to display

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# STELLENBOSCH GIS MAP





Imagery Date: 9/28/2011

2005

33°55'13.44" S 108°50'45.30" E elev: 172 m

© 2012 Afnis (Pty) Ltd

Image © 2012 Google

Google Earth

Eye alt: 397 m

## Deeds Office Property

windeed

KAYA MANDI, 1079, 0 (Cape Town)

## GENERAL INFORMATION

Deeds Office Cape Town  
 Date Requested 2012/07/18 15:20:44  
 Information Source Deeds Office  
 Reference

## PROPERTY INFORMATION

Property Type Erf  
 Erf 1079  
 Portion 0  
 Township KAYA MANDI  
 Local Authority STELLENBOSCH MUN  
 Registration Division NOT AVAILABLE  
 Province WESTERN CAPE  
 Diagram Deed T20814/2012  
 Extent 1228.0000SQM  
 Previous Description  
 LPI Code C06700250000107900000

## OWNER INFORMATION

Owner 1 of 1  
 Person Type CHURCH  
 Name OU APOSTOLIESE KERK  
 Registration Number  
 Title Deed T20814/2012  
 Registration Date 2012/05/09  
 Purchase Price (R) 14,022  
 Purchase Date 2007/03/26  
 Share  
 Microfilm Reference  
 Multiple Properties No  
 Multiple Owners No

## ENDORSEMENTS (1)

#	Document	Description	Institution	Amount (R)	Microfilm
1	GENERAL PLAN FROM		TOWN KAYA MANDI ,ERF 1070 ,PRTN 0	Unknown	

## HISTORIC DOCUMENTS (1)

#	Document	Description	Owner	Amount (R)	Microfilm
1	T59362/2002	TRANSFER	MUN STELLENBOSCH	G/P	2002 0600 1804

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# STELLENBOSCH GIS MAP





## Deeds Office Property

windeed

KAYA MANDI, 783, 0 (Cape Town)

## GENERAL INFORMATION

Deeds Office Cape Town  
 Date Requested 2012/07/18 15:22:35  
 Information Source Deeds Office  
 Reference

## PROPERTY INFORMATION

Property Type Erf  
 Erf 783  
 Portion 0  
 Township KAYA MANDI  
 Local Authority STELLENBOSCH MUN  
 Registration Division STELLENBOSCH RD  
 Province WESTERN CAPE  
 Diagram Deed DU 1000/800  
 Extent 212.0000SQM  
 Previous Description  
 LPI Code C06700250000078300000

## OWNER INFORMATION

Owner 1 of 1  
 Person Type LOCAL AUTHORITY  
 Name MUN STELLENBOSCH  
 Registration Number  
 Title Deed T59361/2002  
 Registration Date 2002/07/15  
 Purchase Price (R) G/P  
 Purchase Date -  
 Share  
 Microfilm Reference 2004 0879 0468  
 Multiple Properties No  
 Multiple Owners No

## ENDORSEMENTS (1)

#	Document	Description	Institution	Amount (R)	Microfilm
1	GENERAL PLAN FROM		TOWN KAYA MANDI,ERF 707 ,PRTN 0	Unknown	

## HISTORIC DOCUMENTS

No documents to display

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## WinDeed - Deeds and Companies Office Enquiries

## Enquiry by Property

as at 13:29 on 18/04/2005

Registrar	Cape Town
Property Type	Erf
Township Name	Kaya Mandi
Erf Number	718
Portion Number	0

## Information

Province	Western Cape
Registration Division	Not Available
Local Authority	Stellenbosch MUN
Previous Description	
Diagram Deed Number	DU 1000/800
Extent	990.0000sqm

## Owners

1 of 1	
Person Type	Unknown
Nar	** For Info Refer To Registrar Of Deeds **
ID number	
Title Deed	
Registration Date	
Purchase Price	Unknown
Share	
Purchase Date	UNKNOWN
Microfilm Reference	Not Microfilmed
Multiple Properties	No
Multiple Owners	No

## Endorsements

1 of 1	
Document	GENERAL PLAN FROM Town Kaya Mandi ,Erf 707 ,Prtn 0
Amount	Unknown
Microfilm Reference	Not Microfilmed

History (None)

End of Report

# APPENDIX 10

# David Hellig & Abrahamse

Land Surveyors • Landmeters

DAVID SAMUEL HELDIG  
B.Sc., B.Sc. (Land Survey), PR.L. (SA)  
SPENCER GRAHAM DREYER  
B.Sc. (Survey), PR.L. (SA)

At Cape Town  
RICHARD CLIFTON ABRAHAMSE  
B.Sc. (Survey), PR.L. (SA)

258 Main Street/Hoofstraat  
PAARL 7646

☐ P O Box 18 PAARL 7622  
Posbus 18 PAARL 7622

Telephone/Telefoon : (021) 872 4086  
e-mail : david@dhaa.co.za

Our Ref : S344/16

03 November 2017

The Municipal Manager  
Stellenbosch Municipality  
P O Box 17  
STELLENBOSCH  
7599

**Attention : Mr Piet Smit**

Dear Piet

## **SUBDIVISION OF ERF 718 KAYA MANDI**

Previous communications refer.

I hereby advise that the cadastral survey has now been approved by the Surveyor-General and I accordingly enclose herewith the following documents for your attention :

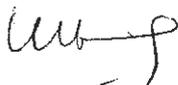
1. Approved diagram no 2335/2017, which represents Erf 718 Kaya Mandi.
2. Approved diagram no 2336/2017, which represents Erf 4112 a portion of Erf 718 Kaya Mandi.
3. Approved diagram no 2337/2017, which represents Erf 4113 Consolidation of Erven 4112 and 3099 Kaya Mandi.
4. Stellenbosch Municipality Approval in terms of Section 60 of the Stellenbosch Municipal Land Use Planning By-Law, 2015: vide Ref KM 718 dated 15-09-2017 read together with Final Notification Letter dated 10-10-2017.

Please acknowledge receipt in writing of this letter and enclosures and forward to the appointed attorney to attend to the registration process in the Deeds Office.

Thanking you once again for your valued instructions and assuring you of our service in the future.

Kind regards

Yours sincerely  
DAVID HELDIG & ABRAHAMSE



PER : D.S HELDIG

# APPENDIX 11



2018-09-04

Seventh Day Adventist  
PO Box 2328  
Dennesig  
7602

Attention: Patrick Swartz

Dear Sir/Madam

**TRANSFER STELLENBOSCH MUNICIPALITY/SEVENTH DAY ADVENTIST CHURCH: ERF 718, KAYAMANDI:  
PROPOSED ALTERNATIVE SITE**

During a recent Mayoral Committee Meeting your request to adjust the purchase price downwards, in an effort to accommodate the encroachment of the adjacent clinic, was considered.

Having considered your request, they referred the matter back to administration, with the request to investigate a possible alternative site.

Erf 1523, Kayamandi, as indicated on the attached map is hereby offered to you as a possible alternative site.

Please indicate in writing whether this alternative offer is acceptable to you, whereafter the proposal will be submitted to Council for ratification.

I await your feedback in this regard.

Yours faithfully

.....  
**PIET SMIT**  
**MANAGER: PROPERTY MANAGEMENT**

# **APPENDIX 12**



Khayamandi Seventh-day  
Adventist Church

P.O. Box 2328

Stellenbosch

7600

Western Region

THE MANAGER  
PROPERTY MANAGEMENT  
STELLENBOSCH MUNICIPALITY  
STELLENBOSCH  
7600

*Carberg of 2018-11-08*

ATTENTION: MR PIET SMIT

Dear Sir,

TRANSFER: ERF 718: SDA CHURCH/STELLENBOSCH MUNICIPALITY: PROPOSED ALTERNATIVE.

Your letter dated 2018-09-04 refers. Your proposal has been forwarded to the abovementioned church for consideration on the 15<sup>th</sup> September 2018.

Having been considered it was then decided that in principle your proposal be accepted on the following conditions.

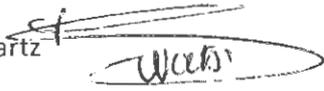
1. That the sub-station on the site be removed.
2. That the stream running along the site be cleansed as it is posing a health hazard resulting from dirt and stench from the stream.
3. That the ward committee members of the said ward be informed of this exercise as this site has been used as a play park by the children of this community.
4. As this exchange has been the proposal of the Municipality and that the church had paid in full its original site. The church should therefore not be held liable for any additional costs including possible costs related to the value of the alternative site, vice versa.

Pastor: Ayanda Ranana (Cell: 0834761450; email: [rananaa@cc.adventist.org](mailto:rananaa@cc.adventist.org))  
Head Elder: Mthuthuzeli Swartz (Cell: 082 4571573; email: [mthuras@hotmail.com](mailto:mthuras@hotmail.com))  
Associate Elder: Glen Vondo (Cell: 081799074; email: [glenvondo@gmail.com](mailto:glenvondo@gmail.com))  
Treasure: Ziyanda Ntomboti (Cell: 0788811369; email: [ntsomboticz1@gmail.com](mailto:ntsomboticz1@gmail.com))  
Church Clerk Nothandi Mngwazi (Cell: 0746168335; email: [nothandi.mngwazi@prasa.com](mailto:nothandi.mngwazi@prasa.com))

As soon as all the above has been attended to the church request that it be advised so that the process can be attended to and finalized without any further delays. Page 111

Yours faithfully,

P. M. Swartz

A handwritten signature in black ink, appearing to read 'P. M. Swartz', written over a horizontal line.

Church Representative.

Pastor: Ayanda Ranana (Cell: 0834761450; email: [rananaa@cc.adventist.org](mailto:rananaa@cc.adventist.org))  
Head Elder: Mthuthuzeli Swartz (Cell: 082 4571573; email: [mthuras@hotmail.com](mailto:mthuras@hotmail.com))  
Associate Elder: Glen Vondo (Cell: 081799074; email: [glenvondo@gmail.com](mailto:glenvondo@gmail.com))  
Treasure: Ziyanda Ntsomboti (Cell: 0788811369; email: [ntsomboticz1@gmail.com](mailto:ntsomboticz1@gmail.com))  
Church Clerk: Nothandi Mngwazi (Cell: 0746168335; email: [nothandi.mngwazi@prasa.com](mailto:nothandi.mngwazi@prasa.com))

7.2.2	<b>POSSIBLE DISPOSAL OF ERF 111, KAYAMANDI TO THE UNITED REFORMED CHURCH IN SOUTHERN AFRICA (URCSA): CONSIDERATION OF PUBLIC INPUTS AND DETERMINATION OF MARKET VALUE</b>
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

*Organisational Transformation*

13 February 2019

**1. SUBJECT:POSSIBLE DISPOSAL OF ERF 111, KAYAMANDI TO THE UNITED REFORMED CHURCH IN SOUTHERN AFRICA (URCSA): CONSIDERATION OF PUBLIC INPUTS AND DETERMINATION OF MARKET VALUE**

**2. PURPOSE**

To make a final determination on the disposal of erf 111, Kayamandi to URCSA.

**3. DELEGATED AUTHORITY**

Council must therefore consider the matter.

**4. EXECUTIVE SUMMARY**

Following an in principle decision by Council to dispose of erf 111, Kayamandi to URCSA on a private treaty basis, Council's intention so to act was published for public inputs. No such inputs and or objections were received.

A valuation report has also been received subsequent to the Council resolution to donate the property to URCSA valuating the property at R133 250.00 Council make take a decision to dispose of land for an amount less than fair market value for the reasons contained in regulation 13(2) of the Asset Transfer Regulations. If Council would have disposed of the land for a church orginasion in terms of policy it will have considered a value of as low as 10 % of the market value. In this instance, Council resolved that due to the long history of use by the church and the fact that it is used for, inter alia, social care purposes for the broader community in Kayamandi will benefit and that it can be donated.

Council must now make a final determination with regards to the disposal of erf 111, Kayamandi.

**5. RECOMMENDATIONS**

- (a) that it be noted that no public inputs/objections have been received following the public notice period;
- (b) that it be noted that the property's fair market value has been valued at R133 250.00;
- (c) that Council approve of the disposal of erf 111, Kayamandi to URCSA at no cost, subject to the following conditions:
  - (i) that a reversionary clause be inserted in the title deed of the property, indicating that the property may only be used for religious/social care purposes, and that it cannot be sold without the prior written approval of Stellenbosch Municipality;
  - (ii) that URCSA be responsible for all costs related to the transfer of the property to their name; and

- (d) that the Municipal Manager be authorised to sign all documents necessary to effect the transfer of the property to URCSA; and
- (e) that Council considered the market value of the property and the property is donated due to the long history of use by the church and the fact that it is used for, inter alia, for social care purposes for the broader community in Kayamandi. The the local community would therefore be better served if the erf is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.

## 6. DISCUSSION / CONTENT

### 6.1 Background

#### 6.1.1 Council resolution

On 2018-10-31, Council considered a report, dealing with the possible disposal of erf 111, Kayamandi to URCSA on a private treaty basis.

Having considered the report, Council resolved as follows:

**RESOLVED** (*nem con*)

- “(a) that erf 111, Kayamandi, be identified as land not needed to provide the minimum level of basic municipal services;
- (b) that Council approves the request from the URCSA, Kayamandi;
- (c) that the request is approved **in principle** on a **private treaty basis**, i.e. without following a public tender process, subject to the following conditions:
  - (i) that the property is donated to URCSA, Kayamandi
  - (ii) that a **reversionary clause** be inserted in the title deed of the property, should the property not be used for religious/social care purposes anymore or be sold in future;
- (d) that Council’s intention to dispose of the property through a donation be advertised for **public inputs/objections/counter proposals**, as provided for in par 9.2.2.1 of the Property Management Policy;
- (e) the property is donated due to the long history of use by the church and the fact that it is used for, inter alia, for social care purposes for the broader community in Kayamandi; and
- (f) that, following the public participation process, the matter be re-submitted to Council to make a final decision on the disposal, or not”.

A copy of the agenda item that served before Council is attached as **APPENDIX 1**.

#### 6.1.2 Official Notice

Following the above resolution an Official Notice was published in the Eikestad News of, soliciting inputs/objections/counter proposals from interested and effected parties on the proposed gratis transfer of erf 111, Kayamandi to URCSA. The closing date for such inputs was 20 December 2018. A copy of the official Notice is attached as **APPENDIX 2**.

**6.1.3 Comments/inputs received**

On the closing date no written inputs/objections or counter proposals was received.

**6.1.4 Market Valuation report**

Hereto attached as **APPENDIX 3** a market valuation report in relation to erf 111, Kayamandi. In terms hereof the property is valued at R133 250.00

**6.2 Discussion**

Seeing that Council has already made an in principle decision to dispose of erf 111, Kayamandi to URCSA at no cost, subject to a public participation process, and seeing that no inputs/objections/counter proposals has been received, is recommended that a final determination now be made, i.e. to dispose of erf 111, Kayamandi to URCSA, at no cost.

**6.3 Financial Implications**

There are no financial implications

**6.4 Legal Implications****MFMA**

In terms of section 14(1) a municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.

In terms of subsection (2), a municipality may transfer ownership or otherwise dispose of a capital asset other than those contemplated in subsection (1), but only after the municipal council, in a meeting open to the public

- (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
- (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

**Compensation for transfer of non-exempted municipal capital assets**

In terms of Regulation 13, the compensation payable to a municipality for the transfer of a non-exempted capital asset must, subject to sub regulation (2)

- (a) be consistent with criteria applicable to compensation set out in the disposal management system of the municipality or municipal entity; and
- (b) if regulation 12(2)(b) applies to the transfer, reflect fair market value.

(2) If a municipality on account of the public interest, in particular in relation to the plight of the poor, intends to transfer a non-exempted capital asset for less than its fair market value, the municipality must, when considering the proposed transfer, take into account—

- 
- (a) the interests of—
    - (i) the State; and
    - (ii) the local community;
  - (b) the strategic and economic interests of the municipality or municipal entity, including the long-term effect of the decision on the municipality or entity;
  - (c) the constitutional rights and legal interests of all affected parties;
  - (d) whether the interests of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and
  - (e) whether the local community would be better served if the capital asset is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.

The recommendations contained in this report comply with Council's policies and all applicable legislation.

#### 6.5 Staff Implications

None

#### 6.6 Previous / Relevant Council Resolutions

Council meeting: 2018-10-31

#### 6.7 Risk Implications

The risks are mitigated in the content of the item discussions.

#### 6.8 Comments from Senior Management

The item was not re-circulated to management as no comments or objections or counter proposal was received.

#### ANNEXURES:

#### APPENDIX 1: Agenda item 31.10.18

#### APPENDIX 2: Official Notice

#### APPENDIX 3: Valuation report

#### FOR FURTHER DETAILS CONTACT:

<b>NAME</b>	Piet Smit
<b>POSITION</b>	<i>Manager: Property Management</i>
<b>DIRECTORATE</b>	<i>Corporate Services</i>
<b>CONTACT NUMBERS</b>	021-8088189
<b>E-MAIL ADDRESS</b>	<a href="mailto:Piet.smit@ Stellenbosch.gov.za">Piet.smit@ Stellenbosch.gov.za</a>
<b>REPORT DATE</b>	2019-01-30

# APPENDIX 1



Collaborator No:  
IDP KPA Ref No:  
Meeting Date:

*(To be filled in by administration)*  
*Organisational Transformation*  
17 and 31 October 2018

**1. SUBJECT**

**POSSIBLE DISPOSAL OF ERF 111, KAYAMANDI TO THE FRANSCHHOEK UNITED REFORMED CHURCH IN SOUTHERN AFRICA (URCSA), KAYAMANDI**

**2. PURPOSE**

To consider an application from URCSA, Kayamandi for the acquisition of a portion of erf 111, Kayamandi.

**3. DELEGATED AUTHORITY**

Council

**4. EXECUTIVE SUMMARY**

The URCSA, Kayamandi is leasing erf 111, Kayamandi from Stellenbosch Municipality since 1967. The lease is on a year-to-year basis. As they want to invest in the expansion of the church building, they have now applied to purchase the land from the Municipality.

**5. RECOMMENDATIONS**

- 5.1 that erf 111, Kayamandi be identified as land not needed to provide the minimum level of basic municipal services;
- 5.2 that Council, consider the request from the URCSA, Kayamandi
- 5.3 If council approves the request, it be approved **in principle** on a **private treaty basis**, i.e. without following a public tender process, subject the following conditions:
- a) that the Executive mayor in consultation with the Mayoral Committee make a recommendation to Council on whether to determine a disposal value lower than market value and if so what percentage;
  - b) That market value be determined by two (2) independent valuers;
  - c) that a **reversionary clause** be inserted in the title deed of the property, should the property not be used for religious/social care purposes anymore;
- 5.3 That Council's intention so to dispose of the property be advertised for **public inputs/objections**, as provided for in par 9.2.2.1 of the Property Management Policy;

- 5.4 That, following the public participation process, the matter be re-submitted to Council to make a final decision on the disposal, or not.

## **6. DISCUSSION / CONTENT**

### **6.1 Background**

#### **6.1.1 Lease Agreements**

According to the correspondence hereto attached as **APPENDIX 1**, it is clear that:

- a) Approval were granted in July 1967 by the (then) Stellenbosch Municipality that the (then) Dutch Reform Church in Africa (now UCSA) can use erf 111 in Kayamandi for the purpose of a church;
- b) A Lease Agreement was concluded between the (then) Stellenbosch Municipality and the (then) Dutch Reform Church in Africa in 1969. The Lease Agreement was on a year- to- year basis;
- c) In 1977, following a change in the political dispensation (Black townships managed by Bantu Affairs Administration), a Lease Agreement was concluded between the (then) Bantu Affairs Administration Board of South-Western Cape and the church, also on a year-to - year basis.

#### **6.1.2 Kayamandi Town Council**

The Kayamandi Town Council was established in 1987. In terms of legal succession, they took over the role as Lessee.

During 1994 the Kayamandi Town Council was dissolved an Stellenbosch Municipality became (again) the successor in law, i.e Stellenbosch Municipality became the owner of the land, i.e the Lessee.

#### **6.1.3 Application to purchase lease property**

Hereto attached as **APPENDIX 2** a self-explanatory letter received from the United Reform Church in Southern Africa, Kayamandi, requesting to purchase the lease area from the Municipality at the lowest possible value, or that it be donated to them.

### **6.2 Discussion**

#### **6.2.1 The property**

Erf 111, Kayamandi , measuring 1025m<sup>2</sup> in extent, is situated at the corner of Manyano and Makapula Roads, Kayamandi, as shown on Fig 1, 2 and 3 below.

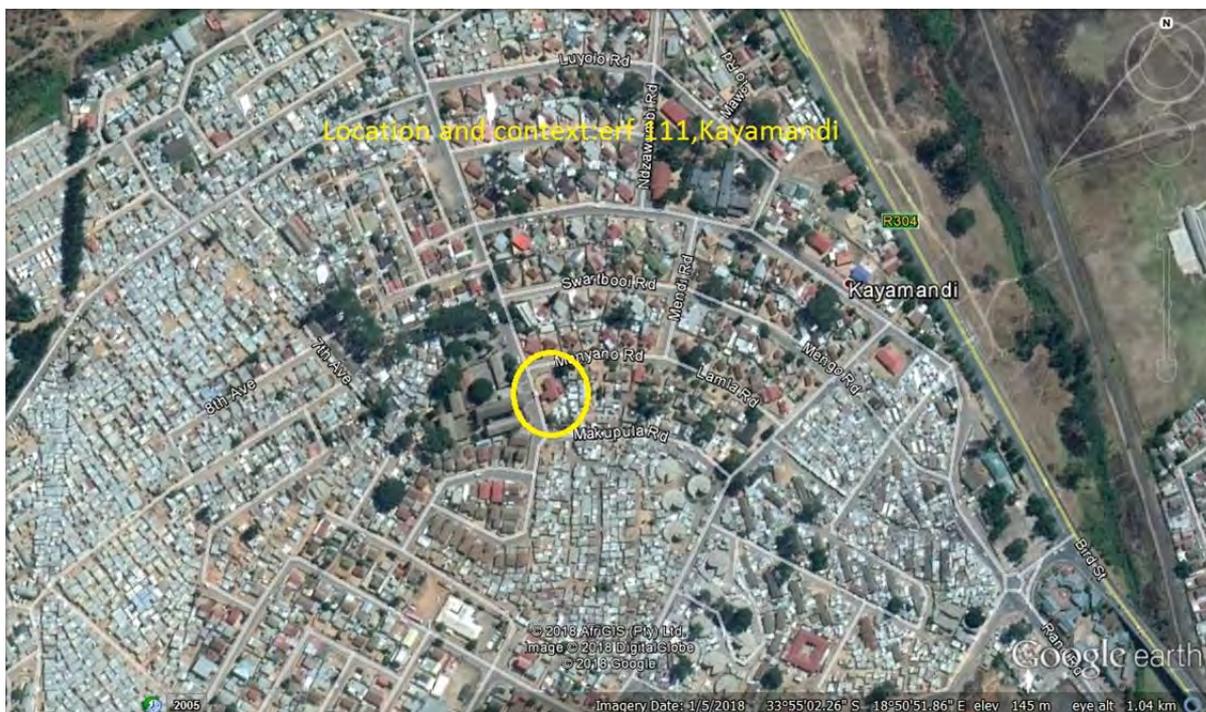
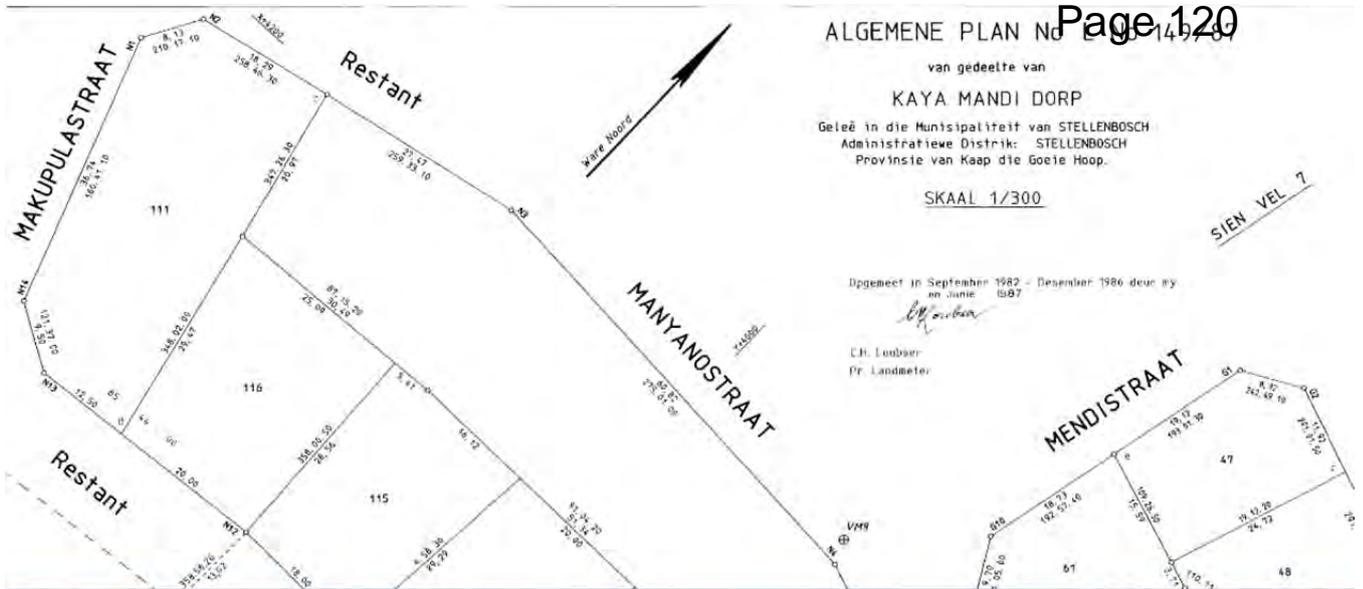


Fig 1: Location and context



Fig 2: The Property



**Fig 3: Extent of property**

The property is owned by Stellenbosch Municipality by virtue of Title Deed T10209/2009 and is zoned for Institutional use. See **APPENDIX 3** and **4** respectively.

The property has been developed, consisting of the following buildings:

- Church building: ±228m<sup>2</sup>
  - Crèche/ ECD Centre: ±120m<sup>2</sup>
- Total** : ±438m<sup>2</sup>

**6.2.2 Legal requirements**

**6.2.2.1 MFMA**

In terms of section 14(1) a municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.

In terms of subsection (2), a municipality may transfer ownership or otherwise dispose of a capital asset other than those contemplated in subsection (1), but only after the municipal council, in a meeting open to the public-

- (a) has decided on reasonable grounds that **the asset is not needed to provide the minimum level of basic municipal services**; and
- (b) has considered the **fair market value** of the asset and the **economic and community value** to be received in exchange for the asset.

**6.2.2.2 Asset Transfer Regulation (ATR)**

**6.2.2.2.1 Transfer or disposal on non-exempted capital assets**

In terms of Regulation 5(1)(b) a municipal council may transfer or dispose of a non-exempted capital asset only after-

- a) the municipal council-
  - i) has made the determination required by Section 14(2)(a) and (b) of the MFMA; and

- ii) has, as a consequence of those determinations, an **approval in principle** that the capital asset may be transferred or disposed of.

#### 6.2.2.2.2 Consideration of proposals to transfer or dispose of non-exempted capital assets

In terms of Regulation 7 the municipal council **must**, when considering any proposed transfer or disposal of a non-exempted capital asset in terms of regulation 5(1)(b)(i) and (ii), **take into account**—

- (a) whether the capital asset may be **required for the municipality's own use** at a later date;
- (b) the **expected loss or gain** that is expected to result from the proposed transfer or disposal;
- (c) the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a **significant economic or financial cost or benefit** to the municipality;
- (d) the **risks and rewards** associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests;
- (e) the **effect** that the proposed transfer or disposal will have on the **credit rating** of the municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow;
- (f) any **limitations or conditions** attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions;
- (g) the estimated **cost** of the proposed transfer or disposal;
- (h) the transfer of any **liabilities** and reserve funds associated with the capital asset;
- (i) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons; (if applicable)
- (j) any written views and recommendations on the proposed transfer or disposal by the National Treasury and the relevant provincial treasury; (if applicable)
- (k) the interests of any affected organ of state, **the municipality's own strategic, legal and economic interests** and the interests of the local community; and
- (l) **compliance** with the **legislative regime** applicable to the proposed transfer or disposal.

#### 6.2.2.2.3 Conditional approval of transfer or disposal of non-exempted capital assets

Further, in terms of Regulation 11, an **approval in principle** in terms of regulation 5(1)(b)(ii) or 8(1)(b)(ii) that a non-exempted capital asset may be transferred or disposed of, **may be given subject to any conditions**, including conditions specifying—

- (a) **the way in which the capital asset is to be sold or disposed of**;
- (b) a **floor price or minimum compensation for the capital asset**;
- (c) whether the capital asset may be transferred or disposed of for **less than its fair market value**, in which case the municipal council must first consider the criteria set out in regulation 13(2); and
- (d) **a framework within which direct negotiations** for the transfer or disposal of the capital asset **must be conducted** with another person, if transfer or disposal is subject to direct negotiations.

#### 6.2.2.2.4 **Transfer or disposal of non-exempted capital assets to be in accordance with disposal management system**

In terms of Regulation 12; if approval has been given in terms of regulation 5(1)(b)(ii) or 8(1)(b)(ii) that a non-exempted capital asset may be transferred or disposed of, the relevant municipality may transfer or dispose of the asset only in accordance with its **disposal management system\***, irrespective of—

- (a) the value of the capital asset; or
- (b) whether the capital asset is to be transferred to a private sector party or an organ of state.

**\*Please note:** The Policy on the Management of Council-owned property is deemed to be the disposal management system. See par. 6.2.2.3 below.

#### 6.2.2.2.5 **Compensation for transfer of non-exempted municipal capital assets**

In terms of Regulation 13, the compensation payable to a municipality for the transfer of a non-exempted capital asset must, subject to sub regulation

(2)—

- (a) be consistent with criteria applicable to compensation set out in the disposal management system of the municipality or municipal entity; and

- (b) if regulation 12(2)(b) applies to the transfer, **reflect fair market value.**

(2) **If a municipality** on account of the public interest, in particular in relation to the plight of the poor, **intends to transfer a non-exempted capital asset for less than its fair market value, the municipality** must, when considering the proposed transfer<sup>16</sup>, **take into account—**

- (a) the **interests of—**
  - (i) the State; and
  - (ii) the local community;
- (b) the strategic and economic interests of the municipality or municipal entity, including the long-term effect of the decision on the municipality or entity;
- (c) the constitutional rights and legal interests of all affected parties;
- (d) whether the interests of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and
- (e) **whether the local community would be better served if the capital asset is transferred at less than its fair market value**, as opposed to a transfer of the asset at fair market value.

#### 6.2.2.2.6 **Transfer agreements**

Lastly in terms of Regulation 17, a municipality may transfer assets approved for transfer to a private sector party or organ of state in terms of this Chapter, **only by way of a written transfer agreement** concluded between the transferring municipality and the receiving private sector party or organ of state.

A transfer agreement must set out the terms and conditions of the transfer, including, as a minimum—

- (a) a sufficient **description** of the capital asset being transferred in order to identify the asset;
- (b) particulars of any subsidiary assets that are transferred with the capital asset;
- (c) particulars of any liabilities transferred with the asset;
- (d) the **amount of compensation** payable to the municipality or municipal entity for the transfer of the asset or assets, and the terms and conditions of payment; and

- (e) the **effective date** from which the risk and accountability for the asset or assets is transferred to the receiving private sector party or organ of state.

### 6.2.2.3 **Policy on the management of Council-owned property**

#### 6.2.2.3.1 **Disposal management principles**

In terms of paragraph 7.2.1, unless otherwise provided for in the policy, the disposal of Viable Immovable property shall be effected-

- a) by means of a process of **public competition**; and
- b) at **market value** except when the public interest or the plight of the poor demands otherwise.

#### 6.2.2.3.2 **Methods of disposal**

In terms of paragraph 9 the type of tender may vary, depending on the nature of the transaction. The following options may be considered:

- a) outright tender;
- b) Call for proposals;
- c) Call for proposals on a Build-Operate-Transfer basis

#### 6.2.2.3.3 **Deviation from a Competitive process**

In terms of paragraph 9.2.2 the Municipal Council may **dispense with the competitive processes** established in this policy, and may enter into a **Private Treaty Agreement** through any convenient process, which may include direct negotiations, including in response to an unsolicited application, but only in the following circumstances, and only **after having advertised Council's intention so to act**. Should any objections be received as a consequence of such a notice, such objections first be considered before a final decision is taken to dispense with the competitive process established in this policy. However, should any objections, be received from potential, competitive bidders, then a public competitive process must be followed. The advertisement referred to above should also be served on adjoining land owners, where the Municipal Manager is of the opinion that such transaction may have a detrimental effect on such adjoining land owner(s):

- (a) **in exceptional cases where the Municipal Council is of the opinion the public competition would not serve a useful purpose** or that it is in the interest of the community and the Municipality, and where none of the conditions as set out in the policy provides for such exception, is permitted, and where they are not in conflict with any provision of the policy. In such cases reasons for preferring such out-of hand sale or lease to those by public competition; must be recorded

#### 6.2.2.3.4 **Disposal and Letting of Immovable Property for Social Care Uses**

In terms of paragraph 9.3 "*Social care*" is defined as services provided by **registered** welfare, charitable, non-profit cultural and **religious**

**organisations** and includes, but is not limited to, the following types of uses:

:-

- (a) **Place of Worship** to the degree and for that portion of a facility being used for spiritual gathering by, and social/pastoral/manse/welfare caring and support to Worshippers and the broader Community;
- (b) **Child care facility** insofar as it contributes to the functioning of a multi-use childcare facility and is operated on a non-profit basis;

The Municipality **reserves the right to entertain unsolicited bids for the purchase or lease of viable immovable property for social care uses** with the provision that it abides by the Municipality's IDP objectives.

From the above it is clear that **Council may dispense with a competitive process**, i.e. may enter into a Private Treaty Agreement, seeing that the Methodist Church falls within the description of a **social care use**, where Council may entertain an unsolicited proposal. Such a step, however, is subject to Council's intention so to act, being advertised for public inputs.

#### **6.2.2.3.5 Criteria for determining compensation**

In terms of par.21 immovable property may be disposed of only at market-related prices, except when the plight of the poor or public interest demands otherwise. In terms of par. 21.3, the Municipality may dispose properties for social care uses at a purchase price of between 10% and 60% of the fair market value.

### **6.3 Financial Implications**

The cost to ensure certificates for electrical, plumbing and pests are normally borne by the Seller. .

### **6.4 Legal Implications**

The recommendations contained in this report comply with Council's policies and all applicable legislation. See paragraph 6.2.2, *supra*.

### **6.5 Staff Implications**

None

### **6.6 Previous / Relevant Council Resolutions**

None

### **6.7 Risk Implications**

This report has no risk implications for the Municipality.

### **6.8 Comments from Senior Management**

#### **6.8.1 Director: Infrastructure Services**

Note that since the Municipality is the owner and is to transfer the property, the Municipality must ensure that the building conforms to legal prescripts when a sale is being made, eg. The Municipality must correct any electrical wiring defaults and obtain an

Electrical Certificate of Compliance. The cost of repairing, electricity, water sanitation and any building defects is normally for the cost of the Seller. The cost of this must be added to Financial Implications.

The recommendation is supported.

#### 6.8.2 Director: Planning and Economic Development

None received.

#### 6.8.3 Chief Financial Officer

None received.

#### ANNEXURES:

- A: Correspondence Erf 111
- B: Letter received from United Reform Church in Southern Africa, Kayamandi
- C: Windeed record
- D: Zoning certificate

#### FOR FURTHER DETAILS CONTACT:

<b>NAME</b>	<b>Piet Smit</b>
<b>POSITION</b>	<b>Manager: Property Management</b>
<b>DIRECTORATE</b>	<b>Corporate Services</b>
<b>CONTACT NUMBERS</b>	<b>021-8088189</b>
<b>E-MAIL ADDRESS</b>	<b><a href="mailto:Piet.smit@ Stellenbosch.gov.za">Piet.smit@ Stellenbosch.gov.za</a></b>
<b>REPORT DATE</b>	<b>2018-08-20</b>

#### DIRECTOR: CORPORATE SERVICES

The contents of this report have been discussed with the Portfolio Committee Chairperson on 3 October 2018 and the Councillor supports the recommendations.

# **APPENDIX 2**



### OFFICIAL NOTICE

#### PROPOSED DISPOSAL OF ERF 111, KAYAMANDI TO THE UNITED REFORMED CHURCH IN SOUTHERN AFRICA (URCSA)

Notice is hereby given in terms of par. 9.2.2.1 of Stellenbosch Municipality's Policy on the Management of Council-owned property of the Municipality's intention to dispose of erf 111, Kayamandi, to the URCSA at no cost (gratis transfer).

#### Background

The URCSA, Kayamandi, is leasing erf 111, Kayamandi, from Stellenbosch Municipality since 1967. The lease is on a year-to-year basis. As they want to invest in the expansion of the church building, they have now applied to purchase the land. Having considered the matter on 2018-10-31, Council resolved as follows:

- “(a) that erf 111, Kayamandi, be identified as land not needed to provide the minimum level of basic municipal services;*
- (b) that Council approves the request from the URCSA, Kayamandi;*
- (c) that the request is approved in principle on a private treaty basis, i.e. without following a public tender process, subject to the following conditions:*
  - (i) that the property is donated to URCSA, Kayamandi*
  - (ii) that a reversionary clause be inserted in the title deed of the property, should the property not be used for religious/social care purposes anymore or be sold in future;*
- (d) that Council's intention to dispose of the property through a donation be advertised for public inputs/objections/counter proposals, as provided for in par 9.2.2.1 of the Property Management Policy;*
- (e) the property is donated due to the long history of use by the church and the fact that it is used for, inter alia, for social care purposes for the broader community in Kayamandi; and*
- (f) that, following the public participation process, the matter be re-submitted to Council to make a final decision on the disposal, or not” .*

#### Further Particulars:

Further particulars, including the agenda item that served before Council, are available at the office of the Manager: Property Management during office hours.

#### Invitation to submit written inputs/objections/counter proposals

Any interested and effected party who wishes to submit inputs/objections/counter proposals to the proposed donation of erf 111 to the URCSA, can do so by submitting it in writing to the Manager: Property Management on or before 20<sup>th</sup> December 2018.

Inputs/objections/counter proposals can be submitted by hand, posted or send by e-mail to:

Physical Address: 3<sup>rd</sup> Floor  
Absa (Oude Bloemhof) Building, Corner of Plein and Rhyneveld Street  
Stellenbosch  
7600

Postal address: PO Box 17  
Stellenbosch  
7599

e-mail: [piet.smit@stellenbosch.gov.za](mailto:piet.smit@stellenbosch.gov.za)

In terms of the provisions of Section 21(4) of the Municipal Systems Act, anyone who cannot read or write is welcome to contact the office of the Manager: Property Management for assistance.

**G METTLER**  
MUNICIPAL MANAGER

**DATE: 2018-11-12**

# **APPENDIX 3**

VALUATION REPORT OF ERF 111, KAYAMANDI

# MARKET VALUATION REPORT

OF ERF 111

CNR MANYANO & MAKAPULA STREETS

KAYAMANDI



**HCB Property Valuations**

29 Church Street  
Moorreesburg  
7310

**Tel:** 086 142 2669 **Fax:** 086 514 8551

**Email:** [admin@hcb.co.za](mailto:admin@hcb.co.za)

**VALUATION REPORT OF ERF 111, KAYAMANDI****LIMITATIONS AND RESTRICTIONS**

This valuation report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is valued free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. All engineering information is assumed to be correct. The plans and illustrative material in this report are included only to assist the reader in visualizing the property.
6. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
7. It is assumed that there is full compliance with all applicable state and local environmental regulations and laws unless non-compliance is stated, defined and considered in the valuation report.
8. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless non-compliance is stated, defined and considered in the valuation report.
9. It is assumed that all required licenses, certificates of occupancy, consents or other legislative or administrative authority from any local or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.
10. It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespassing unless noted in this report.



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Signature

## VALUATION REPORT OF ERF 111, KAYAMANDI

## LIMITATIONS AND RESTRICTIONS

This valuation report has been made with the following general limiting conditions.

1. The apportionment, if any, of the total valuation figure in this report between land and improvements applies only under the stated client instructions and is hypothetical. The separate allocations for land and buildings must not be used in conjunction with any other valuation and are invalid if so used.
2. Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the valuer, and in any event only with proper written qualification and only in its entirety.
3. The valuer herein by reason of this valuation is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
4. Neither all nor part of the contents of this report (especially conclusions as the value, the identity of the valuer, or the firm with which the valuer is connected) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the valuer.
5. Neither the whole nor any part of this valuation report or certificate or any reference thereto may be included in any published document, circular or statement, or published in any way without the valuer's written approval of the form and context in which it may appear. The publication shall deem to include references in company accounts and/or director's reports or any other company statement or circular.
6. The valuation is prepared on the basis that full disclosure of all information and facts which may affect the valuation, has been made to the valuer and no liability or responsibility will be accepted whatsoever for the valuation unless such full disclosure has been made.
7. This valuation is solely for the use of the party to whom it is addressed in accordance with the instructions. Reliance on it by any third party cannot be regarded as reasonable and no responsibility to any third party is or will be accepted for the whole or any part of the valuation.
8. The valuer has no personal interest in the property.
9. In the unlikely event of the client incurring any losses due to negligence of the valuers, valuers in training and assistants, the aggregate amount of the damages recoverable against the valuer shall not exceed the fee for providing the service.



Signature

VALUATION REPORT OF ERF 111, KAYAMANDI
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VALUATION REPORT OF ERF 111, KAYAMANDI
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**1. CERTIFICATION**

I, Dean Stephen Ward, registered as a Professional Valuer in terms of the Property Valuers Profession Act 47 of 2000, in association with HCB Valuations and Services (Pty) Ltd and its valuers, do hereby certify that I have inspected and identified the subject property referred to in this report and have obtained all the necessary information to determine the market value thereof.

**2. INSTRUCTION**

Instruction was received from the Stellenbosch Municipality to attend to the valuation of the property being Erf 111 Kayamandi situated in Kayamandi Township. The brief was to value the land as if vacant. The land will be sold to the Franschhoek United Reformed Church of Southern Africa (URCSA) who are the current tenants.

➤ *Please see Annexure 1 for instruction*

**3. DATE OF VALUATION**

The date of the valuation is 1 November 2018.

**4. TITLE DEED DESCRIPTION**

Information obtained from the Deeds Office indicates that the property is held by Title Deed No. T10209/2009.

Registered owner	-	Stellenbosch Municipality
Erf	-	111
In extent	-	1025m <sup>2</sup>
Servitude	-	Normal rights in favour of Statutory Bodies. The Title Deeds have not been inspected.
Date of acquisition	-	Not applicable
Purchase Price	-	Not applicable
Land Restitution Claims	-	The property is not subject to any land claim.

➤ *Please see Annexure 2 for Windeed Property Report*

**5. SURVEYOR GENERAL INFORMATION**

The subject erf is rectangular in shape and face a northerly direction.

➤ *Please see Annexure 3 for copy of CSG Diagram*

**6. LOCAL GOVERNMENT INFORMATION**

The subject property falls within the jurisdiction of the Stellenbosch Municipality.

VALUATION REPORT OF ERF 111, KAYAMANDI
--

**7. ZONING INFORMATION**

Upon an informal enquiry from the Zoning Department, the following information was obtained:

Zoning	-	Institutional II
Permitted Usage	-	Place of Worship
Actual Usage	-	Place of Worship
Coverage	-	50%
Height Restriction	-	No restriction
Parking Restrictions	-	1 Parking bay for every 20 seats

No rezoning application or proposed street widening has been noted.

➤ *Please see Annexure 4 for copy of Zoning Certificate.*

**8. MUNICIPAL VALUATION AND INFORMATION**

The Municipal Valuation, based on the 2016 General Valuation is as follows:

Erf 111	-	R3,294,000-00
---------	---	---------------

All municipal services and electricity is available and can be provided by the Municipality.

**9. INSPECTION REPORT**

The property was identified and inspected on 01 December 2018.

**10. LOCALITY**

The subject property is situated in the established suburb in Kayamandi on the outskirts of the town of Stellenbosch. It is within walking distance of all social amenities and transport. Kayamandi was founded in the early 1950's to house exclusively black migrant male labourers employed on the farms in the Stellenbosch area.

➤ *Please see Annexure 5 for Locality Map*

**11. PHYSICAL DESCRIPTION**

The subject comprises of a face-brick church building which as instructed has been excluded from this valuation.

➤ *Please see Annexure 7 for Photos of Subject Property*

VALUATION REPORT OF ERF 111, KAYAMANDI
--

**12. MARKET VALUE DEFINITION**

Market value is defined by the International Valuation Standards Council as: "The estimated amount for which an asset should exchange, on the date of valuation, between a willing buyer and a willing seller, in an arms-length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion".

**13. HIGHEST AND BEST USE**

This is described as the most probable use of a property, which is physically possible, appropriately justified, legally permissible, financially feasible and which results in the highest value of the property being valued. In order for the property to be developed a rezoning application may be required and building plan approval.

**14. MARKET OVERVIEW AND SURVEY**

Kayamandi is a popular area with regard to sales in the area, a major portion of the sales which take place in the area is mainly to low income earners and repossession sales.

**15. METHOD OF VALUATION**

The Comparable Sales Method of valuation is considered to be the most suitable method to employ in order to establish the market value of the subject property. In applying the Comparable Sales Method, it is necessary to investigate the sales of similar type properties that have been sold as well as comparable properties which are on the market.

The above information is compared to the subject property, which involves judgments as to the degree of similarity with regard to value factors such as location, construction type, age, condition and layout. The sales of properties, which are most comparable, tend to set the range in which the value of the subject property will fall. Further consideration of comparative data will indicate to the valuer a figure representing the value of the subject property in keeping with the definition of value sought as at the date of valuation.

**16. COMPARABLE SALES**

There are no vacant comparable sales which could be located in the areas of Kayamandi, Cloetesville, and Idasvallei. The following municipal valuations taken from the valuation roll have been used as proxy sales in the absence of comparable sales.

VALUATION REPORT OF ERF 111, KAYAMANDI
--

**16.1 Proxy Sales – Kayamandi**

ERF NO.	DATE OF VALUATION	MARKET VALUE	AREA OF ERF
1. Erf 92	01/07/2016	R42,000-00	198m <sup>2</sup>
2. Erf 329	01/07/2016	R30,000-00	192m <sup>2</sup>
3. Erf 636	01/07/2016	R30,000-00	180m <sup>2</sup>
4. Erf 640	01/07/2016	R30,000-00	180m <sup>2</sup>

It is assumed the Municipal Valuer had vacant land sales which were used in the determination of the valuation entries on the General Valuation Roll. However, these sales could not be traced.

**16.2 Broker Opinions**

The valuer consulted with numerous agents and brokers regarding vacant land sales in Kayamandi. Most brokers and agents consulted offered opinions of between R150-00 and R180-00 per square metre depending on size.

**17. DETERMINATION AND ADJUSTMENT TO VALUE**

Based on the above research and consultations it is the opinion of the valuer that the rate per square metre for the determination of value is between R150-00 and R180-00 per square metre. Therefore, as per the instruction in section 2 the open market value of the subject property is calculated at R133,250-00 (1025m<sup>2</sup> @ R130/m<sup>2</sup>).

## VALUATION REPORT OF ERF 111, KAYAMANDI

**18. CERTIFICATION OF VALUATION**

I hereby certify that I have identified the subject property and obtained all the necessary information to determine the market rental thereof.

Accordingly, I hereby certify that in my opinion, to the best of my knowledge, skill and expertise, the market value of the subject property as identified in Section 2 as at 1 December 2018 to be R135,000-00 (One hundred and thirty-five thousand rand).



---

**Dean Stephen Ward**  
Professional Valuer  
Registration Number: 3453

12 December 2018  
Date of Signature



---

**Hendrik Coenraad Botha**  
Professional Associated Valuer  
Registration Number: 5601

12 December 2018  
Date of Signature



---

**Ockert Brits**  
Professional Valuer  
Registration Number: 6876

12 December 2018  
Date of Signature

**19. CAVEATS**

This valuation has been prepared on the basis that full disclosure of all Information and factors which may affect the valuation have been made to Ourselves and we cannot accept any liability or responsibility whatsoever for the Valuation, unless such full disclosure has been made.

- Valuation Standard

This valuation has been prepared in accordance within the guidelines of the South African Institute of Valuers for valuation reports.

- Statutory Notices and Unlawful Use

We have assumed that the property and its value are unaffected by any statutory notice or condition of Title where Title Deeds have not been inspected, and that neither the property nor its condition, nor its use, nor its intended use, is or will be unlawful.

- Confidentiality

This valuation is produced exclusively for the Stellenbosch Municipality and for the specific purpose to which it refers. It may be disclosed to your other professional advisers assisting you in respect of that purpose. We accept no responsibility whatsoever to any parties other than yourselves who make use of this valuation.

- Non-Publication

Kindly note that neither the whole nor any part of this report, nor any reference thereto maybe included in any published document, circular or statement, nor published in any way without our prior written approval at to the form or context in which it may appear.

20. ANNEXURES  
20.1 Annexure 1 – Instruction

VALUATION REPORT OF ERF 111, KAYAMANDI



AMPTELIKE BESTELLING  
OFFICIAL ORDER

## Stellenbosch

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

• 17 STELLENBOSCH 7509  
 TR 021 808 8520  
 F 021 808 8666

**HCB WAARDASIE DIENSTE BK**  
**POSBUS 247**  
**MOORREESBURG**  
  
**7310**

KREDITEURE NR  
CREDITORS NO **011531**

BESTEL NR. / ORDER NO.  
**351802**

DATUM / DATE  
**13/11/2018**

KONTAK PERSOON / CONTACT PERSON  
**ANNELENE ROOIFONTEIN**  
 Requisition No. **1063823**

REKWISISIE REQUISITION LINE	LYN LINE	VOORRAAD NR. STOCK NO.	BESKRYWING / DESCRIPTION	POS NR. / VOTE NO.	HOEVEELHEID QUANTITY	PRYSE SONDER BTW PRICES WITHOUT VAT	BTW/VAT	TOTALE PRYS TOTAL PRICE
			<b>APPOINT PROFESSIONAL VAL UERS FOR THE VALUATION OF VARIOUS PO</b>			<b>4000.00</b>	<b>600.00</b>	<b>4600.00</b>

NAMENS / FOR: **STELLENBOSCH**

STADSRAAD  
TOWN COUNCIL

HAND-TEGESKRYFTE  
SIGNATURE

*Stakol*  
*SCW*

HAND-TEGESKRYFTE  
SIGNATURE

*ibule*

**TOTAAL  
TOTAL** ▶

**4600.00**

<b>VALUATION REPORT OF ERF 111, KAYAMANDI</b>
---



**STELLENBOSCH**  
 STELLENBOSCH • PNEL • FRANSCHHOEK  
 MUNISIPALITEIT • MUNICIPALITY • MUNICIPAALITY

---

## **PROPERTY MANAGEMENT**

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**TO / AAN** : SCM  
**FROM / VAN** : Manager: Property Management  
**DATE / DATUM** : 2018-08-14  
**RE / INSAKE** : APPOINTMENT OF PROFESSIONAL VALUERS FOR THE VALUATION OF VARIOUS PORTIONS OF LAND ADJACENT TO KAYAMANDI

---

**1. PURPOSE OF REPORT**

The purpose of this memo is to provide a *brief/T.O.R* for the appointment of two valuers on a written quotation basis.

**2. BACKGROUND**

**2.1 Need for independent valuations**

Over the past two (2) weeks private land, adjacent to Kayamandi, was invaded. Temporary structures were erected. Although a court-order was obtained by the owner to prevent people from moving onto his land, very little or no attempts were made to stop people from moving onto the land.

Although the Municipality is in the process of acquiring (negotiations are on-going) various portions of land from the owner, including the land that has now been invaded, consideration is now given to the possible expropriation of the specific portion(s) of land that has been invaded, in terms of the Housing Act.

**2.2 Property description**

The area which has been invaded is situated to the west of Kayamandi, as indicated on Fig 1, below.

VALUATION REPORT OF ERF 111, KAYAMANDI



Fig 1

The area to be expropriated, measuring approximately 20.47ha in extent, is indicated in Fig 2 below.



Fig 2

**VALUATION REPORT OF ERF 111, KAYAMANDI**

The area consists of 3 portions of land, being:

- A portion of Rem. Farm 5/183, measuring approximately 17.84 ha in extent
- Remainder portion of Farm 1/182, measuring 1.4175ha in extent.
- A portion of Rem. Farm 182, measuring approximately 1.11ha in extent, as shown on fig 3-5 below.



Fig 3



Fig 4

VALUATION REPORT OF ERF 111, KAYAMANDI
--



Fig 5

### 2.3 Proposed expropriation: Determination of market value

In terms of the powers vested in it by Section 156 (1) (b) of the Constitution of the Republic of South Africa, 1996, Section 9 (3) (a) of the Housing Act, read with and in terms of Sections 1, 6 to 15 and 18 to 23 of the Expropriation Act, the Municipality must, as a first step obtain the permission of the MEC to expropriate such land before the notice of expropriation is published in the Provincial Gazette.

Further, in terms of Section 12 of the Expropriation Act, the amount of compensation to be paid to an owner shall not exceed *"the amount which the property would have realized if sold on the date of the notice in the open market by a willing seller to a willing buyer, and an amount to make good any actual financial loss caused by the expropriation"*. Further, an amount *"equal to one per cent (but not exceeding R10 000) of the amount by which it exceeds R1M"* must be paid.

To enable the Department to advise the Municipality (and the MEC), the land in question needs to be valued by two independent valuers on the basis set out in the Expropriation Act referred to above (R/ha).

VALUATION REPORT OF ERF 111, KAYAMANDI

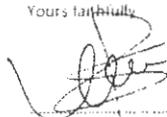
**2.4 Compulsory briefing session**

A compulsory briefing session must be organised in collaboration with the undersigned

**2.5 Minimum requirements**

Prospective bidders must be registered professional valuers.

Yours faithfully



PIET SMIT

MANAGER: PROPERTY MANAGEMENT

<b>VALUATION REPORT OF ERF 111, KAYAMANDI</b>
---

## 20.2 Annexure 2 – Windeed Property Report

Printed: 2018/12/11 07:39


  
 A LexisNexis® Product

Deeds Office Property

KAYA MANDI, 111. 0 (CAPE TOWN)

**GENERAL INFORMATION**

Deeds Office	CAPE TOWN
Date Requested	2018/12/11 07:39
Information Source	DEEDS OFFICE
Reference	-



**PROPERTY INFORMATION**

Property Type	ERF
Erf Number	111
Portion Number	0
Township	KAYA MANDI
Local Authority	STELLENBOSCH MUN
Registration Division	NOT AVAILABLE
Province	WESTERN CAPE
Diagram Deed	T10209/2009
Extent	1025.0000SQM
Previous Description	-
LPI Code	C06700250000011100000

**OWNER INFORMATION**

Owner 1 of 1

Company Type	LOCAL AUTHORITY
Name	MUN STELLENBOSCH
Registration Number	
Title Deed	T10209/2009
Registration Date	2009/03/10
Purchase Price (R)	CRT
Purchase Date	
Share	
Microfilm Reference	2009 0180
Multiple Properties	NO
Multiple Owners	NO

**ENDORSEMENTS (1)**

#	Document	Institution	Amount (R)	Microfilm
1	GENERAL PLAN FROM	TOWN KAYA MANDI ERF 288 ,PRTN 0	UNKNOWN	

**HISTORIC DOCUMENTS (1)**

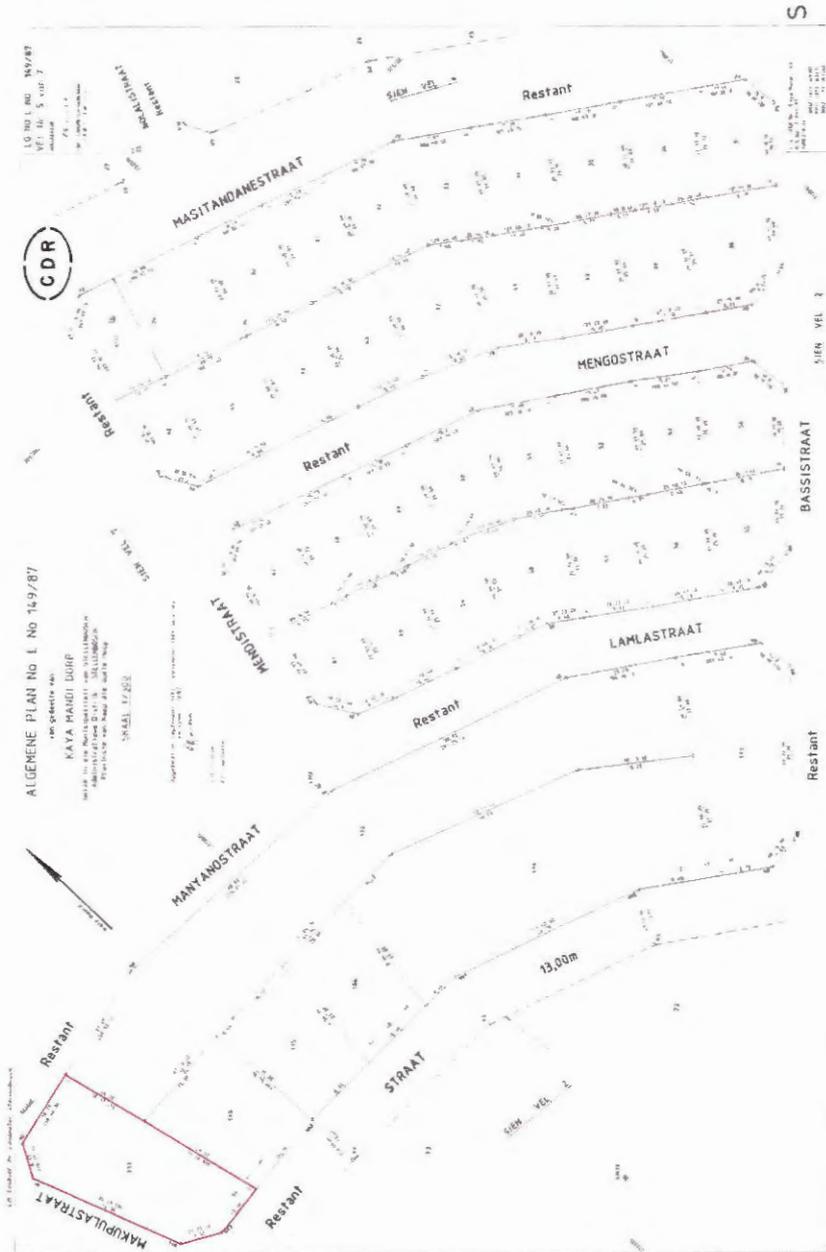
#	Document	Owner	Amount (R)	Microfilm
1	T43399/2000	MUN STELLENBOSCH		G/P 2009 0183 2417

**DISCLAIMER**

This report contains information gathered from our suppliers and we do not make any representations about the accuracy of the data displayed nor do we accept responsibility for inaccurate data. WinDeed will not be liable for any damage caused by reliance on this report. This report is subject to the terms and conditions of the WinDeed End User Licence Agreement (EULA).

VALUATION REPORT OF ERF 111, KAYAMANDI

20.3 Annexure 3 – Chief Surveyor General Diagram



VALUATION REPORT OF ERF 111, KAYAMANDI

**20.4 Annexure 4 – Zoning Certificate**



**STELLENBOSCH**  
 STELLENBOSCH • FRIEL • FRANSCHROEK  
 MUNISIPALITEIT • UMATIPALA • MUNICIPALITY

*Our Ref.* Erf 111, Kaya Mandi  
*Contact number* (021) 908 9006  
*Date* 17 May 2011

**ZONING CERTIFICATE**

**ERF 111, KAYA MANDI.**

It is hereby certified that the zoning of Erf 111, Kaya Mandi in terms of the Town Planning Conditions for the Town Planning Scheme of Kaya Mandi is:

**INSTITUTIONAL II**

ZONING	PRIMARY USES	CONSENT USES <i>Land uses allowed with the consent of Council</i>
Institutional II	Place of Worship	None

  
 Director: Planning & Development

*Please Note* When discrepancies exist between the zoning information contained in this certificate and any Council decision, Council's decision overrides the contents of this zoning certificate.

TELEFON: 021 908 9006 • FAKSIFON: 021 908 9007 • WEEKEND- en VRIEDAGS: 021 908 9008 • STELLENBOSCH • 7130  
 021 908 9006 • WEEKEND- en VRIEDAGS: 021 908 9007 • STELLENBOSCH • 7130 • E-MAIL: MUNICIPALITEIT@STELLENBOSCH.GOV.ZA

VALUATION REPORT OF ERF 111, KAYAMANDI

20.5 Annexure 5 – Locality Map

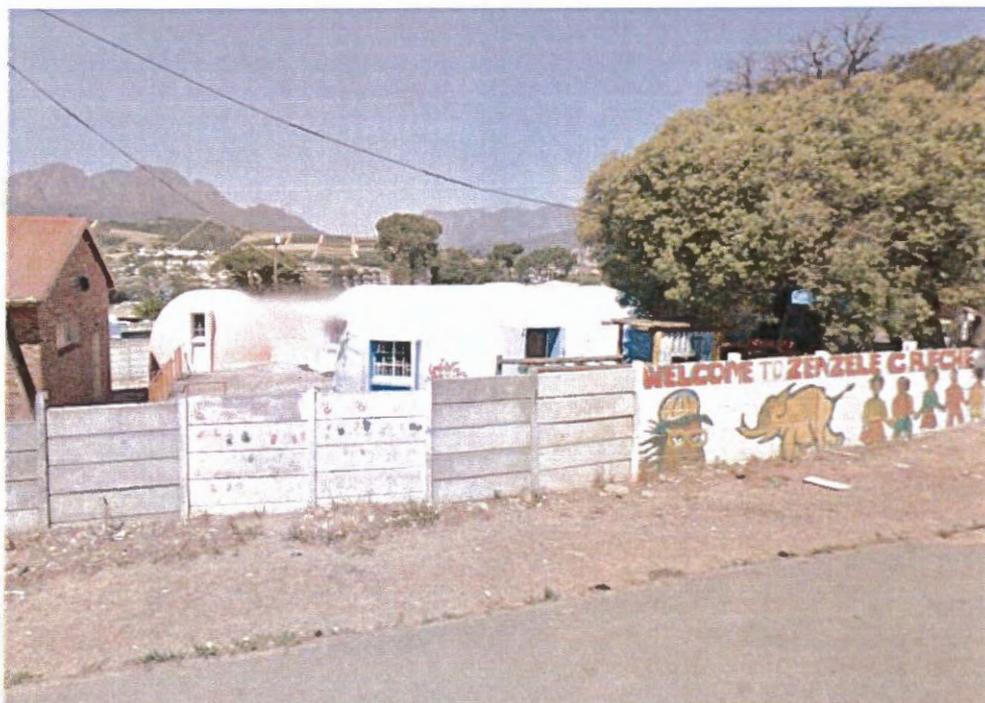


VALUATION REPORT OF ERF 111, KAYAMANDI

20.6 Annexure 6 – Aerial Photo



20.7 Annexure 7 – Photo of Subject Property



## VALUATION REPORT OF ERF 111, KAYAMANDI

20.8 Annexure 8 - Valuation Certificate

Highest Standard Reliability

**Valuation Certificate**

Client:	Stellenbosch Municipality
Erf Number:	Erf 111
Suburb:	Kayamandi
Owner:	Stellenbosch Municipality
Extent:	1025m <sup>2</sup>
Date of Valuation:	01 November 2018
Reference Number:	SBM/2018/12/12/111
Market Value:	R135,000-00

**COMMENTS:**

- This certificate must be read together with attached Valuation Report

A handwritten signature in blue ink, appearing to read 'Botha'.

**Hendrik Coenraad Botha**  
Professional Associated Valuer  
Registration Number: 5601

A handwritten signature in blue ink, appearing to read 'Dean Stephen Ward'.

**Dean Stephen Ward**  
Professional Valuer  
Registration Number: 3453

**Branches**

**Head Office**  
PO Box 247  
29 Church Street  
Moorreesburg  
7310  
Tel – 022 433 2035  
Fax – 086 514 8551

**Company Email**  
[admin@hcb.co.za](mailto:admin@hcb.co.za)

20.9 Annexure 9 – Valuer's Certificates / Qualifications



SOUTH AFRICAN COUNCIL FOR THE  
**PROPERTY VALUERS  
PROFESSION**

This is to certify that

**DEAN STEPHEN WARD**

is registered as

*Professional Valuer*

In terms of section 20(2)(a) of the  
Property Valuers Profession Act, 2000

DATE OF REGISTRATION AS: Professional Valuer: 28 March 2014

DATE OF ISSUE: 14 May 2014

PERIOD OF VALIDITY: 28 March 2014 - 31 March 2019

M Kubuzie  
President



REGISTRATION No: 3453

MC Seota  
Registrar

VALUATION REPORT OF ERF 111, KAYAMANDI



SOUTH AFRICAN COUNCIL FOR THE  
**PROPERTY VALUERS  
PROFESSION**

This is to certify that

**HENDRIK COENRAAD BOTHA**

is registered as

*Professional Associated Valuer*

in terms of section 20(2)(a) of the  
Property Valuers Profession Act, 2000,

subject to the following condition(s):

PERMITTED TO PERFORMING WORK IN PROPERTY VALUATION FOR RATING AND ENDOWMENT PURPOSES FOR A LOCAL GOVERNMENT AS DEFINED IN THE LOCAL GOVERNMENT MUNICIPAL PROPERTY RATES ACT, 2004 (ACT NO. 6 OF 2004), AND COMMERCIAL VALUATIONS

WORK IN PROPERTY VALUATION OTHER THAN THAT REFERRED TO IN PARAGRAPH 1 MUST BE PERFORMED UNDER SUPERVISION AND CONTROL OF A PROFESSIONAL PERMITTED TO PERFORMING ALL TYPES AND PURPOSES OF PROPERTY VALUATION (SUPERVISOR)

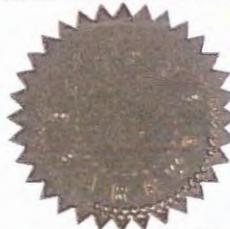
THE WORK REFERRED TO IN PARAGRAPH 2 MUST BE SIGNED BY THE REGISTERED PERSON CONCERNED AND COUNTERSIGNED BY THE SUPERVISOR TO CERTIFY THAT THE WORK HAS BEEN PERFORMED UNDER HIS/HER SUPERVISION BEFORE SUBMISSION THEREOF TO THE CLIENT.

A COMPLETE RECORD OF THE DETAILS OF SUCH OTHER WORK IN PROPERTY VALUATION MUST BE KEPT

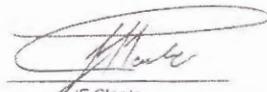
DATE OF REGISTRATION AS: Professional Associated Valuer: 11 November 2013

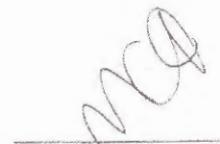
DATE OF ISSUE: 18 October 2018

PERIOD OF VALIDITY: 11 November 2018- 30 June 2023

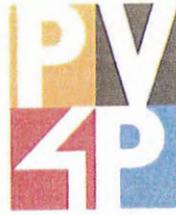


REGISTRATION No: 5601

  
JF Cloete  
President

  
MC Seta  
Registrar

VALUATION REPORT OF ERF 111, KAYAMANDI



**SOUTH AFRICAN COUNCIL FOR THE  
PROPERTY VALUERS  
PROFESSION**

This is to certify that

**OCKERT BRITS**

is registered as

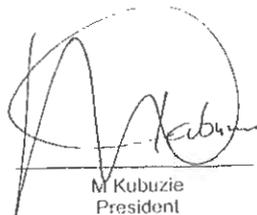
*Professional Valuer*

In terms of section 20(2)(a) of the  
Property Valuers Profession Act, 2000

DATE OF REGISTRATION AS: Professional Valuer: 21 November 2014

DATE OF ISSUE: 25 November 2014

PERIOD OF VALIDITY: 21 November 2014 - 30 November 2019



M Kubuzie  
President



REGISTRATION No: 6876



MC Seota  
Registrar

7.2.3	<b>IDENTIFICATION OF POSSIBLE TRUST LAND IN PNIEL: WAY FORWARD</b>
-------	--

Collaborator No:

IDP KPA Ref No:

Meeting Date:

*Organisational Transformation*

13 February 2019

**1. SUBJECT: IDENTIFICATION OF POSSIBLE TRUST LAND IN PNIEL: WAY FORWARD**

**2. PURPOSE**

To report on the public participation process followed and to consider any further input to the minister, if any.

**3. DELEGATED AUTHORITY**

Council

**4. EXECUTIVE SUMMARY**

Following a Notice by the Minister for Rural Development and Land Reform in terms of Section 9 (1) (a) of the Transformation of Certain Rural Areas Act, No 94 of 1998, a copy of which is attached as **APPENDIX 1**, a letter was addressed to the Minister, setting out a Process Plan and some background information on the identified portions of land, a copy of which is attached as **APPENDIX 2**.

This was followed by a report to Council on 2017-01-25, recommending a way forward. Having considered the report, Council resolved as follows:

**RESOLVED** (nem con)

- (a) *that the content of the notice of the Minister, be noted;*
- (b) *that the process plan as set out in par. 3.1.5, submitted to the Minister, be endorsed;*
- (c) *that the Municipal Manager be authorised to attend to the public participation process as set out in paragraph 3.1.5;*
- (d) *that the proposed allocations, as set out in paragraph 3.1.4, be supported in principle; and*
- (e) *that, following the public participation process, a progress report be submitted to Council to deal with the submissions received as a consequence of the public participation process, whereupon final recommendations will be made to the Minister regarding the allocation/transfer of so-called Section 3 Trust land”.*

A copy of the agenda item that served before Council is attached as **APPENDIX 3**.

Following the above resolution, the public participation process approved by Council, was implemented. The inputs received from the public were sent to the Minister. A consultant contacted Mr Smit at the end of 2018 to indicate that they have been appointed by the minister and the inputs received in the public participation process was given to the consultant again. We had no further feedback from the Minister’s office since.

**5. RECOMMENDATION**

that Council take note of the progress to date and consider further recommendations/comments, if any, to the minister.

**6. DISCUSSION****6.1 Background**

Council resolved that a public participation process must be followed before further recommendations are made to the Minister. The process has taken place and Council is herewith informed regarding the process and inputs received.

**6.2.1 Process Plan**

On 2017-01-25 Council, *inter alia* approved a Process Plan, setting out the Public Participation process envisaged.

**6.2.2 Notice: Invitation for public comments/input**

Following the above resolution, a notice was published in the Eikestad News on 2017-03-02, informing the residents of Pniel of the notice published by the Minister (see par. 4, *supra*) and inviting them to comment/make written representation on the matters raised in the report to Council by not later than 7 April 2017. A copy of the notice is attached as **APPENDIX 4**.

**6.2.3 Written input received**

Following the above notice the following written inputs were received:

- **Pniel Rate Payers and Tenants Association:**

They indicated that:-

- a) they do not agree with the extent of erf 1 and portions 9/1173 and 1/1176, as shown in our report, and that they would make their findings available\*;
- b) they would support the notion of Portion C (being a portion of Farm 1201) being made available for residential development; whilst Portion A could be considered for the purpose of recreational use; and
- c) a portion of farm 1201 was already awarded to the Cyster Family Trust.

A copy of their letter is attached as **APPENDIX 5**.

\*To date no further information was received.

- **Cyster Family**

A letter was received from Schliemann Incorporated Attorneys, acting on behalf of Alroy and Andre Cyster, the heirs of the late Lance Cyster, indicating that some of the land identified in our report to Council is the subject of a Land Claim by their family

(KRK/6/2/3/A/12/0/1236/18 (C190) and can therefore not be transferred as suggested in the report. A copy of the letter is attached as **APPENDIX 6**.

#### **6.2.4 Letters to specific organisation/institution listed in Process Plan**

Letters were also addressed to the following organisations/institutions, as indicated in the Process Plan:

- Pniel Congregational Church: See **APPENDIX 7**
- Cyster Family Trust: See **APPENDIX 8**
- Pniel Transformation Committee: See **APPENDIX 9**.

#### **6.2.5 Meetings with specific Organisations/institutions**

Following the above letters, meetings were also scheduled with organisations/institutes listed in par. 6.1.4, where the content of our report to Council was explained, and they were again requested to make written inputs/representations. See attendance registers attached as **APPENDIX 10**.

#### **6.2.6 Written submissions received**

Following the meetings referred to above, and after follow-up letters in this regard the following written inputs were received:

- **Pniel Congregational Church**

Indicating that they would not be interested in taking transfer of the cemetery and requesting that the Municipality continue with its role to manage the cemetery as a public facility. See **APPENDIX 11**.

- **Pniel Transformation Committee**

Indicating that no transfer can take place unless the community has decided to which entities the land should be transferred. They further indicated that they are not in favour of the proposals set out in the report to Council, but have not submit any alternative proposals. See **APPENDIX 12**.

Following the above, further correspondences were send out to the Department and the Committee to, to clarify the issue of transfers, to which we had no feedback. See **APPENDIX 13**.

#### **6.3 Financial Implications**

None at this stage

#### **6.4 Legal Implications**

The legal implications will depend on the decision the minister takes.

#### **6.5 Staff Implications**

None at this stage.

#### **6.6 Previous / Relevant Council Resolutions**

Council resolution on 25 January 2017

**6.7 Risk Implications**

The risk of current projects being delayed as a result of not doing anything in respect of land acquisition.

**6.8 Comments from Senior Management**

This item was not circulated to Senior Management for comment.

**ANNEXURES:**

<b>Annexure 1:</b>	<b>Notice by the Minister</b>
<b>Annexure 2:</b>	<b>Letter to Minister</b>
<b>Annexure 3:</b>	<b>Council resolution</b>
<b>Annexure 4:</b>	<b>Notice for public comment/inputs</b>
<b>Annexure 5:</b>	<b>Letter from Pniel Ratepayers</b>
<b>Annexure 6:</b>	<b>Letter from Schliemann Incorporated</b>
<b>Annexure 7:</b>	<b>Letter to Congregational church</b>
<b>Annexure 8:</b>	<b>Letter to Cyster Family Trust</b>
<b>Annexure 9:</b>	<b>Letter to Pniel Transformation Committee</b>
<b>Annexure 10:</b>	<b>Attendance Register</b>
<b>Annexure 11:</b>	<b>Letter from Pniel Congregational Church</b>
<b>Annexure 12:</b>	<b>Letter from Pniel Transformation Committee</b>
<b>Annexure 13:</b>	<b>Further letter to the Minister and the Transformation Committee</b>

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	<b>Piet Smit</b>
<b>POSITION</b>	<b>Manager: Property Management</b>
<b>DIRECTORATE</b>	<b>Corporate Services</b>
<b>CONTACT NUMBERS</b>	<b>021-8088189</b>
<b>E-MAIL ADDRESS</b>	<b><a href="mailto:Piet.smit@stellenbosch.gov.za">Piet.smit@stellenbosch.gov.za</a></b>
<b>REPORT DATE</b>	<b>2018-03-12</b>

# **APPENDIX 1**

**GENERAL NOTICE IN TERMS OF TRANSFORMATION OF CERTAIN RURAL AREAS ACT  
NO. 94 OF 1998**

Notice is hereby given in terms of Section 9 (1) (a) of the Transformation of Certain Rural Areas Act, No. 94 of 1998 on the commencement of the Transformation period for the following:

**Board Areas** : PNIEL; SARON; SLANGRIVIER AND SUURBRAAK  
**Municipalities** : Stellenbosch, Drakenstein, Hessequa and Swellendam Local Municipalities, Western Cape Province

**Commencement Date**

Effectively from the date of the publication of this Notice,

1. A municipality of a board area must within 3 months after the date of this Gazette Notice submit a notice to the Minister of Rural Development and Land Reform setting out how and when it intends determining to which entity the land referred to as section 3 should be transferred; or
2. If the municipality fails to submit a notice, an elected committee, elected by the residents of the board Area who have reached the age of 18 years may submit such notice to the Minister of Rural Development and Land Reform.

NOTICES should be sent to:

The Minister of Rural Development and Land Reform  
Provincial Shared Service Centre  
Private Bag X9159  
Cape Town  
8000

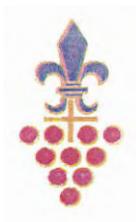
Tel: (021) 409 0323  
Fax: (021) 409 0563



**GUGILE NKWINTI (MP)  
MINISTER FOR RURAL DEVELOPMENT AND LAND REFORM**

DATE: 15/08/2016

# **APPENDIX 2**



2016-10-24

The Minister  
Department of Rural Development and Land Reform  
P/Bag x 833  
Pretoria  
0001

Dear Mr Nkwinti

**NOTICE IN TERMS OF TRANSFORMATION OF CERTAIN RURAL AREAS ACT, NO 94 OF 1998: SUBMISSION OF PROCESS PLAN/PROGRAM**

**1. PURPOSE**

The purpose of this letter is to submit a process plan/program as envisaged in your notice dated 30 September 2016.

**2. BACKGROUND**

**2.1 Establishment of Pniel Management Board**

Following the enactment of the Rural Areas Act, No 9 of 1987, the Pniel Management Board was established.

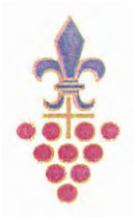
**2.2 Establishment of the Pniel Transitional Local Council**

On 30 December 1994 the Pniel Transitional Local Council was established in terms of the Local Government Transitional Act, No 209 of 1993, with the powers, duties and functions of a Management Board, as contemplated in the Rural Areas Act, No 9 of 1987, thereby replacing the Management Board.

**2.3 Establishment of Stellenbosch Municipality**

On 05 December 2000 the Stellenbosch Municipality was established. As of that date Stellenbosch Municipality became the successor in law of the dis-established municipalities (*inter alia* Pniel Transitional Local Council).

In terms of Section 16(S) of the said Establishment Notice it was specifically recorded that Stellenbosch Municipality would be the successor in law with reference to the matters set out in the



Transformation of certain Rural Areas Act and the Rural Areas Act.

#### 2.4 TRANCRAA Property reports

On 24 March 2016 a meeting took place with representatives of your Department. The purpose of the meeting was to discuss your Department's Property reports, identifying possible Section 3 (Trust) land. For ease of reference I attach a copy of the said reports as **APPENDIX 1** and **2**.

Your attention is specifically drawn to paragraph 2 (on pg. 1) of the report, where it is stated that *"Even though there is no clear proclamation that identify a remainder TRANCRAA property in Pniel,.....I have tried to point out properties that can possibly (own emphasis) form part of TRANCRAA"*.

In identifying the so-called Section 3 (Trust) land, your Department relied on three sources.

##### 2.4.1 Proclamation 78 of 1915

The Pniel Board Area was initially proclaimed by proclamation No 78 of 1915. This Proclamation was done in terms of section 27 of the Mission Stations and Communal Reserve Act, No 29 of 1909 (Cape). In terms hereof the Pniel Area, consists of 43.5398ha.

##### 2.4.2 Surveyor General Compilation sheets M 4749, M4750, M4442 and M4444

The total area of Pniel, as per the Surveyor General records is 43.4041ha. This is a discrepancy of 1357m<sup>2</sup> compared to the area mentioned in the proclamation referred to above.

##### 2.4.3 Proclamation 99 of 1968 (Cystergrond)

More land was incorporated (Cyster gronde) through Proclamation 99 of 1968. This proclamation was done in terms of Section 5 of the Rural Coloured Areas Act, No 24 of 1963. The total area of incorporation was 13.1706ha. Subsequently a portion of this land was transferred back to the Cyster Family Trust. What was left undeveloped was portion 7, measuring 7.2075ha in extent. This was later consolidated with portion 6 (not included in the proclamation), thus now totalling 11.7844ha. Portion 8 has subsequently been subdivided for township establishment, leaving a remainder of 6.8759ha.



The following land was subsequently identified as possible TRANCRAA land (Trust land) by your Department

- **Remainder Erf 1** (Based on Proclamation 78/1915), measuring 5.2992ha in extent, including the cemetery);
- **Portion 8 of Farm 120** (Proclamation 99 of 1968), measuring 6.8573ha in extent.
- **Remainder portion 6 of Farm 1173**, measuring 0.2764 ha in extent.
- **Remainder portion 1 of Farm 1176**, measuring 0.4640 ha in extent.

## 2.5 Draft report to Council

Please find hereto attached as **APPENDIX 3** a copy of a DRAFT agenda item that will hopefully serve before Council during December 2016.

The said report was discussed/presented to the Pniel Transformation Committee , (established by your Department) as well as the Ward Councillor for comments/inputs. To date no comments/inputs were received.

## 2.6 Publication of Notice in terms of Section 9(1)(a)

As you are aware, your notice in relation to Pniel, Saron, Slangrivier and Suurbraak was published in the Government Gazette of 30 September 2016.

In terms hereof we have 3 months to submit a report to you, setting out how and when we intends determining to which entity the land referred to as section 3 (trust) land should be transferred, failing which an elected committee may submit such report to you.

## 3. DISCUSSION

### 3.1 Discussion on land identified as possible trust land

Hereunder a list of properties identified as possible trust land in your Department's report referred to above.

#### 3.1.1 Erf 1

Erf 1 consists of three "portions" of land:

- Road;
- Cemetery; and
- P.O.S (next to river area)

as can be seen from Fig 1, below.



Fig 1

As indicated above, we are of the view that Erf 1 does not constitute Trust land, but forms part of the township land, i.e. land that vest with Stellenbosch Municipality.

Should our interpretation however, be wrong, i.e. that erf 1 indeed vests with the Minister, then the following “allocation” could be considered.

- **Road portion:** Vests with Municipality in terms of the Municipal Ordinance 20/1974
- **Cemetery portion:** Could be transferred to the Congregational Church, should they be interested in managing the facility as a church facility. In such an event the church will have to take over the maintenance of the facility as well. Alternatively it could be transferred to the Municipality (*status quo*) to manage the cemetery as a municipal cemetery (municipal function); and
- **Open Space portion:** If it is indeed deemed (zoned) a P.O.S, then the ownership will vest with the Municipality in terms of the Municipal Ordinance 20/1974. It could also be transferred to a legal entity, to be managed as a community facility picnic area, but then the legal entity should take responsibility for the management and maintenance thereof.



It should be noted that no development will be considered on this land, as it is in the floodplain of the Dwarsrivier.

### 3.1.2 Portion 8 of Farm 1201

Portion 8 of Farm 1201 also consists of 3 portions.

- Dam and surroundings: P.O.S;
- Restitution land; and
- Area next to reservoir: Local Authority

as can be seen from Fig 2, below.

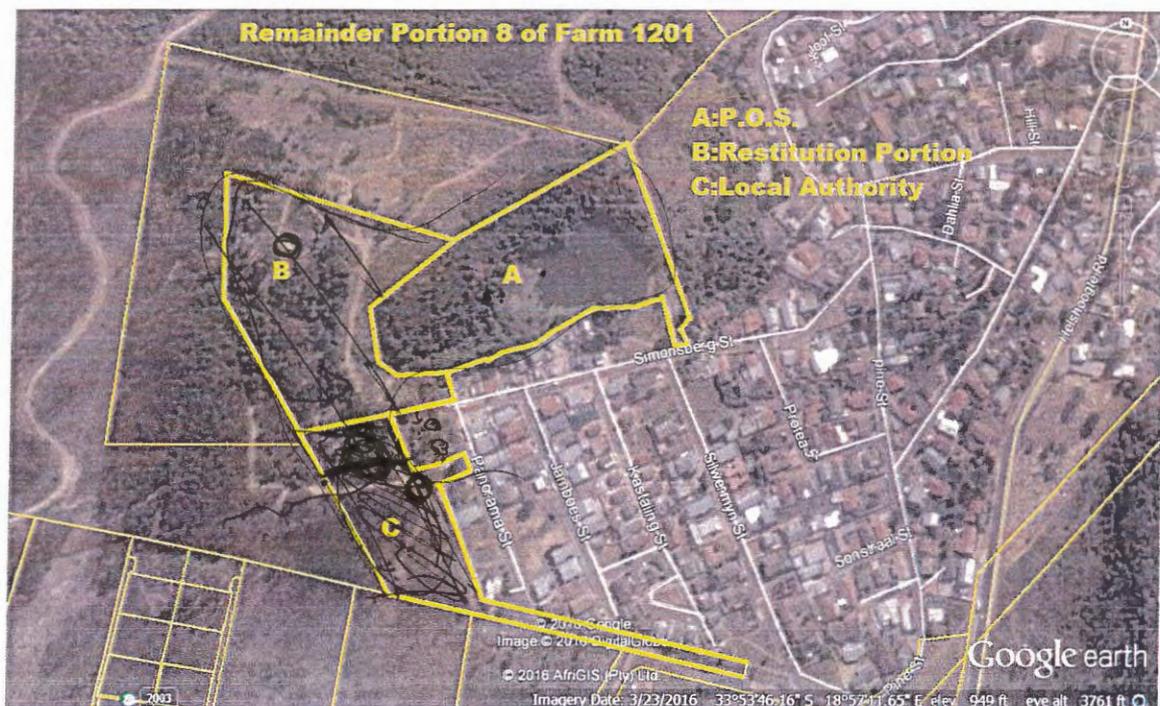


Fig 2

Similarly, we are of the view that Farm 1201/8 does not constitute trust land, as it was specifically purchased for its water-rights, and to construct a dam for the town, i.e. a municipal service.

Also note that a big portion (approximately 2ha) has already been allocated to the Cyster Family Trust in terms of a **Tri-lateral Settlement Agreement** concluded in September 2000 between the



Cyster Family Trust, the Pniel Transitional Council and the (then) Department of Land Affairs.

See letter attached as **APPENDIX 4** for more background.

The Engineering Department is in the process of planning for a further reservoir for the Dwarsrivier area. The area next to the existing reservoir (marked as C on Fig 2) has been identified for this purpose.

Should our interpretation, however be wrong, i.e. that Farm 1201/8 indeed vests with the Minister, then the following "allocations" could be considered.

- **Dam portion:** To be transferred to the Municipality
- **Restitution portion:** To be transferred to the Cyster Family Trust in terms of the Settlement Agreement
- **Area next to reservoir:** To be transferred to the Municipality for municipal use (reservoir).

### 3.1.3 Remainder portions 6/1170 and 1/1176

The above land units consist of 2 portions:-

- Road
- P.O.S

as can be seen from Fig 3, below.





Similarly, we are of the view that these portions of land does not constitute trust land. Should our interpretation, however be wrong, i.e. that the land indeed vests with the Minister, then the following “allocations” could be considered.

- **Road portions:** Vests with the municipality in terms of the Municipal Ordinance 20/1974.
- **P.O.S:** If it is indeed deemed (zoned) a P.O.S, then the ownership will vests with the Municipality in terms of the ordinance 20/1974. Alternatively it could be transferred to the Congregational Church, should they be interested, to be used as an extension of the cemetery. Alternatively it could be transferred to a legal entity.

**Please note:** In terms of your Department’s own Information Document entitled “A to Z of the TRANCRAA”, a copy of which is attached as **APPENDIX 5**, it is indicated that “*The Pniel area of 55ha is governed in terms of township establishment legislation and **no transformation process is envisaged***”.

#### 3.1.4 Transitional period: Way forward

In terms of your Notice we must, within 3 months from date of your notice, i.e. before 31 December 2016, submit a report to you, setting out how and when we intends determining to which entity the land referred to above should be transferred, insofar as it is applicable.

As can be seen from the information presented to you above, there are very limited land available to be “allocated” and/or transfer to an entity (which may include the Municipality). For this reason we propose the following process:

- Step 1:** Submit a report to Council during December 2016, recommending the allocation /transfer of the various portions of land, as set out in the Draft Agenda item hereto attached as **APPENDIX 3**.
- Step 2:** Should Council indeed accept/approve of the proposals/recommendations contained in the Draft Agenda item, a notice will be published in a local newspaper(s) during February 2017, soliciting public inputs/comment on the proposed allocation/transfers.



- Step 3:** Simultaneously (February 2017) set up meetings with the Pniel Congregational Church, the Pniel Transformation Committee (established by your Department) and representatives of the Cyster Family Trust, to solicit their inputs/comments on the proposed allocations/transfers.
- Step 4:** Submit inputs/comments (if any) received as a consequence of the public participation process referred to under step 2 and 3 to the Department of Rural Development and Land Reform for their inputs by April 2017.
- Step 5:** Report back to Council during June 2017 on the comments/inputs received, and consider same before making a final recommendation to the Minister;
- Step 6:** Recommend to the Minister the allocations/transfers, as recommended by Council, during July 2017;
- Step 7:** Depending on the decision of the Minister, attend to the establishment of the legal entity agreed upon (where necessary) during Aug/September 2017.
- Step 8:** If approved by the Minister attend to the subdivision and rezoning of the land during September-October 2017; and
- Step 9:** Request the Department to attend to the actual transfer of the properties during November 2017.
- Step 10:** Minister to attend to the actual transfer of the various portions of land (January 2018-March 2018).

Yours faithfully

THE EXECUTIVE MAYOR  
ALDERMAN ADV. G.M.M VAN DEVENTER

# **APPENDIX 3**

**ENGINEERING & HUMAN SETTLEMENT COMMITTEE MEETING**

**IDENTIFICATION OF POSSIBLE TRUST LAND IN PNIEL: STATUS REPORT**

*File number* :  
*Report by* : *Director: HS and Property Management*  
*Compiled by* : *Manager: Property Management*  
  
*Delegated Authority* :

**Strategic intent of item**

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

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**1. PURPOSE OF REPORT**

The purpose of this report is two-fold:

- a) To provide Council with the legal requirements pertaining so-called trust land; and
- b) To provide Council with a progress report insofar as it relates to the identification of possible trust land.

**2. BACKGROUND**

**2.1 Promulgation of rural areas**

In terms of the Rural Areas Act (House of Representatives), No 9 of 1987, there are 23 rural areas in the country, classified as so-called "coloured reserves", where certain land is (was) held in trust for the respective communities, of which 12 are in the Western Cape.

**2.2 Establishment of Pniel**

The Pniel Management Board was subsequently established in terms of the said Act. On 30 December 1994 the Pniel Transitional Local Council was

established in terms of the Local Government Transitional Act, No 2009 of 1993.

In terms of this proclamation (No 142/1994), read with PN 58/1995, the Pniel Transitional Local Council replaced the Pniel Management Board. As from 17 March 1995 the Transitional Local Council was established, with the powers, duties and function of a Management Board contemplated in the Rural Areas Act.

Further, in terms of this proclamation all asset, liabilities, rights and obligations of the Management Board was devolved and was assigned to the Transitional Local Council. In terms of section 116, specifically, it is stated that "*the ownership of all immovable property of the aforesaid Management Board shall vest in the Transitional Local Council*".

### **2.3 Establishment of Stellenbosch Municipality**

In terms of Establishment Notice P.N. 489/2000, the Stellenbosch Municipality was established. With effect from the effective date Stellenbosch Municipality became the successor in law of the dis-established municipalities (*inter alia* Pniel Transitional Local Council).

In terms of Section 16(5) of the Establishment Notice it was specifically recorded that Stellenbosch Municipality would be the successor in law with reference to the matters set out in the Transformation of Certain Rural Areas Act and the Rural Areas Act.

## **3. DISCUSSION**

### **3.1. Legislative regime\***

#### **3.1.1 The Rural Areas Act, No 9 of 1987 (House of Representatives)**

The Rural Areas Act defines an "*incorporated area*" as "*an area consisting of one or more pieces of land (whether contiguous or not) which has been defined by proclamation\* under section 4(1) of Act 24 of 1963 (rural Coloured Areas Act, No 24 of 1963)*"

\*In the case of Pniel, see proclamation 99 of 1968

Section 7 of the Act provided as follows: "*Notwithstanding anything to the contrary contained in any law, but subject to the provisions of sections 8 and 9 of*

*this Act the land in any incorporated area shall on the fixed date vest in the Minister in trust for the community for division, allotment and disposal by the Minister under the provisions of this Act, and the Minister shall cause the title deed of such land to be endorsed accordingly in accordance with the provisions of section 11 of this Act”*

In terms of section 29(1) of the Act the Minister may:-

*“a) determine the persons who are on the fixed date entitled according to local usage to occupy or own land in the area defined in that proclamation, and their respective rights”*

Section 20(2)(a) of the Act provides that the Minister may, after consultation with a board of management, prepare a plan which provides for, *inter alia*, one or more residential areas in which provision is made for residential erven, business erven and erven for other purposes and for public use, for an agricultural area subdivided into lots of such size, shape and situation as the Minister may determine, and for an outer commonage, being the remaining extent of the board area for subdivision into farms for the exclusive use of registered occupiers of the area who carry on or will carry on farming to the satisfaction of the Minister.

Section 20(2)(b) and (c) are important. It provides that the Minister may, after consultation with the board of management:-

*“b) grant to every registered occupier an erf in the residential area and any other erf which may be allotted to him,*

*c) After an outer commonage has been subdivided into farms under paragraph (a)(iv), grant each such farm to a registered occupier of the board area who carries or will carry on farming to the satisfaction of the Minister”.*

Section 20(3) of the Act provides that, except with the approval in writing of the board concerned, land of which ownership has been acquired in terms of subsection 2(b) and (c), shall not be alienated to any person other than a registered occupier of the board area\* concerned.

\*Board area is defined as:

*“in relation to an existing area or an incorporated area, means the whole area, exclusive any portions thereof which have in terms of Act 24 of 1963 or Law 1 of 1979*

*or this Act been excluded from the provisions thereof, and includes any area incorporated therein in terms of Act 2 of 1963 or Law 1 of 1979 or this Act”.*

In terms of Proclamation R154 of 31 October 1994 the definition of “*Minister*” in terms of the Act was substituted with the following definition.

“*Minister*” means-

- a) *In so far as the administration of a provision of this Act has under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), been assigned to a competent authority within the government of a province and such provision is applied in or with reference to that province, the authority to whom the administration of that provision has been assigned in that province; or*
- b) *In so far as the administration of a provision of this Act has not been so assigned, the Minister of Land Affairs”.*

In terms of the same proclamation, and under section 235(\*) of the 1993 Constitution, the President assigned the administration of sections 20, 21 to 42, 45, 49, 49A, 50, 52 and 55, and section 53, 54 and 56, in so far as such sections are applied with reference to the previous provisions, to a competent authority within the jurisdiction of, *inter alia*, the Government of the Province of the Western Cape.

The Provincial Minister for Housing and Corporate Services subsequently authorises various provincial officials to act on his behalf and in his stead, in terms of sections 20(2)(b) and (c) and section 49(1) of the Rural Areas Act, in order to grant land to registered occupiers and to issue “*grond brieuwe*” in respect of erven and farms held in trust for a rural community. The same power of attorney also authorises the said officials to give effect to the registration of any land transferred to the municipality, in terms of section 2 of TRANCRAA\*.

### 3.1.2

#### **\*Transformation of certain Rural Areas Act, No 94 of 1998**

TRANCRAA was promulgated to give content to section 25(6) of the Constitution. Section 25(6) reads as follows:

*“A person or community whose tenure of land is legally insecure as a result of past racial discriminatory laws or practices is entitled, to the extent provided by an act of Parliament, either to tenure which is legally secure or to comparable redress”.*

TRANCRAA defines “*board area*” as:

*“an area, or part of an area, consisting of one or more pieces of land, whether they are contiguous or not, to which the provisions of the Rural Areas Act, 1987 applied immediately before the commencement of this Act”.*

The Act defines “remainder” as:

*“land situated in a board area other than township land, including land which has been planned, classified and subdivided as an agricultural area or outer commonage in terms of section 20(2) of the Rural Areas Act, 1987”.*

The Act defines “resident” as:

*“a person who, at the date of commencement of this Act-*

- a) Ordinarily resides in a board area; or*
- b) Under law is liable for the payment of assessment rates, rent, service charges or levies to the municipality concerned in respect of land situated in a board area”.*

The Act defines “township” as meaning:

*“Any township situated in a board area established, approved, proclaimed or otherwise recognised as such under any law”*

Finally, the Act defines “trust land” as meaning:

*“land situated in a board area that vests in the Minister in terms of section 7 of the Rural Areas Act, 1987”.*

In terms of Section 2 of TRANCRAA:-

- 1) At the commencement of this Act, all trust land **situated in a township must vest in the municipality** own emphasis of the area where such land is situated, subject to the continued existence of any registered or registrable rights of a person in or over a piece of land in the township;*
- 2) If the ownership of all the land held under a title deed vests in a municipality in terms of subsection (1), the registrar of deeds concerned must make such alterations and entries in his or her registers and such endorsements on any such title deed in terms of the second proviso to section 16 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), as are necessary to give effect to such vesting”*

Section 3(1)(a) of the Act provides that **trust land in the remainder or land in the remainder which vests in a municipality** in terms of a law listed in the Schedule, **may be transferred to any entity** at any time prior to the expiry of the **transitional period**. In terms of section 9, the transitional period is a period

of **18 months commencing on a date determined by the Minister** by notice in the Gazette.

Section 3(2) of the Act provides as follows:

*“(2) No transfer of land referred to in subsection (1) must take place unless the Minister is satisfied that, in the event of a transfer to-*

- a) A municipality, the legislation applicable to such a municipality; or*
- b) A communal property association or other body approved by the Minister, the rules of such association or body, make suitable provision for a balance of security of tenure rights and protection or rights of use of-*
  - i) The residents mutually;*
  - ii) Individual members of such a communal property association or other body;*
  - iii) Present and future users or occupiers of land, and the public interest of access to land on the remainder and the continued existence or termination of any existing right or interest of a person in such land”*

Section 3(3) of the Act provides that if, in the opinion of the Minister, the legislation or rules aforementioned do not fully achieve the objects of subsection(s), he or she may determine the terms and conditions for the transfer of such land, in order to achieve such objects.

In terms of section 3(4)(a) of the Act the municipality of a board area may, within three months after the commencement of the Act, and **must within three months after the commencement of the aforesaid transitional period, notify the Minister as to how and when it intends determining to which entity the land referred to in section 3(1) should be transferred.**

Section 3(6) provides that, **if the Minister**, after advertising the aforesaid notice, **is satisfied with the municipality’s recommendation, he or she must inform the municipality of his or her decision and must take steps to transfer such land to the entity concerned.**

In terms of section 4(1), when dealing with the land transferred to a municipality in terms of section 3(6), such municipality:

- “a) must afford residents a fair opportunity to participate in the decision making processes regarding the administration of the land;*
- b) must not discriminate against any resident;*

- c) *must give residents reasonable preference in decision about access to the land;*
- d) *must not sell or encumber the land, or any substantial part of it, without the consent of a majority of residents at a public meeting called for that purpose;*
- e) *is accountable to the residents;*
- f) *must manage and record effectively all financial transactions regarding the land; and*
- g) *has fiduciary responsibilities in relation to the residents”.*

Section 4(2) of the Act provides that, despite the provisions of any law regarding the disposal of municipal land in a township, the residents must be given reasonable preference to acquire land referred to in section 3(1).

From the above it is clear:-

- a) that, in terms of section 2(1) of TRANCRAA at the commencement of the Act, **all trust land situated in a township (must) vest in the municipality** of the area concerned.

In this regard, the definition of “erf” in the Deeds Registries Act 47 of 1937 is relevant, viz:

*“every piece of land registered as an erf, lot, plot or stand in a deeds registry, and includes every defined portion, not intended to be a public place, of a piece of land laid out as a township, whether or not it has been formally recognised, approved or proclaimed as such”.*

- b) that, in terms of Section 2(2) of TRANCRAA the **Registrar of Deeds must give effect to such vesting**, in terms of the second proviso to section 16 of the Deeds Registries Act.

In the circumstances, it is clear that when section 2(1) refers to property vesting in a municipality, it has the meaning contemplated in the aforesaid second proviso, viz **that the municipality has acquired the land concerned from another authority**, i.e. “*Minister*”, referred to in the Rural Areas Act. **By necessary implication** therefore, “*the Minister*”, however defined, **is divested of any right to deal with such property**, notwithstanding the formal registration thereof.

Accordingly, at the commencement of TRANCRAA, **all trust land situated in the Pniel township vested in the municipality**, and the Minister, however defined, was concomitantly divested of any control or rights in respect of such property.

The fact that ownership remained registered in the name of Minister or the Community of Pniel is irrelevant. Section(2) of TRANCRAA makes provision for bringing the administrative details of the ownership of such property into consonance with the legal consequence of section 2(1) of the Act. **Accordingly, if the circumstances contemplated in section 2(1) exist, it follows that the Registrar of Deeds has no discretion as to whether to comply with the requirements of section 2(2) of TRANCRAA.**

It must also be noted that the **Minister has no role to play in the application of section 2(2) of TRANCRAA.** That Section requires the Registrar of Deeds to give effect to the legal situation that arises upon the coming into being of the jurisdictional facts contemplated in section 2(1) of TRANCRAA.

\*Based on a legal opinion compiled by Adv. I.Jamie, S.C on 19 November 2013.

### **3.1.3 TRANCRAA property report**

On 24 March 2016 a meeting took place with representatives of the Department of Rural Development and Land Reform. The purpose of this meeting was to discuss the Department's reports (Phase 1 and Phase 2 reports) on the identification of possible so-called Trust land in Pniel. Copies of the reports are attached as **APPENDIX 1**.

In identifying so-called Section 3 (Trust) land, the Department relied on three sources.

#### **3.1.3.1 Proclamation 78 of 1915**

The Pniel Board Area was initially proclaimed by proclamation No 78 of 1915. (See Fig 1 of report 1). This Proclamation was done in terms of section 27 of the Mission Stations and Communal Reserve Act, No 29 of 1909 (Cape). In terms hereof the Pniel Area, consists of 43.5398ha.

#### **3.1.3.2 Surveyor General compilation sheets M 4749, M4750, M4442 and M4444**

The total area of Pniel, as per the Surveyor General records is 43.4041ha. This is a discrepancy of 1357m<sup>2</sup> compared to the area mentioned in the proclamation referred to above. (See Fig 2 of report 1)

#### **3.1.3.3 Proclamation 99 of 1968 (Cystergrond)**

From the noting sheet it is also noted that more land was incorporated (Cyster gronde) through Proclamation 99 of 1968 (See Fig 3 of report 1). This

proclamation was done in terms of Section 5 of the Rural Coloured Areas Act, No 24 of 1963. The total area of incorporation was 13.1706ha. Subsequently a portion of this land was transferred back to the Cyster Family Trust. What was left undeveloped was portion 7, measuring 7.2075ha in extent. This was later consolidated with portion 6 (not included in the proclamation), thus now totalling 11.7844ha. Portion 8 has subsequently been subdivided for township establishment, leaving a remainder of 6.8759ha.

The following land was subsequently identified as possible TRANCRAA land (Trust land) by the Department.

- **Remainder Erf 1** (Based on Proclamation 78/1915), measuring 5.2992ha in extent, including the cemetery, as shown on Fig 1.2 of report 2;
- **Portion 8 of Farm 120** (Proclamation 99 of 1968), measuring 6.8573ha in extent.

### 3.1.4 Discussion on possible TRANCRAA land

#### 3.1.4.1 Erf 1

Erf 1 consists of three “portions” of land:

- Road;
- Cemetery; and
- P.O.S (next to river area)

as can be seen from Fig 1, below.

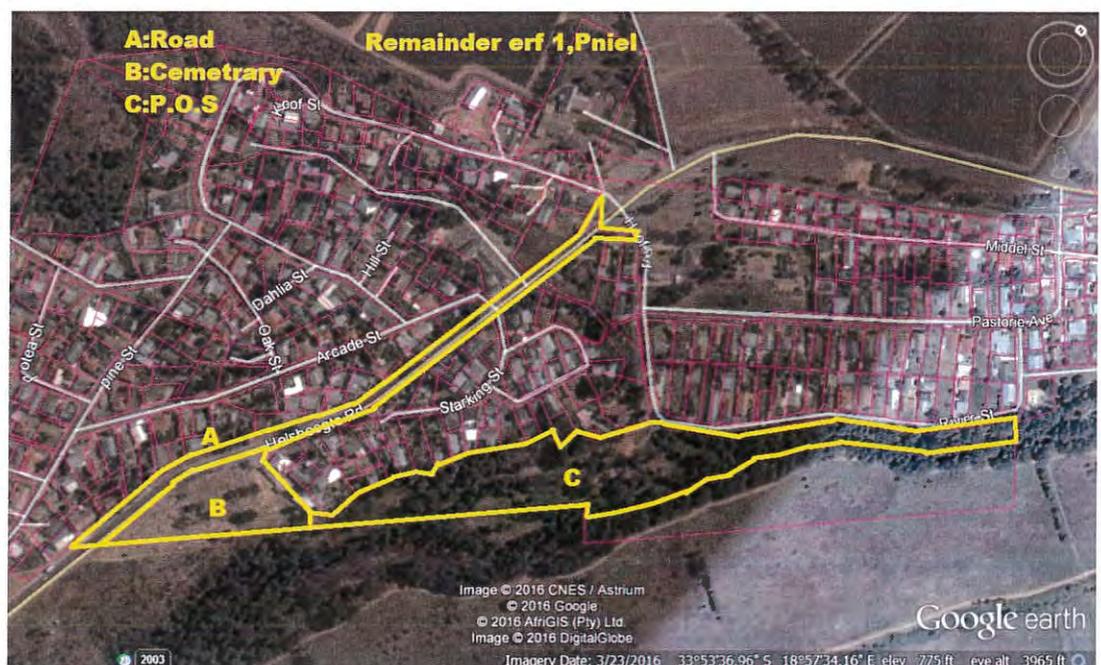


Fig 1:

In my view Erf 1 does not constitute Trust land, but forms part of the township land, i.e. land that vest with Stellenbosch Municipality.

Should our interpretation however, be wrong, i.e. that erf 1 indeed vests with the Minister, then the following “*allocation*” could be considered.

- **Road portion:** Vest with Municipality in terms of Municipal Ordinance
- **Cemetery portion:** Could be transferred to the Congregational Church, should they be interested in managing the facility as a church facility. In such an event the church will have to take over the maintenance of the facility as well. Alternatively it could be transferred to the Municipality (*status quo*) to manage the cemetery (municipal function); and
- **Open Space portion:** If it is indeed deemed (zoned) a P.O.S, then the ownership will vest with the Municipality in terms of the Municipal Ordinance.

#### 3.1.4.2 Portion 8 of Farm 1201

Portion 8 of Farm 1201 also consists of 3 portions.

- Dam and surroundings: P.O.S;
- Restitution land; and
- Area next to reservoir: Local Authority

as can be seen from Fig 2, below.

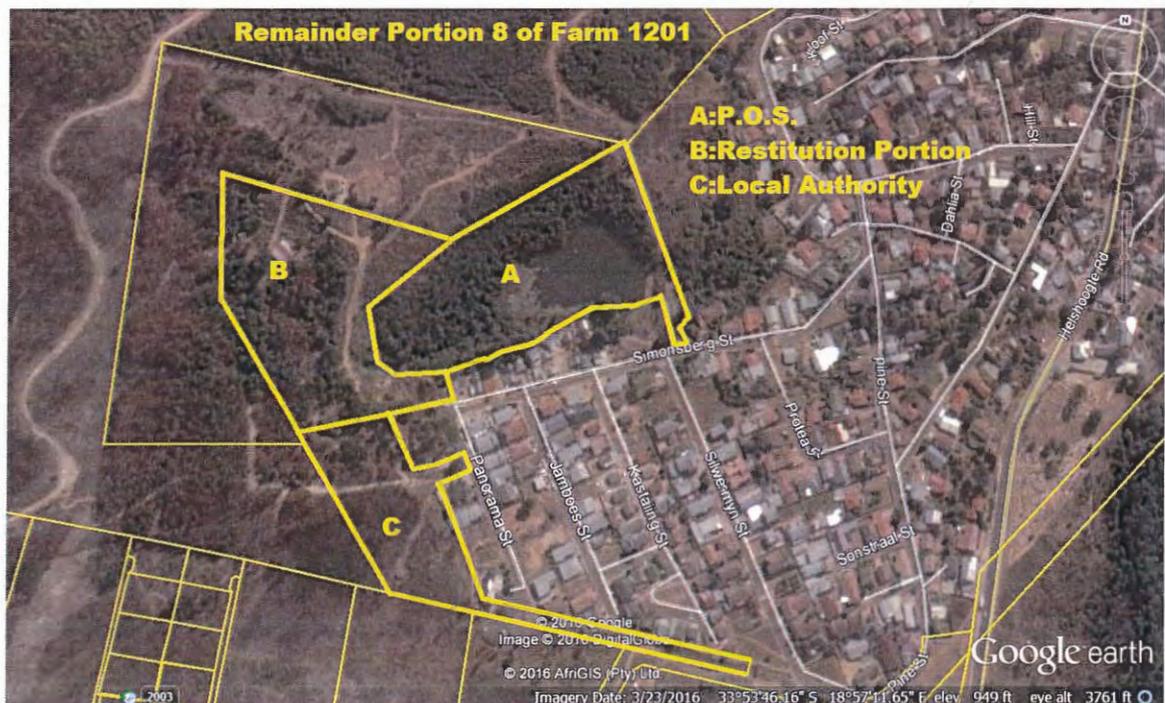


Fig 2.

In my view Farm 1201/8 does not constitute trust land, as it was specifically purchased for its water-rights, and to construct a dam for the town, i.e. a municipal service.

\*Also note that a big portion (approximately 2ha) has already been allocated to the Cyster Family Trust in terms of a Trilateral Settlement Agreement concluded in September 2000 between the Cyster Family Trust, the Priel Transitional Council and the (then) Department of Land Affairs. See letter attached as **APPENDIX 2** for more background.

The Engineering Department is in the process of planning for a further reservoir for the Dwarsrivier area. The area next to the existing reservoir has been identified for this purpose.

Should our interpretation, however be wrong, i.e. that Farm 1201/8 indeed vests with the Minister, then the following “allocations” could be considered.

- **Dam portion:** To be transferred to the Municipality
- **Restitution portion:** To be transferred to the Cyster Family Trust in terms of the Settlement Agreement
- **Area next to reservoir:** To be transferred to the Municipality for municipal use (reservoir).

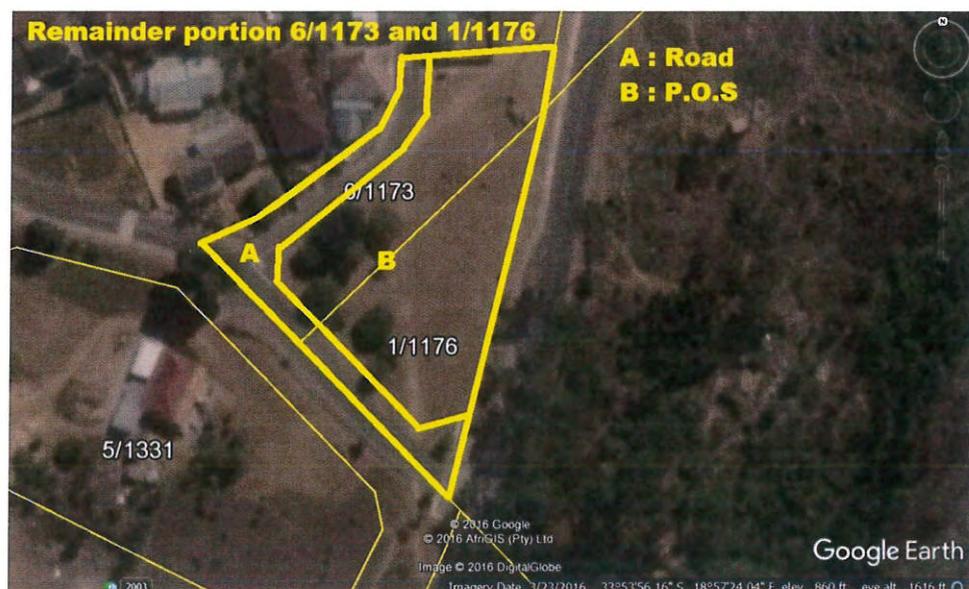
### 3.1.4.3

#### Remainder portions 6/1170 and 1/1176

The above land units consist of 2 portions:-

- **Road**
- **P.O.S**

as can be seen from Fig 3, below.



Similarly, we are of the view that these portions of land does not constitute trust land. Should our interpretation, however be wrong, i.e. that the land indeed vests with the Minister, then the following “allocations” could be considered.

- **Road portions:** Vests with the municipality in terms of the Municipal Ordinance 20/1974.
- **P.O.S:** If it is indeed deemed (zoned) a P.O.S, then the ownership will vests with the Municipality in terms of the ordinance 20/1974. Alternatively it could be transferred to the congregational church, should they be interested, to be used as an extension of the cemetery. Alternatively it could be transferred to a legal entity to be developed.

**Please note:** In terms of the Department of Rural Development & Land Reform’s own information document entitled “*A to Z of the TRANCRAA*”, a copy of which is attached as **APPENDIX 3**, it is indicated that “*The Pniel area of 55ha is governed in terms of township establishment legislation and no transformation process is envisaged*”.

### 3.1.5 Transitional period: Way forward

Section 3(1) of TRANCRAA provides that trust land in the remainder or land in the remainder which vests in a municipality, may be transferred to an **entity at any time prior to the expiry of the transitional period**.

In terms of Section 9 the transitional period is a period of **18 months** commencing on a date determined by the Minister by notice in the Gazette\*.

\*On 30 September the Minister for Rural Development and Land Reform published a Notice in terms of Section 9(1) (a) of the TRANCRAA Act, a copy of which is attached as **APPENDIX 4**.

In terms hereof the Municipality must, within 3 months after the date of the proclamation, submit to the Minister a report setting out **how and when it intends determining to which entity** (if any) **the land referred to in section 3 should be transferred**, failing which an elected committee, elected by residents of Pniel, may submit such report to the Minister. A letter has subsequently been submitted to the Minister, setting out the following process plan:

- Step 1:** Submit a report to Council during December 2016, recommending the allocation /transfer of the various portions of land as set out in paragraph 3.1.4 (supra).
- Step 2:** Should Council indeed accept/approve of the proposals/recommendations set out in paragraph 3.1.4 (supra), a notice will be published in a local newspaper(s) during February 2017, soliciting public inputs/comment on the proposed allocation/transfers.
- Step 3:** Simultaneously (February 2017) set up meetings with the Pniel Congregational Church, the Pniel Transformation Committee (established by your Department) and representatives of the Cyster Family Trust, to solicit their inputs/comments on the proposed allocations/transfers.
- Step 4:** Submit inputs/comments (if any) received as a consequence of the public participation process referred to under step 2 and 3 to the Department of Rural Development and Land Reform for their inputs by April 2017.
- Step 5:** Report back to Council during June 2017 on the comments/inputs received, and consider same before making a final recommendation to the Minister;
- Step 6:** Recommend to the Minister the allocations/transfers, as recommended by Council, during July 2017;
- Step 7:** Depending on the decision of the Minister, attend to the establishment of the legal entity agreed upon (where necessary) during Aug/September 2017.
- Step 8:** If approved by the Minister attend to the subdivision and rezoning of the land during September-October 2017; and
- Step 9:** Request the Department to attend to the actual transfer of the properties during November 2017.
- Step 10:** Minister to attend to the actual transfer of the various portions of land (January 2018-March 2018).

#### **4. INPUTS FROM OTHER DEPARTMENTS**

##### **4.1 Planning Department**

This Directorate supports the conclusion that the land in question vests with the Municipality and that therefore it should be dealt with as set out in paragraph 3.1.4 above.

##### **4.2 Legal Services**

The item and recommendations are supported.

**4.3 Finance Department**

None

**4.4 Engineering Department**

None

**5. CONCLUSION**

In terms of the Pniel TRANCRAA Property Reports, it is clear that the Department of Rural Development & Land Reform has identified 4 portions of land as **possible** trust land, to be dealt with in terms of Section 3 of TRANCRAA. This department is of the view that these pieces of land already vests with the Municipality.

It is clear from the Department's reports, however, that they have a different view. In light of the above it is

**RECOMMENDED**

- (a) That the content of the notice of the Minister be noted;
- (b) that the process plan set out in par. 3.1.5, submitted to the Minister, be endorsed;
- (c) that the Municipal Manager be authorised to attend to the public participation process set out in paragraph 3.1.5;
- (d) that the proposed allocations, as set out in paragraph 3.1.4 be supported in principle;
- (e) that, following the public participation process, a progress report be submitted to Council to deal with the submissions received as a consequence of the public participation process, whereof final recommendations will be made to the Minister regarding the allocation/transfer of so-called Section 3 Trust land.

**5<sup>TH</sup> COUNCIL MEETING: 2017-01-25: ITEM 7.5.1****RESOLVED** (nem con)

- (a) that the content of the notice of the Minister, be noted;
- (b) that the process plan as set out in par. 3.1.5, submitted to the Minister, be endorsed;
- (c) that the Municipal Manager be authorised to attend to the public participation process as set out in paragraph 3.1.5;
- (d) that the proposed allocations, as set out in paragraph 3.1.4, be supported in principle; and
- (e) that, following the public participation process, a progress report be submitted to Council to deal with the submissions received as a consequence of the public participation process, whereupon final recommendations will be made to the Minister regarding the allocation/transfer of so-called Section 3 Trust land.

Meeting: Ref no:	5 <sup>th</sup> Council:2017-01-25 17/4/3	Submitted by Directorate: Author Referred from:	Human Settlements T Mfeya Mayco:2017-01-18
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# **APPENDIX 4**



**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEK  
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY



**NOTICE: INVITATION FOR PUBLIC COMMENTS/INPUTS**

Notice is hereby given that the Minister of Rural Development and Land Reform had published a Notice in terms of Section 9(1)(a) of the Transformation of Certain Rural Areas Act No 94 of 1998 on 30 September 2016 triggering a period of 18 months (transitional period) in which to deal with the so-called land in the remainder or land in the remainder which vests in the municipality in Pniel.

In terms of Section 3(1) of the Act, such land may be transferred to an entity, which may include the municipality, at any time prior to the expiry of the transitional period.

Further, in terms of the notice referred to above, the Municipality had to submit a report to the Minister, setting out how and when it intends determining to which entity (if any) the land referred to in section 3 should be transferred. Such a report has subsequently been submitted to the Minister, setting out a process plan.

During a Council meeting held on 2017-01-25 the said process plan was endorsed. At the said meeting the proposed allocations of the various portions of land has also been approved (supported) in principle.

Notice is further given in accordance with Section 21 of the Local Government: Municipal Systems Act, No :32/2000 that:

- a) The local community and interested persons/parties are invited to submit comments or representations to the Municipality in respect of the above process, such comments or representations must be received by no later than 07 April 2017 via electronic mail to the e-mail address provided below, or be delivered to the undersigned to the mailing address provide hereunder;
- b) Copies of the notice, report to the Minister as well as the report that served before Council are available from the undersigned during office hours.

Further details and clarity may be requested via e-mail from [pietsmit@Stellenbosch.gov.za](mailto:pietsmit@Stellenbosch.gov.za)

**Physical Address:**  
3rd Floor  
Oude Bloemhof (ABSA) building  
Pleinstreet  
Stellenbosch  
7600

**Mailing Address:**  
The Manager: Property Management  
Stellenbosch Municipality  
PO Box 17  
Stellenbosch  
7699

Persons who are physically disabled or unable to write, but who wants to participate in the process, may present themselves during office hours at the office of the undersigned where a staff member will assist them to transcribe the relevant comments or representations.

**BOEDELKE**

BESTORWE BOEDE  
KOKER  
GEBORTEDATUM: 02  
IDENTITEITSNOMMER  
LAASTE ADRES: 33  
VALLEI, STELLENBOSC  
DATUM OORLEDE: 06/  
MEESTERVERWYSING

Alle persone met vor  
bestorwe boedel moet di  
van publikasie hiervan b  
gemagtigde agent inlewe

**REYNEKE ATTORNEYS**  
CAROLEE REYNEK  
EKSEKUTEUR)  
Per adres Reyneke Att  
26 Boegoebos, Kleinbr  
STRAND, 7140  
Tel: 072 197 8499



M

**Call to**

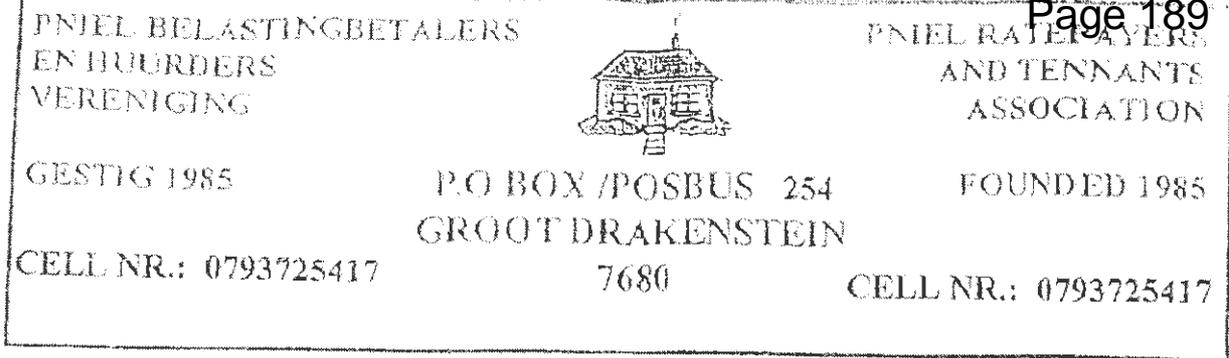
Due to the sev  
Municipality an  
scenic landscap

**\*The businesse**

By placing buck  
of your business  
beauty, redu

Please fee  
Maindre

# **APPENDIX 5**



**FOR ATTENTION: THE MANAGER/PROPERTY MANAGEMENT**

**27<sup>TH</sup> MARCH 2017**

**OUR REF.6/9/12**

The Manager  
 Property Development  
 Stellenbosch Municipality  
 P.O.Box 17  
**STELLENBOSCH**  
**7599**

Dear Sir/ Madam

**RE: TRANSFORMATION OF CERTAIN RURAL AREAS ACT NO 94 OF 1998 OF LAND IN THE REMAINDER OF WHICH REST IN THE MUNICIPALITY OF PNIEL AS ADVERTISED IN EIKENSTAD NEWSPAPER OF 09-03-2017**

We have study the copies of the notice in detail and bring the following to your attention:

1. Fig.1 shows remainder of ERF 1 extends which are not true as indicated on your sketch. Pniel Ratepayers and Tenants association has done a research in connection which above matters and will make findings available as soon as possible
2. Fig.2 shows remainder of portions of the farm 1201 extend which is true, of which a portion already was submitted to the Cyster Family Trust as Land Claims settlement, portion C must be allocated to Pniel community for residential development. Portion A surrounding the existing dam could be considered for the purpose of recreational.
3. Fig.3 shows remainder of 9/1173 and 1/1176, extend, which is also not true. We will make above findings available as soon as possible.

Yours Faithfully

.....  
**ROLAND SAMUELS**  
**CHAIRPERSON**

*R. Samuels*



# **APPENDIX 6**

**Piet Smit**

---

**From:** Piet Smit  
**Sent:** Friday, April 07, 2017 11:27 AM  
**To:** 'Andries Van Aswegen'  
**Subject:** RE: COMMENT ON NOTICE IN TERMS OF SECTION 9(1) OF THE TRANSFORMATION OF CERTAIN RURAL AREAS ACT, 94 OF 1998 REGARDING LAND IN PNIEL

Thank-you for your e-mail and letter, the content of which has been noted.

Please note that land claimants per ce is not a municipal competency ;it is handled by the Land Claimants Commissioner(Department of Rural development and Land reform).I will ,however inform Council of your client's claim ,when they consider recommendations to the Minister of Rural development and Land reform. In the mean - time I would request/advise that your client, as a matter of urgency, contact the Land Claimants Commissioner ,with the request that they provide your client with a status quo report, i.e. confirmation that a claim was lodged ,and provide me with copies thereof.

Kind regards  
Piet

-----Original Message-----

From: Andries Van Aswegen [mailto:andries@schliemann.co.za]  
Sent: Thursday, April 06, 2017 4:50 PM  
To: pietsmit@stellenbosch.gov.za  
Cc: Piet Smit  
Subject: [EX] COMMENT ON NOTICE IN TERMS OF SECTION 9(1) OF THE TRANSFORMATION OF CERTAIN RURAL AREAS ACT, 94 OF 1998 REGARDING LAND IN PNIEL

Dear Sirs

Above matter refers.

Attached hereto for your kind attention.

Yours faithfully

Andries van Aswegen

SCHLIEMANN INCORPORATED

Phone: +27 (0)21-8527511 | Fax: +27 (0)21-8527540 | E-mail: [andries@schliemann.co.za](mailto:andries@schliemann.co.za)

Address:15 Fairview Centre Caledon Street, Somerset West 7130 | PO Box 1503, Somerset West 7129

Confidentiality: This e-mail is intended for the addressee only, and contains confidential information which may be legally privileged. If you are not the intended recipient kindly notify the sender immediately by return e-mail and delete the original message. You may not copy it or disclose its contents to any person.

-----Original Message-----

From: nashua@schliemann.co.za [mailto:nashua@schliemann.co.za]  
Sent: 06 April 2017 17:46  
To: Andries Van Aswegen <andries@schliemann.co.za>  
Subject: Message from "RNP002673CC251D"

This E-mail was sent from "RNP002673CC251D" (MP 2501).

Scan Date: 04.06.2017 17:46:29 (+0200)

Queries to: [nashua@schliemann.co.za](mailto:nashua@schliemann.co.za)

Mnr Alroy Cyster  
Pinestraat 1  
Pniel  
7681  
5 Junie 2007

Mnr K Kruger  
Departement Korporatiewe Dienste  
Stellenbosch Munisipaliteit  
Posbus 17  
STELLENBOSCH  
7681

ONTEIENING VAN EIENDOM VAN MY WYLE VADER  
MNR LOT HENDRIK CYSTER

In 1963 was my wyle vader Mnr Lot Cyster die eienaar van erwe 1201/1 en 1201/3.

Pniel Bestuursraad was op daardie stadium besig met dorpsontwikkeling en het 'n tekort aan water gehad om in die Pniel se gemeenskap se behoeftes te voorsien. My wyle vader se gronde was ryk aan waterbronne en die Pniel Bestuursraad het 'n versoek aan die staat geërig om die gronde wat aan my pa behoort het te vervreem.

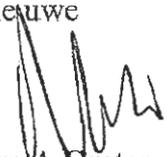
Ons die kinders van wyle Mnr LH Cyster, het in 1997 'n grondeis aanhangend gemaak, wat deur die Kommissie van grondeise aanvaar was, met 'n verwysings nommer "C190". Hierdie eis is in die proses om deur die Grondeise kommissie aangespreek te word.

Die Gronde ter sprake beslaan 'n gedeelte van die nuut uitgebreide Cyster-gronde ontwikkeling asook die gedeelte rondom die besproeiingsdam te Pniel. ( oorspronklike gedeeltes Erf 1201/1 en 1201/3 ).

Daar is huidiglik geen ruimte vir ontwikkeling in Pniel nie en indien ons grondeis suksesvol is, wil ons graag met alternatiewe eiendom vergoed word.

Indien enige ontwikkeling in die toekoms op die Cystersgronde beplan sou word, die raad kennis moet neem van die betrokke eis no. "C190".

Diesuwe

  
Mnr A Cyster

Posbus 103  
PNIEL  
7681

6 Maart 2008

Dr. L. Mortimer  
Direkteur: Kooperatiewe Dienste  
Munisipaliteit Stellenbosch  
STELLENBOSCH  
7599

Geagte Heer

**I/S GROND EISE: EISNR. C190 CYSTERGRONDE PNIEL**

As gevolg van die groepsgebiede wetgewing van 1962 was die gronde van die blankes naamlik die Cyster onteien. Ons vader Mnr. Lotter Hendrik Cyster was bevoorreg om die gedeeltes van plaas 1201/1 en 1201/3 te koop.

Gedurende 1963 het die voormalige Departement van Kleurlingsake druk op hom geplaas en die gronde terugge-eis aangesien die enigste waterbron van die dorp op die bestaande gronde geleë is. Hulle het ook die grond benodig vir toekomstige uitbreiding van die dorp.

In 1995 het ons as familie 'n aansoek ingedien in gevolge die wetgewing op die herstel van grondregte. Ons as familie was van mening dat die gronde wederregtelik van ons vader ontnem was. 'n Grondeis is geregistreer deur die departement van grondeise met die verwysingsnommer C190 van 1995.

Na aanleiding van bogenoemde inligting en 'n versoek vanaf Mnr. Sam Molepo, Adjunk-Direkteur van Provinsiale grondeise, wil ons u vriendelik versoek om 'n gesamentlike vergadering te belê met die volgende rolspelers:

1. Mnr. Sam Molepo – Adjunk-Direkteur Grondeise: Tel: (021) 426 2930
2. U self en of amptenare van u departement
3. Afvaardiging van Cyster familie

Ons sal dit hoog op prys stel indien so 'n vergadering spoedig moontlik sal plaasvind.

Die uwe

LANCE LOT CYSTER (Namens Cyster familie)

Tel: 084 206 1057 (Sel)  
(021) 885 1779 (Huis)  
(021) 876 2360 (Werk)

Posbus 103  
PNIEL  
7681

27 Februarie 2009

Mnr. Kruger  
Stellenbosch Munisipaliteit  
STELLENBOSCH

Geagte Mnr. Kruger

**ONDERWERP: GROENDEIS NR. C190 CYSTERGRONDE PNIEL**

Dit het onder my aandag gekom dat die Munisipaliteit 'n gedeelte van die Cystergronde vervreem het vir behuising.

Ek wil net weer onder u aandag bring dat 'n grondeis op die grond geregistreer is en dat dit in 'n skrywe gedateer 6 Maart 2008 onder u aandag gebring was, asook 'n persoonlike besoek aan u.

Gesien in die lig van bogenoemde besluit wil ek net verneem wat ons verder te doen staan. Ek hoop op 'n spoedige antwoord van u.

LANCE LOT ~~CYSTER~~  
(NAMENS CYSTER FAMILIE)

## GRONDEISE

30 Augustus 2012-08-31

In sake: CYSTERGRONDE PNIEL VERWYSING C190

### Agtergrond en geskiedenis

Met die groepsgebiede wet in 1962 was plaas 1201 in besit van sogenoemde Blanke Cysters naamlik JJ Cyster en C Cyster.

As gevolg van die wetgewing moes die twee eienaars afstand doen van die plaas deurdat die gebied van Pniel geproklameer was as 'n sogenoemde Kleurlinggebied.

As gevolg van sentimentele waarde en historika van die plaas as Cystergronde, was Mnr LH Cyster, geregistreeerde kleurling van die gebied van Pniel, genader. Mnr LH Cyster het die eerste opsie gehad om die grond te koop met die doel om gronde as Cystergronde te behou.

Mnr LH Cyster het ingewillig om die gronde te koop en die gronde was oorgedra en in sy naam geregistreeer. In 1963 was Mnr LH Cyster deur die Department van Kleurlingsake genader met 'n aanbod om die gronde te koop.

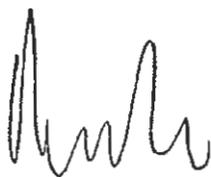
Die rede vir hierdie aanbod was dat die staat beoog om die grond te ontwikkel vir behuisingsdoeleindes.

Mnr LH Cyster was nie ten gunste van die aanbod nie en het geensins belanggestelom die grond te verkoop nie.

Na vele onderhandelings om 'n skikking te bereik, was Mnr LH Cyster gedreig deur Mnr JJ Strydom en mede amptenare van die department dat hy sy pos as onderwyser kwyt sal wees, indien hy sou weier om die grond aan die staat te verkoop.

Bo en behalwe dat hy sy werk sou verloor, het hulle ook genoem dat hulle hom in elk geval sal onteien.

Aangeheg vind kopie van vorige grondeise vorm vir u kennisname.

A. Cyster. : 



**SCHLIEMANN INCORPORATED**

ATTORNEYS, NOTARIES, CONVEYANCERS, ADMINISTRATORS OF ESTATES, TAX PRACTITIONERS, SWORN TRANSLATORS  
 RECHTSANWÄLTE, NOTARE, VEREIDIGTE ÜBERSETZER, TESTAMENTS-VOLLSTRECKER & STEURANWÄLTE

TO: STELLENBOSCH MUNICIPALITY

pietsmit@stellenbosch.gov.za

OUR REFERENCE:AVA/CYSYTER

YOUR REFERENCE:

DATE: 5 APRIL

Dear Sirs

**NOTICE IN TERMS OF SECTION 9(1) OF THE TRANSFORMATION OF CERTAIN  
 RURAL AREAS ACT NO 94 OF 1998 REGARDING LAND IN PNIEL**

Above matter refers.

We act on behalf of Mr Alroy Cyster, Mr Andre Cyster, the heirs of the late Lance Cyster, and Mrs Renee Pietersen (nee Cyster) and write to you on their instructions.

We are instructed that:

1. The land subject to the notice referred to above is also known as the Cystergronde.
2. Previously, this land was owned by our clients' ancestors.
3. As a result of the national land restitution programme, our clients submitted a land claim during 1997 for the land which is implicated by this above notice. A similar land claim was also submitted by the Cyster Family trust, and that land has already been transferred to the Cyster Family Trust.
4. Currently, this land claim, under reference KRK/6/2/3/A/12/0/1236/18(C190) is still pending and impacts directly on the land which is proposed to be transferred.

TELEPHONE +27 (0)21 - 852 7511 • FAX +27 (0)21 - 852 7540 • E-MAIL: SOSUEME@TELKOMSA.NET • WEBSITE: WWW.SCHLIEMANN-ATTORNEYS.CO.ZA  
 15 FAIRVIEW CENTRE, CALEDON STREET, SOMERSET WEST 7130 • BLACK HORSE CENTRE, CNR. DORP & MARKET STREET, STELLENBOSCH 7600  
 P.O. BOX 1503, SOMERSET WEST 7129, SOUTH AFRICA • HIGH COURT BOX NO. 373 • DEEDS OFFICE BOX NO. 101

Director: Jan Eberhard Schliemann Assisted By: Luca Sergio Smargiasso, Karin Irene Wiss, Brian Joorst, Andries van Aswegen, Bernhard Waugh, Richard Reitz (CA)

**SCHLIEMANN INCORPORATED**

ATTORNEYS, NOTARIES, CONVEYANCERS, ADMINISTRATORS OF ESTATES, TAX PRACTITIONERS, SWORN TRANSLATORS  
RECHTSANWÄLTE, NOTARE, VEREIDIGTE ÜBERSETZER, TESTAMENTSVOLLSTRECKER & STEURANWÄLTE

5. As such, our client objects to any transfer of the Cystergronde as proposed by the Minister's notice.

For your convenience, our clients have provided us with his letters written to various municipal officers over the past decade which indicates not only their persistent land claim, but also their previous objection to the further transfer of the Cystergronde. For your ease of reference, we annex those letters hereto.

We are instructed to invite you to address any further enquiries you may have to our offices.

Yours faithfully

**SCHLIEMANN INCORPORATED**



A.J. VAN ASWEGEN

TELEPHONE +27 (0)21 - 852 7511 • FAX +27 (0)21 - 852 7540 • E-MAIL: SOSUEME@TELKOMSA.NET • WEBSITE: WWW.SCHLIEMANN-ATTORNEYS.CO.ZA  
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SCHLIEMANN INCORPORATED. REG NO. 2001/002005/21, VAT REG NO. 459 019 2695

Mnr Alroy Cyster  
Pinestraat 1  
Pniel  
7681  
5 Junie 2007

Mnr K Kruger  
Departement Korporatiewe Dienste  
Stellenbosch Munisipaliteit  
Posbus 17  
STELLENBOSCH  
7681

ONTEIENING VAN EIENDOM VAN MY WYLE VADER  
MNR LOT HENDRIK CYSTER

In 1963 was my wyle vader Mnr Lot Cyster die eienaar van erwe 1201/1 en 1201/3.

Pniel Bestuursraad was op daar die stadium besig met dorpsontwikkeling en het 'n tekort aan water gehad om in die Pniel se gemeenskap se behoeftes te voorsien. My wyle vader se gronde was ryk aan waterbronne en die Pniel Bestuursraad het 'n versoek aan die staat gerig om die gronde wat aan my pa behoort het te vervreem.

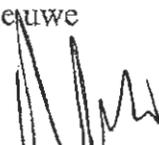
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Die Gronde ter sprake beslaan 'n gedeelte van die nuut uitgebreide Cyster-gronde ontwikkeling asook die gedeelte rondom die besproeiingsdam te Pniel. ( oorspronklike gedeeltes Erf 1201/1 en 1201/3 ).

Daar is huidiglik geen ruimte vir ontwikkeling in Pniel nie en indien ons grondeis suksesvol is, wil ons graag met alternatiewe eiendom vergoed word.

Indien enige ontwikkeling in die toekoms op die Cystersgronde beplan sou word, die raad kennis moet neem van die betrokke eis no. "C190".

Dieuwe



Mnr A Cyster

Posbus 103  
PNIEL  
7681

6 Maart 2008

Dr. L. Mortimer  
Direkteur: Kooperatiewe Dienste  
Munisipaliteit Stellenbosch  
STELLENBOSCH  
7599

Geagte Heer

**I/S GROND EISE: EISNR. C190 CYSTERGRONDE PNIEL**

As gevolg van die groepsgebiede wetgewing van 1962 was die gronde van die blankes naamlik die Cyster onteien. Ons vader Mnr. Lotter Hendrik Cyster was bevoorreg om die gedeeltes van plaas 1201/1 en 1201/3 te koop.

Gedurende 1963 het die voormalige Departement van Kleurlingsake druk op hom geplaas en die gronde terugge-eis aangesien die enigste waterbron van die dorp op die bestaande gronde geleë is. Hulle het ook die grond benodig vir toekomstige uitbreiding van die dorp.

In 1995 het ons as familie 'n aansoek ingedien in gevolge die wetgewing op die herstel van grondregte. Ons as familie was van mening dat die gronde wederregtelik van ons vader ontnem was. 'n Grondeis is geregistreer deur die departement van grondeise met die verwysingsnommer C190 van 1995.

Na aanleiding van bogenoemde inligting en 'n versoek vanaf Mnr. Sam Molepo, Adjunk-Direkteur van Provinsiale grondeise, wil ons u vriendelik versoek om 'n gesamentlike vergadering te belê met die volgende rolspelers:

1. Mnr. Sam Molepo – Adjunk-Direkteur Grondeise: Tel: (021) 426 2930
2. U self en of amptenare van u departement
3. Afvaardiging van Cyster familie

Ons sal dit hoog op prys stel indien so 'n vergadering spoedig moontlik sal plaasvind.

Die uwe

LANCE LOT CYSTER (Namens Cyster familie)

Tel: 084 206 1057 (Sel)  
(021) 885 1779 (Huis)  
(021) 876 2360 (Werk)

Posbus 103  
PNIEL  
7681

27 Februarie 2009

Mnr. Kruger  
Stellenbosch Munisipaliteit  
STELLENBOSCH

Geagte Mnr. Kruger

**ONDERWERP: GROENDEIS NR. C190 CYSTERGRONDE PNIEL**

Dit het onder my aandag gekom dat die Munisipaliteit 'n gedeelte van die Cystergronde vervreem het vir behuising.

Ek wil net weer onder u aandag bring dat 'n grondeis op die grond geregistreer is en dat dit in 'n skrywe gedateer 6 Maart 2008 onder u aandag gebring was, asook 'n persoonlike besoek aan u.

Gesien in die lig van bogenoemde besluit wil ek net verneem wat ons verder te doen staan. Ek hoop op 'n spoedige antwoord van u.

LANCE LOT ~~CY~~STER  
(NAMENS CYSTER FAMILIE)

## GRONDEISE

30 Augustus 2012-08-31

In sake: CYSTERGRONDE PNIEL VERWYSING C190

### Agtergrond en geskiedenis

Met die groepsgebiede wet in 1962 was plaas 1201 in besit van sogenoemde Blanke Cysters naamlik JJ Cyster en C Cyster.

As gevolg van die wetgewing moes die twee eienaars afstand doen van die plaas deurdat die gebied van Pniel geproklameer was as 'n sogenoemde Kleurlinggebied.

As gevolg van sentimentele waarde en historika van die plaas as Cystergronde, was Mnr LH Cyster, geregistreeerde kleurling van die gebied van Pniel, genader. Mnr LH Cyster het die eerste opsie gehad om die grond te koop met die doel om gronde as Cystergronde te behou.

Mnr LH Cyster het ingewillig om die gronde te koop en die gronde was oorgedra en in sy naam geregistreeer. In 1963 was Mnr LH Custer deur die Department van Kleurlingsake genader met 'n aanbod om die gronde te koop.

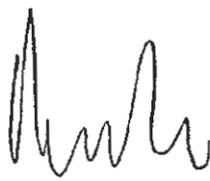
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Mnr LH Cyster was nie ten gunste van die aanbod nie en het geensins belanggestelom die grond te verkoop nie.

Na vele onderhandelings om 'n skikking te bereik, was Mnr LH Cyster gedreig deur Mnr JJ Strydom en mede amptenare van die department dat hy sy pos as onderwyser kwyt sal wees, indien hy sou weier om die grond aan die staat te verkoop.

Bo en behalwe dat hy sy werk sou verloor, het hulle ook genoem dat hulle hom in elk geval sal onteien.

Aangeheg vind kopie van vorige grondeise vorm vir u kennisname.

A. Cyster. :   


# **APPENDIX 7**

2017-03-31

Pniel Congregational Church  
PO Box 17  
Pniel  
7681

Per email: [pnielchurch@telkomsa.net](mailto:pnielchurch@telkomsa.net)

Dear Ds Kluyt

**COMMENCEMENT OF TRANSITIONAL PERIOD: THE TRANSFORMATION OF CERTAIN RURAL AREAS ACT, NO 94 OF 1998: PNIEL**

**1. PURPOSE**

The purpose of this letter is to inform you of the commencement of the so-called transitional period and to solicit your views/inputs on the proposed transfer of certain portions of land situated in Pniel.

**2. BACKGROUND**

**2.1 Commencement of transitional period**

The Transformation of Certain Rural Areas, No 94 of 1998 (Hereinafter referred to as the Act) provides for the transfer of land held in trust by the Minister of Rural Development and Land Reform. The Act has been promulgated to give content to section 25(6) of the Constitution of the Republic of South Africa, No 108/1996.

Section 9(1) of the Act provides for an eighteen (18) months transitional period during which the activities outlined in Section 3(1) (c) and Section 4 of the Act. must be implemented.

On 30 September 2016 the Minister of Rural Development and Land Reform published a notice in relation to Pniel, Saron, Slangrivier and Suurbraak, thereby officially starting the so-called transitional period. A copy of the notice is hereto attached as **APPENIDX 1**. In terms hereby Stellenbosch Municipality had to submit, within 3 months from date of publication of the notice, a notice (report) to the Minister, setting out how and when it intends determining to which entity the land referred to as Section 3 should be transferred.

**2.2 Submission of process plan**

On 2016-10-24 the Executive Mayor of Stellenbosch submitted a report (process plan) to the Minister, setting out the process to be followed in determining to which entity the so-called section 3 land should be transferred. The following process plan was proposed.

- Step 1:** Submit a report to Council during December 2016, recommending the allocation /transfer of the various portions of land.
- Step 2:** Should Council indeed accept/approve of the proposals/recommendations a notice will be published in a local newspaper(s) during February 2017, soliciting public inputs/comment on the proposed allocation/transfers.
- Step 3:** Simultaneously (February 2017) set up meetings with the Pniel Congregational Church, the Pniel Transformation Committee and representatives of the Cyster Family Trust, to solicit their inputs/comments on the proposed allocations/transfers.
- Step 4:** Submit inputs/comments (if any) received as a consequence of the public participation process referred to under step 2 and 3 to the Department of Rural Development and Land Reform for their inputs by April 2017.
- Step 5:** Report back to Council during June 2017 on the comments/inputs received, and consider same before making a final recommendation to the Minister;
- Step 6:** Recommend to the Minister the allocations/transfers, as recommended by Council, during July 2017;
- Step 7:** Depending on the decision of the Minister, attend to the establishment of the legal entity agreed upon (where necessary) during Aug/September 2017.
- Step 8:** If approved by the Minister attend to the subdivision and rezoning of the land during September-October 2017; and
- Step 9:** Request the Department to attend to the actual transfer of the properties during November 2017.
- Step 10:** Minister to attend to the actual transfer of the various portions of land (January 2018-March 2018).

A copy of the letter addressed to the Minister is attached as **APPENDIX 2**.



### 2.3 Report submitted to Municipal Council

On 25 January 2017 a report was submitted to the Stellenbosch Municipality's municipal council, recommending *inter alia* that the process plan, as submitted to the Minister, be endorsed.

Having considered the report, the Municipal Council resolved as follows:

“ **RESOLVED** (*nem con*)

(a) *that the content of the notice of the Minister, be noted;*

(b) *that the process plan as set out in par. 3.1.5, submitted to the Minister, be endorsed;*

(c) *that the Municipal Manager be authorised to attend to the public participation process as set out in paragraph 3.1.5;*

(d) *that the proposed allocations, as set out in paragraph 3.1.4, be supported in principle; and*

(e) *that, following the public participation process, a progress report be submitted to Council to deal with the submissions received as a consequence of the public participation process, whereupon final recommendations will be made to the Minister regarding the allocation/transfer of so-called Section 3 Trust land”.*

A copy the report that was submitted to the Municipal Council is attached as **APPENDIX 3**.

### 2.4 Notice

Following the above Council resolution, where the process plan was endorsed, a notice was published in the Eikestad News of 02 March 2017, soliciting the public input/comments on the proposed transfer of various portions of so-called Section 3 land. A copy of the notice is attached as **APPENDIX 4**.

## 3. DISCUSSION

In terms of the approved process plan, meetings must be set up with the Pniel Congregational Church, the Pniel Transformation Committee and representatives of the Cyster Family Trust to solicit their input/comments on the proposed allocations/transfers. (see step 3, above)

The purpose of this letter is to provide you with the background information, to enable you to prepare yourself for a meeting to be scheduled as soon as possible. In this regard your attention is specifically drawn to paragraph 3.4 of the report that was submitted to the Municipal Council, i.e a discussion on the specific portions of land to be transferred.



We would like to meet with you as soon as possible, with the view of soliciting your comment/inputs on the proposed allocation/transfer of the so-called Section 3 land parcels.

We urgently await your feedback on a possible date and venue to meet with representatives of your organization.

Yours faithfully

.....  
**PIET SMIT**  
**MANAGER: PROPERTY MANAGEMENT**

cc: Ward Councillor

# **APPENDIX 8**



2017-03-27

The Cyster Family Trust  
c/o Mr Sidney John Cyster  
PO Box 37  
Pniel  
7681

Dear Sir

**COMMENCEMENT OF TRANSITIONAL PERIOD: THE TRANSFORMATION OF CERTAIN RURAL AREAS ACT,  
NO 94 OF 1998: PNIEL**

**1. PURPOSE**

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**2.2 Submission of process plan**

On 2016-10-24 the Executive Mayor of Stellenbosch submitted a report (process plan) to the Minister, setting out the process to be followed in determining to which entity the so-called section 3 land should be transferred. The following process plan was proposed.



- Step 1:** Submit a report to Council during December 2016, recommending the allocation /transfer of the various portions of land.
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**“RESOLVED** (*nem con*)

- (a) *that the content of the notice of the Minister, be noted;*
- (b) *that the process plan as set out in par. 3.1.5, submitted to the Minister, be endorsed;*
- (c) *that the Municipal Manager be authorised to attend to the public participation process as set out in paragraph 3.1.5;*
- (d) *that the proposed allocations, as set out in paragraph 3.1.4, be supported in principle; and*
- (e) *that, following the public participation process, a progress report be submitted to Council to deal with the submissions received as a consequence of the public participation process, whereupon final recommendations will be made to the Minister regarding the allocation/transfer of so-called Section 3 Trust land”.*

A copy the report that was submitted to the Municipal Council is attached as **APPENDIX 3**.

### 2.4 Notice

Following the above Council resolution, where the process plan was endorsed, a notice was published in the Eikestad News of 02 March 2017, soliciting the public input/comments on the proposed transfer of various portions of so-called Section 3 land. A copy of the notice is attached as **APPENDIX 4**.

## 3. DISCUSSION

In terms of the approved process plan, meetings must be set up with the Pniel Congregational Church, the Pniel Transformation Committee an representatives of the Cyster Family Trust to solicit their input/comments on the proposed allocations/transfers. (see step 3, above)

The purpose of this letter is to provide you with the background information, to enable you to prepare yourself for a meeting to be scheduled as soon as possible. In this regard your attention is specifically drawn to paragraph 3.4 of the report that was submitted to the Municipal Council, i.e a discussion on the specific portions of land to be transferred.



**STELLENBOSCH**

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

We would like to meet with you as soon as possible, with the view of soliciting your comment/inputs on the proposed allocation/transfer of the so-called Section 3 land parcels.

We urgently await your feedback on a possible date and venue to meet with representatives of your organization.

Yours faithfully

.....  
**PIET SMIT**  
**MANAGER: PROPERTY MANAGEMENT**

cc: Ward Councillor

# **APPENDIX 9**



2017-03-30

The Chairperson  
Pniel Transformation Committee  
Pniel  
7681

Attention: Lilburne Cyster

Dear Sir

**COMMENCEMENT OF TRANSITIONAL PERIOD: THE TRANSFORMATION OF CERTAIN RURAL AREAS ACT, NO 94 OF 1998: PNIEL**

**1. PURPOSE**

The purpose of this letter is to inform you of the commencement of the so-called transitional period and to solicit your views/inputs on the proposed transfer of certain portions of land situated in Pniel.

**2. BACKGROUND**

**2.1 Commencement of transitional period**

The Transformation of Certain Rural Areas, No 94 of 1998 (Hereinafter referred to as the Act) provides for the transfer of land held in trust by the Minister of Rural Development and Land Reform. The Act has been promulgated to give content to section 25(6) of the Constitution of the Republic of South Africa, No 108/1996.

Section 9(1) of the Act provides for an eighteen (18) months transitional period during which the activities outlined in Section 3(1) (c) and Section 4 of the Act. must be implemented.

On 30 September 2016 the Minister of Rural Development and Land Reform published a notice in relation to Pniel, Saron, Slangrivier and Suurbraak, thereby officially starting the so-called transitional period. A copy of the notice is hereto attached as **APPENIDX 1**. In terms hereby Stellenbosch Municipality had to submit, within 3 months from date of publication of the notice, a notice (report) to the Minister, setting out how and when it intends determining to which entity the land referred to as Section 3 should be transferred.

**2.2 Submission of process plan**

On 2016-10-24 the Executive Mayor of Stellenbosch submitted a report (process plan) to the Minister, setting out the process to be followed in determining to which entity the so-called section 3 land should be transferred. The following process plan was proposed.



- Step 1:** Submit a report to Council during December 2016, recommending the allocation /transfer of the various portions of land.
- Step 2:** Should Council indeed accept/approve of the proposals/recommendations a notice will be published in a local newspaper(s) during February 2017, soliciting public inputs/comment on the proposed allocation/transfers.
- Step 3:** Simultaneously (February 2017) set up meetings with the Pniel Congregational Church, the Pniel Transformation Committee and representatives of the Cyster Family Trust, to solicit their inputs/comments on the proposed allocations/transfers.
- Step 4:** Submit inputs/comments (if any) received as a consequence of the public participation process referred to under step 2 and 3 to the Department of Rural Development and Land Reform for their inputs by April 2017.
- Step 5:** Report back to Council during June 2017 on the comments/inputs received, and consider same before making a final recommendation to the Minister;
- Step 6:** Recommend to the Minister the allocations/transfers, as recommended by Council, during July 2017;
- Step 7:** Depending on the decision of the Minister, attend to the establishment of the legal entity agreed upon (where necessary) during Aug/September 2017.
- Step 8:** If approved by the Minister attend to the subdivision and rezoning of the land during September-October 2017; and
- Step 9:** Request the Department to attend to the actual transfer of the properties during November 2017.
- Step 10:** Minister to attend to the actual transfer of the various portions of land (January 2018-March 2018).

A copy of the letter addressed to the Minister is attached as **APPENDIX 2**.



### 2.3 Report submitted to Municipal Council

On 25 January 2017 a report was submitted to the Stellenbosch Municipality's municipal council, recommending *inter alia* that the process plan, as submitted to the Minister, be endorsed.

Having considered the report, the Municipal Council resolved as follows:

“ **RESOLVED** (*nem con*)

- (a) *that the content of the notice of the Minister, be noted;*
- (b) *that the process plan as set out in par. 3.1.5, submitted to the Minister, be endorsed;*
- (c) *that the Municipal Manager be authorised to attend to the public participation process as set out in paragraph 3.1.5;*
- (d) *that the proposed allocations, as set out in paragraph 3.1.4, be supported in principle; and*
- (e) *that, following the public participation process, a progress report be submitted to Council to deal with the submissions received as a consequence of the public participation process, whereupon final recommendations will be made to the Minister regarding the allocation/transfer of so-called Section 3 Trust land”.*

A copy the report that was submitted to the Municipal Council is attached as **APPENDIX 3**.

### 2.4 Notice

Following the above Council resolution, where the process plan was endorsed, a notice was published in the Eikestad News of 02 March 2017, soliciting the public input/comments on the proposed transfer of various portions of so-called Section 3 land. A copy of the notice is attached as **APPENDIX 4**.

## 3. DISCUSSION

In terms of the approved process plan, meetings must be set up with the Pniel Congregational Church, the Pniel Transformation Committee an representatives of the Cyster Family Trust to solicit their input/comments on the proposed allocations/transfers. (see step 3, above)

The purpose of this letter is to provide you with the background information, to enable you to prepare yourself for a meeting to be scheduled as soon as possible. In this regard your attention is specifically drawn to paragraph 3.4 of the report that was submitted to the Municipal Council, i.e a discussion on the specific portions of land to be transferred.



We would like to meet with you as soon as possible, with the view of soliciting your comment/inputs on the proposed allocation/transfer of the so-called Section 3 land parcels.

We urgently await your feedback on a possible date and venue to meet with representatives of your organization.

Yours faithfully

.....  
**PIET SMIT**  
**MANAGER: PROPERTY MANAGEMENT**

cc: Ward Councillor

# **APPENDIX 10**



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA  
• MUNISIPALITEIT

## PNIEL TRANCRAA

ATTENDANCE REGISTER: Pniel Congregational Church

DATE: 10 APRIL 2017

NO.	NAME & SURNAME	CONTACT NUMBER	SIGNATURE	E-MAIL ADDRESS
1.	Piet Smit	0845065065		Piet.Smit@Stellenbosch.gov.za
2.	Leon Klate	0823723158		pnielchurch@telkomsa.net
3.	RUBEN NOVEMBER	0834199038		rubenw.november@gmail.com
4.	Urine Williams	0845172043		urinewilliams@gmail.com
5.	Merwyn Williams	0825754563		merwynw@telkomsa.net
6.				
7.				
8.				
9.				
10.				

PNIEL TRANSFER WABIE KOUWEE: 6 APRIL 2017

NAAM:	ADRES	TELE No.
Piet Smit.	Postbus 17, Stellenbosch	084 585 265
Estelle Daniels	simonsbergst. Pniel	072 580 6301
PATRICIA CYSTER	1 Simonsberg St.	071 502 3645
Virginia Morris	Pniel	073 225 6037
MARK PETERSEN	PNIEL	082 876 3888
Sherley Dawids	"	073 52 99120
ANDREW CYSTER		083 944 3130
Lilburne CYSTER	PNIEL,	082 202 3196
MERLIN ROSE	PNIEL.	084 485 1899
MARILYN ALBERTS	PNIEL	078 52 75662
WARREN WILLIAMS	PNIEL	0711 845 239
MALCOLM JOHNSON	42 Kloof St. PNIEL	0839833351
BRIDGET BASSON	PNIEL	0833893356
Mike Fraser	Pniel	0835187272
Cynth Williams	Pniel	0721225687

# **APPENDIX 11**



# PNIEL CONGREGATIONAL CHURCH

A CONSTITUENT CHURCH OF THE UNITED CONGREGATIONAL CHURCH OF SOUTHERN AFRICA  
PBO No. 930014941



ALL CORRESPONDENCE TO THE SECRETARY  
P.O.BOX 17 PNIEL 7681 | T/F +27 21 885 1300 | pnielchurch@telkomsa.net

02 August 2017

Mr. Piet Smit  
Manager: Property Management  
Stellenbosch Municipality  
P.O. Box 17  
STELLENBOSCH  
7599



Dear Mr. Smit

**Re: COMMENCEMENT OF TRANSITIONAL PERIOD: PROPOSITION TO THE CHURCH – CEMETARY & VACANT LAND**

Thank you for the meeting on Monday 10<sup>th</sup> April 2017 and the information shared. Sorry for the communication glitch in communicating the position of the Pniel Congregational Church.

At a duly constituted members meeting of above mentioned church held on the 25<sup>th</sup> April 2017 the church resolved:

1. To thank the Municipality for the proposition to transfer land to the church.
2. To request the municipality to engage the community of Pniel on the matter through its representatives as elected at a community meeting.
3. To (church) participate fully in the community process.

The Church regretfully decided not to accept the proposition made to the church to have the cemetery transferred to the church. We want to encourage the Municipality to continue in its role to provide burial space for its citizens and the current maintenance of the Pniel Cemetery.

Thanking you for your service to the community

Yours sincerely

U.M. Williams

**CHRIST IS CALLING US:  
PARTICIPATING IN SUFFERING AND STRUGGLE**

MINISTER  
REVD. L. KLATE • 021 885 1300

SECRETARY  
MS. U.M. WILLIAMS • 021 885 1008

TREASURER  
MR. R.W. NOVEMBER • 021 885 1223

# **APPENDIX 12**

**Piet Smit**

**From:** Lorelle Adams  
**Sent:** 01 September 2017 11:55 AM  
**To:** Piet Smit  
**Subject:** FW: [EX] Re: Transitional Period: Pniel

**From:** Lilburne Cyster [mailto:lcyster@uwc.ac.za]  
**Sent:** 01 September 2017 11:37 AM  
**To:** Lorelle Adams  
**Cc:** Malcolm Johnson; LIONEL BEERWINKEL; mooirose@gmail.com; shirleygdavids@gmail.com; shirley.davids@gmail.com; fmpetersen50@gmail.com; davidlm@outlook.com; davidlm@hotmail.co.za; bridget.basson@mediclinic.co.za; bsrobyn670515@outlook.com; patriciacyster@gmail.com; Lilburne.DWA001@gmail.com; kelly.november@yahoo.com; michael.fraser0@gmail.com  
**Subject:** Re: [EX] Re: Transitional Period: Pniel

Dear Ms Adams

I acknowledge receipt of your email. Please note those correspondence and proposals by mr Piet Smit/municipality were for discussion and not final. No Transfers can or may take place unless the community have decided in which entities. Also note: we made it clear to mr Piet Smit in our meeting with him on **6 April 2017, after which we never heard from him again**, that we are not in favour of his/municipality's proposals and **NO TRANSFERS MAY TAKE PLACE UNILATERALLY**. Apart from all this the process is still ongoing ... no report and recommendations were sent to the minister yet. Until then **NO TRANSFERS OF LAND OR ANY OTHER PROPERTY CAN/MAY TAKE PLACE**. I trust that this is clear.

**Mr Beerwinkel will you please address this issue on behalf of the DRDLR. I am sure what I have said is just scratching the surface. I think we will have to arrange a meeting with the Municipal Manager for next week ASAP.**

Kind regards  
 Lilburne Cyster  
 Chairperson  
 Pniel Transformation Committee

On Fri, Sep 1, 2017 at 10:27 AM, Lorelle Adams <[Lorelle.Adams@stellenbosch.gov.za](mailto:Lorelle.Adams@stellenbosch.gov.za)> wrote:

Mr Cyster

This e-mail serves to inform you that we have not yet received any feedback from the Pniel Community regarding our correspondence send to you on 30 March 2017. Please note that if we do not receive any feedback on or before Friday 8 September 2017 we will assume that you are in favour of the transfers.

Kind regards,



2017-09-19

The Chairperson  
 Pniel Transformation Committee  
 Pniel  
 7681

Attention: Lilburne Cyster

Dear Sir/Madam

**COMMENCEMENT OF TRANSITIONAL PERIOD: THE TRANSFORMATION OF CERTAIN RURAL AREAS ACT, NO 94 OF 1998: PNIEL**

My letter dated 2017-03-23, of which a copy is attached, our subsequent meeting on 06 April 2017, my follow up letter dated 2017-05-31 of which a copy is attached, my secretary's e-mail dated 01-09-2017, your reaction to the said e-mail, an e-mail received from Mr Lionel Beerwinkel dated 15 September 2017 as well as my reaction on the said e-mail, of which copies are attached, refers.

From the above it became evident that there might be a misunderstanding/misconception regarding my secretary's e-mail of 01-09-2017 insofar as it makes reference to "transfers". I want to put it on record that there are no intended transfers at this stage, whatsoever. "The transfers" referred to in the e-mail refers to the various option set out in my initial letter/report to Council.

Please note that I am still awaiting your comment/inputs on the said options. If I do not receive your formal comment/inputs in this regard by Friday 29<sup>th</sup> September 2017, I will assume that you do not have any views in this regard, in which case I will report to the Municipal Council to enable them to make a final recommendation to the Minister regarding the possible transfer of land as envisaged in my initial report to Council.

With regard to the possible transfer of land to the Cyster Family Trust, in terms of a Settlement Agreement concluded during the 1990's, please find hereto attached as self-explanatory letter addressed to the Department of Rural Development and Land Reform, requesting clarity on the legal status of the said Settlement Agreement as well as my undertaking to refrain from signing any transfer documents to affect transfer of the said portion of land to the Cyster Family Trust. Please note that, notwithstanding various follow up letters in this regard, we still have not received any feedback from the Department regarding the legal status of the said agreement. For this reason cannot be any question on the transfer of this land, as per my undertaking.

Yours faithfully

**PIET SMIT**  
**MANAGER: PROPERTY MANAGEMENT**

cc: Municipal Manager  
 Director Human Settlement & Property Management  
 Councillor Johnson

# **APPENDIX 13**

**Piet Smit**

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**From:** Piet Smit  
**Sent:** 15 September 2017 02:55 PM  
**To:** 'LIONEL BEERWINKEL'; Lorelle Adams  
**Cc:** lcyster@uwc.ac.za; Brian Daniels; Ndinae Netshivhangoni; Benjamin Mars; DAVID SMIT; Juanita Fortuin; Thozama Diamond  
**Subject:** RE: TRANSFER OF LAND: PNIEL

Lionell,

My apologies for the fact that Lorelle did not come back to you. I think there is a big misunderstanding. Lorelle sent an e-mail to the chairperson of the Committee enquiring when we can receive their inputs, following our meeting with them. In the e-mail she indicated that "should we not receive feedback on or before Friday 8 September we will assume that you are in favour of the transfers". Reference to transfers was reference to the proposed transfers as set out in the Council resolution as well as to the report addressed to the Minister, i.e. it refers to the various options.

It has NOTHING to do with any specific transfers. Incidentally, you will remember that I have given you a written undertaking not to proceed with ANY transfers to the Cyster Family Trust, until such time as we have more legal certainty regarding the legal status of the agreement. Please note that I am still waiting for your Department's feedback in this regard.

Your assumption that the land to be transferred relates to the agreement that involves the DRDLR, the Municipality and the Cyster Family is therefore wrong.

Unfortunately I will not be able to attend a meeting on 19 September at 11:00, as I am already fully booked.

The next available date and time is 20 September at 13:00.

Please confirm that the new date is acceptable.

Piet

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**From:** LIONEL BEERWINKEL [mailto:lionel.beerwinkel@drdlr.gov.za]  
**Sent:** 15 September 2017 02:22 PM  
**To:** Lorelle Adams; Piet Smit  
**Cc:** lcyster@uwc.ac.za; Brian Daniels; Ndinae Netshivhangoni; Benjamin Mars; DAVID SMIT; Juanita Fortuin; Thozama Diamond  
**Subject:** [EX] TRANSFER OF LAND: PNIEL

Dear Mr. Smit, Mrs Adams (Stellenbosch Municipality)

The subject matter has reference:

We are informed that you intend to continue with transfer of land that forms part of the Pniel subject matter and where clarity is still required. A request for clarity was directed to Lorelle Adams in this regard in August 2017 but no feedback was received.

In the absence of having received feedback from yourselves as per our request, we can only assume that the land to be transferred relates to the agreement that involves the DRDLR, the Municipality and the Cyster Family. If this is indeed the case, we record that this matter is still the subject to be clarified and remains in dispute until such clarity has been provided.

<b>7.3</b>	<b>FINANCIAL SERVICES: (PC: CLLR P CRAWLEY (MS))</b>
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NONE

<b>7.4</b>	<b>HUMAN SETTLEMENTS: (PC: CLLR N JINDELA)</b>
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NONE

<b>7.5</b>	<b>INFRASTRUCTURE SERVICES: (PC: CLLR Q SMIT)</b>
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NONE

<b>7.6</b>	<b>PARKS, OPEN SPACES AND ENVIRONMENT: (PC: XL MDEMKA (MS))</b>
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NONE

<b>7.7</b>	<b>PLANNING AND ECONOMIC DEVELOPMENT: (PC:CLLR E GROENEWALD (MS))</b>
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NONE

<b>7.8</b>	<b>RURAL MANAGEMENT AND TOURISM: (PC: CLLR S PETERS)</b>
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NONE

<b>7.9</b>	<b>YOUTH, SPORTS AND CULTURE: (PC: M PIETERSEN)</b>
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NONE

<b>7.10</b>	<b>REPORTS SUBMITTED BY THE MUNICIPAL MANAGER</b>
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NONE

<b>8.</b>	<b>REPORTS SUBMITTED BY THE EXECUTIVE MAYOR</b>
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NONE

<b>9.</b>	<b>URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER</b>
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NONE

<b>10.</b>	<b>MATTERS TO BE CONSIDERED IN-COMMITTEE</b>
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NONE