



## REPORT TO MUNICIPAL PLANNING TRIBUNAL

ITEM NO **MPTSW25/07/19**

CASE ID	70451214
CASE OFFICER	Y Jafra
CASE OFFICER PHONE NO	021 444 9536
DISTRICT	Southern
REPORT DATE	26 June 2019

**WARD 72: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL): ERF 158315 CAPE TOWN, 14 QUEENS ROAD, SOUTHFIELD**

### 1 EXECUTIVE SUMMARY

Property description	Erf 158315 Cape Town
Property address	14 Queens Road, Southfield
Site extent	220m <sup>2</sup>
Current zoning	Single Residential Zone 1
Current land use	Dwelling house
Overlay zone applicable	None
Submission date	28 March 2019
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work?	Yes, a verandah was erected without approval
Has owner applied for the determination of an administrative penalty	Yes
Has the City Manager applied to the MPT for an order that a person who is contravening the MPBL must pay an administrative penalty in an amount determined by the MPT	No
Has the City issued a demolition directive i.i.o section 128 of the MPBL? If yes, an administrative penalty may not be applied for.	No
Has the City served a notice on the owner or other person in respect of the unlawful land use or building work which required the owner or other person to apply for the determination of an administrative penalty?	No

### 2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal.

### 3 BACKGROUND / SITE HISTORY

- 3.1 Building plans proposing a verandah on the subject property were submitted on 10 August 2018 and 6 November 2018. Both applications were refused as they were incomplete and did not have the required land use approval.
- 3.2 An application for departure to regularise the unauthorised building work and to permit extensions to the verandah is yet to be submitted.

### 4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation is attached as Annexure C and may be summarised as follows:

- The construction of the covered patio commenced in July 2018.
- "The building works was ceased and only 9m<sup>2</sup> was built as we were informed of a need for an approved plan for the verandah."
- The owner has not previously contravened the By-Law or any other planning law.

## 5 ASSESSMENT OF APPLICATION

5.1 The unauthorised covered patio is in contravention of Item 22(d) of the Development Management Scheme. The entire structure is located 0m in lieu of 3m from the western common boundary. Although this is on ground storey, it contravenes the 60% linear distance requirement beyond 12m from the street and within 3m of common boundaries.

5.2 In terms of section 129(7)(a) of the By-Law, an administrative penalty for a building work contravention may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out.

5.3 Unauthorised building work:

$$\text{Value per m}^2 \text{ (R1020)} \times \text{Total Unlawful area (9m}^2\text{)} = \text{R9 180.00}$$

5.4 An amount which is not more than 100% of R9 180.00 may be imposed as an administrative penalty.

5.5 The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by section 129(8) of the By-Law:

a) **The nature, duration, gravity and extent of the contravention**

**Nature** – The contravention relates to a verandah which is permitted as of right in Single Residential Zone 1.

**Duration** – According to the owner, the contravention has existed since July 2018. On the aerial photography it is clear that it took place sometime between January 2017 and February 2018. The duration of the contravention is thus relatively short.

**Gravity** – The verandah is not visible from the street and is modest in height (ie less than 3m from base level to the top of the roof). The property most affected is a playground to the west. The gravity of the contravention is not serious.

**Extent** – The extent of the contravention is small, amounting to 9m<sup>2</sup>.

b) **The conduct of the person involved in the contravention**

The owners of the property states that he/she were not aware of the need to submit building plans for a verandah. In this regard it must be noted that ignorance of the law is not a legitimate excuse. The conduct of the owners cannot be condoned.

c) **Whether the unlawful conduct was stopped**

The unlawful conduct was not stopped.

d) **Whether a person involved in the contravention has previously contravened by this By-Law or any other planning law**

As far as can be ascertained, the owner of the property has not previously contravened this By-Law or any other planning law.

- 5.6 In view of the abovementioned considerations, especially the conduct of the person involved in the contravention, an administrative penalty of R500.00 is recommended.

## 6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1 The unauthorised building work is in contravention of Item 22(d) of the Development Management Scheme.
- 6.2 The contravention relates to a structure permitted as of right in Single Residential Zone 1.
- 6.3 The gravity of the contravention is not serious.
- 6.4 The duration of the contravention is relatively short.
- 6.5 The extent of the contravention is small.
- 6.6 The conduct of the owners cannot be condoned.
- 6.7 As far as can be ascertained, the owner of the property has not previously contravened this By-Law or any other planning law.

## 7. RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of R500.00 be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 158315 Cape Town at Southfield for the verandah in accordance with plan drawn by Victor Johnstone, drawing number 158315, dated July 2018.

## ANNEXURES

- Annexure A Locality plan  
Annexure B Site development plan  
Annexure C Applicant's motivation



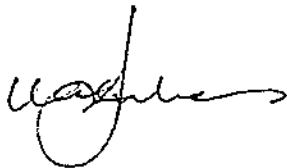
### Section Head : Land Use Management

Name P Hoffa

Tel no 021 444 7724

Date 2019-06-26

Comment



### District Manager

Name U Gonsalves

Tel no 021 444 7720

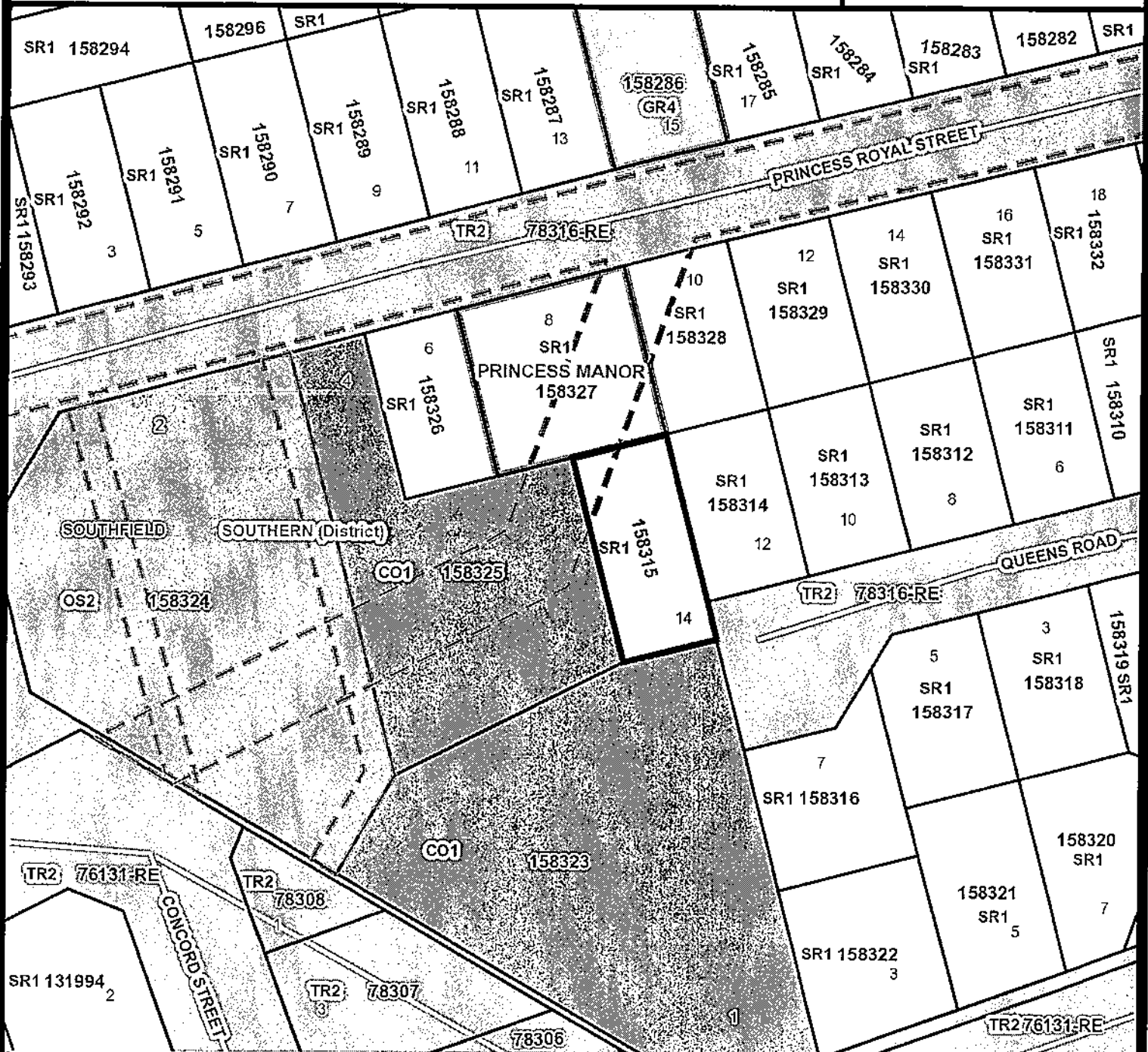
Date 2019-06-27

Comment

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT  
LOCALITY MAP

316

ANNEXURE : A



Overview

Erf: 158315

District: SOUTHERN

Allotment: CAPE TOWN

Suburb: SOUTHFIELD

Ward: 72

Sub Council: Subcouncil 20



1:600

Notices Served



Support  
Received



Petition  
Signatory



Objections  
Received



Generated by:

Date: Tuesday, 25 June 2019

File Reference:



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

Making progress possible. Together.



**Sub Council: Subcouncil 20**



1:2 400

## Notices Served

Support  
Received

### Petition Signatory



Objections  
Received



Generated by:

Date: Tuesday, 25 June 2019

**File Reference:**



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

**Making progress possible. Together.**

PROJECT NUMBER	DATE	REVISION
1605	158315	
SCALE	DATE	BY
1:100	JUL 2018	AW

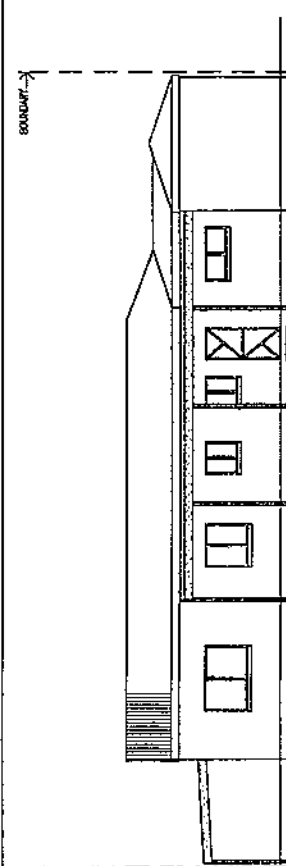
PROPOSED VERANDA



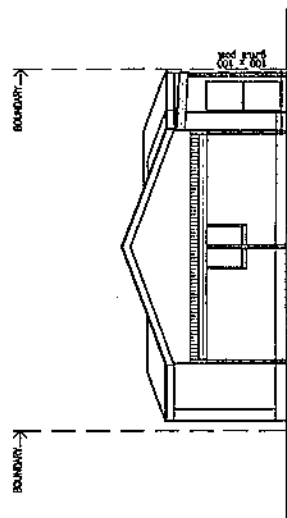
**VICTOR JOHNSTONE**  
ARCHITECTS  
Pty Ltd  
1002 308 3072  
vjohnstone@gmail.com

HOUSE COETZER	
GROUND STOREY	78m <sup>2</sup>
GARAGE	20m <sup>2</sup>
PATIO	17m <sup>2</sup>
TOTAL	117m <sup>2</sup>
PROPOSED VERANDA	17m <sup>2</sup>
SITE AREA	2200m
TOTAL USED	40%

318

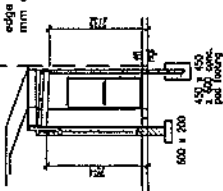


**SOUTH WEST**  
SCALE 1:100

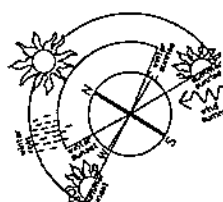


**NORTH WEST**  
SCALE 1:100

veranda roof: (3° pitch)  
85% foreglass roof sheets on  
76x50 pulin @ 750mm c/c on  
152x50mm rafters @ 900mm  
c/c bearer beam with galv.  
sbsa approved two brackets  
to wall at one end and /or side  
edge beam fixed to 100 x 100  
mm galv post.

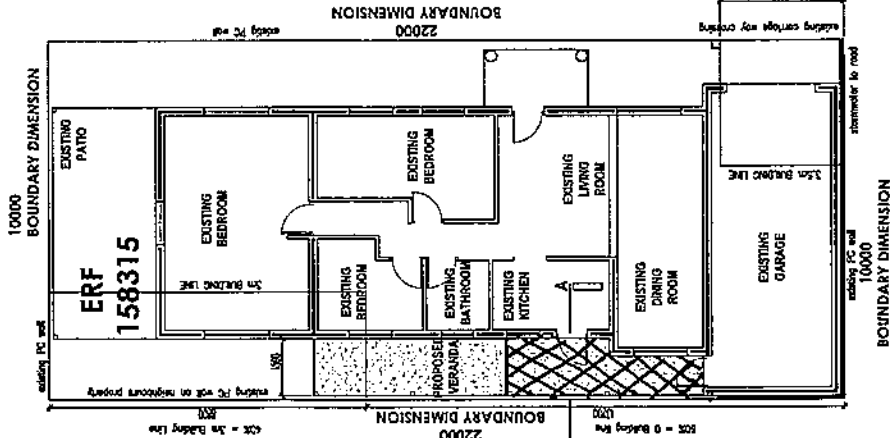


**SECTION A - A**  
SCALE 1:100



STORM WATER DISPOSAL  
METHOD OF STORMWATER DISPOSAL TO BE ESTABLISHED  
ON SITE, ACCORDING TO ACTUAL SITE CONDITIONS.  
THE SITE IS TO BE SHAPED TO AVOID PONDING, WHERE  
POSSIBLE.  
THE ROOF STORMWATER RUN-OFF IS TO BE TAKEN TO  
THE ROAD

ALL RELEVANT LEVELS, DIMENSIONS AND DETAILS TO BE  
VERIFIED ON SITE. ANY DISCREPANCIES TO BE REPORTED  
TO THE DESIGNER BEFORE COMMENCEMENT OF WORK



**FLOOR LAYOUT & SITE PLAN**  
SCALE 1:100

AREA TO WHICH AP RELATES.

TO WHOM IT MAY CONCERN

319

Motivation letter: Admin penalty ERF 158315

Prince George Home Owners Association ERF158315, Property: 14 Queens Close,  
Southfield

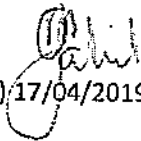
In response to the attached letter points 1 and 2, please note the following response:

1. The verandah was constructed during July 2018 and building works ceased on 31/07/2018.
2. The building works was ceased and only 9 square metres was built as we were informed of a need for an approved plan for the verandah.

Regards



Craig Coetzee (Owner) 17/04/2019



Michell Gabriel (Witness) 17/04/2019

TO WHOM IT MAY CONCERN

Motivation letter: Admin penalty ERF 158315

Prince George Home Owners Association ERF158315, Property: 14 Queens Close,  
Southfield

In response to the attached email points 8, a-d, please note the following response:

8.a The 9 square metre verandah was constructed during July 2018 and building works ceased on 31/07/2018.

8.b The building works commenced as we weren't aware of a need for an approved building plan for the verandah.

8.c The building works was ceased as per point 8 a as the homeowners association alerted us to a need for a building plan.

8.d There has been no previous contravention of any bylaw or planning laws by the owner,

Regards

Craig Coetzee (Owner) 13/05/2019



Kim Muller (Witness) 13/05/2019

