

CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO SUBCOUNCIL 16

LL23325

1 ITEM NUMBER 16 SUB 07/10/19

2 SUBJECT

PROPOSED LEASE PORTION OF CITY LAND, PORTION OF ERF 2557
VREDEHOEK, BARNHAM STREET, VREDEHOEK FOR GARDENING
PURPOSES: FRED ROHDE

ONDERWERP

VOORGESTELDE VERHURING VAN 'N GEDEELTE STADSGROND,
GEDEELTE VAN ERF 2557 VREDEHOEK, BARNHAMSTRAAT,
VREDEHOEK VIR TUINMAAKDOELEINDES: FRED ROHDE

ISIHLOKO

ISIPHAKAMISO SENGQESHISO NGESIQEPHU SOMHLABA WESIXEKO,
ISIQEPHU SESIZA 2557 VREDEHOEK, BARNHAM STREET, VREDEHOEK
KULUNGISELELWA IMIBANDELA YEGADI: KU-FRED ROHDE

L0714

PTMS NO:130003991

File Ref No: CT14/3/6/1/2/1241/A00

(Category 4)

3 DELEGATED AUTHORITY

- ☒ The report is for comment by Subcouncil to the competent authority in terms of Part 24, Delegation 10(1).

"To comment to the competent authority on the granting of rights to use, manage or control City immovable assets such as land, property and buildings and to recommend conditions of approval where deemed necessary."

- ☐ In terms of delegation Part 27B paragraph 19(7), the following delegation was conferred upon the City Manager. The City Manager has sub-delegated this delegation to the Director: Property Management.

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- a) **Social Care Leases:** Leases to Social Care organisations) NPOs, NGOs, sports organisations not for profit) at a tariff rental as approved by Council annually.
- b) **Non-viable gardening and security leases:** Leases of non-viable portion(s) of municipal land to adjacent land owners at a tariff rental as approved by Council annually."

Provided that this delegation may only be exercised after considering the comment from the Sub-council in whose area of jurisdiction the capital is situated.

☐ Final decision lies with Director: Property Management.

PURPOSE OF REPORT	Proposed lease for gardening purposes.			
Site extent	160 m ²			
Submission date	15 August 2016			
Current zoning	Transport 2			
Current usage	Gardening purposes			
Proposed usage	Gardening purposes			
WARD CLLR	NOTICE DATE		WARD	
Brandon Golding	25 April 2019		57	
Internal circulation date	20 February 2017			
Internal department comments	Branch comments received			
Public participation outcome summary	Advertised in the Cape Argus and Die Burger on 25 May 2018. No objections were received.			
Viable	Yes		No	X
	The subject property is regarded as non-viable land which only has value to the abutting landowners in light of the fact that it cannot be developed or function as a separate entity. This property transaction may be approved without any competitive process having been followed on the basis that no purpose would be served by a competitive process			
Recommended decision	Approval	X	Refusal	
Regulation 34(1) In-principle approval	Granted by Director: Property Management in terms of delegated authority after 21 June 2018			

Factors motivating recommendation:	<ul style="list-style-type: none"> • The leasing of the land will relieve Council of the maintenance burden. • A tariff related rental income will be generated. • Better utilization of City land
Strategic intent	SFA 1 : an OPPORTUNITY City of Cape Town

5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of City land, being a portion of Erf 2557 Vredehoek, situated at Barnham Street, Vredehoek, shown hatched and lettered ABC on the attached sketch STC 2982 marked annexure A, in extent approximately 160 m², to Fred Rohde owner of Erf 1334 Vredehoek or his successors in title, be approved subject to inter alia the following conditions, that:

- A tariff rental of R1201.00 per annum including VAT calculated at the rate applicable at the time of transaction be payable. Rates not applicable;
- The lease will endure for a period of ten years;
- The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- The property be used for gardening purposes only;
- Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- Subject to compliance with any other statutory requirements;
- No compensation will be payable for any improvement made to the property.

5 AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van Stadsgrond, 'n gedeelte van erf 2557 Vredehoek, geleë te Barnhamstraat, Vredehoek, aangetoon deur arsering en die letters ABC op die aangehegte skets STC 2982 gemerk bylae A, ongeveer 160 m² groot, aan Fred Rohde, eienaar van erf 1334 Vredehoek of sy regsopvolgers, goedgekeur word, onderworpe aan onder meer die volgende voorwaardes, naamlik dat:

- 'n Tariefhuurgeld van R1 201 per jaar, BTW uitgesluit - bereken teen die koers wat ten tye van die transaksie geld - betaal moet word. Eiendomsbelasting is nie van toepassing nie;

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- b) Die huurtermyn tien jaar sal wees;
- c) Die huurgeld jaarliks aangepas sal word volgens die huurtariefstruktuur soos deur die Raad goedgekeur;
- d) Die eiendom slegs vir tuinmaakdoeleindes gebruik mag word;
- e) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid;
- f) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- g) Geen vergoeding betaal sal word vir enige verbetering wat aan die eiendom aangebring word nie.

5 IZINDULULO ZOKUBA ZIQWALASELWE KWAYE KUHLONYULWE KUZO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe ingqeshiso ngomhlaba weSixeko , osisiqephu sesiza-2557, esiseVredenhoek esime eBarnham Street, Vredenhoek, esibonakaliswe ngemigca ekrweliweyo noonobumba ABC kwisazobe STC 2982 esiqhotyoshelweyo nesiphawulwe njengesihlomelo A, esibukhulu bumalunga ne-160 m² kuFred Rohde, ongumnini wesiza-1334 Vredenhoek okanye abangena ezihlangwini zakhe ngokwetayitile, ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo yokuba:

- a) Makuhlawulwe ixabiso lerenti elingama-R1201.00 ngonyaka kuquka iRhafu-ntengo ebalwe ngokwexabiso elisetyenziswayo ngexesha lonaniselwano. Akukho zintlawulo zobuhlali;
- b) Ingqeshiso iya kuhlala isithuba seminyaka elishumi;
- c) Ixabiso lerenti liyakuthi lilungelelaniswe rhoqo ngonyaka ngokungqinelana nesakheko samaxabiso njengoko siphunyezwe liBhunga;
- d) Ukuba ipropati iyakuthi isetyenziselwe imibandela yegadi kuphela;
- e) Ngokuxhomekeke kweminye imiqathango eyongeziweyo eyakuthi inyanzeliswe nguMlawuli: woLawulo lweePropati ngokwamagunya akhe awagunyaziselweyo;
- f) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho engeminye;
- g) Akusayi kuhlawulwa mbuyekezo ngophuculo oluthe lwenziwa kwipropati.

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

Fred Rohde (Applicant) owner of Erf 1334 Vredehoek has applied to lease a portion of City land, being a portion of Erf 2557 Vredehoek, situated at Barnham street, Vredehoek, shown hatched and lettered ABC on the attached sketch STC 2982 marked annexure A in extent approximately 160 m² for gardening purposes.

The proposal has been circulated to the relevant Council branches for comment and no objections were received. The proposal has also been circulated to the surrounding neighbours and the ratepayers' association and no objections were received.

This is non-viable City land. During the currency of the lease period the agreement of lease will contain a clause that in the event that Council does require the land, a two months' cancellation period will be applied.

6.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council departments were consulted and have no objection to the lease subject to the following conditions that will form part of the lease agreement:

- i. Neither the Water and Sanitation Department nor the Council will be liable for any damages or loss if any lock or gate has been forced or broken in order to gain access to attend to the burst mains, blocked sewers or other emergencies such as inspections that must be carried out, meters that must be read, or any other cause outside the control of Council;
- ii. The ground surface over the water or sewer main shall not be altered in any way except with the prior approval of the Water and Sanitation Department;
- iii. No trees shall be planted within 3m of the water and sewer mains;
- iv. If the leased area is to be fenced, it needs to abide by the Boundary Wall and Fences Policy (2009). In addition, a fence would be preferred as the road scheme might happen in the future. The approval of the fencing needs to follow due process;
- v. The relevant departments (Environment and Heritage Management and other) need to be consulted prior to any landscaping and planting of the site);
- vi. The management of the site under lease would be the responsibility of the lessee;

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vii. No construction of any kind will be allowed on the leased site.

6.3 VALUATION

The application category fits within the tariff structure of the City approved on 29 May 2019;

6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS

6.4.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003 in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of a basic municipal service.

6.4.2 Chapter C of Council's entitled the Management of certain of the City of Cape Town's Immovable Property (approved 26 August 2010), permits the leasing of immovable property.

6.5 FINANCIAL IMPLICATIONS

All costs involved in this transaction will be for the Applicant's account.

6.6 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 98.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 99 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person who's tax matters have not been declared by the SARS to be in order."

Paragraphs 372 – 375 of the afore-mentioned policy deal with the sale and letting of City owned immovable property and are silent on the SARS requirement. Property Management adopted the principle as per paragraph 99 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City Owned immovable property. Except for tariff based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

This transaction is tariff based and does not exceed R15 000,00 and as such the requirements for a SARS clearance or exemption certificate is not applicable.

6.7 FINANCIAL DUE DILIGENCE

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The applicant's debt profile has been verified and it is confirmed that the debt profile is not in arrears.

6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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6.9 LEGAL IMPLICATIONS

Regulation 36 of the MATR

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed granting of rights to use, control or manage municipal capital assets, and it is herewith confirmed that:

Whether asset may be required for the municipality's own use during the period for which the right is to be granted

Council's service branches confirmed that the asset is not required for own purposes.

Extent to which any compensation to be received, estimated value of improvements or enhancements to property the right is granted to will be required to make, economic or financial benefit to the City

Council will receive a financial benefit in the form of a tariff rental to the amount of R1 201.00 per annum including VAT calculated at the rate applicable at the time of transaction be payable.

Management of Risk

No operational or control risk to the City.

Stakeholder comments and recommendations

The Director: Property Management in terms of her delegated powers, has approved the public participation process as required, resulting in the proposed lease being advertised in the Cape Argus and Die Burger on 25 May 2018. Closing dates for objections were 26 June 2018. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. No objections or comments were received.

Views from National and Provincial Treasury

In terms of Regulation 34 of the MATR the subject property falls within the category of a capital asset in respect of which the proposed right to be granted has a value less than R10 million and a period exceeding 3

MAH

years (Non-Significant Property Right). National and Provincial Treasury have been notified. No objections or comments were received.

Strategic, Legal and Economic Interests

None of these interests will be compromised through the granting of the right to use, control or manage the asset. In fact, they will be supported.

Compliance with Legislative Regime that is Applicable to Proposed Granting of Rights

Granting of the right to use, control or manage the asset is compliant with the Municipal Finance Management Act, Municipal Asset Transfer Regulations and Council's policy on the management of certain of the City of Cape Town's immovable property.

6.10 STAFF IMPLICATIONS

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No ☒

Yes ☐

Annexures

Annexure A: STC 2932

FOR FURTHER DETAILS CONTACT:

NAME	SANDISIWE TSHANDU
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DIRECTORATE	ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT
FILE REF NO	CT14/3/6/1/2/1241/A00
MANAGER: PROPERTY HOLDING RACHEL SCHNACKENBERG	Mumackenberg 23-08-2019

J. Geldersbloem

DIRECTOR : PROPERTY MANAGEMENT IN HER
CAPACITY AS EXECUTIVE DIRECTOR : ECONOMIC
OPPORTUNITIES & ASSET MANAGEMENT NOMINEE

NAME RUBY GELDERBLOEM

DATE 2019-09-11

Comment:

J. Hols

LEGAL COMPLIANCE

NAME

Joan-Mari Hols

TEL

021 400 2753

DATE

16/09/2019

☒ REPORT COMPLIANT WITH THE PROVISIONS OF
COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS
AND ALL LEGISLATION RELATING TO THE MATTER
UNDER CONSIDERATION.

☐ NON-COMPLIANT

Comment:

certified as legally compliant: JMH
Based on the contents of the report

Fred Rohde

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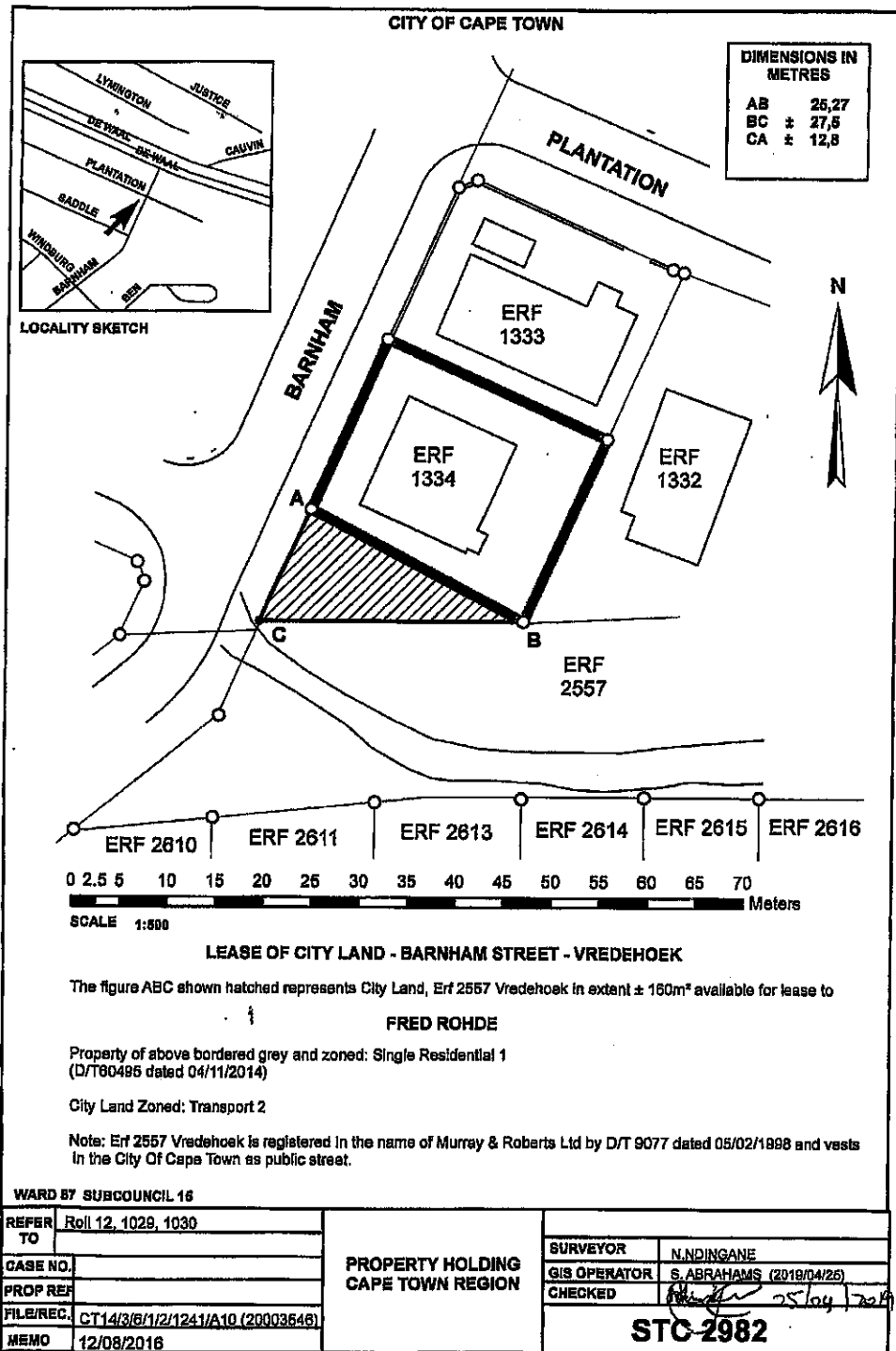
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ANNEXURE A



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