



REPORT TO MUNICIPAL PLANNING TRIBUNAL

ITEM NO **MPTSW33/05/19**

Case ID	70438477
Case Officer	LHS
Case Officer phone number	021 444 9543
District	Southern
Report date	3 May 2019

WARD 62: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 285 CONSTANTIA, 6 OORSTERZEE HEIGHTS ROAD, BISHOPSCOURT

1 EXECUTIVE SUMMARY

Property description	Erf 285 Constantia
Property address	6 Oorslerzee Heights Road, Bishopscourt
Site extent	4283m ²
Current zoning	Agricultural Zone
Current land use	Dwelling house
Overlay zone applicable	None
Submission date	10 December 2018
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work?	Portions of retaining wall, outdoor toilet and hot water cylinder store, and a study.
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.t.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. An application for setback departures from the western and eastern common boundaries was submitted on 12 December 2018. The application still needs to be advertised.

4 SUMMARY OF APPLICANT'S MOTIVATION

2841

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

- The owner purchased the property in October 2017 and conducted general improvements such as replacing rotten doors and windows and painting. The unauthorised building work was conducted simultaneously.
- The following building work was carried out by the previous owners:
 - A 4m² garden concrete staircase was enclosed and expanded to include an outside toilet and hot water cylinder store. This however was re-built by the current owner. A building line setback departure is required.
 - A domestic staff quarters was enlarged by enclosing the area on the ground floor below the balcony. No departure is required.
 - The conduct of the previous owners regarding the above is unknown.
- The following building work was conducted by the current owners:
 - A stoep was enclosed to create a 7m² study. This requires a departure.
 - A 40m² swimming pool. No departure required.
 - A 48m long retaining wall. This requires a departure.
- The owners approached the applicant to draft building plans after the stoep had been enclosed but prior to building the swimming pool and retaining wall. The owner did not wish to wait to obtain an approval however as he wanted the work to be completed by the December holidays.
- A structural engineer and a land surveyor were consulted for the retaining wall.
- The affected neighbour was consulted prior to construction and did not object.
- The enclosed stoep, retaining wall, and swimming pool were built during December 2017.
- The owner was aware he might be penalised for his actions.
- The owner previously contravened the MPBL at his previous home in 2017 at Erf 8791 Constantia and an administrative penalty was paid.
- Although the owner discussed the alterations with the architect prior to construction, the owner expressed that the need to build prior to the builder's holiday in December 2017 was of greater concern.
- The owner did not deliberately try to contravene the law but was rather urgently trying to complete the work.
- The building inspectors are unaware of the building work and no notices have been served.
- No complaints have been received.
- The owner understands the gravity of the contravention.

5 ASSESSMENT OF APPLICATION

- 5.1 The unauthorized building work in contravention of the MPBL relates to a 28m portion of retaining wall, outdoor toilet / hot water cylinder store (4m²), and a study (7m²). This contravenes building line setbacks, with the retaining wall setback 3.8m in lieu of 15m from the western common boundary, and the study and outdoor toilet / hot water cylinder store being setback 12m in lieu of 15m from the eastern common boundary. This contravenes Item 109 of the Development Management Scheme (DMS). It appears that the retaining wall,

which is in parts 4m in height, also contravenes Item 126 of the DMS. (The applicant has not shown the existing ground level so this cannot be definitively confirmed.)

- 5.2 In terms of Section 129(7)(a) of the MPBL, 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 conducted.
- 5.3 The value of the building work relating to the retaining wall is based on figures provided by the applicant from a builders' quote (see Annexure C). The applicant has also provided a value of the cost of the study (see Annexure C), but it is not clear what the source of this is. Note that it is not clear if these figures include VAT. Furthermore, the value for the retaining wall is solely based on the length of the wall that contravenes the 15 building line, and not the height contravention. For pragmatic reasons, however, the applicant's values are accepted for the purpose of the maximum administrative penalty that can be imposed.
- 5.4 A quote was not received for the outdoor toilet / hot water cylinder store, and therefore the cost table contained within the Standard Operating Procedure for Administrative Penalties has been used for purpose of determining its value.
- 5.5 The values of the building work in contravention of the MPBL are as follows:
 - a. Retaining wall: R70 000
 - b. Study: R6700.00
 - c. Outdoor toilet and hot water cylinder store: $R5720 \times 4m^2 = R22\ 880.00$

Total: R99 580.00
- 5.6 The maximum administrative penalty that can be charged is 100% of R99 580.00.
- 5.7 The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by Section 129(8) of the MPBL, 2015:
 - a) **The nature, duration, gravity and extent of the contravention**

Nature – The contraventions of the MPBL relate to a retaining wall, outbuilding and study that are permitted in an Agricultural Zone.

Duration – According to the applicant, the building work done by the current owner took place during December 2017. The duration of the contravention is thus moderate. The building work done by the previous owner is long.

Gravity – The gravity of the contraventions is not particularly serious. Although the retaining walls are large, given the large number of trees in the area, they will not be easily visible from outside the property.

Extent – The extent of the retaining wall contravention is moderate, but the extents of the other contraventions are small.
 - b) **The conduct of the person involved in the contravention**

According to the applicant, some of the contraventions were done by the previous owner.

It is very clear from the motivation that the current owner was fully aware of the need to obtain building plan approval and of the consequences of contravening the MPBL, due to his previous contravention on another property that resulted in an administrative penalty. Furthermore, the application for departures was submitted in December 2018 which is a full year after the building work was completed. It appears that the current owner willfully disregarded the MPBL. His conduct cannot be condoned.

c) Whether the unlawful conduct was stopped

No. The building work is complete.

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

The owner has previously contravened the MPBL by conducting unauthorised building work on Erf 8791 Constantia, his previous house. The Municipal Planning Tribunal resolved on 15 August 2017 that an administrative penalty of R11 683.00 be imposed.

- 5.8 In view of the abovementioned considerations, and in particular (1) that this is the second contravention of the current owner of the MPBL, (2) the conduct of the current owner, and (3) the intention that administrative penalties are, in part at least, meant to serve as a deterrent, this Department recommends that an administrative penalty of R20 000.00 be imposed in relation to the building work done by the current owner. This Department recommends that an administrative penalty of R0 be imposed in relation to the building work done by the previous owner.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1 The unauthorized building work is in contravention of Items 109 and 126 of the Development Management Scheme.
- 6.2 The gravity of the contraventions is not particularly serious. Although the retaining walls are large, given the large number of trees in the area, they will not be easily visible from outside the property.
- 6.3 The extent of the retaining wall contravention is moderate, but the extents of the other contraventions are small.
- 6.4 The duration of the contraventions done by the current owner is about a year and a half. The building work done by the previous owner is long.
- 6.5 Some of the contraventions were done by the previous owner and the current owner cannot be held responsible for this.
- 6.6 It is very clear from the motivation that the current owner was fully aware of the need to obtain building plan approval and of the consequences of contravening the MPBL, due to his previous contravention on another property that resulted in an administrative penalty. Furthermore, the application for departures was submitted in December 2018 which is a full year after the building work was completed. It appears that the current owner willfully disregarded the MPBL. His conduct cannot be condoned.
- 6.7 The owner of the property has previously contravened the Municipal Planning By-Law.

7. RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of R20 000.00 be determined in terms of Section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 285 Constantia in respect of the building work as per the plan drawn by Meuson Designs, drawing number 23161 dated 17 April 2019.

ANNEXURES

Annexure A	Locality plan
Annexure B	Site Development Plan
Annexure C	Applicant's motivation and builder's invoice
Annexure D	Photographs
Annexure E	Title deed



Section Head
Name: P Hoffa
Phone: 021 444 7724
Date: 2019-05-03



District Manager
Name: U Gonsoives
Phone: 021 444 7720
Date: 2019-05-06

ANNEXURE : A



Aliment CONSTANTIA

Ward: 62

District SOUTHERN

Suburb: BISHOPSCOURT

Sub Council: Subcouncil 20



1:3 391

Notices Served

Support
Received

Petition Signatory

Objections
Received



Generated by:

Date: Friday, 03 May 2019

File Reference:

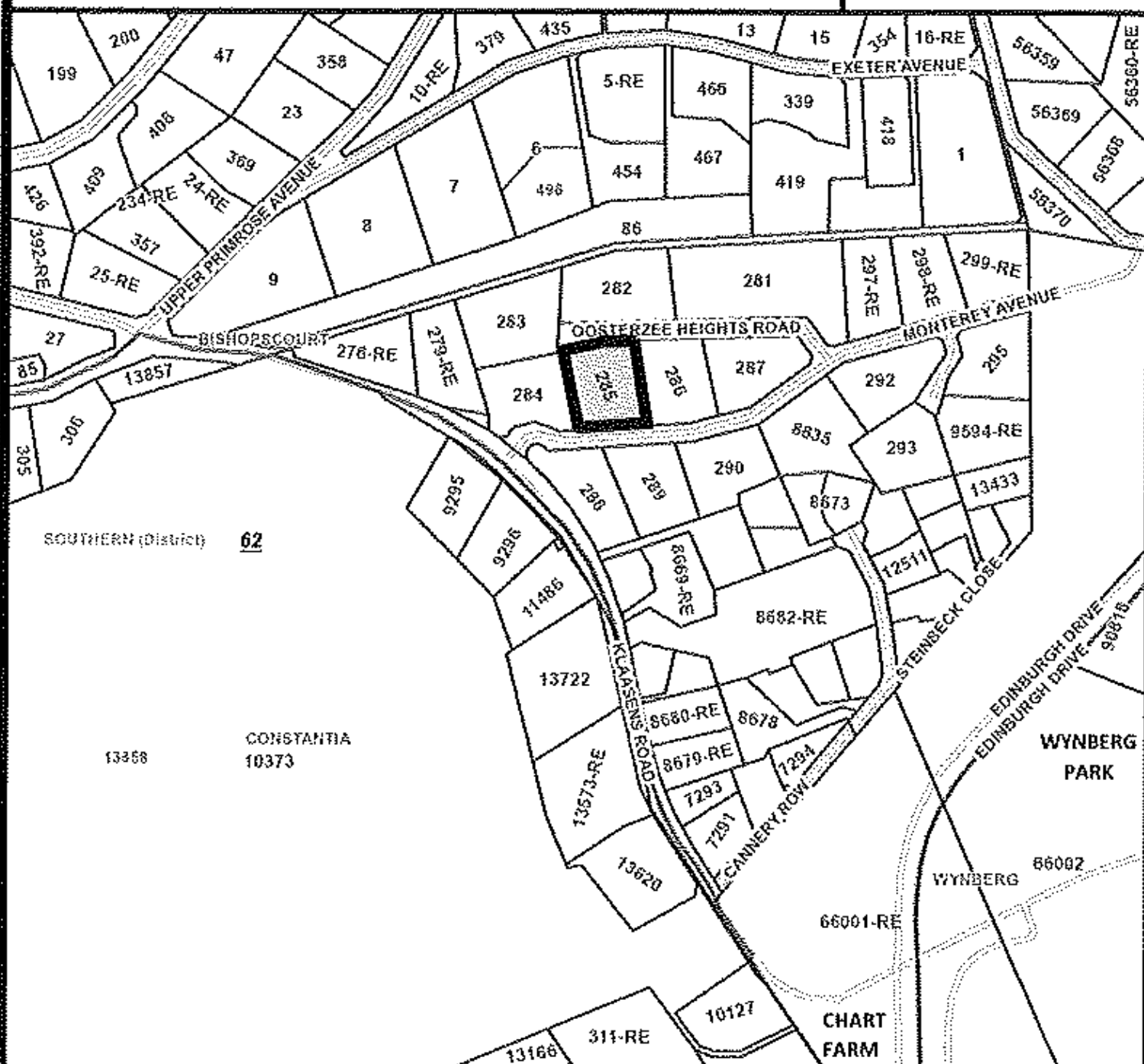


CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAFTAD

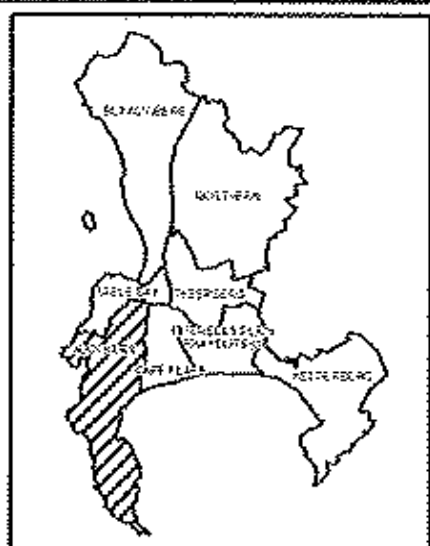
¹ www.irs.gov/efile

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP 2846

ANNEXURE :



Overview



Erf: 285

Allotment: CONSTANTIA

Ward: 62

District: SOUTHERN

Suburb: BISHOPSCOURT

Sub Council: Subcouncil 20



1:4 882

Notices Served

Petition
Signatory

Support
Received



Objections
Received



Generated by:

Date: Friday, 03 May 2019

File Reference:



CITY OF CAPE TOWN
ISIREKO SASEKAPA
SIAD KAAPSTAD

Making progress possible together



ph 021- 741518

Meuson designs

architectural - engineering
consultant

2848

p o box 328
constantia 7848

7 van breda ave
constantia 7800

ANNEXURE C

MOTIVATION

01ST December 2018.

RE: Motivation in terms of Section 129(8) of the MPBL, for unauthorised work at number 6 Oosterzee Heights Erf 285 Constantia – owner N.A. Planting.

Dear Mr Hoffa,

On behalf of our client, Mr. N.A. Planting, and with reference to our building plans – number 2316/1, dated 28th October 2018 – I hereby give you some background information...

Our client, Mr. N.A. Planting (SA ID number 690319 5031 083) is the sole owner of Erf 285 Constantia, and he purchased this property in October 2017.

Upon transfer our client painted/renovated and cleaned up the dwelling, as well as effecting some repair work and the replacement of existing rotten windows, doors, old carpets, and roof leaks/broken roof tiles etc, etc...

Our client, made some improvements/repairs to the house (which were unauthorised) ...

Listed as follows...

- An old outside garden concrete staircase was partially enclosed by the previous owner to house a hot water cylinder - but this had collapsed due to lack of maintenance over the years, and the date at which this pergola type of storage area was done is unknown (but it must have been done many, many years ago), but this was completely rebuilt (illegally) by the new owner (and modified and enlarged to accommodate a WC and a WHB). This equates to 4 square metres of new/repared roofed space. This structure sits 12,0 metres from the Eastern common boundary line – hence a regulation departure is required
- The area below the old balcony was enclosed to make the existing maids quarters a bit larger. This additional space equates to 10,34 square metres, which brings the

total size of the maid's quarters to 42 square metres. This enclosure is over the 15,0-metre building line – so a regulation departure is not required.

- The duration of all this building work was 2 weeks.
- From Friday 01st to Friday 15th December 2017.
- Please see builders' quotations for the above.

My client (whilst cleaning up this new property) has done some additional new unauthorised work...

Listed as follows...

- The existing stoep area outside the existing dining room was enclosed by just moving the existing sliding door outward to the eave edge. This created a new 7 square metre study space (under the existing house roof). This stoep enclosure sits 12,0 metres from the Eastern common boundary line – hence a regulation departure is required.
- A new 40 square metre swimming pool (10m x 4m) and new 48-metre-long Terraforce retaining wall was also constructed. A regulation departure is required for this retaining wall because 27 metres of this wall meanders over the 15,0 metre building line, and the retaining wall is 4.0 metres high at its highest point.
- I believe that a regulation departure is not required for the swimming pool.
- Our client contacted us after he had enclosed the stoep – but before he constructed the swimming pool and the Terraforce wall.
- Our client instructed us to immediately start with the council plans and paperwork for this swimming pool and Terraforce wall, and the remaining unauthorised work.
- Our client did not want to wait until the plans were approved before construction commenced - because he wanted the construction work to be completed by the December holidays for the children.
- Our client engaged with a Structural Engineer as well as a Land Surveyor for this Terraforce wall.
- Our client engaged with the affected neighbour (before construction commenced), to enquire if this neighbour had any objections to the swimming pool and the retaining wall. The neighbour did not have any objections.
- The cost of the stoep enclosure, the pool and the retaining wall is reflected in the quotations provided...
- The duration and construction time frames for this building works are as follows...
 - 1). Stoep enclosure, Friday 01st to Friday 15th December 2017 = 2 weeks.
 - 2). Terraforce wall, Friday 09th to Friday 23rd November 2018 = 2 weeks.
 - 3). Swimming pool, Friday 30th to Friday 07th December 2018 = 1 week.
- Our client has previously contravened the MPBL at his previous house last year – 19 Parade Crescent Erf 8791 Constantia Hills. An administration penalty was imposed

and paid for – so our client was aware of the possibility of penalisation for unauthorised work.

- I discussed this with him before construction commenced but he stated that the importance of getting his house finally completed before the December builders' holidays for his family was of a greater concern.
- At no stage did I think that our client was deliberately trying to "buck the system", but rather he had an urgent need to complete this renovation before the builder's holidays that start on the 14th of December 2018.
- The building inspector is unaware of this unauthorised work, and no notice has been issued. There have also been no complaints received.
- We have attached a City of Cape Town Municipal Valuation for this property (which is slightly less than the sale price of R 9400 000-00).
- We have attached the quotations for the above said building work for information purposes.
- We have also attached some photographs for information purposes.

My client understands the gravity of this contravention, and we await your feedback...

Regards,



Sean Meuwese.

c/o Meuson Associates.

021 794 5518.

082 294 2948.

14-08-2018



Decorton
Retaining Systems Pty (Ltd)

Specialist retaining wall
contractors & civil work

ATTENTION HELENE PLANTING
6 OOSTERZEE HEIGHTS
BISHOPSCOURT
CELL 0762360161 MAIL
hplanting19@gmail.com

2851
Main Road, Klipmuts,
Western Cape, South Africa
PO Box 36, Klipmuts 7625

Tel: 021 875 5155
Fax: 021 875 5170
Email: walls@decorton.co.za
www.decorton.co.za

QUOTATION DECORWALL BLOCK WALL

WE THANK YOU FOR INVITING OUR QUOTATION, AS PER AREA INDICATED TO MYSELF ON SITE; HAVE PLEASURE IN SUBMITTING OUR PRICE.

WALL (LENGTH 26M WITH RETURN ON WEST SIDE OF 13M)

EXCAVATION OF FOUNDATION TRENCH FOR CONCRETE FOUNDATION = 20M³
SUPPLY AND PLACE CONCRETE FOUNDATION TO RETAINING BLOCKS = 8M³
SUPPLY & INSTALL DECORWALL DW 100 SMOOTH FACE RETAINING BLOCKS = 102M³
SUPPLY & PLACE SUB SOIL DRAINAGE PIPE AT REAR OF RETAINING BLOCKS WRAPPED IN GEOFABRIC SOCK = 40M.
SUPPLY AND PLACE HORIZONTAL GEOGRID TIE BACKS TO RETAINING BLOCKS = 125M³
SUPPLY AND PLACE SAND CONTROLLED / DRAINAGE LAYER AT REAR OF RETAINING BLOCKS 1M WIDE = 130M³
BALANCE OF FILL BEHIND WALL TO BE CARRIED OUT BY CLIENT.

R120 000.00

CONDITIONS

PRICES EXCLUDE VAT

FREE WATER & ELECTRICITY REQUIRED.

NO ALLOWANCE MADE TO REMOVE ROCK / RUBBLE OFF SITE.

NO ALLOWANCE MADE TO BREAK LARGE ROCK IF IN COUNTED.

ALL UNDERGROUND SERVICES NOT INDICATED PRIOR TO CONSTRUCTION CLIENTS RESPONSIBILITY.

PAYMENT 30% ON ACCEPTANCE BALANCE TO BE SPLIT INTO THREE PAYMENTS

REGARDS

JEREMY LEIGHTON

RETAINING WALL = 48m LONG (AS MEASURED)
 $R120\,000.00 \div 48m = R2500.00/m$
28m IS OVER THE 15.0m BUILDING LINE
= R70 000.00 WORTH OF RETAINING
WALL OVER THE BUILDING LINE

Four Times National Award Winner at the CHA Awards for Excellence Competition



Supply and installation of:
Terraforce® blocks
Löffelstein® blocks
Terrace Blok®
Decorwall blocks

Directors: JB Leighton, SP van Blerk
Reg. no. 1997/019813/07

<u>CREATING STUDY</u>	
Materials included above	
Moving of doors etc	R 1 500.00
Ceiling installation	R 2 500.00
Floor finish	R 500.00
Plastering of face work	R 2 100.00

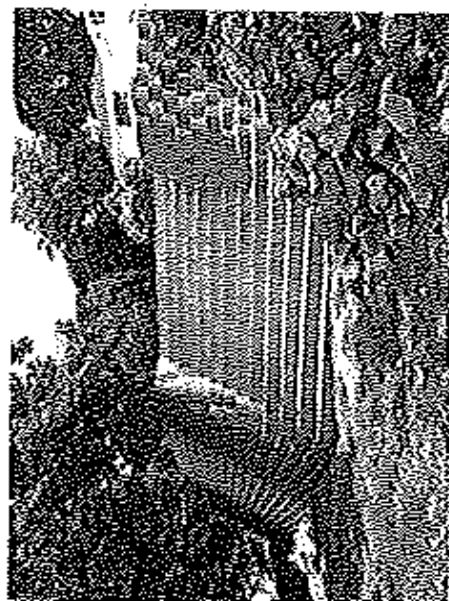
R 6 700.00 TOTAL

2853

BOTTOM OF RETAINING WALL

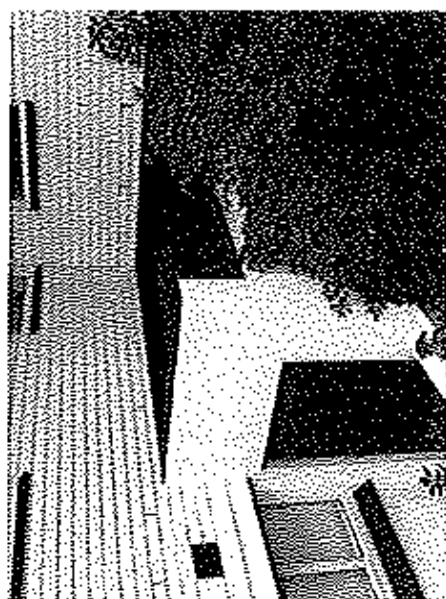


BOTTOM OF RETAINING WALL

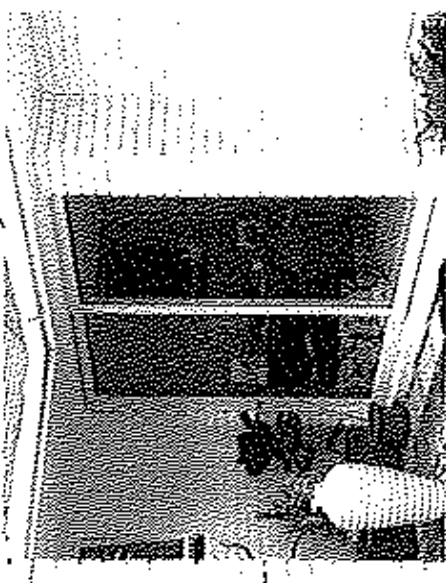


2854

GRADENERS W.C.



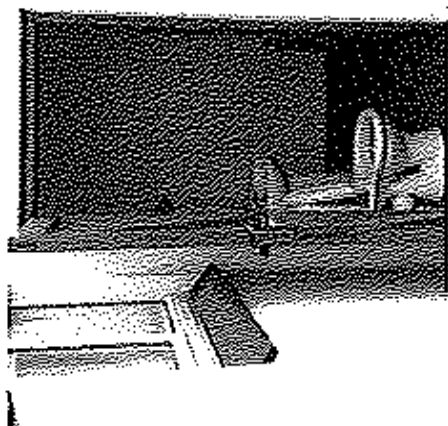
STRUCK ENCLOSURE
(UNDER EXISTING ROOF)



2855



GARDENERS W/ INSIDE



GARDENERS W/ ROOMS

186

2856

DEBRA GOUWS ATTORNEYS
Suite 308, 3rd Floor, Mariendahl House,
Newlands-on-Main
Cnr Main & Campground Roads
Claremont

Prepared by me

1. Purchase Price		2. Stamp Duty
R 9 400 000,00		R 2 455,00
3. Transfer Costs		4. R. _____
5. Reason for Acquisition		6. Exempt 12.0
7. Date of Acquisition		8. Date of Transfer

[Signature]
CONVEYANCER
Debra Gouws

CERTIFIED TRUE COPY

VENUE	MORTGAGED	DEBRA GOUWS DEBRA GOUWS ATTORNEYS PRACTISING ATTORNEY, RSA EX OFFICIO COMMISSIONER OF OATHS 308, 3 RD FLOOR, MARIENDAHL HOUSE NEWLANDS-ON-MAIN CLAREMONT, 7708
R 2 500 000,00		
000026884 / 2017		
12 OCT 2017		

DEED OF TRANSFER

000060322 / 2017

BE IT HEREBY MADE KNOWN THAT

Debra Gouws

30/11/2017 10:02:00 AM 11/2/17

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer
being duly authorised thereto by a Power of Attorney which said Power of Attorney
was signed at CLAREMONT on the 25th MAY 2017 granted to him by

MARGO COHEN

Identity Number 360424 6124 18 1

Married, which marriage is governed by the laws of ZIMBABWE and duly
assisted herein by his spouse RACHEL RAY COHEN, Identity Number
441028 0115 16 6 Insofar as needs be

And the appraiser declared that his said principal had, on 7 April 2017, truly and legally sold by Private Treaty, and that he, the said Appraiser, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

NEIL ANDREW PLANTING

Identity Number 690319 6031 08 2

Married out of community of property

his Heirs, Executors, Administrators or Assigns, in full and free property

ERF 285 CONSTANTIA in the City of Cape Town, Cape Division, Western Cape Province

IN EXTENT 4283 (FOUR THOUSAND TWO HUNDRED AND EIGHTY THREE) Square metres

FIRST TRANSFERRED BY DEED OF TRANSFER NO T 380/1860 WITH DIAGRAM NO 4977/19528 RELATING THERETO AND HELD BY DEED OF TRANSFER NO T 13103/1888.

- A. SUBJECT to such conditions as are referred to in Certificate of Amended Title on Consolidation No. 7683/1953;
- B. SUBJECT to the servitude referred to in the endorsement dated 27 May 1953 on Deed of Transfer No 11255/1928 reading as follows:-

"REGISTRATION OF SERVITUDE

By Deed of Trfr No. 7682/1953 dated this day the within property para 1 and the Remd. of para 2 which are being consolidated upon re-survey into the Lot Monterey meas. 20.4448 mgn is entitled jointly (and subject to the joint maintenance thereof) with Ptn 48 to a servitude Road 30' along the NW side bc on diagram 5510/52 of Ptn 48 and also subject to the right of the owner of the said Ptn 48 to draw water from the Municipal supply through the pipe connecting the said Lot Monterey with the Municipal water main, subject to certain conditions re payment, maintenance etc. as will more fully appear from said Deed of Trfr."

- C. ENTITLED to the benefit of the servitude referred to in the endorsement dated 13 March 1951, on Deed of Transfer No 11255/1928, which reads as follows:-

*Remainder Para 2.

REGISTRATION OF SERVITUDE

By Deed of Transfer No. 3997/1951 dated this day the remainder of Portion C 21.330 morgen held under para 2 herein is entitled to the

benefit of the following conditions imposed against Portion 47 = 1,8858 morgen thereby transferred:

- "(a) The said property shall be used for residential and/or farming purposes only and no shop or hotel or any other commercial or industrial business shall be carried on thereon.
- (b) No building of the type commonly known as "flats" shall be erected on the property purchased.

D. ENTITLED to the benefit of the following servitude condition contained in Deed of Transfer No 20725/1953 whereby portion 1 Lot Monterey was conveyed, a reference to which condition was on 22 December 1953, endorsed on the said Certificate of Amended Title on Consolidation No. 7683/1953, namely:-

"The transferee and her successors in title shall permit the existing pipes marked j k l m n on diagram thereof S.G. No. 11705/52 passing over the property, to remain at the pleasure of the transferor and his successors in title."

E. AND FURTHER SUBJECT to the following servitude conditions contained in Deed of Transfer No 20726/1953 whereby Portion 2 of Lot Monterey was conveyed a reference to which condition was on 22 December 1953 endorsed on Certificate of Amended Title on Consolidation No. 7683/1953, namely:-

"The remaining extent of lot Monterey (held under Certificate of Amended Title on Consolidation No. 7683 dated 27th May 1953, and measuring 12 morgen, 19813.92 square feet) shall not be used by the Transferor or his Successors in Title for the purpose of conducting thereon any School or Scholastic Institutions."

F. SUBJECT to the following conditions contained in Deed of Transfer No 660/1960 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when granting approval to the establishment of Wynberg Township Extension No 1, viz:-

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 383 dated 13 June 1958.
2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of Section 146 of Ordinance No. 15 of 1952 as amended.

3. The owner of this erf shall without compensation be obliged to allow electricity and waterpipes and mains and the sewerage and drainage, including stormwater of any other erf or erven inside or outside this township to be conveyed across this erf, if deemed necessary by the local authority, and in such manner and position as may from time to time be reasonably required; this shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
4. The owner of this erf shall be obliged without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street, and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
5. No building on this erf shall be used or converted to use for any purposes other than that stipulated in these conditions.
6. This erf shall be subject to the following further conditions, providing that where, in the opinion of the Administrator after consultation with the Township Board and the local authority it expedient that the restriction on any such condition should at any time be suspended or relaxed he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose:
 - (a) it shall not be subdivided;
 - (b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;
 - (c) Not more than 20% of the area thereof shall be built upon;
 - (d) No building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 7,87 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of any other boundary. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf;

G. SUBJECT FURTHER to the following special conditions imposed in Deed of Transfer No 680/1960 by Monterey Township (Proprietary) Limited & Township Owner for its own benefit and for the benefit of the Owners from time to time of erven in Wynberg township Extension No 1, viz:-

- (i) No electric generating plant, windmill or windmill operated machinery shall be established on the erf without the written consent of the ownership.
- (ii) No building shall be erected or commenced to be erected on this erf unless the plans elevations general design and siting thereof have been approved by the Township Owner or its

representative. To enable proper consideration to be given to the said plans the Company shall be entitled to have the same as well as the supporting documents examined by its own architects. The Township owner through its officials or through its Architects shall be entitled at all reasonable times during the progress of erection of work inspect such work to ensure that the same is being erected in conformity with such plans as may have been approved by the Company in terms of the foregoing provision of this Clause, and there shall be no departure from or additions to the said plans without the consent of the Company's Architect in writing.

- (a) No charge shall be levied for the examination and approval of plans and specifications as referred to in this condition.
- (b) Any owner who has been refused approval by the Township owner in terms of this condition shall have the right of appeal to the local authority having jurisdiction, which may, if it considers approval to have been unreasonably withheld, overrule the Township Owners's decision.
- (iii) No galvanised or other iron, corrugated or other asbestos or bituminous felt shall be used for roofing, or fencing purposes on this erf, and roofs of any buildings shall not be constructed of any material other than the thatch shingles or tiles or slates.
- (iv)
- (v) The registered owner of the erf shall not permit but on the contrary shall eradicate Port Jackson Willow, Roof Krantz and wattle trees from the Erf by not allowing any of these trees to flower on the property without the consent of the Township owner and to keep the property clear of such trees. If the registered owner of the erf neglects so to keep the property clear the Township owner shall be entitled to give the registered owner written notice requiring the registered owner to cause such trees to be removed from the property within fourteen days; failing such compliance with such notice by the registered owner the Township owner may through any of its employees or servants or agents, enter upon the property and remove such trees and recover the costs of such removal from the Purchaser.
- (vi) The registered owner of the erf shall not permit and shall prevent water erosion on the property and shall prevent the property being denuded of vegetation to any extent likely to cause or aggravate erosion.

- (vii) No dwelling together with such outbuildings as are ordinarily required to be used therewith shall be erected on the erf of a lesser value than 1½ times the purchase price of the erf.

H. SUBJECT to the terms of a servituda a reference whereeto is endorsed on said Deed of Transfer No 680/1980 (which endorsement bears date 22 July 1984) and reads:-

"By Deed of Transfer No 181/64 dated 22nd July 1964, Erf No 6 Wynberg Township Extension No. 1, measuring 43203 Square Feet held under para. V hereof is subject to the following condition in favour of Erf No 5 Wynberg Township Extension No 1 measuring 44417 Square Feet, held under aforesaid Deed of Transfer:-

the joint right of ingress and egress over a triangular splay 30 feet along the boundary of Erf No 6 (A B as demarcated on diagram 4977/1959) and 30 feet along the common boundary (A E as demarcated on diagram 4977/1959).

SUBJECT to conditions as will more fully appear on reference to the said Deed of Transfer".

I. SUBJECT to the following condition contained in Deed of Transfer No T19489/1984 imposed by the Transferor as owner of Erf No. 1 Wynberg Township Extension No 1 for its benefit and for the benefit of its Successors in Title to the whole or any portion of the said Erf No 1, held by Deed of Transfer No. 680/1980, viz:-

"The Transferee and his successors-in-title to Erf No 6 Wynberg Township Extension No 1 shall not oppose and waives the right to object to the further subdivision of Erf No. 1 Wynberg Township Extension No. 1 into two or three erven".

J. SUBJECT to the provisions of a Notarial Deed No. 485/1965 dated 7 May 1965 as will more fully appear in the endorsement dated 10 August 1965 on said Deed of Transfer No. 19489/1984 reading as follows:-

"By Notarial Deed No. 485/65 d/d 7/5/1965 the owner of the within property has consented to the eventual elimination of Conditions 6 a and b relating to non-Subdivision and erection of one dwelling as set out in para 1 of T680/80. As will more fully appear from said Notarial Deed"

WHEREFORE the said Appearer, renouncing all rights and title which the said

MARCO COHEN, Married as aforesaid

heretofore had to the premises, did in consequence also acknowledge him to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

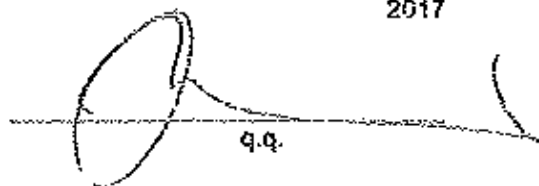
NEIL ANDREW PLANTING, Married as aforesaid

his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of

R9 400 000,00 (NINE MILLION FOUR HUNDRED THOUSAND RAND)

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 17th October 2017


q.q.

In my presence


REGISTRAR OF DEEDS


Shirley Gray 15.6.11.3