

REPORT TO SUBCOUNCIL 6

1 ITEM NUMBER **06SUB19/01/21**

2 SUBJECT

PROPOSED LEASE OF CITY-OWNED RESIDENTIAL PROPERTY, BEING  
ERF 4919, SITUATED AT 28 AVONDALE STREET, OAKDALE, BELVILLE:  
MRS CHRIZEL PIETERSEN (STAFF MEMBER)

ONDERWERP

VOORGESTELDE VERHURING RESIDENSIËLE EIENDOM IN STADSBESIT,  
NAAMLIK ERF 4919, GELEË TE AVONDALESTRAAT 28, OAKDALE,  
BELLVILLE: MEV. CHRIZEL PIETERSEN (PERSONEELLID)

ISIHLOKO

ISIPHAKAMISO SENGQESHISO NGEPROPATI EYINDAWO YOKUHLALA  
YESIXEKO, ESISIZA 4919 ESIME KWA-28 AVONDALE STREET, OAKDALE,  
EBELLVILLE: KUNKSKZ CHRIZEL PIETERSEN (UMSEBENZI)

L3354

PTMS NO: 130005400  
File Ref No: 14/3/3/2/1/22/A48  
(Category 1- Residential)

3 DELEGATED AUTHORITY

- ☒ The report is for comment by subcouncil to the competent authority in terms of Part 24, Delegation 10(1).
- ☐ In terms of delegations Part 27B paragraph 19 (5), the following delegation was conferred upon the City Manager. The City Manager has sub-delegated this delegation to the Director: Property Management.

"To approve the granting of rights to use, manage or control capital assets of a value less than R10 million and for a period not longer than 3 years, provided that this delegation may only be exercised after considering the

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comments of the Sub-council in whose area of jurisdiction the capital asset is situated.

☐ Final decision lies with Director: Property Management.

#### 4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	Proposed lease of City-owned residential property, being erf 4919, situated at 28 Avondale Street, Oakdale, Bellville		
Site extent	± 495.58 m <sup>2</sup>		
Submission date	n/a		
Current zoning	Single Residential 1		
Current usage	Residential		
Proposed usage	Residential		
TOD Assessment	Cat 1 – TOD N/A	<input checked="" type="checkbox"/>	Cat 1
	Based on the TOD (Transit Oriented Development) strategic screening of the proposed erf to be disposed of, the subject property was found to have no TOD potential (also known as Category 1 in terms of the TOD land Disposal Assessment Process) and did not meet the minimum TOD criteria due to its size, lack of consolidation potential and/or locational characteristics relevant to the City's TOD Strategic Framework.		
Public participation outcome summary	Bulk Advert – Objection received. Objection not upheld by delegated authority in terms of Resolution EDT15/04/11 Property Management Advertising processes for leases, refer to 6.9.1 for details.		
WARD CLLR	NOTICE DATE		WARD
Brendon v/d Merwe	18/02/2020		3
Viable	Yes	<input checked="" type="checkbox"/>	No

	<p>The subject land is considered to be viable, however it is affected by <i>the approved Public Right of Way / Road Network Plan (2017)</i>,</p> <p>A competitive process is followed when an improved property is tenanted. Standard application forms are available to all interested parties and applicants who qualify in terms of the said criteria are registered on the PM Database.</p> <p>The requirements are:</p> <ol style="list-style-type: none"> <li>1. Applicants must earn 3 x the rental to qualify;</li> <li>2. Positive references of previous lessor(s);</li> <li>3. Must be employed for at least 6 months;</li> <li>4. No default judgments against applicant.</li> </ol> <p>When a residential property becomes available, the property is refurbished, a market related rental determined and tenants are selected from the database based on affordability and best fit.</p>			
Recommended decision	Approval	x	Refusal	
Regulation 34(1) In-principle approval	Granted by Director: Property Management in terms of delegated authority prior to 5 January 2017			
Factors motivating recommendation:	<ul style="list-style-type: none"> <li>• Council will receive a financial benefit in the form of a market related rental</li> </ul>			
Strategic intent	<b>SFA 1 : an OPPORTUNITY City of Cape Town</b>			
	Objective 1.1	Positioning Cape Town as forward looking globally competitive City		
	Programme 1.1(g)	Leveraging the City's assets		

## 5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of City land, being erf 4919, Oakdale, Bellville, situated at 28 Avondale Street, Oakdale, Bellville shown hatched on the attached aerial photograph marked "**annexure A**", in extent approximately 495.58 m<sup>2</sup>, to Chrizel Pietersen be approved subject to inter alia the following conditions:

- a) A market rental of R7 100 per month, inclusive of rates and excluding VAT where applicable, be payable;

- b) The rental will escalate at 6% per annum;
- c) The lease will endure for a period of three years;
- d) The property to be used for residential purposes only;
- e) The rental is exclusive of all municipal services i.e. water and electricity;
- f) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- g) Subject to compliance with any other statutory requirements;
- h) No compensation will be payable for any improvements made to the property;
- i) The lessee is to ensure that the necessary land use permissions, if applicable, are in place for the duration of the lease period.

## AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van Stadsgrond, synde erf 4919, Oakdale, Bellville, geleë te Avondalestraat 28, Oakdale, Bellville, gearseer op die aangehegte lugfoto, gemerk bylae A, ongeveer 495,58 m<sup>2</sup> groot, aan Chrizel Pietersen, goedgekeur word, onderworpe aan onder meer die volgende voorwaardes dat:

- a) 'n Markverwante huurbedrag van R7 100 per maand, eiendomsbelasting ingesluit en BTW waar van toepassing uitgesluit, betaalbaar is;
- b) Die huurbedrag jaarliks met 6% sal styg;
- c) Die huurooreenkoms vir 'n tydperk van drie jaar sal duur;
- d) Die eiendom slegs vir residensiële doeleindes gebruik word;
- e) Alle munisipale dienste, d.w.s. water en elektrisiteit, word by die huurbedrag uitgesluit;
- f) Onderworpe aan sodanige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid;
- g) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- h) Geen vergoeding betaalbaar sal wees vir enige verbeteringe aan die eiendom nie;

- i) Die huurder seker moet maak dat die nodige grondgebruikmagtigings vir die duur van die huurtydperk verkry is, indien van toepassing.

## **IZINDULULO ZOKUBA ZIQWALASELWE KWAYE KUHLONYULWE KUZO LIBHUNGANA ELIFANELEKILEYO**

Kundululwe ukuba makuphunyezwe ingqeshiso yomhlaba weSixeko, osisiza-4919, e-Oakdale, Bellville, esime kwa-28 Avondale Street, Oakdale, eBellville esibonakaliswe ngemigca ekrweliweyo kwifoto efotwe emoyeni eqhotyoshelweyo nephawulwe **“isihlomelo A”**, esibukhulu bumalunga nama-495.58 m<sup>2</sup>, kuChrizerl Pietersen ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo:

- a) Makuhlawulwe ixabiso larenti elihambelana nelemariki elingama-R7 100 ngenyanga kuquka iintlawulo zobuhlali ngaphandle kweRhafu-ntengo apho kufanelekileyo;
- b) Irenti iyakuthi inyuke nge-6% ngonyaka;
- c) Ingqeshiso iza kuhlala isithuba seminyaka emithathu;
- d) Ipropati mayisetyenziselwe kuphela imibandela yendawo yokuhlala;
- e) Ixabiso larenti alizibandakanyi iinkonzo zikamasipala ezifana namanzi nombane;
- f) Ngokuxhomekeke kweminye imiqathango eyongeziweyo eyakuthi imiselwe nguMlawuli woLawulo lweePropati ngokwamagunya akhe awagunyaziselweyo;
- g) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho engeminye;
- h) Akusayi kuhlawulwa mbuyekezo ngophuculo oluthe lwenziwa kwipropati;
- i) Umqeshi kufuneka aqinisekise ukuba iimvume zosetyenziso lomhlaba ezifunekayo, ukuba kufanelekile, zimi ngendlela ngeli xesha lengqeshiso.

## **6 DISCUSSION/CONTENTS**

### **6.1 BACKGROUND:**

The current lessee, Mrs Chrizerl Pietersen, entered into a residential lease agreement with the City of Cape Town for Erf 4919, in extent of 495.58 square meters on 1 November 2015 which expired 30 June 2019 and continues on a tacit relocation principle.

The subject property is a residential house affected by *the approved Public Right of Way / Road Network Plan (2017)*.

In terms of contract compliance, the City's Property Management Department initiated the valuation process and a rental review was performed in order to implement a new market rental. Mrs Chrizel Pietersen was notified accordingly of the new proposed market related rental and accepted the proposed amount.

The proposed new CPA lease will include a two months' termination clause, in the event that the property is required by the City.

The tacit lease agreement will only take effect, after the comments are received from Subcouncil 6, and the final approval by the Director Property Management. If approved, the current lease will be terminated, the day preceeding the commencement of the new lease agreement.

A valuation assessment was carried out in order to determine the current market related rental.

Mrs Chrizel Pietersen is still regarded as a suitable candidate for the subject property. Chrizel Pietersen is employed by the City of Cape Town.

## **6.2 CONSULTATION WITH INTERNAL BRANCHES:**

The City's Transport and Urban Development Authority Department was consulted and have no objection to the lease, with a further condition to be imposed attached to report as **annexure B**

## **6.3 VALUATION**

The City's Professional Valuers on 31 May 2019 assessed the rental value of the subject property at R 6 500 per month, escalating at 8% per annum, however due to the delay in the applicant providing her Tax Clearance, Covid-19 and the changes in the economy we requested our valuations department to review the rental and escalation. The reviewed rental value is R7100 per month escalation at 6% per annum, valuation memo is attached to the report as **annexure C**.

## **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 policy relating to 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 whose 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.

Applicant has complied. Tax Clearance certificate attached hereto as **annexure D**.

## 6.7 FINANCIAL DUE DILIGENCE

The applicants debt profile has been verified and it is confirmed that the applicant 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 party 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 market related rental, being R7 100 per month, escalating at 6% per annum.

### 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 22 May 2020. Closing dates for objections were 22 June 2020. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. One objection was received.

- 6.9.1 We are of the view that the notice poses a serious challenge to effective public participation and governmental transparency, and that the City's departure from the ordinary public participation processes followed by the City for leases, lease renewals and encroachments of the abovementioned categories (i.e. publishing individual notices and provide a comment period for each lease, lease renewal or encroachment in the Cape Argus as has been the City's practice up to now) constitutes a regressive measure that jeopardises the public's ability to meaningfully participate in the City's decision-making processes regarding public land management.



We believe that the City has a constitutional and legislative duty to take positive steps to encourage public participation in its decision-making processes about public land management. We submit that the public participation process adopted by the City in terms of the notice constitutes a failure to comply with this obligation that renders any lease, lease renewal or encroachment that is authorised in terms of this notice constitutionally suspect, unlawful and invalid.

The City's chosen method of public participation of a bulk notice excludes and potentially unfairly discriminates against various groups, including people with physical disabilities, people without access to transport, poor and working-class people, and the general public during the duration of the COVID-19 crisis.

We therefore urge the City to reconsider its chosen method of public participation. We believe that more people become aware and have the opportunity to comment on the City's land management decisions when the City publishes individual notices for leases, lease renewals or encroachments in the Cape Argus, in addition to posting individual notices at the physical locations of the City's Property Regional Offices.

#### **RESPONSE TO OBJECTION:**

The objection that the notice poses a serious challenge to effective public participation and governmental transparency is unjustified as per the reasons provided above. This has also been the practice for a number of years.

The reason for adopting the bulk advert process is to assist lessees in certain categories to conclude leases at a more affordable consideration. The 2020/2021 Financial Year City tariff for advertising charges for leases is R4 566.00 excl. VAT, and many lessees can't afford the advertising costs and in the past some have elected not to pursue leases with the City due to this expense.

In order to assist these lessees, a bulk advertisements signifying its intent to lease out properties falling into a specific category, such as lessees listed in a managed database for residential properties and \*non-viable portions of land for gardening and security purposes (\*please see definition below).

The leasing of property by local government is regulated by the provisions of Chapter 4 of the Municipal Asset Transfer Regulations ("the MATR") promulgated in 2008 under the Municipal Finance Management Act No.56 of 2003 ("the MFMA") together with the City's disposal management system formulated under the Supply Chain Regulations of the MFMA, and the City's new Policy on Management of Certain of the City's Immovable Property, 2010 ("the property policy").

In terms of Regulation 34 of the MATR, a public participation process is required when the City grants a right to use, manage or control City property where the property value exceeds R10 million and the right is to be granted for a period exceeding three years.

If a public participation process is not mandatory under Regulation 34, Section 16 of the property policy must be adhered to, which provides as follows:

The City shall conduct a public participation process in respect of a Non-Significant Property Right and may determine the form that this process should take.

The City may thus determine the form that the process should take.

#### **OUTCOME:**

The objection was not upheld. Objection not upheld by delegated authority in terms of Resolution EDT15/04/11 Property Management Advertising processes for leases.

#### **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 not exceeding 3 years (Non-Significant Property Right). National and Provincial Treasury have been notified. No comments or objections 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 the right**

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: Aerial photograph  
Annexure B: TDA comment  
Annexure C: Valuation Memo  
Annexure D: Tax clearance certificate

FOR FURTHER DETAILS CONTACT:

APM

<b>NAME</b>	ALEXANDER MATIESIE
<b>CONTACT NUMBERS</b>	021 444 4979
<b>E-MAIL ADDRESS</b>	ALEXANDER.MATIESIE@CAPETOWN.GOV.ZA
<b>DIRECTORATE</b>	ECONOMIC OPPORTUNITIES AND ASSET MANAGEMENT
<b>FILE REF No</b>	14/3/3/2/1/22/A48
<b>MANAGER: PROPERTY HOLDING</b> RACHEL SCHNACKENBERG	Mashudu Mudau Digitally signed by Mashudu Mudau Date: 2020.11.30 16:13:52 +02'00'

 Digitally signed by Ruby  
Gelderbloem  
Date: 2020.12.02 15:14:27  
+02'00'

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

NAME RUBY GELDERBLOEM

DATE

Comment:

Jason Sam  
Liebenberg  
g  
Digitally signed  
by Jason Sam  
Liebenberg  
Date: 2020.12.04  
14:19:57 +02'00'

**LEGAL COMPLIANCE**

NAME

TEL

DATE

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

☐ NON-COMPLIANT

Comment:

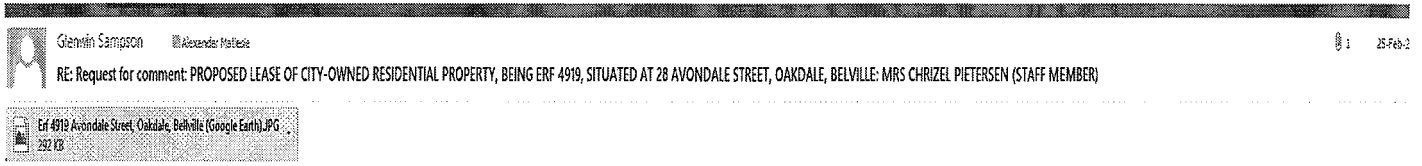
Certified as legally compliant based on the contents of the report

## ANNEXURE A



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## Annexure B



Dear Alexander

With reference to the CTPP 2017-22 and the approved Public Right of Way / Road Network Plan (2017), The Conceptual Design & Planning Branch has no objection to the lease of Erf 4919, Avondale Street, Oakdale, Bellville on condition that a cancellation clause is included in the lease agreement as the property is affected by the future Frans Conradie Drive Extension.

Regards,

*Glenwin Sampson*

s.b.o. Johan G Meyer Pr Eng.

Principal Engineer: Planning & Conceptual Design  
18<sup>th</sup> Floor, Civic Centre  
12 Hertzog Boulevard

Tel : 021 400 3851

E-mail : [JohanG.Meyer@Capetown.gov.za](mailto:JohanG.Meyer@Capetown.gov.za)



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STAD KAAPSTAD

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From: Alexander Matiese <[Alexander.Matiese@capetown.gov.za](mailto:Alexander.Matiese@capetown.gov.za)>

Sent: Tuesday, February 18, 2020 1:52 PM

To: Glenwin Sampson <[GlenwinRicardo.Sampson@capetown.gov.za](mailto:GlenwinRicardo.Sampson@capetown.gov.za)>

Subject: RE: Request for comment: PROPOSED LEASE OF CITY-OWNED RESIDENTIAL PROPERTY, BEING ERF 4919, SITUATED AT 28 AVONDALE STREET, OAKDALE, BELVILLE: MRS CHRIZEL PIETERSEN (STAFF MEMBER)

Good day,

The City of Cape Town is considering the lease of City-Owned shown below for a period of 3 years, being Erf 4919, Oakdale, Bellville.

Kindly furnish us with your comment, also your Branch, to the above-mentioned proposal and advise of the following:

- any objection to the proposed application;
- any bypasses/road schemes affected and any conditions to be imposed



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## Annexure C



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STAD KAAPSTAD

ECONOMIC OPPORTUNITIES AND ASSET MANAGEMENT  
PROPERTY MANAGEMENT

Laila Paleker  
Professional Valuer

E: laila.paleker@capetown.gov.za: 021 400 3465  
Ref: Job # 8487 Case ID: 130005400

DATE	2020-11-20
To	Head: Improved Properties and Lease-Ins
ATTENTION	Isaac Martin

### MARKET VALUATION OF ERF 4919 BELLVILLE AT 28 AVONDALE STREET, OAKDALE, BELLVILLE

#### 1. Purpose of this memorandum

As the previous valuation report dated 2019-05-31 has not been implemented, we have been requested to comment on whether the escalated rental is still market related.

#### 2. Previous valuation

We previously determined the market rental of the residential improvements on Erf 4919 Bellville at 28 Avondale Street, Oakdale, 496m<sup>2</sup> in extent with a dwelling size of 68m<sup>2</sup>.

The accommodation comprises two bedrooms, living room, kitchen and bathroom with separate toilet.

More specifically, our date of valuation was as at 2019-05-31 and it was recommended that the City dwelling, be leased for an amount of R6 500 per month, inclusive of rates and exclusive of VAT escalating at 8% per annum for a period of three years, with the following conditions:

- i. The rental is exclusive of all municipal services i.e. water and electricity.
- ii. The rental to escalate at 8% per annum and is effective and payable 2 months from date of valuation i.e. as from 2019-08-01.
- iii. It was further noted in the valuation report that Facilities Management had not earmarked this property for further refurbishment; therefore, the dwelling was valued in its current condition, i.e. fair condition.

### 3. Recommendations

Considering the most recent market evidence, taking into account market trends, the current state of the property market and the forecast going forward, we recommend that the subject property be leased for R7 100 per month (inclusive of rates and exclusive of VAT), subject to the following:

- (i) The monthly rental is to be adjusted on the basis of 6% per annum compounded 6 months from date of this valuation. Accordingly, the above recommended rental is to be adjusted as from 2021-06-01.



Laila Paleker  
Professional Valuer  
Registration No. 7342/2

RP



Paul Pendlebury  
Head: Market Valuations

Date: 2020-11-24

[https://records.cape-town.gov.za/sites/default/files/property/valuations/files/lailapaleker/2020/Selville/1126\\_Fr 4/19\\_28 Avondale Street\\_Schema\\_Memo\\_L.docx](https://records.cape-town.gov.za/sites/default/files/property/valuations/files/lailapaleker/2020/Selville/1126_Fr 4/19_28 Avondale Street_Schema_Memo_L.docx)



## Annexure D



C PIETERSEN  
4 DOUGLAS CARR DRIVE  
BLOMMENDAL  
BELLVILLE  
7530

### TAX COMPLIANCE STATUS

#### Verification

Enquiries should be addressed to SARS:

#### Contact Detail

SARS  
Alberton  
1528

Contact Centre Tel: 0800 00 SARS (7277)  
SARS online: [www.sars.gov.za](http://www.sars.gov.za)

#### Details

Taxpayer Reference Number: 0599823143

Always quote this reference  
number when contacting SARS

Issue Date:

2020/10/22

Dear Chrizel Pietersen

#### TAX COMPLIANCE STATUS VERIFICATION

With reference to your tax compliance status (TCS) verification request, the South African Revenue Service (SARS) confirms the following:

TCS Verification	
Taxpayer Name	Chrizel Pietersen
Trading Name	Not applicable
Tax Reference Number(s)	0599823143
PIN	A50GF445JB
Date of Verification	2020/10/22
Tax Compliance Status Type	Good Standing
Tax Compliance Status	Compliant
Tax Compliance Status Description	The taxpayer is registered for tax and is currently compliant in respect of filing and payment responsibilities

Should you have any queries please call the SARS Contact Centre on 0800 00 SARS (7277). Remember to have your taxpayer reference number at hand when you call to enable us to assist you promptly.

Sincerely

ISSUED ON BEHALF OF THE SOUTH AFRICAN REVENUE SERVICE

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