



REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID	70423847				
CASE OFFICER	EYAPE				
CASE OFFICER PHONE NO	021 444 7843				
DISTRICT	TYGERBERG				
REPORT DATE	14/01/2019				
INTERVIEW REQUESTED	AFFICANT	YES		NO	✓
	OBJECTOR(S)				

ITEM NO MPTNE16/03/19

APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 32509, GOODWOOD, 7 NOLLOTH PLACE, PLATTEKLOOF GLEN

1 EXECUTIVE SUMMARY

Property description	Erf 32509, Goodwood
Property address	7 Nolloth Place, Plattekloof Glen
Site extent	297m ²
Current zoning	General Residential
Current land use	Dwelling house
Overlay zone applicable	None

Submission date	20/09/2018
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work?	Unauthorised tool shed
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	No

section 128 of the MPBL? If yes, an administrative penalty may not be applied for.	418
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

The property is located in Nolloth Place, within the residential suburb of Plattekloof Glen, Goodwood. The unauthorised building work on the property includes a tool shed, of which approximately 18m² of the tool shed is built over the prescribed building line. According to the applicant the tool shed cost approximately R9000 to construct. Based on Council's records the unauthorised building was constructed in the first quarter of the year in 2018.

4 SUMMARY OF APPLICANT'S MOTIVATION

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

- The unauthorized tool shed was built in the second quarter of 2018, to store garden tools and camping gear.
- According to the owner he was not aware that he needed to submit plans to Council for his tool shed. Once made aware he immediately had plans drawn up for the unauthorized building work to rectify the mistake.

5 ASSESSMENT OF APPLICATION

- 5.1 As indicated above, the unauthorized building work is in contravention of the Development Management Scheme.
- 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.

Administrative Penalty: Calculation**5.2.1 Unauthorised building work**

Value per m² (R500) × Total Unlawful area (15m²) = R7 500

An amount which is not more than 100% of **R7 500**, may be imposed as an administrative penalty.

5.3 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

In this regard it must be noted that the duration of the contravention is approximately two to four months before the application was submitted to Council. The extent of the contravention is approximately 15m² in extent. The gravity of the contravention is considered not to be serious as the impact on the neighbours can be considered minimal.

b) The conduct of the person involved in the contravention

The property owner claims he was unaware of the processes of Council regarding building work on their property and that the submission of a building plan for approval was required. Once the owner became aware of the unauthorized nature of the tool shed application for permanent departure was submitted to legalize the tool shed.

c) Whether the unlawful conduct was stopped

As previously stated, the property owner claimed he was unaware of the requirement for submission of building plans building plans and of a departure application to Council. The structure is still in existence on the property.

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

According to this office's records, the owner has not previously contravened this By-Law or any other planning law.

- 5.4 Given the scale of the contravention and its limited impact on the surrounding area, **5.0%** penalty is considered appropriate. This amounts to a contravention of **R375** recommended to be paid.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarized as follows:

- The nature of the contravention is of a minimal impact on the neighbour's current property rights.
- As far as it can be ascertained, the owner of this property has not previously contravened this By-Law or any other planning law, and has tried to rectify the unauthorized building contravention.

6 RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of **R375** be determined in terms of section 129, and be approved in terms of section 98 (b) of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 32509, Goodwood.

ANNEXURES

Annexure A	Locality Plan
Annexure B	Site map / building plan / site development plan (if necessary)
Annexure C	Applicant's motivation / representations
Annexure D	Municipal Valuation

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**Section Head : Land Use
Management**

Comment

Name TR Kotze

Tel no 021 - 444 7506

Date 20.02.2019

[Signature]

District Manager

Name Ronaldt Smit

Comment

Tel no 021 444 7840

Date 23/02/2019

Annexure

A

Annexure

B

Annexure

C

Attention:

**MOTIVATION REPORT FOR PENALTY ON ERF 32509, 7 NOLLOTH STREET, PLATTEKLOOF
GLEN GOODWOOD COMMON BUILDING LINE EN-CROUCHMENT OF TOOLSHED.**

Erf: 32509 GOODWOOD

Development Proposal;

The tool shed was erected about 2-4 months ago by the owner of the property for storage on his property of gardening tools and camping gear. He was not aware that a person should hand in plans at the City for a toolshed, and therefore he immediately got plans drawn up to rectify his mistake. This is his first property and therefore he has not been in contravention of the Municipal by law before. (The penalty fee is for the 15 Square meters of the toolshed that is over the building line.)

Scale of the capital investment-

The tool shed cost was R9000.00

Prepared by:

GRAHAM HOLLAND Architect

PROFESSIONAL APPOINTMENT NUMBER 101701

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Annexure

D

City of Cape Town

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Usage Code	A01
Usage	One dwelling residential
Area (Calculated)	296.04 m2
Total Value	1200000
Valuation Year	20160701
Approval Date	0000-00-00
Registered Date	2018-04-24
Purchase Date	2018-01-24
Purchase Price	1725000,0
Title Deed Number	T18015/2018
Business Partner Nr	1002683698
Owner Title	Mrs.
Owner Name	WALDO GREYLINGCORNELIA GREYLING
Owner First Name	WALDOCORNELIA
Language	EN
Owner Postal Address	7 NOLLOTH CLOSE GOODWOOD 7460
ID Number	8302090219082(SA Identity Doc, expired)
Rate payer Name	WALDO GREYLING
Rate payer Street Address	NOLLOTH CLOSE 7 GOODWOOD ZA
Rate payer Postal Address	7 NOLLOTH CLOSE GOODWOOD 7460
key	560222
Physical Address	7 NOLLOTH PLACE, PLATTEKLOOF GLEN
Erf No	32509