

ITEM NUMBER: C 14/03/15

**RECOMMENDATION FROM THE EXECUTIVE MAYOR: 17 FEBRUARY 2015**

**MC 20/02/15 PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY: PORTION OF ERF 43538, CAPE TOWN (PUBLIC OPEN SPACE) SITUATED OFF SEVENTH AVENUE, RONDEBOSCH EAST: ILYAAS YUSUF MAKADA**

It is **RECOMMENDED** that:

- (a) condonation and ratification be granted for the in principle approval in terms of Regulation 5(1)(b)(ii) together with the final approval in terms of recommendation (d) below
- (b) Council resolve in terms of Section 14 of the Local Government Municipal Finance Management Act, Act 56 of 2003, that the property is not required to provide the minimum level of basic municipal services
- (c) in terms of the provisions of Section 6 of the By-law relating to the Management and Administration of the City of Cape Town's Immovable Property, portion of Erf 43538, Cape Town (a public open space, situated off Seventh Avenue, Rondebosch East) as indicated on Plan SZC 488/1 attached as Annexure A to the report on the agenda, be closed
- (d) portion of Erf 43538, Cape Town, a public open space, situated off Seventh Avenue, Rondebosch East shown lettered ABCD on Plan SZC 488/1 attached as Annexure A to the report on the agenda, in extent approximately 155 m<sup>2</sup>, be alienated to Ilyaas Yusuf Makada or his successor(s)-in-title, subject *inter alia* to the following conditions, that:
  - (i) a market-related purchase price of R150 000 excluding VAT of 14% where applicable, being R21 000 (in total - R171 000), be payable;
  - (ii) the purchase price to be adjusted on the basis of 5% per annum compounded annually on a pro rata basis commencing six months after date of valuation (i.e.  $5\% \div 12 \text{ months} \times \text{number of months after the six-months period}$ ). Accordingly the above purchase price is to be adjusted as from 01-11-2014;
  - (iii) subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including that all incidental costs will be borne by the purchaser;

- (iv) compliance with any other statutory requirements;
- (v) the subject property must be consolidated with the applicant's adjoining Erf 43109, Cape Town;
- (vi) no access will be permitted from Seventh Avenue;
- (vii) any deviation of the existing Telkom services must be carried out by the applicant at his cost.

**MC 20/02/15**

**038**

**IPAC 05/11/2014 PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED  
IMMOVABLE PROPERTY: PORTION OF ERF 43538, CAPE TOWN  
(PUBLIC OPEN SPACE) SITUATED OFF SEVENTH AVENUE,  
RONDEBOSCH EAST: ILYAAS YUSUF MAKADA**

**ISIPHAKAMISO SOKUVALWA NOKUNIKEZELWA KWEPROPATI  
ENGENAKUSUSWA ELAWULWA SISIXEKO, ESISIQEPHU SESIZA-  
43538, EKAPA (UMTHABALALA WEBALA LOLUNTU) OKWI-SEVENTH  
AVENUE, E-RONDEBOSCH EAST: KU-ILYAAS YUSUF MAKADA**

**VOORGESTELDE SLUITING EN VERVREEMDING VAN ONROERENDE  
EIENDOM IN DIE STAD SE BESIT: GEDEELTE VAN ERF 43538,  
KAAPSTAD (OPENBARE OOP RUIMTE) GELEë UIT SEWENDE LAAN,  
RONDEBOSCH-OOS: ILYAAS YUSUF MAKADA**

The Committee requested that the in principle clause be included in the recommendations.

**RECOMMENDED TO COUNCIL that:**

- a) Condonation and ratification be granted for the in principle approval in terms of Regulation 5(1)(b)(ii) together with the final approval in terms of Recommendation d) below;
- b) Council resolve in terms of section 14 of the Local Government Municipal Finance Management Act, Act 56 of 2003, that the property is not required to provide the minimum level of basic municipal services.
- c) In terms of the provisions of section 6 of the By-law relating to the Management and Administration of the City of Cape Town's Immovable Property, portion of Erf 43538, Cape Town, a public open space, situated off Seventh Avenue, Rondebosch East as indicated on the attached plan SZC 488/1 marked annexure A, be closed.
- d) Portion of Erf 43538, Cape Town, a public open space, situated off Seventh Avenue, Rondebosch East shown lettered ABCD on the attached plan SZC 488/1 marked annexure A, in extent approximately 155 m<sup>2</sup>, be alienated to Ilyaas Yusuf Makada or his successor(s) in title, subject inter alia to the following conditions, that:

- i) A market-related purchase price of R150 000 excluding VAT of 14% where applicable, being R21 000 (in total R171 000), be payable.

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- ii) The purchase price to be adjusted on the basis of 5% per annum compounded annually on a pro rata basis commencing six months after date of valuation (i.e.  $5\% \div 12 \text{ months} \times \text{number of months after the six-months' period}$ ). Accordingly the above purchase price is to be adjusted as from 01-11-2014.
- iii) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including that all incidental costs will be borne by the purchaser.
- iv) Compliance with any other statutory requirements.
- v) The subject property must be consolidated with the applicant's adjoining erf 43109, Cape Town.
- vi) No access will be permitted from Seventh Avenue.
- vii) Any deviation of the existing Telkom services must be carried out by the applicant at his cost.

## IZINDULULO

Kundululwe ukuba:

- a) Makuvunyelwe ukwamkelwa nokulungiswa kulungiselelwa ukuphunyezwa ngokomthetho-siseko, ngokungqinelana nomgaqo-5(1)(b)(ii) kunye nokuphunyezwa okokugqibela kwesindululo-d) ngezantsi apha
- b) IBhunga liggqibe ngokwecandelo-14 loMthetho wobuRhulumente boMmandla ongoMthetho woLawulo lweziMali zikaMasipala onguNomb.56 wango-2003, ukuba ipropati ayisafuneki nganto ukubonelela ngomlinganiselo othile weenkondo ezingundoqo zikamasipala.
- c) Ngokwemimiselo yesoloty-6 loMthetho kaMasipala ophathelene nokuPhathwa nezoLawulo lwePropati kaMasipala engenakususwa, makuvalwe isiqephu seSiza-43538, esiseKapa, uMthabalala weBala loLuntu, okwi-Seventh Avenue, e-Rondebosch East, njengoko kubonakalisiwe kwiplani engu-SZC 488/1, ephawulwe kwisihlomelo-A.
- d) Isiqephu seSiza-43538, esiseKapa, uMthabalala weBala loLuntu, okwi-Seventh Avenue, e-Rondebosch East, obonakalisiwe kwiplani engu-SZC 488/1, ephawulwe kwisihlomelo-A, obukhulu obumalunga ne-155 m<sup>2</sup>, masinikezelwe ku-Ilyaas Yusuf Makada okanye kongena ezihlangwini zakhe ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo, yokuba:

- i) Makuhlawulwe ixabiso eliphathelene nelasemakethi elili-R150 000, ngaphandle kweRhafu-ntengo eli-14% apho kufanelekileyo, engama-R21 000 (apho iyonke ili-R171 000).
- ii) Ixabiso lentengiso malilungelelaniswe ngokommiselo we-5% ngonyaka oqukaniswe rhoqo ngonyaka ngokwekota apho ithi iqalise iinyanga ezintandathu emva komhla woqingqo-maxabiso (umzekelo i-5% yahlulwahlulwe ngeenyanga ezili-12 kwaye iphindaphindwe ngenani leenyanga emva kwesithuba seenyanga ezintandathu). Eli xabiso lingentla apha lentengiso kufuneka lilungelelaniswe ngokufanelekileyo ukususela ngowe-01-11-2014.
- iii) Ngokuxhomekeke kwimiqathango ethe xhaxhe eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo, kuquka zonke iindleko eziphathelene noku ziyakuthi zibeluxanduva lomthengi.
- iv) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho.
- v) I[ropati le ichaphazelekayo kufuneka idityaniswe kwisiza-43109, esiseKapa esikufutshane esisesomfaki-sicelo.
- vi) Akusayi kuvunyelwa indawo yokungena ukususela kwi-Seventh Avenue.
- vii) Naluphina utenxo olususela kwiinkonzo esele zimiselwe zabakwa-Telkom kufuneka ziqhutywe ngabafaki-sicelo ngokweendleko zabo.

## AANBEVELING

Daar word aanbeveel dat:

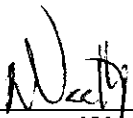
- a) Kondonering en bekragtiging toegestaan word vir goedkeuring in beginsel ingevolge regulasie 5(1)(b)(ii), tesame met die finale goedkeuring in ooreenstemming met aanbeveling d) hier onder;
- b) Die Raad ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, no. 56 van 2003, besluit dat die eiendom nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie.
- c) Ingevolge die bepalings van artikel 6 van die Verordening op die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom, erf 43538, Kaapstad, 'n openbare straat geleë uit Sewende Laan, Rondebosch-Oos, soos aangedui op die aangehegte plan SZC 488/1, gemerk bylae A, gesluit word.
- d) Gedeelte van erf 43538, Kaapstad, 'n openbare straat geleë uit Sewende Laan, Rondebosch-Oos, aangetoon deur die letters ABCD op die aangehegte plan SZC 488/1, gemerk bylae A, ongeveer

155 m<sup>2</sup> groot, vervreem word aan Ilyaas Yusuf Makada of sy regsopvolgers, onderworpe aan onder meer die volgende voorwaardes, naamlik dat:

- i) 'n Markverwante koopprys van R150 000, 14%-BTW ingesluit waar van toepassing, synde R21 000 (altesaam R171 000), betaal word.
- ii) Die koopprys aangepas word teen 5% per jaar, jaarliks pro rata saamgesteld, vanaf ses maande na die waardasiedatum (d.w.s.  $5\% \div 12$  maande  $\times$  aantal maande na die tydperk van ses maande). Die bogenoemde koopprys moet gevolglik van 01-11-2014 aangepas word.
- iii) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid, insluitend dat alle bykoste deur die koper gedra sal word.
- iv) Onderworpe aan nakoming van enige ander statutêre vereistes.
- v) Die onderhawige eiendom met die aansoeker se aangrensende erf 43109, Kaapstad gekonsolideer moet word.
- vi) Geen toegang vanuit Sewende Laan toegelaat sal word nie.
- vii) Die aansoeker enige afwyking van die bestaande Telkom-dienste op sy onkoste moet uitvoer.

**ACTION: R SCHNACKENBERG; R GELDERBLOEM**

It is noted that this resolution is in line with Supply Chain Management Policy.



MR RICHARD WOOTTON  
EMPLOYEE NO: 10207948  
CHAIRPERSON : IMMOVABLE PROPERTY  
ADJUDICATION COMMITTEE

DATE: 15/1/15

COMMENT:

*[Handwritten Signature]* 042

**DIRECTOR : LEGAL SERVICES  
MR LUNGELO MBANDAZAYO**

DATE: 21/01/2015

SUPPORTED FOR ONWARD SUBMISSION TO  
MAYOR  / MAYCO  / COUNCIL

NOT SUPPORTED

REFERRED BACK

COMMENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Handwritten Signature]*

**ALDERMAN TAN NEILSON  
MAYORAL COMMITTEE MEMBER : FINANCE**

COMMENT:

DATE: 28/1/2015

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



REPORT TO IMMOVABLE PROPERTY ADJUDICATION COMMITTEE

DATE:

1. ITEM NUMBER : To be inserted by Executive Support

2. SUBJECT

PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY: PORTION OF ERF 43538, CAPE TOWN (PUBLIC OPEN SPACE) SITUATED OFF SEVENTH AVENUE, RONDEBOSCH EAST: ILYAAS YUSUF MAKADA

2. ONDERWERP

VOORGESTELDE SLUITING EN VERVREEMDING VAN ONROERENDE EIENDOM IN DIE STAD SE BESIT: GEDEELTE VAN ERF 43538, KAAPSTAD (OPENBARE OOP RUIMTE) GELEë UIT SEWENDE LAAN, RONDEBOSCH-OOS: ILYAAS YUSUF MAKADA

2. ISIHLOKO

ISIPHAKAMISO SOKUVALWA NOKUNIKEZELWA KWEPROPATI ENGENAKUSUSWA ELAWULWA SISIXEKO, ESISIQEPHU SESIZA-43538, EKAPA (UMTHABALALA WEBALA LOLUNTU) OKWI-SEVENTH AVENUE, E-RONDEBOSCH EAST: KU-ILYAAS YUSUF MAKADA

LSU:E2747

L7/10/597

PH 2014/0544 (Category 4)

3. STRATEGIC INTENT

SFA 1: an OPPORTUNITY CITY

Objective 1.5	Leverage the City's assets to drive economic growth and sustainable development
Programme 1.5(a)	City strategic assets investigation



#### 4. PURPOSE

To consider the proposed closure and alienation of City-owned immovable property being a portion of Erf 43538, Cape Town, a Public Open Space, situated off Seventh Avenue, Rondebosch East to Ilyas Yusuf Makada.

#### 5. FOR NOTING BY / FOR DECISION BY

This report is for consideration by

- the Immovable Property Adjudication Committee (IPAC)
- the Executive Mayor together with the Mayoral Committee
- Council

#### 6. EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed closure and alienation of City-owned immovable property being a portion of Erf 43538, Cape Town, a Public Open Space, situated off Seventh Avenue, Rondebosch East to Ilyas Yusuf Makada.			
Property description	Portion of Erf 43538, Cape Town			
Applicant	Ilyas Yusuf Makada			
Site extent	155m <sup>2</sup>			
Current zoning	Public Open Space			
Current usage	Gardening and Security			
Proposed usage	Gardening and Security			
Application description	Purchase			
Submission date	17 November 1995 reinstated 7 July 2011			
Circulation date	17 January 1996			
Comments	The application was submitted by the previous owner who never finalised the transaction. The current owner now wishes to finalise the application.			
Public participation outcome summary	The proposed disposal was advertised in the press on 3 August 2012. No objections were received.			
WARD Cllr Anthea Green	NOTICE	DATE	WARD	
		06-08-2012		60
Viable	Yes		No	X
Recommended decision	Approval	X	Refusal	

## 7. RECOMMENDATIONS

Not delegated: for decision by Council:

It is recommended that:

- a) Council resolve in terms of section 14 of the Local Government Municipal Finance Management Act, Act 56 of 2003, that the property is not required to provide the minimum level of basic municipal services.
- b) In terms of the provisions of section 6 of the By-law relating to the Management and Administration of the City of Cape Town's Immovable Property, portion of Erf 43538, Cape Town, a public open space, situated off Seventh Avenue, Rondebosch East as indicated on the attached plan SZC 488/1 marked annexure A, be closed.
- c) Portion of Erf 43538, Cape Town, a public open space, situated off Seventh Avenue, Rondebosch East shown lettered ABCD on the attached plan SZC 488/1 marked annexure A, in extent approximately 155 m<sup>2</sup>, be alienated to Ilyaas Yusuf Makada or his successor(s) in title, subject inter alia to the following conditions, that:
  - i. A market-related purchase price of R150 000 excluding VAT of 14% where applicable, being R21 000 (in total R171 000), be payable.
  - ii. The purchase price to be adjusted on the basis of 5% per annum compounded annually on a pro rata basis commencing six months after date of valuation (i.e.  $5\% \div 12 \text{ months} \times \text{number of months after the six-months' period}$ ). Accordingly the above purchase price is to be adjusted as from 01-11-2014.
  - iii. Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including that all incidental costs will be borne by the purchaser.
  - iv. Compliance with any other statutory requirements.
  - v. The subject property must be consolidated with the applicant's adjoining erf 43109, Cape Town.
  - vi. No access will be permitted from Seventh Avenue.
  - vii. Any deviation of the existing Telkom services must be carried out by the applicant at his cost.

## 7. AANBEVELINGS

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Die Raad ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, no. 56 van 2003, besluit dat die eiendom nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie.
- b) Ingevolge die bepalings van artikel 6 van die Verordening op die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom, erf 43538, Kaapstad, 'n openbare straat geleë uit Sewende Laan, Rondebosch-Oos, soos aangedui op die aangehegte plan SZC 488/1, gemerk bylae A, gesluit word.
- c) Gedeelte van erf 43538, Kaapstad, 'n openbare straat geleë uit Sewende Laan, Rondebosch-Oos, aangetoon deur die letters ABCD op die aangehegte plan SZC 488/1, gemerk bylae A, ongeveer 155 m<sup>2</sup> groot, vervreem word aan Ilyas Yusuf Makada of sy regsopvolgers, onderworpe aan onder meer die volgende voorwaardes, naamlik dat:
  - i. 'n Markverwante koopprys van R150 000, 14%-BTW ingesluit waar van toepassing, synde R21 000 (altesaam R171 000), betaal word.
  - ii. Die koopprys aangepas word teen 5% per jaar, jaarliks pro rata saamgestel, vanaf ses maande na die waardasiedatum (d.w.s.  $5\% \div 12$  maande  $\times$  aantal maande na die tydperk van ses maande). Die bogenoemde koopprys moet gevolglik van 01-11-2014 aangepas word.
  - iii. Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid, insluitend dat alle bykoste deur die koper gedra sal word.
  - iv. Onderworpe aan nakoming van enige ander statutêre vereistes.
  - v. Die onderhawige eiendom met die aansoeker se aangrensende erf 43109, Kaapstad gekonsolideer moet word.
  - vi. Geen toegang vanuit Sewende Laan toegelaat sal word nie.
  - vii. Die aansoeker enige afwyking van die bestaande Telkom-dienste op sy onkoste moet uitvoer.

## 7. IZINDULULO

Azigunyaziswanga: isigqibo seseBhunga:

Kundululwe ukuba:

- a) IBhunga liggibe ngokwecandelo-14 loMthetho wobuRhulumente boMmandla ongoMthetho woLawulo lweziMali zikaMasipala onguNomb.56 wango-2003, ukuba ipropati ayisafuneki nganto ukubonelela ngomlinganiselo othile weenkondo ezingundoqo zikamasipala.
- b) Ngokwemimiselo yesolotya-6 loMthetho kaMasipala ophathelene nokuPhathwa nezoLawulo lwePropati kaMasipala engenakususwa, makuvalwe isiqephu seSiza-43538, esiseKapa, uMthabalala weBala loLuntu, okwi-Seventh Avenue, e-Rondebosch East, njengoko kubonakalisiwe kwiplani engu-SZC 488/1, ephawulwe kwisihlomelo-A.
- c) Isiqephu seSiza-43538, esiseKapa, uMthabalala weBala loLuntu, okwi-Seventh Avenue, e-Rondebosch East, obonakalisiwe kwiplani engu-SZC 488/1, ephawulwe kwisihlomelo-A, obukhulu obumalunga ne-155 m<sup>2</sup>, masinikezelwe ku-Ilyas Yusuf Makada okanye kongena ezihlangwini zakhe ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo, yokuba:
  - i. Makuhlawulwe ixabiso eliphathelene nelasemakethi elili-R150 000, ngaphandle kweRhafu-ntengo eli-14% apho kufanelekileyo, engama-R21 000 (apho iyonke ili-R171 000).
  - ii. Ixabiso lentengiso malilungelelaniswe ngokommiselo we-5% ngonyaka oqukaniswe rhoqo ngonyaka ngokwekota apho ithi iqalise iinyanga ezintandathu emva komhla woqingqo-maxabiso (umzekelo i-5% yahlulwahlulwe ngeenyanga ezili-12 kwaye iphindaphindwe ngenani leenyanga emva kwesithuba seenyanga ezintandathu). Eli xabiso lingentla apha lentengiso kufuneka lilungelelaniswe ngokufanelekileyo ukususela ngowe-01-11-2014.
  - iii. Ngokuxhomekeke kwimiqathango ethe xhaxhe eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo, kuquka zonke iindleko eziphathelene noku ziyakuthi zibeluxanduva lomthengi.
  - iv. Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho.
  - v. I[ropati le ichaphazelekayo kufuneka idityaniswe kwisiza-43109, esiseKapa esikufutshane esisesomfaki-sicelo.
  - vi. Akusayi kuvunyelwa indawo yokungena ukususela kwi-Seventh Avenue

- vii. Naluphina utenxo olususela kwiinkonzo esele zimiselwe zabakwa-Telkom kufuneka ziqhutywe ngabafaki-sicelo ngokweendleko zabo.

## 8. DISCUSSION/CONTENTS

### 8.1. BACKGROUND:

An application was made by Ilyaas Yusuf Makada, the registered owner of the Erf 43109, Cape Town, to purchase a portion of Erf 43538, Cape Town (a Public Open Space) situated off Seventh Avenue, Rondebosch East, in extent approximately 155m<sup>2</sup>. The property is currently vacant land and the applicant intends to use it for gardening and security purposes.

The applicant has already enclosed the subject property and uses it as garden and recreational space, as he has enlarged his dwelling and therefore requires the subject property for this purpose.

Due to the small extent of the subject property it is regarded as being non-viable land which cannot be sold by public competition and only has value to the abutting landowners.

The application to purchase was circulated to all the relevant Branches for comment. No objections were raised by the Branches to the proposed closure and disposal of the subject property.

The proposed disposal of the subject property was duly advertised in terms of the stipulations of the By-Law relating to the Management of the City of Cape Town's Immovable Property in two local newspapers on 3 August 2012, inviting the public to lodge written comments. A notice in this regard was also served on the relevant ward councillor and sub-council. No objections were received to the proposed closure and disposal.

The recommendation was considered by sub-Council 17 on 18 September 2014 and it was unanimously resolved to support the recommendation to approve the application. The extract from the minutes of the sub-Council meeting is attached hereto marked Annexure B.

### 8.2. CONSULTATION WITH BRANCHES:

The application was circulated to the relevant branches of Council. The alienation of the property is supported subject to the following conditions:

- Any deviation of the existing Telkom services must be carried out by the applicant at their cost.

- No access shall be permitted from Seventh Avenue

It has been confirmed that the land in question is no longer required for any Municipal purposes. The proposal therefore complies with Section 14 of the Municipal Finance Management Act, No 56 of 2003.

### 8.3. FACTORS MOTIVATING RECOMMENDATION:

- The closure and disposal of the land will relieve Council of the maintenance burden.
- Market related compensation in the amount of R150 000 excluding VAT, will accrue to the City.
- Due to the small extent of the subject property it cannot be sold by public competition and only has value to the abutting land owners.
- No objections were received against the sale of the land.
- The alienation will allow for better utilisation of the property.

### 8.4 PUBLIC PARTICIPATION

Advertising	Cape Times & Burger	3 August 2012
	Prov & Nat Treasury	8 May 2014
	Notices to adj owners	6 August 2012
	Ward councillor	6 August 2012
	Subcouncil Chair & Manager	6 August 2012
	Community organisation(s)	None
Outcome	Objections	No objection received
	Ward Councillor's support	Supported

### 8.5 VALUATION

8.5.1 The application category does not fit within the tariff structure of the City approved on 28 May 2014;

8.5.2 The City's Professional Valuers on 30 April 2014 assessed the value of the Subject Property at R150 000 excluding VAT (if applicable). Valuation synopsis is attached to the report as Annexure C.

### 8.5 VAT

VAT will be levied at the standard rate.

**8.6 BLACK ECONOMIC EMPOWERMENT (BEE) STATUS**

The applicant is from a previously disadvantaged group.

**8.8 CONSTITUTIONAL AND POLICY IMPLICATIONS**

- 8.8.1 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.
- 8.8.2 Council's By-Law (LA 12783) relating to the Management and Administration of the City of Cape Town's Immovable Property as published on 28 February 2003 (Section 4) allows the disposal of immovable property.
- 8.8.3 Chapter B 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 alienation of immovable property;
- 8.8.4 Policy on the management of Council's Immovable Property, approved 20 June 2005 (MC 29/06/05) , amended 19 October 2005 (MC 31/10/05), promulgated 3 February 2006 (PG 6340: LA 32323).

**8.9 FINANCIAL IMPLICATIONS**

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

**8.10 TAX COMPLIANCE**

In terms of the City's Supply Chain Management Policy, approved by Council on 31 July 2013, paragraph 85 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 359 - 361 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 85 above and applicants need to submit a SARS clearance or exemption certificate for the sale of all City owned immovable property.

The applicant has complied with the aforesaid provisions of paragraph 85. See Tax Clearance attached hereto as Annexure D.

**8.11 FINANCIAL DUE DILIGENCE**

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

**8.12 SUSTAINABILITY IMPLICATIONS**

Does the activity in this report have any sustainability implications for the City? No  Yes

**8.13 LEGAL IMPLICATIONS****8.13.1 Regulation 7 of the Municipal Asset Transfer Regulations (MATR)**

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed transfer or disposal of non-exempted capital assets:

**Factor A: Whether the capital asset may be required for municipality's own use at a later date.**

This proposal complies with Section 14 of the Local Government Municipal Finance Management Act No. 56 of 2003 in that the relevant branches of Council have confirmed in writing that the asset is not needed to provide the minimum level of basic municipal services.

**Factor B: The expected loss or gain that is expected to result from the transfer or proposed disposal.**

The expected gain to result from the proposed disposal is fair market value and future rates and taxes.

**Factor C: The extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to municipality.**

Council will receive a financial benefit in the form of market related purchase price as well as rates and taxes following the development of the property. The market value of the property has been determined to be R150 000, 00 excluding VAT.

**Factor D: The risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests.**

No operational or control risk to the City.



**Factor E:** The effect that the proposed transfer or disposal will have on the credit rating of the municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow.

None.

**Factor F:** Any limitations and conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions.

The sale agreement will contain terms and conditions as imposed by the Director: Property Management in terms of delegated authority.

**Factor G:** The estimated cost of the proposed transfer or disposal.

The purchaser will be responsible for the transfer costs.

**Factor H:** The transfer of liabilities and reserve funds associated with the capital asset.

No liabilities and reserve funds are associated with the capital asset.

**Factor I:** Any comments or representations on the proposed transfer or disposal received from the local community and other interested persons.

The Director : Property Management, in terms of her delegated powers, approved the public participation process as required, resulting in the proposed disposal being advertised in the Cape Times and Die Burger on 3 August 2012. Closing date for objections was 3 September 2012. Copies of the advertisement were sent to the Ward Councillor, Chairperson of the relevant Sub-Council and registered local community organisations. No objections were received.

**Factor J:** Any written views and recommendations on the proposed transfer or disposal by National Treasury and the relevant Provincial Treasury.

The asset considered for disposal is not a "high value" asset, as defined in the MATR. No objections / comments were received from National and Provincial Treasury.

**Factor K:** The interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community.

None of these interests will be compromised as a result of the alienation of the asset; in fact, it will be supported.

**Factor L:** Compliance with legislative regime applicable to the proposed transfer or disposal.

- Council's By-Law (LA.12783) relating to the Management and Administration of the City of Cape Town's Immovable Property as published on 28 February 2003 (Section 4) permits the sale of Immovable Property.
- Council's By-Law (LA.2783) relating to the Management and Administration of the City of Cape Town's Immovable Property as published on 28 February 2003 (Section 6) permits the closure of Public Streets and Passages.
- The proposal complies with Section 13.1 of the Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property, approved by Council on 26 August 2010, which allows for the direct sale of non-viable property which can only be utilized by one or more adjacent landowners, without any competitive process having been followed, on the basis that no purpose would be served by a competitive process.

The proposal complies with the provisions of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and the Municipal Asset Transfer Regulations published in Government Gazette No R. 878 dated 22 August 2008.

8.13.2 **Should the recommendation contained in this report be adopted by Council, the following statutory processes will need to be undertaken:**

- 8.13.2.1. The subject property must be subdivided and closed once Council agrees to the disposal.
- 8.13.2.2. The portion of land must be consolidated with the applicant's adjoining Erf 43109 Cape Town to form a single holding.

**8.14 STAFF IMPLICATIONS**

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

No

**ANNEXURES**

- A – Plan SZC 448/1
- B - Extract from Subcouncil 17 Minute
- C – Valuation synopsis
- D – Tax Clearance Certificate



FOR FURTHER DETAILS CONTACT:

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FILE REF NO	L7/10/597 <i>21-10-2014</i>
SIGNATURE : DIRECTOR	<i>de Goede</i> 2014-10-28

CHIEF FINANCIAL OFFICER  
[Kevin Jacoby]

Comment:

NAME

DATE

*29.10.2014*

*de Zyl*

LEGAL COMPLIANCE

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

NON-COMPLIANT

NAME

TEL

DATE

*Sarah van Zyl*

*021 400 5446*

*30.10.2014*

Comment:

**Certified as legally compliant:  
Based on the contents of the report.**

*de Zyl*