

ITEM NUMBER: C 15/03/15

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 17 FEBRUARY 2015

MC 21/02/15 PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY: PORTION OF ERF 728, FRESNAYE (A PUBLIC STREET) SITUATED OFF AVENUE ST LOUIS, FRESNAYE: NIKKI VAN ROOYEN

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 728, Fresnaye (a public street situated off Avenue St. Louis) as indicated on Plan STC 2499v1 attached as Annexure A to the report on the agenda, be closed
- (d) portion of Erf 728, Fresnaye (a public street situated off Avenue St. Louis) shown lettered ABCD on Plan STC 2499v1 attached as Annexure A to the report on the agenda, in extent approximately 86 m², be alienated to Nikki van Rooyen or her successor(s)-in-title, subject *inter alia* to the following conditions, that:
 - (i) a market-related purchase price of R425 000 excluding VAT of 14% where applicable, being R59 500 (in total - R484 500), be payable;
 - (ii) the purchase price is 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% ÷ 12 months × number of months after the six-months period). Accordingly the above purchase price is to be adjusted as from 01-09-2014;
 - (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) a servitude must be registered over the entire area to protect the 100 mm foul sewer, subject to the following conditions:
 - (aa) no building or structure may be erected within or over the servitude area. A boundary wall crossing the servitude area at right angles will however be permitted, subject to plans thereof being submitted to Council for approval;
 - (bb) no excavations or filling may be carried out within the servitude area without prior consent of Council;
 - (cc) Council shall have the right to access to the property at all times for the purpose of maintaining and repairing the sewer infrastructure.
- (vi) any alterations or deviations to electricity services as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost;
- (vii) adequate clearance of the overhead mains is to be maintained in accordance with the Occupational Health and Safety Act, No 85 of 1993. In particular that a minimum clearance of 3 m from the overhead conductors is to be maintained at all times. Should these clearances not be maintained for any reason, the necessary alterations will be carried out by the Electricity Services Department at the applicant's expense.

MC 21/02/15

IPAC 07/11/2014 PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY: PORTION OF ERF 728, FRESNAYE (A PUBLIC STREET) SITUATED OFF AVENUE ST. LOUIS, FRESNAYE: NIKKI VAN ROOYEN

UKUVALWA NOKUTHENGISWA OKUCETYWAYO KWEPROPATI YESIXEKO ENGENAKUSUSWA : ISIQEPHU SESIZA 728, FRESNAYE (ISITALATO SOLUNTU) ESIME EKUPHUMENI KWE- AVENUE ST. LOUIS, FRESNAYE: NIKKI VAN ROOYEN

VOORGESTELDE SLUITING EN VERVREEMDING VAN ONROERENDE EIENDOM IN DIE STAD SE BESIT: GEDEELTE VAN ERF 728, FRESNAYE ('N OPENBARE STRAAT) GELEë UIT AVENUE ST. LOUIS, FRESNAYE: NIKKI VAN ROOYEN

The Committee noted that in the report under Background 8.1, a correction needed to be made and should read "considered by Subcouncil 16 on 15th September 2014."

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 728, Fresnaye (a public street situated off Avenue St. Louis) as indicated on the attached plan STC 2499v1 marked annexure A, be closed.
- d) Portion of erf 728, Fresnaye (a public street situated off Avenue St. Louis) shown lettered ABCD on the attached plan STC 2499v1 marked annexure A, in extent approximately 86 m², be alienated to

Nikki van Rooyen or her successor(s) in title, subject inter alia to the following conditions, that: 059

- i) A market-related purchase price of R425 000 excluding VAT of 14% where applicable, being R59 500 (in total R484 500), be payable.
- ii) The purchase price is 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 01-09-2014.
- 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) A servitude must be registered over the entire area to protect the 100 mm foul sewer subject to the following conditions:
 - a) No building or structure may be erected within or over the servitude area. A boundary wall crossing the servitude area at right angles will however be permitted subject to plans thereof being submitted to Council for approval.
 - b) No excavations or filling may be carried out within the servitude area without prior consent of Council.
 - c) Council shall have the right to access to the property at all times for the purpose of maintaining and repairing the sewer infrastructure.
- vii) Any alterations or deviations to electricity services as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
- viii) Adequate clearance of the overhead mains is to be maintained in accordance with Occupational Health and Safety Act, No 85 of 1993. In particular that a minimum clearance of 3 m from the overhead conductors is to be maintained at all times. Should these clearances not be maintained for any reason, the necessary alterations will be carried out by the Electricity Department at the applicant's expense.

IZINDULULO

Kundululwe ukuba:

- a) Makuvunyelwe ukwamkelwa nokulungiswa kulungiselelwa ukuphunyezwa ngokomthetho-siseko, ngokungqinelana nomgaqo-5(1)(b)(ii) kunye nokuphunyezwa okokugqibela kwesindululo-d) ngezantsi apha

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- b) Ibhunga maligqibe ngokungqinelana necandelo 14 loMthetho ojongene noLawulo lweMali zikaMasipala woRhulumente weNgingqi, uMthetho 56 wango-2003, ukuba ipropati ayifuneki ukuba ibonelele ngeenkonzo ezingundoqo zikamasipala.
- c) Ngokungqinelana nezibonelelo zeSoloty 6 loMthetho kaMasipala ojongene noLawulo lwePropati zesiXeko ezingenakuSuswa, makuvalwe isiqephu zesiza 738 e-Fresnaye (Isitalato soluntu esime ekuphumeni kwe-Aveue St. Louis), njengoko kubonakalisiwe kwisicwangciso STC 2499v1 esiqhotyoshelwe nesiphawulwe njengesihlomelo A.
- d) Makuthengiswe isiqephu sesiza 43131, e-Fresnaye, (isitalato soluntu esime ekuphumeni kwe-Avenue St. Louis) esibonakaliswe ngoonobumba ABCD kwisicwangciso STC 2499v1 esiqhotyoshelwe nesiphawulwe njengesihlomelo A, esibukhulu bumalunga nama-86 m², sithengiselwe u-Nikki van Rooyen okanye abangena ezinyaweni zakhe ngetaytile, ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo:
- i) Makuhlawulwe ixabiso elihambelana neemarike elingama-R 425 000,00 ngaphandle kweRhafu-ntengo ye-14% apho kufanelekileyo, ingama-R59 500.00 (lilonke – R484 500.00).
 - ii) Ixabiso lentengo malilungelelaniswe ngokusekelezelwe kumyinge we-5% ngonyaka uhlanganiswa rhoqo ngonyaka ukususela kwiinyanga ezindandathu (6) emva komhla woqingqo-maxabiso oko kukuthi. (5% ÷ iinyanga ezili-12 siphinda-phindwe ngeenyanga ezisemva kwesi sithuba seenyanga ezintandathu. Kananjalo le ntengiso ingentla kufuneka ilungelelaniswe ukususela ngomhla woku-1 Septemba 2014.
 - iii) Ngokuxhomekeke kwimiqathango engeminye eza kumiselwa nguMlawuli: woLawulo lwePropati ngokwamagunya akhe agunyazisiweyo, kuquka nokuba zonke iindleko ezihambelanayo ziya kuthwalwa ngumthengi.
 - iv) Ukuthotyelwa kwezinye iimfuneko ezisemthethweni.
 - v) Makubhaliswe ilungelo lokusebenzisa le ndawo yonke ukukhusela umjelo onengxaki oli-100mm ngokuxhomekeke kule miqathango ilandelayo:
 - a) Akuvumelekanga ukuba kwakhiwe isakhiwo okanye isakheko kummandla okanye kufutshane nommandla welungelo. Kuyakuthi ke ngoko kuvunyelwe udonga elingumda elinqumla ummandla welungelo kwi-engile ezitsolileyo, ngokuxhomekeke ekubeni kungeniswe iiplani kwiBhunga ukuba ziphunyezwe.
 - b) Akuvumelekanga ukuba kuqhubekwe ulombiwo okanye ufakelelo kummandla welungelo kungakhange kufumanekwe imvume kwiBhunga.

- c) IBhunga liyakuthi libenelungelo lokungena kwipropati ngawo onke amaxesha kulungiselelwa unonotshelo nokulungiswa kwesakheko esingundoqo sombhho wogutyulo.
- vii) Naziphina izilungiso ezifunekayo kwiinkozo zombane ngenxa yesi siphakamiso, okanye ezenziwe ngumfaki-sicelo, ziya kwenziwa ngeendleko zomfaki-sicelo.
- viii) Makushiwe isithuba esoneleyo ngokuhambelana noMthetho ojongene nokuba seMpilweni eMsebenzi noKhuseleko (onguNomb 85 wango-1993). Kubhekisele ngakumbi kwisithuba eisngadlulanga kwiimitha ezintathu (3m) kwiintambo ezinikezela umbane ngawo onke amaxesha. Xa kungagcinwa isithuba nangasiphina isizathu, ukulungiswa okufunekayo kuya kwenziwa liSebe loMbane ngeendleko zomfaki-sicelo.

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 738, Fresnaye ('n openbare straat geleë uit Avenue St. Louis), soos aangedui op die aangehegte plan STC 2499v1, gemerk bylae A, gesluit word.
- d) Gedeelte van erf 738, Fresnaye ('n openbare straat geleë uit Avenue St. Louis), aangetoon deur die letters ABCD op die aangehegte plan STC 2499v1, gemerk bylae A, ongeveer 86 m² groot, vervreem word aan Nikki van Rooyen of haar regsopvolgers, onderworpe aan onder meer die volgende voorwaardes, naamlik dat:
- i) 'n Markverwante koopprys van R425 000, 14%-BTW ingesluit waar van toepassing, synde R59 500 (altesaam R484 500), 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 01-09-2014 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.

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- iv) Onderworpe aan naköming van enige ander statutêre vereistes.
- v) 'n Serwituut oor die hele gebied geregistreer moet word om die 100 mm-vuilriool te beskerm, onderworpe aan die volgende voorwaardes:
 - a) Geen gebou of struktuur mag binne of oor die serwituutgebied opgerig word nie. 'n Grensmuur wat haaks deur die serwituutgebied loop, sal egter toegelaat word, mits planne daarvoor ter goedkeuring aan die Raad voorgelê word.
 - b) Geen uitgrawings of opvullings mag sonder die vooraf toestemming van die Raad in die serwituutgebied uitgevoer word nie.
 - c) Die Raad sal te alle tye reg van toegang tot die eiendom hê met die oog op die instandhouding en herstel van die rioolinfrastruktuur.
- vii) Enige verandering of afwykings ten opsigte van elektrisiteitsdienste wat as gevolg van die voorstel nodig is of deur die aansoeker versoek word, sal op die aansoeker se koste uitgevoer word.
- viii) Genoeg spasie moet ten opsigte van die oorhoofse netwerk gehandhaaf word ooreenkomstig die Wet op Beroepsgesondheid en -veiligheid (Wet 85 van 1993), en daar moet veral te alle tye 'n spasie van minstens 3 m vanaf die oorhoofse geleiers gehandhaaf word. As hierdie spasies om welke rede ook al nie gehandhaaf word nie, sal die direktoraat elektrisiteitsdienste die nodige veranderinge op die aansoeker se koste doen.

ACTION: R SCHNACKENBERG; R GELDERBLOEM

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

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COMMENT:

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

DATE: 15/1/15

DIRECTOR : LEGAL SERVICES
MR LUNGELO MBANDAZAYO

DATE: 21/01/2015

SUPPORTED FOR ONWARD SUBMISSION TO
MAYOR / MAYCO / COUNCIL

NOT SUPPORTED

REFERRED BACK

COMMENT:

ALDERMAN IAN 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 728, FRESNAYE (A PUBLIC STREET) SITUATED OFF AVENUE ST. LOUIS, FRESNAYE: NIKKI VAN ROOYEN

2. ONDERWERP

VOORGESTELDE SLUITING EN VERVREEMDING VAN ONROERENDE EIENDOM IN DIE STAD SE BESIT: GEDEELTE VAN ERF 728, FRESNAYE ('N OPENBARE STRAAT) GELEë UIT AVENUE ST. LOUIS, FRESNAYE: NIKKI VAN ROOYEN

2. ISIHLOKO

UKUVALWA NOKUTHENGISWA OKUCETYWAYO KWEPROPATI YESIXEKO ENGENAKUSUSWA : ISIQEPHU SESIZA 728, FRESNAYE (ISITALATO SOLUNTU) ESIME EKUPHUMENI KWE- AVENUE ST. LOUIS, FRESNAYE: NIKKI VAN ROOYEN

LSU: E2657
L7/2/148

PH 2014/0547 (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 728, Fresnaye, a public street, situated off Avenue St. Louis, Fresnaye to Nikki van Rooyen.

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 728, Fresnaye, a public street, situated off Avenue St. Louis, Fresnaye to Nikki van Rooyen.			
Property description	Portion of Erf 728, Fresnaye			
Applicant	Nikki van Rooyen			
Site extent	86 m ²			
Current zoning	Public Street			
Current usage	Vacant Land			
Proposed usage	Gardening and Security			
Application description	Purchase			
Submission date	4 June 1997 reinstated 7 November 2013			
Circulation date	4 August 1997			
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 22 October 2010. No objections were received.			
WARD Cllr	NOTICE	DATE	WARD	
JP Smith (Previous)		25-10-2010		54
Jacques Weber (Current)				
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 728, Fresnaye (a public street situated off Avenue St. Louis) as indicated on the attached plan STC 2499v1 marked annexure A, be closed.
- c) Portion of erf 728, Fresnaye (a public street situated off Avenue St. Louis) shown lettered ABCD on the attached plan STC 2499v1 marked annexure A, in extent approximately 86 m², be alienated to Nikki van Rooyen or her successor(s) in title, subject inter alia to the following conditions, that:
 - i. A market-related purchase price of R425 000 excluding VAT of 14% where applicable, being R59 500 (in total R484 500), be payable.
 - ii. The purchase price is 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 01-09-2014.
 - 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. A servitude must be registered over the entire area to protect the 100 mm foul sewer subject to the following conditions:
 - a. No building or structure may be erected within or over the servitude area. A boundary wall crossing the servitude area at right angles will however be permitted subject to plans thereof being submitted to Council for approval.
 - b. No excavations or filling may be carried out within the servitude area without prior consent of Council.

- c. Council shall have the right to access to the property at all times for the purpose of maintaining and repairing the sewer infrastructure.
- vii. Any alterations or deviations to electricity services as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
- viii. Adequate clearance of the overhead mains is to be maintained in accordance with Occupational Health and Safety Act, No 85 of 1993. In particular that a minimum clearance of 3 m from the overhead conductors is to be maintained at all times. Should these clearances not be maintained for any reason, the necessary alterations will be carried out by the Electricity Department at the applicant's expense.

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 bepaling van artikel 6 van die Verordening op die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom, erf 738, Fresnaye ('n openbare straat geleë uit Avenue St. Louis), soos aangedui op die aangehegte plan STC 2499v1, gemerk bylae A, gesluit word.
- c) Gedeelte van erf 738, Fresnaye ('n openbare straat geleë uit Avenue St. Louis), aangetoon deur die letters ABCD op die aangehegte plan STC 2499v1, gemerk bylae A, ongeveer 86 m² groot, vervreem word aan Nikki van Rooyen of haar regsopvolgers, onderworpe aan onder meer die volgende voorwaardes, naamlik dat:
 - i. 'n Markverwante koopprijs van R425 000, 14%-BTW ingesluit waar van toepassing, synde R59 500 (altesaam R484 500), betaal word.
 - ii. Die koopprijs aangepas word teen 5% per jaar, jaarliks pro rata saamgestel, vanaf ses maande na die waardasiedatum (d.w.s. $5\% \div 12 \text{ maande} \times \text{aantal maande na die tydperk van ses maande}$). Die bogenoemde koopprijs moet gevolglik van 01-09-2014 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. 'n Serwituut oor die hele gebied geregistreer moet word om die 100 mm-vuilriool te beskerm, onderworpe aan die volgende voorwaardes:
 - a. Geen gebou of struktuur mag binne of oor die serwituutgebied opgerig word nie. 'n Grensmuur wat haaks deur die serwituutgebied loop, sal egter toegelaat word, mits planne daarvoor ter goedkeuring aan die Raad voorgelê word.
 - b. Geen uitgrawings of opvullings mag sonder die vooraf toestemming van die Raad in die serwituutgebied uitgevoer word nie.
 - c. Die Raad sal te alle tye reg van toegang tot die eiendom hê met die oog op die instandhouding en herstel van die rioolinfrastruktuur.
- vii. Enige verandering of afwykings ten opsigte van elektrisiteitsdienste wat as gevolg van die voorstel nodig is of deur die aansoeker versoek word, sal op die aansoeker se koste uitgevoer word.
- viii. Genoeg spasie moet ten opsigte van die oorhoofse netwerk gehandhaaf word ooreenkomstig die Wet op Beroepsgesondheid en -veiligheid (Wet 85 van 1993), en daar moet veral te alle tye 'n spasie van minstens 3 m vanaf die oorhoofse geleiers gehandhaaf word. As hierdie spasies om welke rede ook al nie gehandhaaf word nie, sal die direktoraat elektrisiteitsdienste die nodige veranderinge op die aansoeker se koste doen.

7. IZINDULULO

Azigunyaziswanga: isigqibo seseBhunga:

Kundululwe ukuba:

- a) Ibhunga maligqibe ngokungqinelana necandelo 14 loMthetho ojongene noLawulo lweeMali zikaMasipala woRhulumente weNgingqi, uMthetho 56 wango-2003, ukuba ipropati ayifuneki ukuba ibonelele ngeenkonzo ezingundoqo zikamasipala.

- b) Ngokungqinelana nezibonelelo zeSoloty 6 loMthetho kaMasipala ojongene noLawulo lwePropati zesiXeko ezingenakuSuswa, makuvalwe isiqephu zesiza 738 e-Fresnaye (Isitalato soluntu esime ekuphumeni kwe-Avenue St. Louis), njengoko kubonakalisiwe kwisicwangciso STC 2499v1 esiqhotyoshelwe nesiphawulwe njengesihlomelo A.
- c) Makuthengiswe isiqephu sesiza 43131, e-Fresnaye, (isitalato soluntu esime ekuphumeni kwe-Avenue St. Louis) esibonakalisiwe ngoonobumba ABCD kwisicwangciso STC 2499v1 esiqhotyoshelwe nesiphawulwe njengesihlomelo A, esibukhulu bumalunga nama-86 m², sithengiselwe u-Nikki van Rooyen okanye abangena ezinyaweni zakhe ngetaytile, ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo:
- i. Makuhlawulwe ixabiso elihambelana neemarike elingama-R 425 000,00 ngaphandle kweRhafu-ntengo ye-14% apho kufanelekileyo, ingama-R59 500.00 (lilonke – R484 500.00).
 - ii. Ixabiso lentengo malilungelelaniswe ngokusekelezwe kumyinge we-5% ngonyaka uhlanganiswa rhoqo ngonyaka ukususela kwiinyanga ezindandathu (6) emva komhla woqingqo-maxabiso oko kukuthi. (5% + iinyanga ezili-12 siphinda-phindwe ngeenyanga ezisemva kwesi sithuba seenyanga ezintandathu. Kananjalo le ntengiso ingentla kufuneka ilungelelaniswe ukususela ngomhla woku-1 Septemba 2014.
 - iii. Ngokuxhomekeke kwimiqathango engeminye eza kumiselwa nguMlawuli: woLawulo lwePropati ngokwamagunya akhe agunyazisiweyo, kuquka nokuba zonke iindleko ezihambelanayo ziya kuthwalwa ngumthengi.
 - iv. Ukuthotyelwa kwezinye iimfuneko ezisemthethweni.
 - v. Makubhaliswe ilungelo lokusebenzisa le ndawo yonke ukukhusela umjelo onengxaki oli-100mm ngokuxhomekeke kule miqathango ilandelayo:
 - a. Akuvumelekanga ukuba kwakhiwe isakhiwo okanye isakheko kummandla okanye kufutshane nommandla welungelo. Kuyakuthi ke ngoko kuvunyelwe udonga elingumda elinqumla ummandla welungelo kwi-engile ezitsolileyo, ngokuxhomekeke ekubeni kungeniswe iiplani kwiBhunga ukuba ziphunyezwe.
 - b. Akuvumelekanga ukuba kuqhubekke ulombiwo okanye ufakelelo kummandla welungelo kungakhange kufumaneke imvume kwiBhunga.
 - c. IBhunga liyakuthi libenelungelo lokungena kwipropati ngawo onke amaxesha kulungiselelwa unonotshelo nokulungiswa kwesakheko esingundoqo sombhobho wogutyulo.



- ix. Naziphina izilungiso ezifunekayo kwiinkozo zombane ngenxa yesi siphakamiso, okanye ezenziwe ngumfaki-sicelo, ziya kwenziwa ngeendleko zomfaki-sicelo.
- x. Makushiywe isithuba esoneleyo ngokuhambelana noMthetho ojongene nokuba seMpilweni eMsebenzi noKhuseleko (onguNomb 85 wango-1993). Kubhekisele ngakumbi kwisithuba eisngadlulanga kwiimitha ezintathu (3m) kwiintambo ezinikezela umbane ngawo onke amaxesha. Xa kungagcinwa isithuba nangasiphina isizathu, ukulungiswa okufunekayo kuya kwenziwa liSebe loMbane ngeendleko zomfaki-sicelo.

8. DISCUSSION/CONTENTS

8.1. BACKGROUND:

An application was made by Nikki van Rooyen, the registered owner of the Erf 1431, Fresnaye, to purchase a portion of Erf 738, Fresnaye (a Public Street) situated off Avenue St. Louis, Fresnaye, in extent approximately 86m². The property is currently vacant land and the applicant intends to use it for gardening and security purposes. The area is straddled by a number of municipal services which limits its utility.

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.

Despite the fact that no permanent structures will be allowed, it does enable the applicant to extend her current property.

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 closure and 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 22 October 2010, 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 24 October 2013 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:

8.1.1 Electricity

Any alterations or deviations to electricity services as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost. Adequate clearance of the overhead mains is to be maintained in accordance with Occupational Health and Safety Act 85 of 1993. In particular that a minimum clearance of 3 m from the overhead conductors is to be maintained at all times. Should these clearances not be maintained for any reason, the necessary alterations will be carried out by the Electricity Department at the applicant's expense.

8.1.2 Water and Sanitation

A servitude must be registered over the entire area to protect the 100mm foul sewer subject to the following conditions:

- a. No building or structure shall be erected within or over the servitude area. A boundary wall crossing the servitude area at right angles will however be permitted subject to plans thereof being submitted to Council for approval.
- b. No excavations or filling shall be carried out within the servitude area without prior consent of Council.
- c. Council will have the right to access to the property at all times for the purpose of maintaining and repairing the sewer infrastructure.

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:

- i) The closure and disposal of the land will relieve Council of the maintenance burden.
- ii) Market related compensation in the amount of R425 000, excluding VAT, will accrue to the City.
- iii) 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.
- iv) No objections were received against the sale of the land.

- v) The alienation will allow for better utilisation of the property.

8.2 PUBLIC PARTICIPATION

Advertising	Cape Times & Burger	22 October 2010
	Prov & Nat Treasury	9 June 2014
	Notices to adj owners	22 October 2010
	Ward councillor	25 October 2010
	Subcouncil Chair & Manager	25 October 2010
	Community organisation(s)	25 October 2010
Outcome	Objections	No objection received
	Ward Councillor's support	Yes

8.3 VALUATION

- 8.3.1. The application category does not fit within the tariff structure of the City approved on 28 May 2014;
- 8.3.2. The City's Professional Valuers on 28 February 2014 assessed the value of the Subject Property at R425 000.00 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 not 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 x 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 R425 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 22 October 2010. Closing date for objections was 22 November 2010. 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 vests in the City of Cape Town and must be registered as such in terms of Section 31 of the Deeds Registries Act No 47 of 1937.
- 8.13.2.2. The subject property must be subdivided once Council agrees to the disposal.
- 8.13.2.3. The portion of land must be consolidated with the applicant's adjoining Erf 13856 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

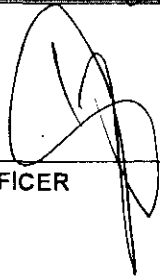
- A – Plan STC 2499v1
- B - Extract from Subcouncil 16 Minute
- C – Valuation synopsis
- D – Tax Clearance Certificate



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FOR FURTHER DETAILS CONTACT:

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DIRECTORATE	FINANCE
FILE REF NO	L7/2/148 <i>1/21-10-2014</i>
SIGNATURE : DIRECTOR	<i>J de Goede</i> 2014-10-29



CHIEF FINANCIAL OFFICER
 [Kevin Jacoby]

Comment:

NAME _____

DATE 02.11.2014



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 Sarah van Zyl

TEL 021 400 5446

DATE 05.11.2014

Comment:

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