

ITEM NUMBER: C 20/03/15

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

**MC 27/02/15 PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY: A PORTION OF ERF 43131, CAPE TOWN, A PUBLIC STREET SITUATED AT AYRESHIRE STREET, RONDEBOSCH EAST: THE VAN VEEN FAMILY TRUST**

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 not be 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, a portion of Erf 43131, Cape Town (a public street situated at Ayrshire Street, Rondebosch East) as indicated on Plan STC 2120 attached as Annexure A to the report on the agenda, be closed
- (d) a portion of Erf 43131, Cape Town, a public street situated at Ayrshire Street, Rondebosch East, shown lettered ABCD on Plan STC 2120 attached as Annexure A to the report on the agenda, in extent approximately 65 m<sup>2</sup>, be alienated to the Van Veen Family Trust, or its successor(s)-in-title, subject to *inter alia* the following conditions, that:
  - (i) a market-related purchase price of R50 000 excluding VAT of 14% where applicable, being R7 000 (in total - R57 000), 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 01-03-2015. The valuation is to be reviewed if not implemented within 18 months from date of valuation;
  - (iii) rates and municipal charges, if applicable, be levied;

- (iv) 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;
- (v) compliance with any other statutory requirements;
- (vi) a 1 m-wide footway be maintained for pedestrian use;
- (vii) any alterations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost;
- (viii) no excavation is to take place on the site until the requirements of the Occupational Health and Safety Act, Act 85 of 1993, and Section 141(1) of the Municipal Ordinance have been adhered to;
- (ix) the applicant shall be held responsible for any cost involved in the deviation or removal of the existing Telkom plant as a result of to the development of the property;
- (x) the applicant must allow access to Telkom at all times to maintain or upgrade the existing plant.

MC 27/02/15

IPAC 14/12/2014 PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY: A PORTION OF ERF 43131, CAPE TOWN, A PUBLIC STREET SITUATED AT AYRESHIRE STREET, RONDEBOSCH EAST: THE VAN VEEN FAMILY TRUST

UKUVALWA NOKUTHENGISWA OKUCETYWAYO KWEPROPATI YESIXEKO ENGENAKUSUSWA : ISIQEPHU SESIZA 43131, EKAPA, ISITALATO SOLUNTU ESIME E-AYRESHIRE STREET, RONDEBOSCH EAST: THE VAN VEEN FAMILY TRUST

VOORGESTELDE SLUITING EN VERVREEMDING VAN ONROERENDE EIENDOM IN STADSBESIT: 'N GEDEELTE VAN ERF 43131, KAAPSTAD, 'N OPENBARE STRAAT GELEË TE AYRESHIRESTRAAT, RONDEBOSCH-OOS: DIE VAN VEEN-FAMILIETRUST

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 not be 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, a portion of erf 43131, Cape Town, a public street situated at Ayrshire Street, Rondebosch East, as indicated on the attached plan STC 2120, marked annexure A, be closed.
- d) A portion of erf 43131, Cape Town, a public street situated at Ayrshire Street, Rondebosch East, shown lettered ABCD on the attached plan STC 2120, marked annexure A, in extent approximately 65 m<sup>2</sup>, be alienated to the Van Veen Family Trust, or its successor(s) in title, subject to inter alia the following conditions that:

- i) A market-related purchase price of R50 000 excluding VAT of 14% where applicable, being R7 000 (in total R57 000), 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 01-03-2015. The valuation is to be reviewed if not implemented within 18 months from date of valuation.
- iii) Rates and municipal charges, if applicable, be levied.
- iv) 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.
- v) Compliance with any other statutory requirements.
- vi) A 1 m-wide footway be maintained for pedestrian use.
- vii) Any alterations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
- viii) No excavation is to take place on the site until the requirements of the Occupational Health and Safety Act, Act 85 of 1993, and section 141(1) of the Municipal Ordinance have been adhered to.
- ix) The applicant shall be held responsible for any cost involved in the deviation or removal of the existing Telkom plant as a result of to the development of the property.
- x) The applicant must allow access to Telkom at all times to maintain or upgrade the existing plant.

## 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 maligqibe ukuba, ngokwecandelo 14 loMthetho ojongene neeNkqubo zikaMasipala woRhulumente weNgingqi: uMthetho ojongene noLawulo lweeMali zikaMasipala, uMthetho 56 wango-2003, ipropati ayifuneki ukuba ibonelele ngeenkonzo ezingundoqo zikamasipala.



- c) Ngokungqinelana nezibonelelo zeSoloty 6 loMthetho kaMasipala ojongene noLawulo lwePropati zesiXeko ezingenakuSuswa, makuvalwe isiqephu zesiza 43131 eKapa, isitalato soluntu esime e-Ayreshire Street, e-Rondebosch East, njengoko kubonakalisiwe kwisicwangciso STC 2120 esiqhotyoshelwe nesiphawulwe njengesihlomelo A.
- d) Makuthengiswe isiqephu sesiza 43131, eKapa, isitalato soluntu esime e-Ayreshire Street, e-Rondebosch East esibonakaliswe ngoonobumba ABCD kwisicwangciso STC 2120 esiqhotyoshelwe nesiphawulwe njengesihlomelo A, esibukhulu bumalunga nama-65 m<sup>2</sup>, sithengiselwe abe-Van Veen Family Trust okanye abangena ezinyaweni zabo ngetaytile, ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo:
- i) Makuhlawulwe ixabiso elihambelana neemarike lama-R50 000 ngaphandle kweRhafu-ntengo ye- 14% apho kufanelekileyo, ingama-R7 000 (lilonke – R57 000).
  - 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 01-03-2015 Kufuneka kuphengululwe uqingqo-maxabiso ukuba aluzalekiswa kwisithuba seenyanga ezili-18 ukususela kumhla woqingqo-maxabiso.
  - iii) Makuhlawulwe intalwulo zobuhlali neendleko zikamasipala, ukuba kufanelekile;
  - iv) Ngokuxhomekeke kwimiqathango engeminye eya kuthi imiselwe nguMlawuli woLawulo lwePropati ngokwamagunya akhe agunyazisiweyo, kuquka nokuba zonke iindleko ezihambelanayo ziya kuthwalwa ngumthengi.
  - v) Ukuthotyelwa kwezinye iimfuneko ezisemthethweni.
  - vi) Makugcinwe ububanzi be-1m bendlela yeenyawo ukulungiselela ukusetyenziswa ngabahambi ngeenyawo.
  - vii) Naziphina izilungiso ezifunekayo kwiinkonzo zombane ngenxa yesi siphakamiso, okanye ezenziwe ngumfaki-sicelo, ziya kwenziwa ngeendleko zomfaki-sicelo.
  - viii) Akuyi kugrunjwa kule ndawo kude kube kuthotyelwe iimfuneko zoMthetho ojongene nokuba seMpilweni eMsebenzini noKhuseleko, uMthetho 85 wango-1993 necandelo 141(1) loMmiselo kaMasipala.
  - ix) Umfaki-sicelo uya kuba noxanduva lwazo zonke iindleko eziphathelele kutenxo okanye ukususwa kwaso nasiphina isixhobo sakwa-Telkom esikhoyo ngenxa yokuphuhliswa

- x) Umfaki-sicelo kufuneka avumele ukungena kwabakwa-Telkom ngawo onke amaxesha ukwenzela ukwenzela umsebenzi wolondolozo okanye wophucula lwesixhobo esikhoyo

## 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, Wet 56 van 2003, besluit dat die eiendom nie vir die voorsiening van die minimum vlak van basiese munisipale dienste vereis word nie.
- c) Ingevolge die bepalings van artikel 6 van die Verordening met betrekking tot die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom, 'n gedeelte van erf 43131 Kaapstad, 'n openbare straat geleë te Ayrshirestraat, Rondebosch-Oos, soos aangedui op die aangehegte plan STC 2120, gemerk bylae A, gesluit word.
- d) 'n Gedeelte van erf 43131, Kaapstad, 'n openbare straat geleë te Ayrshirestraat, Rondebosch-Oos, aangetoon met die letters ABCD op die aangehegte plan STC 2120, gemerk bylae A, ongeveer 65 m<sup>2</sup> groot, vervreem word aan die Van Veen-familietrust, of sy regsopvolger(s), onderworpe aan onder andere die volgende voorwaardes dat:
- i) 'n Markverwante koopprys van R50 000, 14%-BTW uitgesluit waar van toepassing, naamlik R7 000 (R57 000 in totaal), betaalbaar is.
- ii) Die koopprys aangepas word teen 5% per jaar, jaarliks pro rata saamgesteld, vanaf ses maande na die waardasiedatum (d.w.s.  $5\% \div 12 \text{ maande} \times \text{aantal maande na die tydperk van ses maande}$ ). Die bogenoemde koopprys moet gevolglik van 01-03-2015 aangepas word. Die waardasie moet hersien word as dit nie binne 18 maande na die waardasiedatum geïmplementeer word nie.
- iii) Eiendomsbelasting en munisipale gelde, indien van toepassing, gehef word.
- iv) Onderworpe aan sodanige verdere voorwaardes wat die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid oplê, insluitende dat alle bykomende koste deur die koper betaal moet word.
- v) Nakoming met enige ander statutêre vereistes.



- vi) 'n Voetpad wat 1 m breed is, vir voetgangers se gebruik behou moet word.
- vii) Enige veranderings aan die elektrisiteitsdienste wat nodig is as gevolg van die voorstel, of wat deur die aansoeker versoek word, op onkoste van die aansoeker uitgevoer sal word.
- viii) Geen uitgrawings op die terrein mag plaasvind voordat daar nie aan die vereistes van die Wet op Beroepsgesondheid en Veiligheid, Wet 85 van 1993, en aan artikel 141(1) van die Munisipale Ordonnansie voldoen is nie.
- ix) Die aansoeker verantwoordelik gehou sal word vir enige koste verbonde aan die afwyking of verwydering van die bestaande Telkom-aanleg as gevolg van die ontwikkeling van die eiendom.
- x) Die aansoeker moet toelaat dat Telkom te alle tye toegang het vir die instandhouding of opgradering van die bestaande aanleg.

**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:

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DIRECTOR : LEGAL SERVICES  
MR LUNGELO MBANDAZAYO

DATE: 21/01/2015

COMMENT:

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ALDERMAN IAN NEILSON  
MAYORAL COMMITTEE MEMBER : FINANCE

DATE: 28/1/2015

COMMENT:

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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: A PORTION OF ERF 43131, CAPE TOWN, A PUBLIC STREET SITUATED AT AYRESHIRE STREET, RONDEBOSCH EAST: THE VAN VEEN FAMILY TRUST

2. **ONDERWERP**

VOORGESTELDE SLUITING EN VERVREEMDING VAN ONROERENDE EIENDOM IN STADSBESIT: 'N GEDEELTE VAN ERF 43131, KAAPSTAD, 'N OPENBARE STRAAT GELEË TE AYRESHIRESTRAAT, RONDEBOSCH-OOS: DIE VAN VEEN-FAMILIETRUST

2. **ISIHLOKO**

UKUVALWA NOKUTHENGISWA OKUCETYWAYO KWEPROPATI YESIXEKO ENGENAKUSUSWA : ISIQEPHU SESIZA 43131, EKAPA, ISITALATO SOLUNTU ESIME E-AYRESHIRE STREET, RONDEBOSCH EAST: THE VAN VEEN FAMILY TRUST

LSU:E4042  
CT14/3/4/1/00/43131  
PH 2014/0627 (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 disposal of City-owned immovable property being a portion of Erf 43131, Cape Town, (a public street) situated at Ayreshire Street, Rondebosch East to The Van Veen Family Trust.



## 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 disposal of City-owned immovable property being a portion of Erf 43131, Cape Town, (a public street) situated at Ayreshire Street, Rondebosch East to The Van Veen Family Trust.			
Property description	Portion of Erf 43131, Cape Town			
Applicant	The Van Veen Family Trust			
Site extent	65m <sup>2</sup>			
Current zoning	Public Street			
Current usage	Vacant land			
Proposed usage	Gardening and security			
Application description	Closure and Disposal			
Submission date	16 May 2005			
Circulation date	8 June 2005			
Comments	Dispute between applicant and neighbour over extend to be purchased in respect of the subject property delayed finalisation of this matter.			
Public participation outcome summary	The proposed disposal was advertised in the press on 8 March 2013. Comments were received regarding the proposal from Mr Y Rossier, attached hereto as Annexure E.			
WARD Cllr Anthea Green	NOTICE	DATE 18-03-2013	WARD	60
Viable	Yes		No	X
Recommended decision	Approval	X	Refusal	



## 7. RECOMMENDATIONS

It is recommended that:

- a) Council, in terms of section 4(3)(c) of the By-law relating to the Management and Administration of the City of Cape Town's Immovable Property, consider the comments and objections lodged by Yusuf Rossier, attached hereto as annexure E, and decide that for the reasons set out under paragraph 8 of this report, a portion of erf 43131, Cape Town, a public street situated at Ayrshire Street, Rondebosch East, be alienated.
- b) Council resolve in terms of section 14 of the Local Government: Municipal Finance Management Act, Act 56 of 2003, that the property not be 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, a portion of erf 43131, Cape Town, a public street situated at Ayrshire Street, Rondebosch East, as indicated on the attached plan STC 2120, marked annexure A, be closed.
- d) A portion of erf 43131, Cape Town, a public street situated at Ayrshire Street, Rondebosch East, shown lettered ABCD on the attached plan STC 2120, marked annexure A, in extent approximately 65 m<sup>2</sup>, be alienated to the Van Veen Family Trust, or its successor(s) in title, subject to inter alia the following conditions that:
  - i) A market-related purchase price of R50 000 excluding VAT of 14% where applicable, being R7 000 (in total R57 000), 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 01-03-2015. The valuation is to be reviewed if not implemented within 18 months from date of valuation.
  - iii) Rates and municipal charges, if applicable, be levied.
  - iv) 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.
  - v) Compliance with any other statutory requirements.
  - vi) A 1 m-wide footway be maintained for pedestrian use.



- vii) Any alterations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
- viii) No excavation is to take place on the site until the requirements of the Occupational Health and Safety Act, Act 85 of 1993, and section 141(1) of the Municipal Ordinance have been adhered to.
- ix) The applicant shall be held responsible for any cost involved in the deviation or removal of the existing Telkom plant as a result of to the development of the property.
- x) The applicant must allow access to Telkom at all times to maintain or upgrade the existing plant.

## 7. AANBEVELINGS

Daar word aanbeveel dat:

- a) Die Raad, ingevolge artikel 4(3)(c) van die Verordening met betrekking tot die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom, die kommentaar en beswaar wat deur Yusuf Rossier ingedien is, hierby aangeheg as bylae D, oorweeg en besluit dat, op grond van die redes wat by paragraaf 8 van hierdie verslag uiteengesit is, 'n gedeelte van erf 43131, Kaapstad, 'n openbare straat geleë te Ayrshirestraat, Rondebosch-Oos, vervreem word.
- b) Die Raad, ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, Wet 56 van 2003, besluit dat die eiendom nie vir die voorsiening van die minimum vlak van basiese munisipale dienste vereis word nie.
- c) Ingevolge die bepalinge van artikel 6 van die Verordening met betrekking tot die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom, 'n gedeelte van erf 43131 Kaapstad, 'n openbare straat geleë te Ayrshirestraat, Rondebosch-Oos, soos aangedui op die aangehegte plan STC 2120, gemerk bylae A, gesluit word.
- d) 'n Gedeelte van erf 43131, Kaapstad, 'n openbare straat geleë te Ayrshirestraat, Rondebosch-Oos, aangetoon met die letters ABCD op die aangehegte plan STC 2120, gemerk bylae A, ongeveer 65 m<sup>2</sup> groot, vervreem word aan die Van Veen-familietrust, of sy regsopvolger(s), onderworpe aan onder andere die volgende voorwaardes dat:
  - i) 'n Markverwante koopprys van R50 000, 14%-BTW uitgesluit waar van toepassing, naamlik R7 000 (R57 000 in totaal), betaalbaar is.

- ii) Die koopprys aangepas word teen 5% per jaar, jaarliks pro rata saamgestel, vanaf ses maande na die waardasiedatum (d.w.s.  $5\% \div 12 \text{ maande} \times \text{aantal maande na die tydperk van ses maande}$ ). Die bogenoemde koopprys moet gevolglik van 01-03-2015 aangepas word. Die waardasie moet hersien word as dit nie binne 18 maande na die waardasiedatum geïmplementeer word nie.
- iii) Eiendomsbelasting en munisipale gelde, indien van toepassing, gehef word.
- iv) Onderworpe aan sodanige verdere voorwaardes wat die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid oplê, insluitende dat alle bykomende koste deur die koper betaal moet word.
- v) Nakoming met enige ander statutêre vereistes.
- vi) 'n Voetpad wat 1 m breed is, vir voetgangers se gebruik behou moet word.
- vii) Enige veranderings aan die elektrisiteitsdienste wat nodig is as gevolg van die voorstel, of wat deur die aansoeker versoek word, op onkoste van die aansoeker uitgevoer sal word.
- viii) Geen uitgrawings op die terrein mag plaasvind voordat daar nie aan die vereistes van die Wet op Beroepsgesondheid en Veiligheid, Wet 85 van 1993, en aan artikel 141(1) van die Munisipale Ordonnansie voldoen is nie.
- ix) Die aansoeker verantwoordelik gehou sal word vir enige koste verbonde aan die afwyking of verwydering van die bestaande Telkom-aanleg as gevolg van die ontwikkeling van die eiendom.
- x) Die aansoeker moet toelaat dat Telkom te alle tye toegang het vir die instandhouding of opgradering van die bestaande aanleg.

## 7. ISINDULULO

Kundululwe ukuba:

- a) IBhunga ngokungqinelana nenqaku 4(3) (c) loMthetho kaMasipala ophathelele kuLawulo lwePropati yeSixeko saseKapa engenakuSuswa, maliqwalasele izimvo ezingeniswe ngu-Yusuf Rossier eziqhotyoshelwe apha njengesihlomelo D, lize lenze isigqibo ngokwezizathu ezidwelise phantsi komhlathi 8 wale ngxelo, makuthengiswe isiza 43131 eKapa, isitalato soluntu esime e-Ayreshire Street, e-Rondebosch East



- b) Ibhunga maligqibe ukuba, ngokwecandelo 14 loMthetho ojongene neeNkqubo zikaMasipala woRhulumente weNgingqi: uMthetho ojongene noLawulo lweMali zikaMasipala, uMthetho 56 wango-2003, ipropati ayifuneki ukuba ibonelele ngeenkondo ezingundoqo zikamasipala.
- c) Ngokungqinelana nezibonelelo zeSoloty 6 loMthetho kaMasipala ojongene noLawulo lwePropati zesiXeko ezingenakuSuswa, makuvalwe isiqephu zesiza 43131 eKapa, isitalato soluntu esime e-Ayreshire Street, e-Rondebosch East, njengoko kubonakalisiwe kwisicwangciso STC 2120 esiqhotyoshelwe nesiphawulwe njengesihlomelo A.
- d) Makuthengiswe isiqephu sesiza 43131, eKapa, isitalato soluntu esime e-Ayreshire Street, e-Rondebosch East esibonakaliswe ngoonobumba ABCD kwisicwangciso STC 2120 esiqhotyoshelwe nesiphawulwe njengesihlomelo A, esibukhulu bumalunga nama-65 m<sup>2</sup>, sithengiselwe abe-Van Veen Family Trust okanye abangena ezinyaweni zabo ngetaytile, ngokuxhomekeke phakathi kwezinye izinto kule miqathango ilandelayo:
- i) Makuhlawulwe ixabiso elihambelana neemarike lama-R50 000 ngaphandle kweRhafu-ntengo ye- 14% apho kufanelekileyo, ingama-R7 000 (iilonke – R57 000).
  - 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 01-03-2015 Kufuneka kuphengululwe uqingqo-maxabiso ukuba aluzalekiswa kwisithuba seenyanga ezili-18 ukususela kumhla woqingqo-maxabiso.
  - iii) Makuhlawulwe intalwulo zobuhlali neendleko zikamasipala, ukuba kufanelekile;
  - iv) Ngokuxhomekeke kwimiqathango engeminye eya kuthi imiselwe nguMlawuli woLawulo lwePropati ngokwamagunya akhe agunyazisiweyo, kuquka nokuba zonke iindleko ezihambelanayo ziya kuthwalwa ngumthengi.
  - v) Ukuthotyelwa kwezinye iimfuneko ezisemthethweni.
  - vi) Makugcinwe ububanzi be-1m bendlela yeenyawo ukulungiselela ukusetyenziswa ngabahambi ngeenyawo.
  - vii) Naziphina izilungiso ezifunekayo kwiinkonzo zombane ngenxa yesi siphakamiso, okanye ezenziwe ngumfaki-sicelo, ziya kwenziwa ngeendleko zomfaki-sicelo.

- viii) Akuyi kugrunjwa kule ndawo kude kube kuthotyelwe iimfuneko zoMthetho ojongene nokuba seMpilweni eMsebenzini noKhuseleko, uMthetho 85 wango-1993 necandelo 141(1) loMmiselo kaMasipala.
- ix) Umfaki-sicelo uya kuba noxanduva lwazo zonke iindleko eziphathelele kutenxo okanye ukususwa kwaso nasiphina isixhobo sakwa-Telkom esikhoyo ngenxa yokuphuhliswa kwepropati.
- x) Umfaki-sicelo kufuneka avumele ukungena kwabakwa-Telkom ngawo onke amaxesha ukwenzela ukwenzela umsebenzi wolondolozo okanye wophucula lwesixhobo esikhoyo

## 8. DISCUSSION/CONTENTS

### 8.1. BACKGROUND:

An application was made by The Van Veen Family Trust, the registered owner of the Erf 43134 Cape Town, to purchase a portion Erf 43131, Cape Town, (a public street) situated at Ayreshire Street, Rondebosch East, in extent approximately 65m<sup>2</sup>. The current zoning of the property is Public Street and is vacant land.

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 8 March 2013, inviting the public to lodge written comments. A notice in this regard was also served on the relevant ward councillor and sub-council.

Written comments were received from Mr Y Rossier, marked as Annexure E. The comments/objections and subsequent responses are summarised as follows:

#### 8.1.1 Summary of objections/comments submitted by Mr Rossier

- Mr Rossier objected to the proposed disposal in that the portion available for disposal exceeds his boundary line.

### 8.1.2 Evaluation of objectors' comments

- Mr Rossier has applied to purchase the of portion of erf 43131, Cape Town, (a public street) situated at Ayreshire Street, Rondebosch East Shown lettered ABCDEF on the attached plan STC 1812 marked Annexure F. This disposal was approved by Council and transfer is pending. Mr Rossier only applied for the portion sold to him and had the opportunity to apply to purchase a larger portion of property. If only a portion of the property applied for is sold to the applicant, i.e. excluding the portion to which Mr Rossier is objecting to, a nook will be created along the street verge, which from a security point of view, is undesirable.

The recommendation was considered by sub-Council 17 on 23 October 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:

i) Electricity

Any alterations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost. No excavation is to take place on site until the requirements of the Occupational Health and Safety Act, Act 85 of 1993 and Section 141(1) of the Municipal Ordinance have been adhered to.

ii) Telkom

The applicant shall be held responsible for any cost involved in the deviation or removal of existing Telkom plant due to the development of the property. The applicant must allow access to Telkom at all times to maintain or upgrade existing plant.

iii) Parks and Bathing Amenities Services

A 1metre wide footway must be maintained for pedestrian use.

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 R50 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) The comments and objections received from members of the public against the proposal have been evaluated and found to be unsubstantiated.
- v) The alienation will allow for better utilisation of the property.

**8.4 PUBLIC PARTICIPATION**

Advertising	Cape Times & Burger	8 March 2013
	Prov & Nat Treasury	18 March 2013
	Notices to adj owners	15 March 2013
	Ward councillor	18 March 2013
	Subcouncil Chair & Manager	18 March 2013
	Community organisation(s)	None
Outcome	Objections	Yes
	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 31 August 2014 assessed the value of the Subject Property at R50 000.00 excluding VAT (if applicable). Valuation synopsis is attached to the report as Annexure C.

**8.6 VAT**

VAT will be levied at the standard rate.

**8.7 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 R50 000, 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 8 March 2013. Closing date for objections was 15 April 2013. Copies of the advertisement were sent to the Ward Councillor, Chairperson of the relevant Sub-Council and registered local community organisations. Objections were received as discussed in paragraph 8.1 above.

**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 43134 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 2120
- B - Extract from Subcouncil 16 Minute
- C – Valuation Synopsis
- D – Tax Clearance Certificate
- E – Comments from Mr. Y Rossier
- F – Plan STC 1812



FOR FURTHER DETAILS CONTACT:

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DIRECTORATE	FINANCE	
FILE REF NO	CT14/3/4/1/00/43131	102-12-2014
SIGNATURE : DIRECTOR	<i>[Signature]</i>	2014-12-03

Comment:

CHIEF FINANCIAL OFFICER  
[Kevin Jacoby]

NAME

DATE

*03.12.2014*

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

NON-COMPLIANT

LEGAL COMPLIANCE

NAME

*A.S. Diansay*

TEL

*(021) 600 4536*

DATE

*4 DEC 14*

Comment:

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

*[Handwritten mark]*