

## COUNCIL OF THE CITY OF CAPE TOWN

ITEM NUMBER: C 17/04/16

*RECOMMENDATION FROM THE EXECUTIVE MAYOR: 19 APRIL 2016*

**MC 37/04/16 PROPOSED GRANTING OF IN-PRICIPLE APPROVAL FOR THE SALE BY PUBLIC COMPETITION OF VACANT ERF 11257, KOORNHOF STREET, NYANGA AND ERF 10456, MAHLATHINI STREET, NYANGA, FOR GENERAL BUSINESS PURPOSES**

It is **RECOMMENDED** that:

- (a) in terms of Sections 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:
  - (i) Council resolve that Erf 11257, Koornhof Street, Nyanga, and Erf 10456, Mahlathini Street, Nyanga, in extent approximately 4 353 m<sup>2</sup> and 231 m<sup>2</sup>, zoned General Business Subzone 4 (GB4), shown lettered ABCDEFGHJKLMNPQRSTU on Plan LIS 1421v0 attached as Annexure A to the report on the agenda and ABCD on Plan LIS 1431v0 attached as Annexure B to the report on the agenda, is not required for the provision of the minimum level of basic municipal services;
  - (ii) Council confirm that the fair market value of the assets described in (a)(i) above and the economic and community value to be received in exchange for the assets described in (a)(i) above have been considered.
- (b) in terms of Regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878 promulgated on 22 August 2008, Council approve in principle the sale of Erf 11257, Koornhof Street, Nyanga, and Erf 10456, Mahlathini Street, Nyanga, as described in (a)(i) above
- (c) Erf 11257, Koornhof Street, Nyanga, and Erf 10456, Mahlathini Street, Nyanga, be sold by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority
- (d) any gain or loss incurred by the municipality in respect of the transfer of the assets be included in the adjustment budget of the municipality (Sections 28 and 87 of the MFMA), if not budgeted for in the approved annual budget.

IPAC 23/03/2016

PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE SALE BY PUBLIC COMPETITION OF VACANT ERF 11257, KOORNHOF STREET, NYANGA, AND ERF 10456, MAHLATHINI STREET, NYANGA, FOR GENERAL BUSINESS PURPOSES

MC 37/04/16

VOORGESTELDE TOEKENNING VAN BEGINSSELGOEDKEURING VIR DIE VERKOOP PER OPENBARE MEDEDINGING VAN ONBEOUDE ERF 11257, KOORNHOFSTRAAT, NYANGA, EN ERF 10456, MAHLATHINISTRAAT, NYANGA, VIR ALGEMENESAKE-DOELEINDES

ISIPHAKAMISO SOKUNIKEZELWA KWESIPHUMEZO NGOKOMTHETHO-SISEKO SOKUTHENGISA NGOKOKHUPHISWANO LOLUNTU ISIZA ESINGENANTO 11257, KOORNHOF STREET, NYANGA, NESIZA 10456 MAHLATHINI STREET, NYANGA, NGEENJONGO ZOKUQHUBA USHISHINO

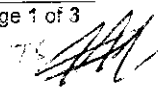
*Property Management representative was present to answer any question for clarity*

### RECOMMENDATIONS

Not delegated: for decision by Council

It is recommended that:

- a) In terms of sections 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:
  - i) Council resolve that erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, in extent approximately 4 353 m<sup>2</sup> and 231 m<sup>2</sup>, zoned General Business Subzone 4 (GB4), shown lettered ABCDEFGHJKLMNPQRSTU on Plan LIS 1421v0 (**annexure A**) and ABCD on Plan LIS 1431v0 (**annexure B**), not be required for the provision of the minimum level of basic municipal services;
  - ii) Council confirm that the fair market value of the assets described in (a)(i) and the economic and community value to be received in exchange for the assets described in (a)(i) have been considered;
- b) In terms of Regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878 promulgated on 22 August 2008, Council approve in principle the sale of erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, as described in (a)(i);
- c) Erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, be sold by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority;
- d) Any gain or loss incurred by the municipality in respect of the transfer of the assets be included in the adjustment budget of the municipality (sections 28 and 87 of the MFMA), if not budgeted for in the approved annual budget.



Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Ingevolge artikel 14(2)(a) en (b) van die Wet op Munisipale Finansiële Bestuur, Wet 56 van 2003 (MFMA):
  - i) Die Raad besluit dat erf 11257, Koornhofstraat, Nyanga, en erf 10456, Mahlathinistraat, Nyanga, ongeveer 4 353 m<sup>2</sup> en 231 m<sup>2</sup> groot en gesoneer as algemenesake-subzone 4 (GB4), aangetoon deur die letters ABCDEFGHJKLMNPQRSTU op plan LIS 1421v0 (**bylae A**) en ABCD op plan LIS 1431v0 (**bylae B**), nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie;
  - ii) Die Raad bevestig dat die billike markwaarde van die bates wat in (a)(i) beskryf word, en die ekonomiese en gemeenskapswaarde wat in ruil vir die bates beskryf in (a)(i) ontvang sal word, in aanmerking geneem is;
- b) Ingevolge regulasie 5(1)(b) van die regulasies oor die oordrag van munisipale bates (MATR), R.878, gepromulgeer op 22 Augustus 2008, die Raad die verkoop van erf 11257, Koornhofstraat, Nyanga, en erf 10456, Mahlathinistraat, Nyanga, soos beskryf in (a)(i), in beginsel goedkeur;
- c) Erf 11257, Koornhofstraat, Nyanga, en erf 10456, Mahlathinistraat, Nyanga per openbare mededinging vervreem word, onderworpe aan voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid;
- d) Enige wins of verlies vir die munisipaliteit as gevolg van die oordrag van die bates, ingesluit word by die munisipaliteit se aansuiweringsbegroting (artikel 28 en 87 van die MFMA), indien daar nie in die goedgekeurde jaarlikse begroting daarvoor begroot is nie.

## IZINDULULO

Azigunyaziswanga: isiqqibo seseBhunga:

Kundululwe ukuba:

- a) Ngokungqinelana namacandelo 14(2)(a) no-(b) loMthetho woLawulo lweeMali zikaMasipala (MFMA) uMthetho 56 ka-2003:
  - i) IBhunga ligqibe ukuba isiza-11257, Koornhof Street, eNyanga, nesiza-10456, Mahlathini Street, eNyanga, ezibukhulu bumalunga ne-4 353 m<sup>2</sup> ne-231 m<sup>2</sup>, ezicandwe njengoMmandla wezoShishino 4 (GB4), ezibonakaliswe ngoonobumba ABCDEFGHJKLMNPQRSTU kwiplani LIS 1421v0 (**isihlomelo A**) no-ABCD kwiplani LIS 1431v0 (**isihlomelo B**), azifuneki ukuba zibonelele ngeenkonzo ezingundoqo zikamasipala;
  - ii) IBhunga maliqinisekise ukuba kuthathelwa ingqalelo ixabiso lemarike elifanelekileyo lezinto zexabiso ezicaciswe ku-(a)(i) nexabiso lezoqoqosho noluntu eliza kufunyanwa ngotshintshiselwano ngezinto zexabiso ezicaciswe ku-(a)(i);

- b) NgokoMgaqo-5(1)(b) weMigaqo engokuTshintshelwa kweMpahla kaMasipala (MATR), R. 878 owamiselwa ngowama-22 Agasti 2008, iBhunga maliphumeze ngokomthetho-siseko ukuthengiswa kwesiza-11257, Koornhof Street, eNyanga, nesiza-10456, Mahlathini Street, eNyanga, njengoko kucaciswe ku(a)(i);
- c) Isiza-11257 Koornhof Street, Nyanga, nesiza-10456, Mahlathini Street, Nyanga, mazithengiswe ngendlela yokhuphiswano loluntu, ngokuxhomekeke kwimiqathango emiselwe nguMlawuli: woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;
- d) Nayiphina ingeniso okanye ilahleko kumasipala ngokujoliswe ekutshintshelweni kwempahla, mayiqukwe kulungelelaniso lohlahlo-lwabiwo-mali lukamasipala (amacandelo-28 nele-87 le-MFMA) ukuba ayibhajethelwanga kuhlahlo-lwabiwo-mali lonyaka oluphunyeziweyo.

**ACTION: A HUMAN; R GELDERBLOEM**

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



**MR THEMBINKOSI SIGANDA**  
**EMPLOYEE No: 10020234**  
**ACTING CHAIRPERSON : IMMOVABLE PROPERTY**  
**ADJUDICATION COMMITTEE**

DATE: 17/03/2016

COMMENT:

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**DIRECTOR : LEGAL SERVICES**  
**LUNGELO MBANDAZAYO**

DATE: 2016 -03- 18

COMMENT:

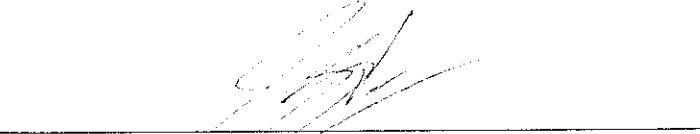
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**ALDERMAN IAN NEILSON**  
**MAYORAL COMMITTEE MEMBER : FINANCE**

DATE: 22/3/2016

COMMENT:

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CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

Making progress possible. Together.

## REPORT TO IMMOVABLE PROPERTY ADJUDICATION COMMITTEE

### 1. ITEM NUMBER :

### 2. SUBJECT: PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE SALE BY PUBLIC COMPETITION OF VACANT ERF 11257, KOORNHOF STREET, NYANGA, AND ERF 10456, MAHLATHINI STREET, NYANGA, FOR GENERAL BUSINESS PURPOSES

ONDERWERP: VOORGESTELDE TOEKENNING VAN BEGINSSELGOEDKEURING VIR DIE VERKOOP PER OPENBARE MEDEDINGING VAN ONBEOUDE ERF 11257, KOORNHOFSTRAAT, NYANGA, EN ERF 10456, MAHLATHINISTRAAT, NYANGA, VIR ALGEMENESAKE-DOELEINDES

ISIHLOKO: ISIPHAKAMISO SOKUNIKEZELWA KWESIPHUMEZO NGOKOMTHETHO-SISEKO SOKUTHENGISA NGOKOKHUPHISWANO LOLUNTU ISIZA ESINGENANTO 11257, KOORNHOF STREET, NYANGA, NESIZA 10456 MAHLATHINI STREET, NYANGA, NGEENJONGO ZOKUQHUBA USHISHINO

G4350

### 3. STRATEGIC INTENT

#### SFA 1: THE OPPORTUNITY CITY

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

### 4. PURPOSE

To obtain Council's in-principle approval to proceed with the sale by public competition of City-owned vacant land being erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, in extent approximately 4 353 m<sup>2</sup> (erf 11257) and 231 m<sup>2</sup> (erf 10456) respectively, for General Business purposes.

### 5. FOR DECISION BY

This report is for decision by Council

The legal provision for this non-delegable authority can be found in section 14 of the Municipal Finance Management Act, Act 56 of 2003 and regulation 5 of the Municipal Asset Transfer Regulations of 2008.

## 6. EXECUTIVE SUMMARY

PURPOSE	To obtain Council's in-principle approval for the sale by public competition of City-owned vacant land erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, for General Business purposes	
Property description	Erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga	
Site extent	4 353 m <sup>2</sup> (erf 11257) and 231 m <sup>2</sup> (erf 10456)	
Current zoning	General Business Subzone 4 (GB4)	
Current usage	Vacant land	
Proposed usage	General Business Subzone 4 (GB4)	
Desktop values	R 750 000 (erf 11257) and R75 000 (erf 10456) (excluding VAT)	
Public participation outcome summary	No objections	
WARD COUNCILLOR Luvuyo Zondani	NOTICE DATE 16 October 2015	WARD 3B

## 7. RECOMMENDATIONS

Not delegated: for decision by Council

It is recommended that:

- a) In terms of sections 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:
  - i) Council resolve that erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, in extent approximately 4 353 m<sup>2</sup> and 231 m<sup>2</sup>, zoned General Business Subzone 4 (GB4), shown lettered ABCDEFGHIJKLMNOPQRSTU on Plan LIS 1421v0 (**annexure A**) and ABCD on Plan LIS 1431v0 (**annexure B**), not be required for the provision of the minimum level of basic municipal services;
  - ii) Council confirm that the fair market value of the assets described in (a)(i) and the economic and community value to be received in exchange for the assets described in (a)(i) have been considered;
- b) In terms of Regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878 promulgated on 22 August 2008, Council approve in principle the sale of erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, as described in (a)(i);
- c) Erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, be sold by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority;

- d) Any gain or loss incurred by the municipality in respect of the transfer of the assets be included in the adjustment budget of the municipality (sections 28 and 87 of the MFMA), if not budgeted for in the approved annual budget.

## AANBEVELINGS

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Ingevolge artikel 14(2)(a) en (b) van die Wet op Munisipale Finansiële Bestuur, Wet 56 van 2003 (MFMA):
- i) Die Raad besluit dat erf 11257, Koornhofstraat, Nyanga, en erf 10456, Mahlathinistraat, Nyanga, ongeveer 4 353 m<sup>2</sup> en 231 m<sup>2</sup> groot en gesoneer as algemenesake-subzone 4 (GB4), aangetoon deur die letters ABCDEFGHJKLMNPQRSTU op plan LIS 1421v0 (**bylae A**) en ABCD op plan LIS 1431v0 (**bylae B**), nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie;
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- c) Erf 11257, Koornhofstraat, Nyanga, en erf 10456, Mahlathinistraat, Nyanga per openbare mededinging vervreem word, onderworpe aan voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid;
- d) Enige wins of verlies vir die munisipaliteit as gevolg van die oordrag van die bates, ingesluit word by die munisipaliteit se aansuiweringsbegroting (artikel 28 en 87 van die MFMA), indien daar nie in die goedgekeurde jaarlikse begroting daarvoor begroot is nie.

## IZINDULULO

Azigunyaziswanga: isigqibo seseBhunga:

Kundululwe ukuba:

- a) Ngokungqinelana namacandelo 14(2)(a) no-(b) loMthetho woLawulo lweeMali zikaMasipala (MFMA) uMthetho 56 ka-2003:
- i) IBhunga ligqibe ukuba isiza-11257, Koornhof Street, eNyanga, nesiza-10456, Mahlathini Street, eNyanga, ezibukhulu bumalunga ne-4 353 m<sup>2</sup> ne-231 m<sup>2</sup>, ezicandwe njengoMmandla wezoShishino 4 (GB4), ezibonakaliswe ngoonobumba

ABCDEFGHIJKLMNPQRSTU kwiplani LIS 1421vu (**isihlomelo A**) no-ABCD kwiplani LIS 1431v0 (**isihlomelo B**), azifuneki ukuba zibonelele ngeenkondo ezingundoqo zikamasipala;

- ii) IBhunga maliqinisekise ukuba kuthathelwa ingqalelo ixabiso lemarike elifanelekileyo lezinto zexabiso ezicaciswe ku-(a)(i) nexabiso lezoqoqosho noluntu eliza kufunyanwa ngotshintshiselwano ngezinto zexabiso ezicaciswe ku-(a)(i);
- b) NgokoMgaqo-5(1)(b) weMigaqo engokuTshintshelwa kweMpahla kaMasipala (MATR), R. 878 owamiselwa ngowama-22 Agasti 2008, iBhunga maliphumeze ngokomthetho-siseko ukuthengiswa kwesiza-11257, Koornhof Street, eNyanga, nesiza-10456, Mahlathini Street, eNyanga, njengoko kucaciswe ku(a)(i);
- c) Isiza-11257 Koornhof Street, Nyanga, nesiza-10456, Mahlathini Street, Nyanga, mazithengiswe ngendlela yokhuphiswano loluntu, ngokuxhomekeke kwimiqathango emiselwe nguMlawuli: woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;
- d) Nayiphina ingeniso okanye ilahleko kumasipala ngokujoliswe ekutshintshelweni kwempahla, mayiqukwe kulungelelaniso lohlahlo-lwabiwo-mali lukamasipala (amacandelo-28 nele-87 le-MFMA) ukuba ayibhajethelwanga kuhlahlo-lwabiwo-mali lonyaka oluphunyeziweyo.

## 8. DISCUSSION/CONTENTS

### 8.1 Background

The Property Development Division has compiled a five-year program of land sales, the Property Release Program, to be implemented between July 2012 and June 2017, based on factors and priorities such as readiness for sale, demand for erven and Council's strategic objectives. The properties on the Program were extracted from the broad database of Council erven that have been identified for possible alienation. From the Program, erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, have been identified for early release.

### 8.2 Public Participation

In accordance with the authority obtained from the Director: Property Management on 5 October 2015, Council's intention to sell the subject properties was advertised as follows:

Advertising	Cape Times & Burger	16 October 2015
	Provincial & National Treasury	16 October 2015
	Ward Councillor	16 October 2015
	Subcouncil Chair & Manager	16 October 2015
Outcome	Objections	No
	Ward Councillor's support	Yes



### 8.3 Constitutional and Policy Implications

- (i) Chapter B of Council's policy relating to the Management of certain of the City of Cape Town's Immovable Property, as approved by Council on 26 August 2010 (C54/08/10), permits the sale of immovable property.
- (ii) A resolution to proceed with the sale of these properties is supported by the applicable policies.

### 8.4 Sustainability Implications

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

### 8.5 Legal Implications

- (i) The proposal complies with section 14 of the Municipal Finance Management Act, Act 56 of 2003.
- (ii) The sale of municipal capital assets is governed by Chapter 2 of the MATR;

Council may in terms of **Reg 5(1)(b)(i) of the MATR** transfer or sell non-exempted capital assets after it has, in a meeting open to the public, made the determinations required by section 14(2)(a) and (b) of the MFMA:

- The erven (assets) are not needed for basic municipal services;
- Considered the fair market value of the assets and the economic and community value to be received in exchange for the assets.

In terms of **Reg 7 of the MATR**, Council must take into account a number of factors (highlighted in bold) when considering any proposal to transfer or sell non-exempted capital assets and it is herewith confirmed that:

**Factor A: Whether assets are required for municipality's own use at later date (also Sec 14(1), Sec 14(2)(a) and Sec 90(1) of MFMA)**

Council's service branches have confirmed that the assets are not required for its own purposes.

**Factor B: Loss or gain expected to result from proposed transfer**

Council will not make a loss, but a gain on receipt of market value, future rates and taxes, and the sales will stimulate economic growth.

**Factor C: Significant economic or financial cost or benefit to municipality/ compensation**

Council will receive a financial benefit in the form of the sales prices as well as future

rates and taxes in respect of the properties. The desktop valuation reports (**annexures C and D**) estimate the value of the properties to be in the region of R750 000 (erf 11257) and R75 000 (erf 10456), excluding VAT.

**Factor D: Management of risk**

No operational or control risk to the City

**Factor E: Impact on credit rating, financial position, cash flow of municipality**

No impact

**Factor F: Limitations and conditions attached to capital assets**

None

**Factor G: Cost of transfer or sale**

The normal costs related to advertisements and land surveying, if applicable, will be incurred by Council. The purchasers will be responsible for the transfer costs.

**Factor H: Transfer of liabilities and reserve funds associated with the assets**

None

**Factor I: Stakeholder comments and recommendations**

The City's intention to alienate erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga was duly advertised to the public in the Cape Times and Die Burger on 16 October 2015. The relevant subcouncil Chairperson, subcouncil Manager, Ward Councillors and Regional Offices were notified for comment. No objections were received.

**Factor J: Views from National and Provincial Treasury**

No comments were received.

**Factor K: Strategic, legal, and economic interests**

None of these interests will be compromised through the alienation of the assets - in fact they will be supported.

**Factor L: Compliance with legislative regime that is applicable to proposed transfer or sale**

Alienation of these assets is compliant with the MFMA and the Municipal Asset Transfer Regulations, Reg. 12(1).

**8.6 Staff Implications**

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

No

### 8.7 Risk Implications

No operational or control risk to the City

### 8.8 Other Services Consulted

The proposed sale of the properties was circulated to the relevant departments of the City and to external departments for comment. No objections were received.

## 9. SUBCOUNCIL RECOMMENDATION/COMMENTS

Subcouncil 14 on 18 January 2016 resolved to recommend the sale of vacant land erf 11257, Koornhof Street, Nyanga, and erf 10456, Mahlathini Street, Nyanga, for General Business purposes. (See Item 14SUB11/01/16) attached as **annexure E**).

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### ANNEXURES

Annexure A: Plan LIS 1421v0

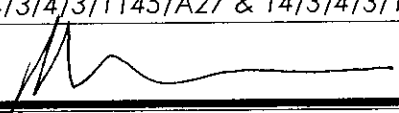
Annexure B: Plan LIS 1431v0

Annexure C: Desktop valuation dated 2015-09-18

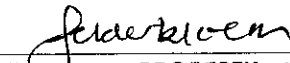
Annexure D: Desktop valuation dated 2015-09-22

Annexure E: Subcouncil Minutes (Item 14SUB11/01/16)

FOR FURTHER DETAILS CONTACT:

NAME	Angelene Kelland
CONTACT NUMBERS	(021) 400 1076
E-MAIL ADDRESS	angelene.kelland@capetown.gov.za
DIRECTORATE	FINANCE
FILE REF NO	HO14/3/4/3/1145/A27 & 14/3/4/3/144/A27
SIGNATURE : MANAGER PROPERTY DEVELOPMENT	 7.03.2016

Comment:



DIRECTOR: PROPERTY MANAGEMENT IN HER  
CAPACITY AS NOMINEE FOR THE EXECUTIVE  
DIRECTOR: FINANCE  
RUBY GELDERBLOEM

NAME RUBY GELDERBLOEM

DATE 2016-03-09

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 CHARLYNNE ARENOSE

TEL 021 400 1265

DATE 10/3/2016

Comment:

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