

ITEM NUMBER: C 48/05/16

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 17 MAY 2016

MC 37/05/16 PROPOSED DISPOSAL OF ERF 32398, KHAYELITSHA: THE APOSTOLIC FAITH MISSION KHAYELITSHA

It is **RECOMMENDED** that:

- (a) it be confirmed that, in terms of Section 14 of the Local Government: Municipal Finance Management Act, Act 56 of 2003, Erf 32398, Khayelitsha shown lettered ABCDE on Plan ET363 attached as Annexure A to the report on the agenda, is not required to provide the minimum level of basic municipal services
- (b) in terms of Regulation 5(1)(b)(ii) of the Municipal Asset Transfer Regulations, Council approve in principle that the disposal of Erf 32398, Khayelitsha, be granted.

IPAC 58/03/2016 PROPOSED DISPOSAL OF ERF 32398 KHAYELITSHA: THE APOSTOLIC
FAITH MISSION KHAYELITSHA

MC 37/05/16 VOORGESTELDE VERVREEMDING VAN ERF 32398 KHAYELITSHA: DIE
APOSTOLIESE GELOOFSENDING KHAYELITSHA

ISIPHAKAMISO SOKUNIKEZELWA KWESIZA-32398, ESISEKHAYELITSHA:
KWABE-APOSTOLIC FAITH MISSION KHAYELITSHA

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

RECOMMENDATIONS

Not delegated: for decision by Council:

It is recommended that:

- a) It be confirmed that, in terms of section 14 of the Local Government: Municipal Finance Management Act, Act 56 of 2003, erf 32398 Khayelitsha shown lettered ABCDE on the attached plan ET363, marked annexure A, not be required to provide the minimum level of basic municipal services;
- b) In terms of regulation 5(1)(b)(ii) of the Municipal Asset Transfer Regulations, Council approve in principle that the disposal of erf 32398 Khayelitsha, be granted.

AANBEVELINGS

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Daar bevestig word dat ingevolge die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, Wet 56 van 2003, erf 32398 Khayelitsha aangetoon deur die letters ABCDE op die aangehegte plan, ET363 gemerk A, nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie.
- b) Die Raad ingevolge regulasie 5(1)(b)(ii) van die regulasies oor die oordrag van munisipale bates beginselgoedkeuring verleen vir die vervreemding van erf 32398 Khayelitsha aangetoon deur die letters ABCDE op die aangehegte plan, ET363 gemerk A.

IZINDULULO

Azigunyaziswanga: isiqqibo seseBhunga:

Kundululwe ukuba:

- a) Kufuneka kuqinisekisiwe ukuba, ngokwecandelo-14 loMthetho wobuRhulumente boMmandla ongoLawulo lweziMali zikaMasipala ongunomb.56 wango-2003, isiza-32398 esiseKhayelitsha, esibonakaliswe ngonobumba abakhulu u-ABCDE kwiplani eqhotyoshelweyo engu-ET 363,

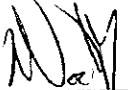
ephawulwe kwisihlomelo-A ayifuneki nganto ukubonelela ngomlinganiselo othile weenkonzozo ezingundoqo zikamasipala;

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- b) Ngokomgaqo-5(1)(b)(ii) weMigaqo engokuTshintshelwa kweMpahla kaMasipala, iBhunga maliphumeze ngokomgaqo ukuba makuvunyelwe isinikezelo sesiqephu sesiza-32398, esiseKhayelitsha.

ACTION: R SCHNACKENBERG; R GELDERBLOEM

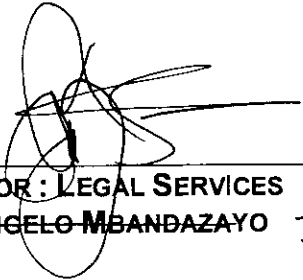
It is noted that this resolution is in line with Supply Chain Management Policy.



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

DATE: 15/4/16

COMMENT:



**DIRECTOR : LEGAL SERVICES (Acting)
MR LUNGELO MBANDAZAYO Jean Roman**

DATE: 15.04.2016

COMMENT:



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

DATE: 18/4/16

COMMENT:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

REPORT TO IMMOVABLE PROPERTY ADJUDICATION COMMITTEE

DATE:

1. **ITEM NUMBER :** To be inserted by Executive Support
2. **SUBJECT**

PROPOSED DISPOSAL OF ERF 32398 KHAYELITSHA: THE APOSTOLIC FAITH MISSION KHAYELITSHA

ONDERWERP

VOORGESTELDE VERVREEMDING VAN ERF 32398 KHAYELITSHA: DIE APOSTOLIESE GELOOFSENDING KHAYELITSHA

ISIHLOKO

ISIPHAKAMISO SOKUNIKEZELWA KWESIZA-32398, ESISEKHAYELITSHA: KWABE-APOSTOLIC FAITH MISSION KHAYELITSHA

T/CO-14/3/4/3/64

PH 2016/0075 (Category 3 Social Care)

G2004 and G2029

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 obtain an in principle approval for an application received for the disposal of erf 32398 Khayelitsha, shown lettered ABCDE on the attached plan ET 363, marked annexure A, in extent 1050 m², to The Apostolic Faith Mission Khayelitsha or it's successor in title in terms of Regulation 5 of the Municipal Asset Transfer Regulations and;

Approval that the subject immovable property is not required for the provision of basic municipal services in terms of Section 14 of the Municipal Finance Management Act.

In terms of the provisions of the Municipal Finance Management Act (MFMA) and the associated Municipal Asset Transfer Regulations (MATR), the City may only dispose of viable property after (a) the City has made a determination that the asset is not required for the provision of basic municipal purposes and (b) approved in principle that the asset may be disposed of.

The MATR further stipulates that the City may not commence with the disposal process of negotiations unless approval in principle has been obtained. For reasons referred to in the report, this transaction relates to a direct deal and not a disposal via a tender process and the following have therefor already been addresses and further discussed in the body of the report:

- public participation
- valuation determination

The recommendations for final approval will be submitted to the Immovable Property Adjudication Committee (IPAC) in terms of Part 42 of the System of Delegations. The IPAC report includes the comments obtained from subcouncil on the proposed disposal.

5. FOR NOTING BY / FOR DECISION BY

This report is for consideration by

- The Immovable Property Adjudication Committee
- The Executive Mayor together with the Mayoral Committee
- Council

6. EXECUTIVE SUMMARY

PURPOSE OF REPORT	To obtain an in principle approval for an application received for the disposal of erf 32398 Khayelitsha, shown lettered ABCDE on the attached plan ET 363, marked annexure A, in extent 1050 m ² , to the Apostolic Faith Mission Khayelitsha or it's successor in title.
Property description	Erf 32398 Khayelitsha
Applicant	The Apostolic Faith Mission Khayelitsha
Site extent	1050 m ²
Current zoning	Community 1 (Local)
Current usage	Church Purposes
Proposed usage	Place of Worship – Church Services
Application description	Disposal
Submission date	04.04.2011
Circulation date	04.07.2011
Comments	Deviation report to City Manager that was approved on 15.07.2015 , attached as Annexure C
Public participation outcome summary	No objections were received

Subcouncil outcome	It is confirmed that the application was discussed at a meeting of sub-council 24 held on 19 November 2015; agenda item number 22SUB13/11/15 and that the recommendations as set out in the report was accepted and no objections were submitted. See annexure D.			
WARD Cllr Mpucuko Nguzo	NOTICE DATE 27.08.2015		WARD 95	
Viable	Yes	x	No	
Recommended decision	Approval	x	Refusal	

7. RECOMMENDATIONS

Not delegated: for decision by Council:

It is recommended that:

- a) It be confirmed that, in terms of section 14 of the Local Government: Municipal Finance Management Act, Act 56 of 2003, erf 32398 Khayelitsha shown lettered ABCDE on the attached plan ET363, marked annexure A, not be required to provide the minimum level of basic municipal services;
- b) In terms of regulation 5(1)(b)(ii) of the Municipal Asset Transfer Regulations, Council approve in principle that the disposal of erf 32398 Khayelitsha, be granted.

7. AANBEVELINGS

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Daar bevestig word dat ingevolge die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, Wet 56 van 2003, erf 32398 Khayelitsha aangetoon deur die letters ABCDE op die aangehegte plan, ET363 gemerk A, nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie.
- b) Die Raad ingevolge regulasie 5(1)(b)(ii) van die regulasies oor die oordrag van munisipale bates beginselgoedkeuring verleen vir die vervreemding van erf 32398 Khayelitsha aangetoon deur die letters ABCDE op die aangehegte plan, ET363 gemerk A.

7. IZINDULULO

Azigunyaziswanga: isiqgibo seseBhunga:

Kundululwe ukuba:

- a) Kufuneka kuqinisekisiwe ukuba, ngokwecandelo-14 loMthetho wobuRhulumente boMmandla ongoLawulo lweziMali zikaMasipala ongunomb.56 wango-2003, isiza-32398 esiseKhayelitsha, esibonakaliswe ngoonobumba abakhulu u-ABCDE kwiplani eqhotyoshelweyo engu-ET 363, ephawulwe kwisihlomelo-A ayifuneki nganto ukubonelela ngomlinganiselo othile weenkondo ezingundoqo zikamasipala;
- b) Ngokomgaqo-5(1)(b)(ii) weMigaqo engokuTshintshelwa kweMpahla kaMasipala, iBhunga maliphumeze ngokomgaqo ukuba makuvunyelwe isinikezelo sesiqephu sesiza-32398, esiseKhayelitsha.

8. DISCUSSION/CONTENTS

8.1 BACKGROUND:

An application has been received from the Apostolic Faith Mission to purchase erf 32398 Khayelitsha.

The church has entered into a development lease agreement with the City of Cape Town for a period of 10 years commencing 13 November 2001 until 12 November 2011. One of the conditions of the agreement is that the lessee should have commenced building works on the property within 6 months from the date of signing the agreement and completes the building work within 2 years from the commencement date of the building operations. No formal building work was conducted on the site to date. Only an informal structure was erected.

Notices were served on the lessee to remedy the breach in contract and they then opted to submit an application to purchase the property and develop it properly.

Erf 32398 is zoned for Community 1: local purposes.

The proposed purchase was circulated for comment to the service branches and no objection was received.

The Policy on the Management of certain of the City of Cape Town's Immovable Property also determines that in the event of the City selling Immovable Property to Social Care Users, the purchase price payable shall, unless otherwise directed by Council, be fixed at between 10% and 25% of market value subject to a suitable reversionary clause being registered against the Title Deed of the property.

8.2 CONSULTATION WITH BRANCHES:

Comments on the proposed purchase were obtained from the Services Branches and all were in support of the proposal.

8.3 FACTORS MOTIVATING RECOMMENDATION:

- 8.3.1 The alienation of the land will relieve Council of the maintenance burden.
- 8.3.2 Compensation in the amount of R35 000,00 excluding VAT, will accrue to the City.

8.4 PUBLIC PARTICIPATION

Advertising	Cape Times & Burger	04 September 2015
	Prov & Nat Treasury	27 August 2015
	Notices to adj owners	01 September 2015
	Ward councillor	27 August 2015
	Subcouncil Chair & Manager	27 August 2015
	Community organisation(s)	27 August 2015
Outcome	Objections	No
	Ward Councillor's support	No comment received

8.5 VALUATION

The City's Professional Valuers on 30 June 2014 assessed the market value of the Subject Property at R140 000,00 excluding VAT (if applicable) but the property will be sold at R35 000 excluding VAT (if applicable) being 25% of the market value of the property, in accordance with paragraph 15.3 of the Council's Policy relating to the Management of Certain of the City of Cape Town's Immovable Property; The valuation synopsis is attached to the report as annexure B.

8.6 VAT

VAT will be levied at the standard rate

8.7 BLACK ECONOMIC EMPOWERMENT (BEE) STATUS

The applicant is from the 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 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 disposal of immovable property;

8.9 FINANCIAL IMPLICATIONS

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

8.10 TAX COMPLIANCE

A tax clearance certificate was requested and transfer will be subject to receipt of the certificate. No agreement will be concluded until a valid Tax Clearance Certificate is furnished.

8.11 FINANCIAL DUE DILIGENCE

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

8.12 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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8.13 LEGAL IMPLICATIONS**Regulation 7 of the 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 and it is herewith confirmed that:

Whether asset may be required for the municipality's own use during a later stage

Council's service branches confirmed that the asset is not required for own purposes.

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 discounted market value and future rates and taxes.

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: Discounted related market price; property was valued at R140 000 excluding VAT (if applicable) but R35 000 excluding VAT (if applicable) will be charged, the amount being 25% of the market value of the property, in accordance with paragraph 15.3 of the Council's Policy relating to the Management of Certain of the City of Cape Town's Immovable Property. As well as rates and taxes following the development of the property excluding VAT.

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.

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.

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 her delegated authority including a suitable reversionary clause.

The estimated cost of the proposed transfer or disposal.

The purchaser will be responsible for the transfer costs.

The transfer of liabilities and reserve funds associated with the capital asset.

No liabilities will be transferred

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 4 September 2015. Closing date for objections was 5 October 2015. Copies of the advertisement were sent to the Ward Councillor, Chairperson of the relevant Sub-Council and registered local community organisations.

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.

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.

Compliance with legislative regime applicable to the proposed transfer or disposal.

- a) A Public Participation process has been conducted;
- b) In terms of the provisions of the Municipal Finance Management Act (MFMA) and the associated Municipal Asset Transfer Regulations (MATR), the City may only dispose of viable property after (i) the City has made a determination that the asset is not required for the provision of basic municipal purposes and (ii) approved in principle that the asset may be disposed of. These determinations are not applicable as this is an application to lease immovable property;
- c) Approval in principle in terms of the Municipal Asset Transfer Regulations has been completed and the final approval by the Immovable Property Adjudication Committee (IPAC) will not be materially or significantly different from in principle approval by the relevant decision-making authority.

8.14 STAFF IMPLICATIONS

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

No

Yes

ANNEXURES

- Annexure A: Locality Plan
- Annexure B: Valuation synopsis
- Annexure C: Approval of City Manager
- Annexure D: Subcouncil 24 outcome

FOR FURTHER DETAILS CONTACT:

NAME	Anneke Klue (Janine Cornelius) <i>AK</i>
CONTACT NUMBERS	021 900 1841
E-MAIL ADDRESS	Janine.cornelius@capetown.gov.za
DIRECTORATE	FINANCE
FILE REF NO	T/Co 14/3/4/3/64
MANAGER: PROPERTY HOLDING	Rachel Schnackenberg <i>RSchnackenberg</i>

J Gelderbloem
 DIRECTOR: PROPERTY MANAGEMENT IN
 HER CAPACITY AS CFO NOMINEE

Comment:

*Conversion from leasehold to
 freehold supported.*

NAME RUBY GELDERBLOEM

DATE 2016-03-14

RSchnackenberg

- 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

Comment:

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

TEL 021 400 1265

DATE 16/3/2016

- Kindly note that the valuation is older than 18 months.

RS