



REPORT TO SUBCOUNCIL 16

1 ITEM NUMBER 16 SUB 10/06/2022

2 SUBJECT

PROPOSED LEASE OF PORTIONS OF CITY LAND, BEING PORTIONS OF ERVEN 744, 745, 746 AND 759 CAPE TOWN, OFF BUITENGRACHT STREET, CAPE TOWN, FOR PARKING PURPOSES: GREEN WILLOWS PROPERTIES 93 (PTY) LTD

ONDERWERP

VOORGESTELDE VERHURING VAN GEDEELTES STADSGROND, NAAMLIK GEDEELTES VAN ERVE 744, 745, 746 EN 759 KAAPSTAD, UIT BUITENGRACHT STRAAT, KAAPSTAD, VIR PARKEERDOELEINDES: GREEN WILLOWS PROPERTIES 93 (EDMS.) BPK

ISIHLOKO

ISIPHAKAMISO SOKUQUESHISWA KWEZIQEPHU ZOMHLABA OLAWULWA SISEXEKO, EZIZIQEPHU ZEZIZA 744, 745, 746 NO-759 EZISEKAPA, KUFUPHI NE-BUITENGRACHT STREET, EKAPA, KULUNGISELELWA IMIBANDELA YOKUPAKA: KWABE-GREEN WILLOWS PROPERTIES 93 (PTY) LTD

K4754

PTMS NO: 130001724

File Ref No: CT 14/3/6/1/2/976/A00

(Category 1)

3 DELEGATED AUTHORITY

The report is for comment by Subcouncil 16 to the competent authority in terms of Part 25, Delegation 10(1).

“To comment to the competent authority on the granting of rights to use, manage or control City immovable assets such as land, property and buildings and to recommend conditions of approval where deemed necessary.”

- The following delegation was conferred upon the Immovable Property Adjudication Committee in terms of delegation Part 44, paragraph 1 (4).
- (4) To approve or not approve transfer of ownership or disposal or granting of rights to use, control or manage non-exempted immovable capital assets provided that:
- a) Public participation process has been conducted (where necessary);
 - b) S14 MFMA determinations (where applicable); and
 - c) Approval in principle in terms of the Municipal Asset Transfer Regulations or approval by the decision making authority at the time prior to the Municipal Asset Transfer Regulations has been completed and subject to the final approval not being materially or significantly different from in principle approval by the relevant decision-making authority.
- Final decision lies with Immovable Property Adjudication Committee.

4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed lease for parking purposes.			
Site extent	994m ²			
Submission date	July 2016			
Current zoning	Transport 2 – public road and public parking			
Current usage	Parking purposes			
Proposed usage	Parking purposes			
WARD CLLR	NOTICE DATE		WARD	
Cllr Dave Bryant	8 February 2019		115	
Internal circulation date	19 October 2018 and 9 April 2019			
Internal department comments	Branch comments received and no objections received			
Public participation outcome summary	Advertised in the Cape Argus and Die Burger on 8 February 2019. No objections were received.			
Viable	Yes		No	X
	The subject property is regarded as non-viable land which only has value to the abutting landowners in light of the fact that it cannot be developed or function as a separate entity. This property transaction may be approved without any competitive process having been followed on the basis that no purpose would be served by a competitive process,			
Recommended decision	Approval	X	Refusal	

Regulation 34(1) In-principle approval	Granted by Director: Property Management in terms of delegated authority after 21 June 2018	
Factors motivating recommendation:	<ul style="list-style-type: none"> • The leasing of the land will relived Council of a maintenance burden. • A market related rental income will be generated. • Better utilization of City land. 	
Strategic intent	SFA 1 : an OPPORTUNITY City of Cape Town	
	Objective 1.1	Positioning Cape Town as forward globally competitive City
	Programme 1.1(g)	Leveraging the City's assest

5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of portions of City Land, being portions of erven 744, 745, 746 and 759 Cape Town, situated off Buitengracht Street, Cape Town, shown hatched and lettered ABCDEF on the attached sketch STC 2707v1 marked annexure A, in extent approximately 994m², to Green Willows Properties 93 (Pty) Ltd, or its successors in title, be approved subject inter alia the following conditions, that:

- A market related rental of R 36,300.00 per month (inclusive of rates and exclusive of VAT);
- The lease period will be for a period of ten (10) years, subject to a review after 2 years and after a 5 year period;
- The monthly rentais is to escalate at 6% per annum compounded annually commencing 2 months from date of valuation.
- The property be used for parking purposes only;
- Subject to such further conditions to be imposed by the Director: Property Management in terms of his/her delegated authority;
- Subject to compliance with any other statutory requirements;

AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van gedeeltes van 'n openbare straat, naamlik gedeeltes van erwe 744, 745, 746 en 759 Kaapstad, geleë uit Buitengrachtstraat, gearseer en deur die letters ABCDEF aangetoon op die aangehegte skets STC 2707v1, gemerk bylae A, ongeveer 994m² groot, aan

Green Willows Properties 93 (Edms.) Bpk. of hul regsopvolgers, goedgekeur word onderworpe onder meer aan die volgende voorwaardes dat:

**IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO
LIBHUNGANA ELIFANELEKILEYO**

Kundululwe ukuba makuphunyezwe ukuqeshiswa kweziqephu zesitrato solunto, eziziqephu zeziza 744, 745, 746 no-759 eziseKapa, ezimi kufuphi ne-Buitengracht Street, eKapa, ezibonakaliswe zinoonobumba ABCDEF kumzobo STC 2707v1 oqhotyoshelwayo ophawulwe isihlomelo A, ezibukhulu bumalunga nama-994m², kwabe-Green Willows Properties 93 (Pty) Ltd, okanye abayakungena ezihlangwini zabo ngokwtayitile, ngokuxhomeke phakathi kwezinye izinto kule miqathango ilandelayo, yokuba:

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

Anker Data Systems (Pty) Ltd previously leased the City land, namely portions of erven 744, 745, 746 and 759 Cape Town, situated off Buitengracht Street, Cape Town, shown hatched and lettered ABCDEF on the attached sketch STC 2707v1 marked annexure A, in extent approximately 994m², for parking purposes. The lease was then assigned to Meihuizen Freight (Pty) Ltd and subsequently was again assigned to Green Willows Properties 93 (Pty) Ltd. The lease has since expired. The lease was tacitly extended in order to continue on a month to month basis in order to perpetuate billing.

The applicant has an arrears amount of R424 157.22 on their lease account, and after various correspondence between the City and the applicant, the applicant has accepted the new proposed rental and made a commitment to the outstanding arrears in equal instalments once the new lease agreement is signed. No new lease agreement will be issued to the applicant unless they have signed an acknowledgement of debt with the Debt Management Department.

The proposal has been circulated to the relevant Council branches for comment and no objections were received. The proposal has also been circulated to the surrounding neighbours and the ratepayers' association and no objections were received.

This is non-viable City land as only the sectional title scheme has access, therefore making the City land landlocked. The lease agreement will contain a clause that, in the event that Council requires the land for its own use during the lease period, a notice period of two months will apply.

6.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council Departments were consulted and have no objection to the lease subject to the following conditions that will form part of the lease agreement:

- a) The lease is subject to planning and urban design guidelines for use and possible development of this land;
 - b) Any electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out by the applicants cost;
 - c) The site must remain a parking area and the vehicular access/egress remains on Prestwich Street;
 - d) No structures must be built on this piece of land;
 - e) The lease takes cognisance of the possible requirement of this piece of land for road improvements purposes at some time in the future;
 - f) Access to this property is taken from Prestwich Street only, no access from Buitengracht Street;
 - g) The sewer should be protected and the manholes should be accessible at all times;
 - h) A cancellation clause must be included in the lease agreement as the properties are affected by the Buitengracht road scheme.
- i) It is the responsibility of the applicant to notify Telkom immediately should the applicant locate any Telkom plant which might be indicated on the plans;
 - j) 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;
 - k) It must be made known to the applicant that Telkom requires access to carry out maintenance or upgrade existing plant at all times.

6.3 VALUATION

The City's Professional Valuers on 2018/08/31 assessed the rental value of the subject property at R42 900.00 per month. However, the valuation expired and the Valuaers on 2021/10/31 re-assessed the rental value of the subject property at R 36,300.00 per month (inclusive of rates and exclusive of VAT).

The valuation synopsis is attached to the report as **Annexure B**.

6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS

6.4.1 Chapter C of Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property (approved by

Council 26 August 2010, C 54/08/10), permits the leasing of immovable property.

6.4.2 The proposal complies with the provisions of Regulation 34 of Chapter 4 of the MATR in that a right to use, control or manage a capital asset may be granted.

6.5 FINANCIAL IMPLICATIONS

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

6.6 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 98.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 99 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 372 – 375 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 99 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City Owned immovable property. Except for tariff based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

Applicant has complied. See Tax Clearance Certificate attached hereto as **Annexure C**.

6.7 FINANCIAL DUE DILIGENCE

The applicant's debt profile has been verified and he is in arrears. No lease agreement will be concluded until arrears have been settled.

6.8 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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6.9 LEGAL IMPLICATIONS

Regulation 36 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 granting of rights to use, control or manage municipal capital assets, and it is herewith confirmed that:

Whether asset may be required for the municipality's own use during the period for which the right is to be granted

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

Extent to which any compensation to be received, estimated value of improvements or enhancements to party the right is granted to will be required to make, economic or financial benefit to the City

Council will receive a financial benefit in the form of a market related rental to the amount of R36 300.00 per month inclusive of rates and excluding VAT calculated at the rate applicable at the time of transaction to be payable.

Management of Risk

No operational or control risk to the City.

Stakeholder comments and recommendations

The Director: Property Management in terms of her delegated powers, has approved the public participation process as required, resulting in the proposed lease being advertised in the Cape Argus and Die Burger on 8 February 2019. Closing dates for objections were 11 March 2019. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisations. No objections were received.

Views from National and Provincial Treasury

In terms of Regulation 34 of the MATR the subject property falls within the category of a capital asset in respect of which the proposed right to be granted has a value less than R10 million and a period exceeding 3 years (Non-Significant Property Right). National and Provincial Treasury have been notified. No objections were received.

Strategic, Legal and Economic Interests

None of these interests will be compromised through the granting of the right to use, control or manage the asset. In fact, they will be supported.

Compliance with Legislative Regime that is Applicable to Proposed Granting of Rights

Granting of the right to use, control or manage the asset is compliant with the Municipal Finance Management Act, Municipal Asset Transfer Regulations and Council's policy on the management of certain of the City of Cape Town's immovable property.

Section 12.5 of the Management of Certain of the City of Cape Town's Immovable Property Policy

In accordance with the above, no alternative proposals were called for during the public participation process as the property is regarded as non-viable.

Compliance with Immovable Property Adjudication Committee Delegation

- 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 transfer or dispose of viable property after (a) the Council has made a determination that the asset is not required for the provision of basic municipal purposes and (b) has as a consequence of these determinations approved in principle that the asset may be transferred or 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 materially or significantly differ from the in-principle approval granted by the relevant decision-making authority.

6.10 STAFF IMPLICATIONS

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

No

Yes

6.11 POPIA Compliance

- It is confirmed that this report has been checked and considered for POPIA Compliance.

POPIA allows the processing of personal information where it is necessary to comply with an obligation that is imposed by law [sec 15(3)(c)(ii)]. The inclusion of the applicant's details is an essential element of the a lease/sale.

ANNEXURES

- Annexure A: Lease Plan STC 2707v1
- Annexure B: Valuation Synopsis
- Annexure C: SARS Tax Clearance Certificate

FOR FURTHER DETAILS CONTACT:

NAME	DEON FRANKEN	CONTACT NUMBER: (021) 400 1047
E-MAIL ADDRESS	DEON.FRANKEN@CAPETOWN.GOV.ZA	
DIRECTORATE	ECONOMIC GROWTH	
FILE REF No	CT 14/3/6/1/2/976/A00	13000 1724

HEAD: CHARLENE DAVIS

Charlene
Davis

Digitally signed by
Charlene Davis
Date: 2022.05.05 15:44:29
+02'00'

MANAGER: PROPERTY HOLDING
RACHEL SCHNACKENBERG

Rachel
Schnackenberg

Digitally signed by Rachel
Schnackenberg
Date: 2022.05.11 17:25:55
+02'00'

**ACTING DIRECTOR: PROPERTY MANAGEMENT IN HIS CAPACITY AS EXECUTIVE DIRECTOR:
ECONOMIC GROWTH NOMINEE**

NAME MICHAEL SIMS COMMENT: _____

SIGNATURE

Michael
Sims

Digitally signed by
Michael Sims
Date: 2022.05.20
17:40:00 +02'00'

The ED's signature represents support for report content and confirms POPIA compliance.

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 _____ COMMENT: _____

DATE

SIGNATURE

Sarah
Sanders

Digitally signed by
Sarah Sanders
Date: 2022.05.26
14:00:19 +02'00'

Certified as legally compliant based
on the contents of the report.

VALUATION SYNOPSIS: MARKET RENTAL VALUATION OF A PORTION OF ERVEN 744, 745, 746 and 759 CAPE TOWN, PRESTWICH AND BUITENGRACHT STREET, CAPE TOWN CENTRAL: GREEN WILLOWS PROPERTIES (PTY) LTD

BACKGROUND

The City's Professional Valuer on 2021-10-31 assessed a market rental of portions of Erven 744, 745, 746 and 759 Cape Town (hereafter 'the subject property'), to be leased to Green Willows Properties (Pty) Ltd for parking purposes, measuring approximately 994m² in extent, shown lettered ABCDEF on Plan STC 2707V1, at R36 300 per month (inclusive of rates and exclusive of VAT).

SALIENT INFORMATION OF THE APPLICANT'S PROPERTY

Description	Section 1 in the Sectional Title Scheme known as SS Quayside (91/2008)
Address	Ground floor unit, Prestwich and Buitengracht Street, Cape Town
Owner	Green Willows Properties (Pty) Ltd
Zoning	Mixed Use 2
Extent	633m ²
Purchase Price	R4 375 000
Purchase date and Title Deed	2006-10-17 and ST12014/2008
Improvements	Ground floor sectional title unit within a multi-storey sectional title complex, comprising shops and offices

SALIENT INFORMATION OF SUBJECT PROPERTY

Description	Erven 744, 745, 746 and 759 Cape Town
Extent	994 m ²
Plan	STC 2707V1
Zoning	Transport 2
General Valuation/rates	Not valued
Current rental	R47 288.43 per month excluding VAT
Improvements	Tarred and fenced area used for parking of 33 vehicles.

BENEFIT DERIVED FROM THE SUBJECT PROPERTY

In principle the rental for a portion of land such as this is aimed at reflecting the enhancement which the portion brings to the applicant's property.

Taking into consideration that the benefit derived from the leased area allows off-street customer parking which is considered to be vital to the business operations as there is very limited parking within the surrounding precinct therefore the utility derived from leasing the City land results in applying the full value rate to the subject property.

APPROACH TO VALUATION

We have been tasked with determining the **market rental** of the subject property, which, is defined by International Valuation Standards Council 2020 (IVSC) as:

“Market Rent is the estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably prudently and without compulsion.”

METHOD OF VALUATION

The rental quantum for the subject property has been determined by means of the comparable method. With this in mind, comparable parking rentals of a similar usage (commercial parking) were researched with the necessary adjustments made accordingly.

MARKET RESEARCH

Market research has revealed that open secured parking in the Cape Town CBD ranges from R700 to R1 300 per bay per month for high demand areas.

Asking parking rentals (excluding VAT) on the market:

- No. 55 Somerset Road, Green Point, offers showroom space and office space. Open parking bays are available to rent at R1 000 per bay.
- Roeland Square in Roeland Street is a secure business park offering office and retail/showroom space advertised at asking rentals of R750 per parking bay
- Nautica offices in Mouille Point, have open parking bays available to tenants at a rental of R1 000 per bay.

The following City-owned properties have been assessed for parking purposes:

- On 2021-06-30 the City valued Portion of Erf 192, Roggebaai, situated at Ryk Tulbagh Square, Foreshore, ±1 700m² in extent, comprising 32 open demarcated parking bays at **R1 000/bay**. The area is tarred with controlled vehicular access via a boom and manned by a security guard.
- On the 2021-06-30 the City evaluated the lease-in for Erf 225 Roggebaai, situated at 1 Adderley Street, Foreshore – Paul Sauer Building, accommodating 18 open secured demarcated parking bays at **R825/bay**.
- On 2020-08-31 the City valued Portion Remainder Erf 192 Roggebaai, along FW De Klerk Drive, Roggebaai (area under the bridge abutting the Founders Garden – Erf 186) measuring 4 098m² in extent was valued at **±R700/bay**.

Agent's opinions

From discussions with agents/brokers active in the area, the following is to be noted:

- Demand for commercial office space and parking has decreased, as a result of recessionary market conditions brought along by the Covid-19 pandemic.
- Under normal market conditions, open parking bays in Cape Town CBD are limited however due to the pandemic, tenants are reducing their office footprint or implementing work to home policy therefore the demand for parking has reduced substantially.
- Rentals and parking rentals are highly negotiable, where landlords are open to receiving lower offers, as well as including parking bays within the gross rental of the lease.

VALUATION CALCULATION

Taking into account the abovementioned information, current economic conditions brought about by the pandemic, it is considered that R1 100 per bay per month is fair and reasonable to apply.

Based on the aforesaid, the rental is calculated as follows:

33 bays @ R1 100 per bay = R36 300 per month

RECOMMENDATIONS

It is recommended that the City land, portions of Erven 744, 745, 746 and 759 Cape Town, in extent ±994m², indicated by the figure ABCDEF on Plan STC 2707v1 be leased to the Green Willows Properties 93 (Pty) Ltd for an amount of R36 300 per month (inclusive of rates and exclusive of VAT), subject to the following conditions:

- (i) The lease period will be for a period of 10 years, subject to a review after 2 and after a 5-year period.
- (ii) The monthly rental is to escalate at 6% per annum compounded annually commencing 2 months from date of valuation.



Thurayah Saliegh (Reg. no. 7073/9)
Professional Valuer



Rosanna Potgieter
Principal Professional Valuer

Date: 2021-11-12



TAX COMPLIANCE STATUS

Verification

CITY OF CAPE TOWN
12 HERTZOG BOULEVARD
CAPE TOWN CENTRAL
CAPE TOWN
8001

Enquiries should be addressed to SARS:

Contact Detail

SARS
Alberton
1528

Contact Centre Tel: 0800 00 SARS (7277)
SARS online: www.sars.gov.za

Details

Taxpayer Reference Number: ██████████

Always quote this reference number when contacting SARS

Issue Date: 2021/12/09

Dear City Of Cape Town

TAX COMPLIANCE STATUS VERIFICATION

With reference to your tax compliance status (TCS) verification request, the South African Revenue Service (SARS) confirms the following:

TCS Verification	
Taxpayer Name	Green Willows Properties 93 (Pty) Ltd
Trading Name	GREEN WILLOWS PROPERTIES 93
Tax Reference Number(s)	██████████
PIN	██████████
Date of Verification	2021/12/09
Tax Compliance Status Type	Good Standing
Tax Compliance Status	Compliant
Tax Compliance Status Description	The taxpayer is registered for tax and is currently compliant in respect of filing and payment responsibilities

Should you have any queries please call the SARS Contact Centre on 0800 00 SARS (7277). Remember to have your taxpayer reference number at hand when you call to enable us to assist you promptly.

Sincerely

ISSUED ON BEHALF OF THE SOUTH AFRICAN REVENUE SERVICE

Name: CITY OF CAPE TOWN Trading No: 20611401
Tax reference No: 804758198 Year: 2021
Form ID: RP0108 Page of Page: 01/01
Content Version: v0913.01.01 Template version: v2019.01.01

Page: 01/01

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