



REPORT TO MUNICIPAL PLANNING TRIBUNAL

ITEM NO

MPTSW41/07/18

CASE ID	70386649
CASE OFFICER	M Walker (G Soeker)
CASE OFFICER PHONE NO	021 444 9518
DISTRICT	Southern
REPORT DATE	27/06/2018

WARD 69: APPLICATION FOR AN ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL): ERF 2816 NOORDHOEK, 20 MYEZA ROAD, MASIPHUMELELE

1. EXECUTIVE SUMMARY

Property description	Erf 2816 Noordhoek
Property address	20 Myeza Road, Masiphumelele
Site extent	155m ²
Current zoning	Single Residential Zone 2
Current land use	Dwelling house
Overlay zone applicable	Noordhoek Local Area Overlay Zone
Submission date	19/12/2017
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work?	This application relates to the unauthorised building work on the subject property in a form of a first storey dwelling house extension which exceeds the permitted floor space by 18m ² .
Has owner applied for the determination of an administrative penalty	Yes
Has the City Manager applied to the MPT for an order that a person who is contravening the MPBL must pay an administrative penalty in an amount determined by the MPT	No
Has the City issued a demolition directive i.t.o section 128 of the MPBL? If yes, an administrative penalty may not be applied for.	No
Has the City served a notice on the owner or other person in respect of the unlawful land use or building work which required the owner or other person to apply for the determination of an administrative penalty?	No

2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal.

3 BACKGROUND / SITE HISTORY

- 868
- 3.1 There was a first floor addition erected without building plan approval that also exceeds the permitted floor space (based on a floor factor of 1).
- 3.2 On 30/06/2016 an application for a permanent departure for the first storey which was erected and exceeded the permitted floor space was submitted. 2 objections received. A decision on this application will need to be made by the MPT once the administrative penalty process has been finalised.

4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation is attached as Annexure C and may be summarised as follows:

- The building work commenced in 2014 and ended on the 15/12/2016.
- The applicant has a big family and needed more space to accommodate them and therefore built a double storey.

5 ASSESSMENT OF APPLICATION

- 5.1 The administrative penalty is required for the addition of the first storey which exceeds the permitted floor space by 18m². This is a contravention of Item 27 of the Development Management Scheme (DMS). Note that the administrative penalty application is for the permitted floor space that has been exceeded and not for the entire first storey that was erected.
- 5.2 In terms of section 129(7)(a) of the By-Law, an administrative penalty for the building work contravention may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out.
- 5.3 The area of the unauthorised building work that contravenes the Municipal Planning By-Law is 18m².
- 5.4 The value of unauthorised building work is based on the table of building costs attached for the Standard Operating Procedures for Administrative Penalties.
- 5.5 **Administrative Penalty: Calculation**
- 18m² X R 5 720.00 = R 102 960.00**
- 5.6 An amount which is not more than R 102 960.00 may be imposed as an administrative penalty.
- 5.7 In terms of Section 129(8) of the Municipal Planning By-Law, the following factors need to be considered when determining an appropriate penalty:

a) **The nature, duration, gravity and extent of the contravention**

Nature – The contravention relates to an addition of a first storey to a dwelling house that is permitted in a Single Residential Zone 2.

Duration – The contravention began in 2014. The duration of the contravention is long.

Gravity – The gravity of the contravention is not particularly serious.

Extent – At 18m² the extent of the contravention is small.

b) The conduct of the person involved in the contravention

The owner made physical changes to the property without planning approval and building plan approval. At a site visit the owner verbally informed an official (a property inspector) that the owner was aware that an approval was required but started building in 2014 anyway. The owner claims that she needed space for her family and therefore started building. The conduct of the owner cannot be condoned.

c) Whether the unlawful conduct has stopped

The unlawful conduct has not been stopped.

d) Whether a person involved in the contravention has previously contravened by this By-Law or any other planning law

As far as can be ascertained, the current owner has not previously contravened this By-Law or any other planning law.

5.8 In view of the abovementioned considerations, this Department recommends that an administrative penalty of R1000.00 be imposed.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1 The floor area contravenes Item 27 of the Development Management Scheme.
- 6.2 The extent at 18m² is small.
- 6.3 The gravity of the building work is not particularly serious.
- 6.4 The duration of the contravention is long.
- 6.5 The conduct of the owner cannot be condoned.
- 6.6 As far as can be ascertained, the current owner has not previously contravened this By-Law or any other planning law.

7 RECOMMENDATION

In view of the above, it is recommended that:

- a) An administrative penalty in the amount of R1000.00 be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 2816 Noordhoek with regard to the permitted floor space that was exceeded as per the plan drawn by Master House Plan with drawing number 04/makondo/12/014, dated December 2014 (3 pages).

ANNEXURES

870

Annexure A Locality Plan
Annexure B Site Development Plan
Annexure C Motivation



Section Head : Land Use Management

Comment

Name P Hoffa

Tel no 021 444 7724

Date 2018-06-27



District Manager

Comment

Name U. Gonsalves

Tel no 021 444 7720

Date 2018-06-28

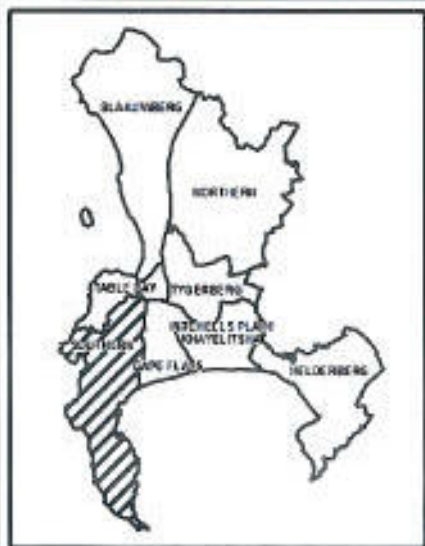
PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP

2871

ANNEXURE : A



Overview



Erf: 2816

Allotment: NOORDHOEK

Ward: 69

District: SOUTHERN

Suburb: SUNNYDALE

Sub Council: Subcouncil 19



1:600

Notices Served



Support Received



Petition Signatory



Objections Received



Generated by:

Date: Thursday, May 24, 2018

File Reference:



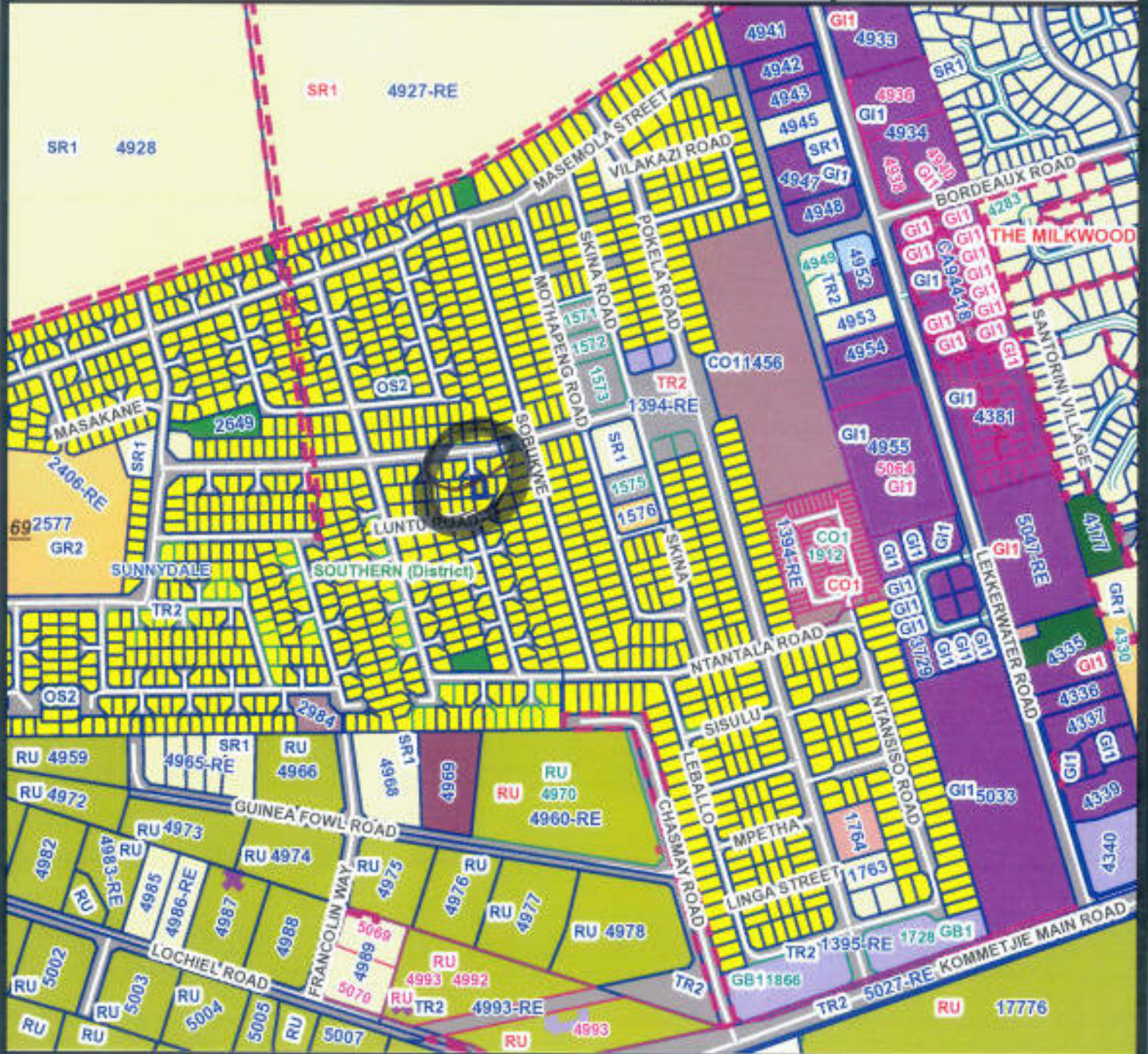
CITY OF CAPE TOWN
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STAD KAAPSTAD

Making progress possible. Together.

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP

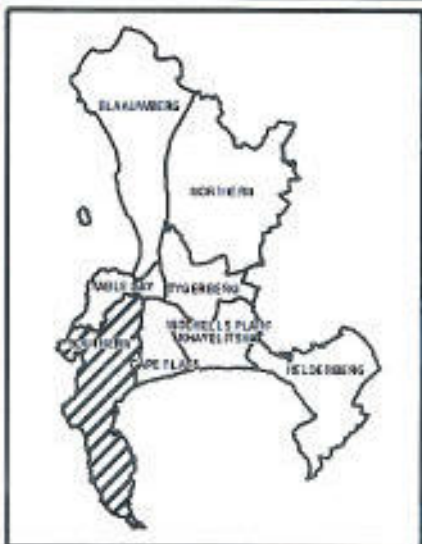
ANNEXURE :

872



Overview

Erf: 2816
 Allotment: NOORDHOEK
 Ward: 69
 District: SOUTHERN
 Suburb: SUNNYDALE
 Sub Council: Subcouncil 19



1:4 800

Notices Served



Support Received



Petition Signatory



Objections Received



Generated by:

Date: Wednesday, June 27, 2018

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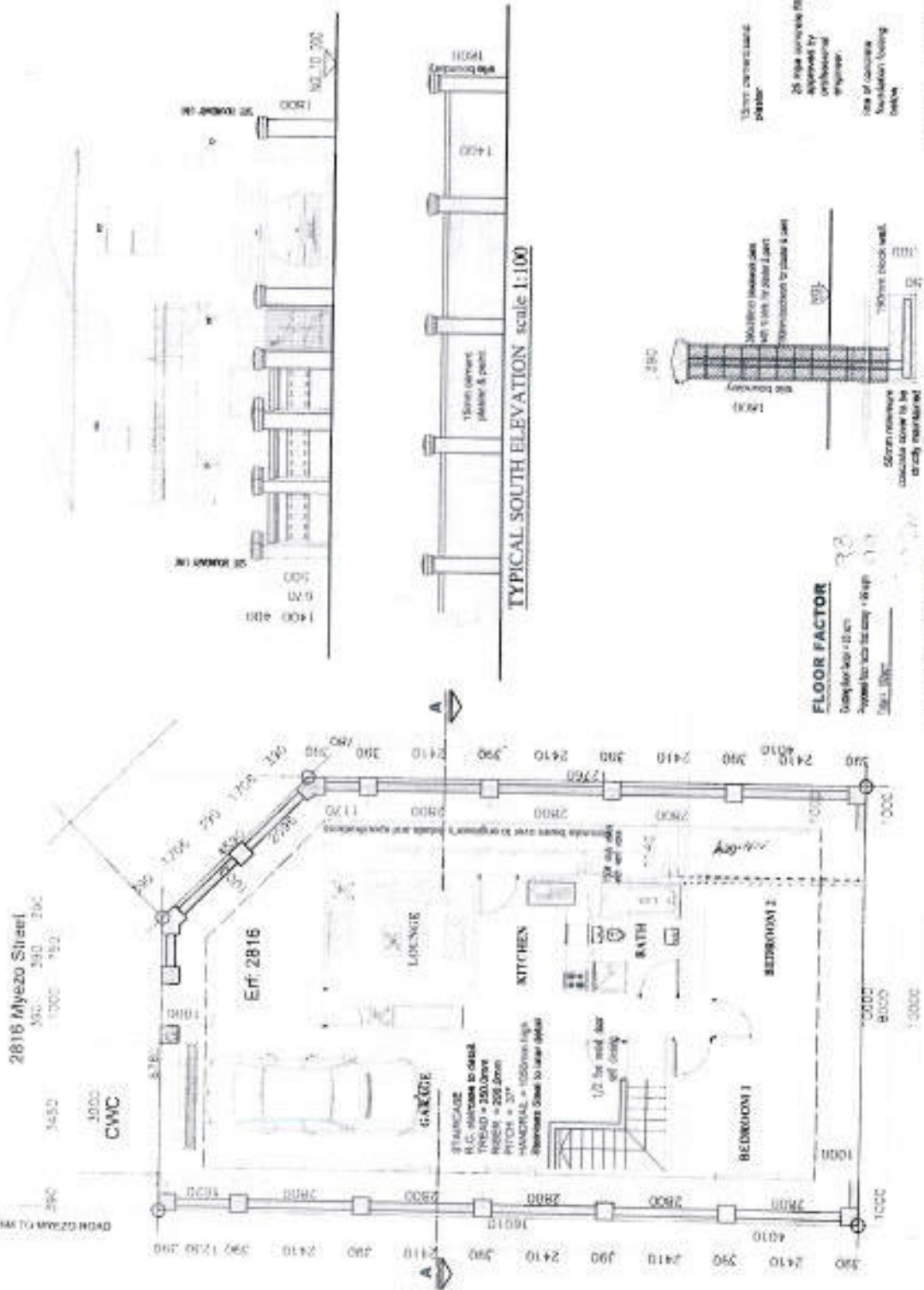


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 STAD KAAPSTAD

Making progress possible. Together.

GENERAL NOTES:

Contractor must verify all levels and dimensions on site before commencing work or making any shop drawings.
 Use written details only in preference to scaled dimensions.
 This drawing to be read in conjunction with any relevant contract documents.
 All discrepancies and/or errors to be reported to the design professional.



GROUND STOREY PLAN scale 1:100

BOUNDARY SECTION Scale 1:50

PIER + BUTTRESS SECT Scale 1:50

PIER + BUTTRESS PLAN. Scale 1:50

FLOOR FACTOR

Ratio for floor to area
 Applied for each floor - 18 up to 100%
 180% - 200%

LEANER COVERAGE

- 1. 100% for the entire length of the leaner structure
- 2. 100% for the entire length of the leaner structure
- 3. 100% for the entire length of the leaner structure
- 4. 100% for the entire length of the leaner structure

15mm concrete slab

25 ribs concrete in 1000mm
 approved by structural engineer

15mm concrete slab

25 ribs concrete in 1000mm
 approved by structural engineer

15mm concrete slab

25 ribs concrete in 1000mm
 approved by structural engineer

<p>ARCHITECTURAL DRAWING 37 Wicacare Road, Wita Park, KwaZulu-Natal 7754 TEL/FAX: (021) 364 4166 cell: 082 3576306</p>	<p>drawing title - working drawing</p>		<p>REVISION, 1</p>		<p>Drawn: LM</p>	<p>Checked: LM</p>	<p>Signature: [Signature] Date: 28/01/2015</p>	<p>Owner: Miss. S. A. P. Makhondo 2816 Myezo Street Fish Hoek Erf: 2816</p>	<p>COVERAGE:</p> <p>ITEMS: 19m² PROPOSED BUILDING: 9m² PROPOSED APPROVAL: 9m² TOTAL COVERAGE: 37m²</p>	<p>Scale: 1:100/200 Date: Dec 2014 Designer: [Name] 04/makhondo/12/014</p>
	<p>The design in this drawing is copyright protected and the client can only use design for the purpose of the project only</p>									

ANNEXURE C

28/6 My 2A
-876 Street
Masipuwmetele
Fish-hook
7975

I ANGEL Makarob would like to Build
a Double Story house because of a huge family
that I stay with. I want to accommodate
all of them in my house please.

Thank You

ANGEL makarob

SECTION G: FURTHER APPLICATION DETAIL

Nature of departure / amendment / approval required:

877

<input type="checkbox"/>	Building line encroachment				
	Street	<input type="text"/>	From <input type="text"/> m	To <input type="text"/> m	
	Street	<input type="text"/>	From <input type="text"/> m	To <input type="text"/> m	
	Common	<input type="text"/>	From <input type="text"/> m	To <input type="text"/> m	
	Common	<input type="text"/>	From <input type="text"/> m	To <input type="text"/> m	
	Common	<input type="text"/>	From <input type="text"/> m	To <input type="text"/> m	
<input type="checkbox"/>	Exceeding permissible site coverage		From <input type="text"/> %	To <input type="text"/> %	
<input type="checkbox"/>	Exceeding maximum permitted floor area		From <input type="text"/> m ²	To <input type="text"/> m ²	
<input checked="" type="checkbox"/>	Exceeding maximum permitted floor factor		From <input type="text"/> 154	To <input type="text"/> 178	
<input type="checkbox"/>	Exceeding height restriction / permissible no. of storeys		From <input type="text"/> m/st	To <input type="text"/> m/st	
<input type="checkbox"/>	Exceeding height restriction related to wallplate		From <input type="text"/> m	To <input type="text"/> m	
<input type="checkbox"/>	Relaxation of window and door placement setback requirement		From <input type="text"/> m	To <input type="text"/> m	
<input type="checkbox"/>	Relaxation of on-site parking / loading bay requirements		From <input type="text"/> bays	To <input type="text"/> bays	
<input type="checkbox"/>	Erection of second / additional dwelling unit		<input type="text"/>		
<input type="checkbox"/>	Work in Heritage Protection Overlay Zone (please specify)		<input type="text"/>		
<input type="checkbox"/>	Other (please specify)		<input type="text"/>		
<input type="checkbox"/>	Administrative penalty		<input type="text"/>		

Additional description of departures / amendments / approval required (if necessary)

SECTION H: ADMINISTRATIVE PENALTY

The following is required for an application for the determination of an administrative penalty made in terms of section 42 (j) of the MPBL. Give a description of the land use or building work / structure(s) that are in contravention on the property.

First floor above ground floor built without plans (see motivation)

Provide the extent(s) in m² of the property used for the unlawful use activity, and unlawful building work / structure(s) that contravene the MPBL. (Indicate extent(s) on a building plan / map / plan / diagram)

19 m²

Describe the duration of the contravention(s)

Built and completed in 2014 - 2016

Has the unlawful activity ceased? If yes, provide date when ceased 15 12 - 2016

Has the owner / person previously contravened the MPBL, or a previous Planning Law? If yes, please provide more details below

N/A

Provide the municipal valuation of the erf. R 60 000 (2016)

State your determination of the value of the building work / structure(s) and engineering work unlawfully carried out, that is in contravention of the MPBL. R 3 000

Note: Provide supporting documentation for your determination.

as per cited

Amended on: 01/03/2017