

ITEM NUMBER: C 38/05/16

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 03 MAY 2016

MC 17/05/16 PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE SALE, BY PUBLIC COMPETITION, OF VACANT ERF 8394, PEAK ROAD, FISH HOEK, FOR RESIDENTIAL 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 8394, Fish Hoek, situated at Peak Road, Fish Hoek, in extent approximately 3562 m², zoned Single Residential Zone 1: Conventional Housing (SR1), lettered ABCDEFGH on Plan LIS 1418v0 attached as Annexure A to the report on the agenda, not be required for the provision of the minimum level of basic municipal services;
 - (ii) Council confirm that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset 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 disposal of Erf 8394, Fish Hoek, as described in (a)(i) above
- (c) Erf 8394, Fish Hoek, be disposed of 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 asset 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 47/03/2016 PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE SALE, BY
PUBLIC COMPETITION, OF VACANT ERF 8394, PEAK ROAD, FISH HOEK,
FOR RESIDENTIAL PURPOSES

MC 17/05/16 VOORGESTELDE TOESTAAN VAN BEGINSELGOEDKEURING VIR DIE
VERKOOP, DEUR OPENBARE MEDEDINGING, VAN ONBEOUDE ERF
8394, GELEË IN PEAKWEG, VISHOEK, VIR RESIDENSIËLE DOELEINDES

UKUNIKEZELWA OKUCETYIWEYO KOKUGUNYAZISWA NGOKOMGAQO
KOKUTHENGISWA, NGOKHUPHISWANO LUKAWONKE WONKE LWESIZA
ESINGENAMNTU ISIZA 8394, ESISE- PEAK ROAD, E-FISH HOEK, UKUZE
KUHLALE ABANTU

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

RECOMMENDATIONS

Not delegated: for decision by Council

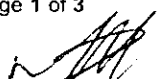
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AANBEVELINGS

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 (MFMA), Wet 56 van 2003:

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- i) Die Raad besluit dat erf 8394, Vishoek, geleë te Peakweg, Vishoek, ongeveer 3 562 m² groot, enkelresidensiële sone 1: konvensionele behuising (SR1) gesoneer, aangetoon met die letters ABCDEFGH op plan LIS 1418v0, nie vir die voorsiening van die minimum vlak van basiese munisipale dienste nodig word nie;
 - ii) Die Raad bevestig dat die billike markwaarde van die bate beskryf in (a)(i) en die ekonomiese en gemeenskapswaarde wat verkry sal word in ruil vir die bate beskryf in (a)(i) oorweeg 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 vervreemding van erf 8394, Vishoek, soos beskryf in (a)(i) in beginsel goedkeur;
- c) Erf 8394, Vishoek, deur openbare mededinging vervreem word, onderworpe aan voorwaardes wat die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid sal opleë;
- d) Enige wins of verlies vir die munisipaliteit as gevolg van die oordrag van die bate, ingesluit word by die munisipaliteit se aansuiweringsbegroting (artikel 28 en 87 van die MFMA), indien daar nie in die goedgekeurde jaarlikse begroting daarvoor voorsiening gemaak is nie.

IZINDULULO

Ayigunyaziswanga: isigqibo seseBhunga

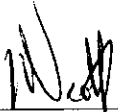
Kundululwe ukuba:

- a) Ngokungqinelana namacandelo 14(2)(a) no (b) oMthetho ojongene neeMali zikaMasipala (MFMA), uMthetho 56 wango-2003:
 - i) Ibhunga ligqibe kwelokuba isiza 8394, esiseFish Hoek, ePeak Road, eFish Hoek, esinobukhulu obumalunga nama-3562 m², sibe siSiza esineSakhiwo eSinye Sokuhlala 1: Izindlu Eziqhelekileyo (SR1), ezibonise zinoonobumba ABCDEFGH kwiPlani LIS 1418v0, masithathwe njengekungafunekiyo ukuba sibonelelwe ngeenkonzongezingundoqo zikamasipala;
 - ii) Ibhunga liqinisekisa ukuba ixabiso elithengiswa ngalo iasethi lihambelana namaxabiso afanelekileyo eemarike ngokuchazwe ku (a)(i) nangexabiso lwezoqoqosho nelasekuhlaleni oza kulithengisa ngalo iasethi ngokuchazwe ku (a)(i) kuye kwaqwalaselwa;
- b) Ngokungqinelana noMgaqo 5(1)(b) weMigaqo yokuHanjiswa kwee–Asethi zikaMasipala (MATR), i-R.878 yabhengezwa ngomhla wama-22 Agasti 2008, iBhunga maliphumeze ngengqiqo ukuthengiswa kwesiza 8394, esiseFish Hoek, njengoko kuchaziwe ku (a)(i);
- c) Isiza 8394, esiseFish Hoek, masithengiswe ngendlela yokhuphiswano loluntu, ngokuxhomekeke kwimiqathango emiselwe nguMlawuli: UmLawuli wePropati ngokuvumelana negunya alinikiweyo;
- d) Nayiphi na ingeniso okanye ilahleko eyenziwe ngumasipala ngokuphathelele unikezelo lwe-asethi mayifakelwe kuhlalo-lwabiwo-

mali lolungelelwaniso lukamasipala (icandelo 28 nele 87 leMFMA), ukuba azifakwanga kuhlalo-lwabiwo-mali lonyaka olugunyazisiweyo.

ACTION: A HUMAN; R GELDERBLOEM 108

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: 7/4/16

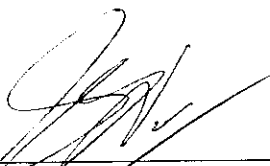
COMMENT:



DIRECTOR : LEGAL SERVICES
LUNGELO MBANDAZAYO

DATE: _____

COMMENT:



ALDERMAN TAN NELSON
MAYDRAL COMMITTEE MEMBER : FINANCE

DATE: 14/4/16

COMMENT:

LCP 932

109

**REPORT TO IMMOVABLE PROPERTY
ADJUDICATION COMMITTEE**



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

Making progress possible. Together.

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

2. **SUBJECT**

PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE SALE, BY PUBLIC COMPETITION, OF VACANT ERF 8394, PEAK ROAD, FISH HOEK, FOR RESIDENTIAL PURPOSES

ONDERWERP

VOORGESTELDE TOESTAAN VAN BEGINSSELGOEDKEURING VIR DIE VERKOOP, DEUR OPENBARE MEDEDINGING, VAN ONBEOUDE ERF 8394, GELEË IN PEAKWEG, VISHOEK, VIR RESIDENSIËLE DOELEINDES

ISIHLOKO

UKUNIKEZELWA OKUCETYIWEYO KOKUGUNYAZISWA NGOKOMGAQO KOKUTHENGISWA, NGOKHUPHISWANO LUKAWONKE WONKE LWESIZA ESINGENAMNTU ISIZA 8394, ESISE-PEAK ROAD, E-FISH HOEK, UKUZE KUHLALE ABANTU

[G2372]

3. **STRATEGIC INTENT**

SFA 1: THE 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 approval from Council to proceed with the sale by public competition of erf 8394, in extent 3 562 m², situated at Peak Road, Fish Hoek, zoned Single Residential Zone 1: Conventional Housing (SR1), shown on plan LIS 1418v0 (**Annexure A**).

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

This report is submitted in order to obtain authority from Council to proceed with the sale by public competition of vacant erf 8394, Peak Road, Fish Hoek, shown on the attached plan LIS 1418v0 (**Annexure A**).

The subject property has been included in the Property Disposal Programme as it has been found to be surplus to Council's requirements and available for sale by public competition.

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 8394, Fish Hoek, situated at Peak Road, Fish Hoek, in extent approximately 3562 m², zoned Single Residential Zone 1: Conventional Housing (SR1), shown lettered ABCDEFGH on Plan LIS 1418v0, not be required for the provision of the minimum level of basic municipal services;
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8. DISCUSSION/CONTENTS

8.1. Background

The purpose of this report is to obtain authority for the sale of vacant erf 8394, Peak Road, Fish Hoek, by public competition, in order to allow the development of the property for residential purposes in accordance with Council's Disposal Management System.

Erf 8394, Fish Hoek, is an irregular site on the slopes of the mountain in an affluent part of Fish Hoek. The site has a panoramic view of Fish Hoek beach and the surrounding mountains. It has a Single Residential 1: Conventional Housing (SR1) zoning and will probably need to be subdivided or rezoned to provide 3 or more residential development opportunities.

8.2 Public Participation

In accordance with the authority obtained from the Director: Property Management on 15 October 2015, Council's intention to dispose of the subject property 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 (approved 26 August 2010), permits the disposal of immovable property.
- (ii) A resolution to proceed with the disposal of this property 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 disposal 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 dispose of 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 erf (asset) is not needed for basic municipal services;
- Considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

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 dispose of non-exempted capital assets and it is herewith confirmed that:

Factor A: Whether asset is 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 asset is 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 sale 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 proceeds as well as rates and taxes following the development of the property. A desktop valuation estimates the market value of the property to be R1 500 000 (see **Annexure B**).

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 disposal

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

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

None

Factor I: Stakeholder comments and recommendations

The Council's intention to alienate erf 8394, Peak Road, Fish Hoek, was duly advertised to the public in the Cape Times and Die Burger on 16 October 2015. The relevant subcouncil Chairperson, subcouncil co-ordinator, Ward Councillors, Ratepayers Associations and Regional Offices were notified. No objections to the intended alienation 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 asset - in fact they will be supported.

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

Alienation of this asset is compliant with the MFMA, Municipal Asset Transfer Regulations, Reg. 12(1) and Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property (2010).

8.6 Staff Implications

Does your 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 proposal was circulated to all relevant planning and service branches of the City for comment. There were no objections, but conditions of transfer were stipulated by the following department:

- Water and Sanitation: A servitude must be registered over the 100 mm water main traversing the property. Adherence to the

requirements of the City of Cape Town's water by-law is to be ensured.

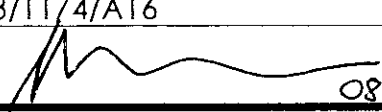
9. SUBCOUNCIL RECOMMENDATION

Subcouncil 19 on 18 January 2016 (See Item 19SUB33/1/2016 attached as **Annexure C**) resolved to recommend the sale of vacant erf 8394, Fish Hoek.

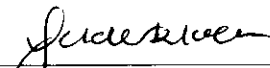
ANNEXURES

- Annexure A: Plan LIS 1418v0
- Annexure B: Valuation report dated 16 September 2015
- Annexure C: Subcouncil recommendation (Item 19SUB33/1/2016)

FOR FURTHER DETAILS CONTACT:

| | |
|---|---|
| NAME | JASON TOAY |
| CONTACT NUMBERS | (021) 400 4981 |
| E-MAIL ADDRESS | jason.toay@capetown.gov.za |
| DIRECTORATE | FINANCE |
| FILE REF NO | 14/3/4/3/1174/A16 |
| SIGNATURE : MANAGER PROPERTY DEVELOPMENT |  08.03.2016 |

Comment:



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

NAME RUBY LEONI GELDERBLOEM

DATE 2016-03-11



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 CHARLYNNE ARENDOSE

TEL 021 400 1265

DATE 15-03-2016

Comment:

Certified as legally compliant:

Based on the contents of the report. 