

**AGENDA of the
Portfolio Committee: Investment & Infrastructure
2 June 2022
(Also the agenda for the Mayoral Committee Meeting: 27 June 2022)**

3.

A PORTION OF ERVEN 249, 829 AND 832 HERMANUS (SITUATED IN MARINE DRIVE, HERMANUS): AMENDMENT OF LEASE AGREEMENT WITH KEE PROPERTY INVESTMENTS (PTY) LTD AND DEVIATION OF PARAGRAPH 24 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY IN REGARD TO THE RENTAL AMOUNT

7/2/3/1

**A Le Roux
25 April 2021**

Manager: Property Administration

(028) 316 - 5623

1. Executive Summary

To obtain approval to amend the lease agreement between Overstrand Municipality and KEE Property Investments (Pty) Ltd (hereinafter referred to as "the Applicant") for the remainder of the initial lease period of 5 (FIVE) years in respect portions of Erven 249, 829 and 832 Hermanus (702,34m² in extent), situated in Marine Drive, Hermanus (hereinafter referred to as "the Property"), to provide for a portion of one of the restaurant seating areas on a portion of Erf 829 Hermanus, as indicated on the Locality map, to be converted to and used as a children's play area, and

To obtain approval to deviate from paragraph 24 of the Administration of Immovable Property Policy in order for the rental amount for the abovementioned portion to be used as a children's play area to remain the same as the current rental amount.

See the locality map attached hereto marked "Annexure A".

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Property Administration

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment
Promotion of tourism, economic and social development

4. Delegated Authority

Partially delegated to the Executive Mayor

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5. Legal Requirements

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

The Applicant has been using the Property since 2017 when they bought the adjoining property. The latest lease agreement entered into between Overstrand Municipality and the Applicant for the Property is for a period of 5 (FIVE) years which commenced on 1 October 2019 and will expire on 30 September 2024. The Executive Mayor at a Mayoral Committee Meeting held on 26 February 2020 resolved as follows:

- “1. that the lease of municipal property, being portions of Erven 249, 829 & 832 Hermanus (jointly ±702.34m² in extent), to KEE Property Investments (Pty) Ltd for placing tables and chairs (and/or benches) for outdoor seating for restaurant purposes at the rental amount of R29.57/m² (TWENTY NINE RAND AND FIFTY SEVEN CENT PER SQUARE METRE) (VAT Excluded) per month for a period of 5 (FIVE) years from 1 October 2019 in terms of the Administration of Immoveable Property Policy of the Overstrand Municipality, be approved, and*
- 2. that the rental amount mentioned in 1 above escalate every year on the 1st of July as stipulated in the Overstrand Municipality’s Tariffs for the specific financial year, as approved by Council in the Annual Budget, the next escalation to be on 1 July 2020.”*

The Applicant applied to convert one of the leased seating areas, ±18m² in extent, to a children’s play area. The comments of the various internal departments were requested, and no objections were received.

The purpose of the lease agreement stipulates that the Property be used for the placing of tables and chairs (and/or benches) for restaurant purposes. The lease agreement must thus be amended to include the purpose for a children’s play area on the ±18m² portion of Erf 829 Hermanus.

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Evaluation

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following paragraphs of the Administration of Immovable Property Policy are applicable:

Paragraph 24: “The fair market value for the alienation of, the rental amount for the leasing or compensation payable for a servitude over municipal immovable property shall be determined by an independent professional valuer or professional associated valuer registered in terms of the Property Valuers Profession Act, 2000 (Act 47 of 2000), or any ensuing act at the cost of the purchaser (in the case of a direct sale) or lessee (in the case of a direct lease)/servitude holder (in the case of a servitude).”

The escalated rental amount in terms of the lease agreement is currently R32.61/m² (THIRTY-TWO RAND AND SIXTY-ONE CENT PER SQUARE METRE) per month which is the tariff approved in the annual budget for the lease of municipal property for the purpose of placing tables and chairs for restaurant seating purposes. Should the amendment of the lease agreement be approved to allow for the children’s play area the purpose of the lease agreement for the 18m² in extent area will also be changed and therefore the above tariff will no longer be applicable.

As there is no tariff for a children’s play area it is proposed that a deviation from paragraph 24 be approved and that the rental amount for the 18m² in extent area remain the same as which is currently being levied at an amount of R32.61/m² (THIRTY-TWO RAND AND SIXTY-ONE CENT PER SQUARE METRE) per month.

The alternative is that a market related valuation be done of which a rental amount will likely be determined at a much lower amount.

Conclusion

Taking the above into consideration, it is recommended that:

- (a) The Executive Mayor approves the amendment of the lease agreement between Overstrand Municipality and the Applicant for the remainder of the initial lease period of 5 (FIVE) years in respect of the Property, to provide for a portion of one of the restaurant seating areas on a portion of Erf 829 Hermanus, as indicated on the Locality map, to be used as a children’s play area; and

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- (b) Council approves the deviation from paragraph 24 of the Administration of Immovable Property Policy in order for the rental amount for the abovementioned portion to be used as a children's play area to remain the same as the current rental amount.

7. Financial Implications

It is recommended that the rental amount remain the same as the current rental amount of R32.61/m² (THIRTY-TWO RAND AND SIXTY-ONE CENT PER SQUARE METRE) per month.

8. Staff Implications

None

10. Annexures

Annexure A: Locality Map

RECOMMENDATION TO THE EXECUTIVE MAYOR:

that the amendment of the purpose of the lease agreement between Overstrand Municipality and KEE Property Investments (Pty) Ltd for the remainder of the initial lease period of 5 (FIVE) years in respect of portions of Erven 249, 829 and 832 Hermanus (702,34m² in extent), situated in Marine Drive, Hermanus, to provide for a portion of one of the restaurant seating areas on a portion of Erf 829 Hermanus (18m² in extent) as indicated on the Locality plan, to include the use for a children's play area, **be approved**.

RECOMMENDATION TO THE COUNCIL:

that the deviation paragraph 24 of the Administration of Immovable Property Policy in order for the rental amount for the abovementioned portion to be used as a children's play area to remain the same as the current rental amount of R32.61/m² (THIRTY-TWO RAND AND SIXTY-ONE CENT PER SQUARE METRE) per month, **be approved**.

RESPONSIBLE OFFICIAL:	MADELEIN ERASMUS
TARGET DATE FOR IMPLEMENTATION:	30 JULY 2022
TARGET DATE TO INFORM APPLICANT:	20 JULY 2022
TARGET DATE TO INFORM OBJECTOR:	N/A

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**A Le Roux
25 April 2021**

Manager: Property Administration

(028) 316 - 5623

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 2 JUNE 2022, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE EXECUTIVE MAYOR:

that the amendment of the purpose of the lease agreement between Overstrand Municipality and KEE Property Investments (Pty) Ltd for the remainder of the initial lease period of 5 (FIVE) years in respect of portions of Erven 249, 829 and 832 Hermanus (702,34m² in extent), situated in Marine Drive, Hermanus, to provide for a portion of one of the restaurant seating areas on a portion of Erf 829 Hermanus (18m² in extent) as indicated on the Locality plan, to include the use for a children's play area, **be approved.**

RECOMMENDATION TO THE COUNCIL:

that the deviation paragraph 24 of the Administration of Immovable Property Policy in order for the rental amount for the abovementioned portion to be used as a children's play area to remain the same as the current rental amount of R32.61/m² (THIRTY-TWO RAND AND SIXTY-ONE CENT PER SQUARE METRE) per month, **be approved.**

RESPONSIBLE OFFICIAL:

M ERASMUS

TARGET DATE FOR IMPLEMENTATION:

30 JULY 2022

TARGET DATE TO INFORM APPLICANT:

20 JULY 2022

TARGET DATE TO INFORM OBJECTOR:

N/A

