

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
17 September 2019
(Also the agenda for the Mayoral Committee Meeting: 25 September 2019)**

**2.
GANSBAAI: A PORTION OF ERF 2022 GANSBAAI SITUATED IN MASAKHANE:
RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO ART-I-KAPA UBULUMKO
TRUST**

7/2/3/1

N Liebenberg

(028) 316-3724

Hermanus Administration

13 August 2019

1. Executive Summary

To obtain approval to enter into a further lease agreement with Art-I-Kapa Ubulumko Trust for a further period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being two adjoining rooms ($\pm 100\text{m}^2$ in extent) in a building located on a portion of Erf 2022 Gansbaai, situated in Thandabantu Street, Masakhane, for the purpose of providing training in subjects such as numeracy, literacy, computer skills, health subjects and the core subject of clothing manufacturing.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning;
Property Administration

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background

Art-I-Kapa Ubulumko Trust entered into a 3 (THREE) year lease agreement with the Municipality that commenced on 1 August 2016 and expired on 31 July 2019 for the lease of two adjoining rooms ($\pm 100\text{m}^2$ in extent) in a building located on a portion of Erf 2022 Gansbaai, situated in Masakhane for the purpose of providing training in subjects such as numeracy, literacy,

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computer skills, health subjects and the core subject of clothing manufacturing. Although the process for the renewal of the agreement was commenced with timeously the process could unfortunately not be completed before expiry of the said agreement due to internal processes that took longer than expected.

Although the lease agreement expired the Art-I-Kapa Ubulumko Trust is still in possession of the property and continued to pay their rental amount.

The locality and layout of the proposed lease area are indicated on the locality plan attached per "Annexure A".

Discussion

Art-I-Kapa Ubulumko Trust applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months. The area applied for has been used by Art-I-Kapa Ubulumko Trust for the last three years without any complaints from the public. Art-I-Kapa Ubulumko Trusts' municipal account is paid to date.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

Paragraph 17: "Taking into consideration the nature and duration of the lease to be entered into, the leasing of immovable property may be affected by means of either:

17.1 a competitive process, which may include a closed or public tender or proposal call, specifically in circumstances listed in paragraph 18 below; or

17.2 a direct lease."

As the property is not classified as a business site and the leasing of the said property to Art-I-Kapa Ubulumko Trust (a registered non-profit organisation) is in the interest of the community, i.e. not a commercial lease, and they have been leasing it successfully for many years and due to the nature of the lease and benefit to the community, it can be leased directly to Art-I-Kapa Ubulumko Trust without following a competitive process.

Paragraph 20.1: "The Municipality may grant a long term lease of municipal immovable property with an income value of less than R10 million only after:

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- a) ***The Accounting Officer has approved the lease in principle;***
- b) ***In the case of a direct lease, the proposed lease was advertised in terms of paragraph 10.1 and 10.2 above to invite the local community and other interested parties to submit comments or representations; and***
- c) ***The Executive Mayor, as delegated authority, has approved that the right may be granted.***

The Accounting Officer (Municipal Manager) approved in principle the further lease of two adjoining rooms in a building ($\pm 100\text{m}^2$ in extent) located on a portion of Erf 2022 Gansbaai,, situated in Masakhane, to Art-I-Kapa Umbulumko Trust for the purpose of providing training in subjects such as numeracy, literacy, computer skills, health subjects and the core subject of clothing manufacturing for a period of 9 (NINE) year and 11 (ELEVEN) months on condition that the public participation process is followed. The proposed lease was advertised in the Gansbaai Courant on 18 April 2019 for a 30 (THIRTY) day comment/objection period.

Paragraph 26: ***“In cases where a rental amount has been approved in the annual budget of the Municipality for certain types of leases and encroachments, the approved amount will be used for purposes of determining the rental amount.”***

In this regard the rental charged will be in accordance with the tariff approved in the annual budget for registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations.

Paragraph 36: ***“All costs pertaining to a transaction, e.g. survey, advertisements, valuation, relocation or provision of services where necessary, shall be borne by the Lessee. The Municipality may, however, waive its right to claim all or any portion of the costs. Where necessary a deposit to cover the costs may be required.”***

Art-I-Kapa Ubulumko Trust will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

Paragraph 47: ***“Subject to paragraph 46 above, immovable property let by the Municipality shall be inspected at least once a year by the Municipality to ensure compliance with the terms and conditions of the agreement of sale or lease.”***

The property will be inspected by the Property Administration Department at least once a year.

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It is further confirmed that the other Conditions of Lease as stipulated in paragraph 36 – 50 of the said policy will be included in the lease agreement with the Applicant.

B. Advertisement/Notification

An advertisement for the lease of a portion of Erf 2022 Gansbaai ($\pm 100\text{m}^2$ in extent), situated in Masakhane, was placed in the Gansbaai Courant on 18 April 2019 with a 30 (THIRTY) day objection/ comment period. No objections/comments were received.

Conclusion

With reference to the above discussion it is recommended that the lease agreement with Art-I-Kapa Ubulumko Trust be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 August 2019 at a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month as approved in the Annual Budget for the 2019/2020 financial year.

7. Financial Implications

The Municipality stands to gain rental in the amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for the 2019/2020 financial year where after the lease amount will escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020. All expenses pertaining to the proposed lease will be borne by Art-I-Kapa Ubulumko Trust.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Manager: Social Development: Mr G Smit – (028) 313 8035

“The Social Development Department is satisfied with the additional information provided in support of the activities provided for by Art-I-Kapa in Masakhane and therefore have no further reservations for the proposal to renew their lease agreement.”

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Senior Town Planner: Mr S van der Merwe – (028) 313 8900

“The zoning of the property is community zone. The use thereof as place of instruction (training centre) is therefore in accordance with the applicable primary rights. Extension of the lease is supported subject to compliance with the Overstrand Zoning Scheme Regulations and Municipal Land Use Planning Bylaw.”

Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8046

“As this is an income generating proposal involving an institution who delivers a service to the community of Masakhane, with no intention to dispose of the asset, there is no objection to the report.”

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of municipal property, being two adjoining rooms in a building ($\pm 100\text{m}^2$ in extent) located on a portion of Erf 2022 Gansbaai, situated in Masakhane, to Art-I-Kapa Ublumko Trust for the purpose of providing training in subjects such as numeracy, literacy, computer skills, health subjects and the core subject of clothing manufacturing at the rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for a further period of 9 (NINE) years and 11 (ELEVEN) months as from 1 August 2019 in terms of the Administration of Immovable 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 in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020.

RESPONSIBLE OFFICIAL:	N LIEBENBERG
TARGET DATE FOR IMPLEMENTATION:	31 OCTOBER 2019
TARGET DATE TO INFORM APPLICANT:	12 OCTOBER 2019
TARGET DATE TO INFORM OBJECTOR:	N/A

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13 August 2019

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
17 SEPTEMBER 2019, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION:

that the item **be referred back** and resubmitted at the forthcoming Mayoral Committee Meeting.

RESPONSIBLE OFFICIAL:

N LIEBENBERG

TARGET DATE FOR IMPLEMENTATION:

31 OCTOBER 2019

TARGET DATE TO INFORM APPLICANT:

12 OCTOBER 2019

TARGET DATE TO INFORM OBJECTOR:

N/A

ANNEXURE A

