



# **MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)**

## **A G E N D A**

<b>DATE:</b>	<b>28 FEBRUARY 2018</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM HERMANUS</b>
<b>TIME:</b>	<b>14:00</b>

# OVERSTRAND MUNICIPALITY

Office of the Municipal Manager  
Civic Centre  
HERMANUS  
7200

**7 February 2018**

**TO : THE CHAIRPERSON AND MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

**CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)**

**NOTICE IS HEREBY GIVEN** that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Wednesday, 28 February 2018 at 14:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

You are kindly requested to submit any amendments/additions to Ms S Swart ([sswart@overstrand.gov.za](mailto:sswart@overstrand.gov.za)) on or before **14 February 2018**.

**COENIE GROENEWALD**  
**CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL**

## **Distribution:**

1. Mr S Müller (Chairperson)
2. Mr R Williams (Vice Chairperson)
3. Mr S Madikane (Member)
4. Ms D Arrison (Member)
5. Ms H Janser (Member)
6. Mr R Kuchar (Authorised Official)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Secretariat

**1. OPENING**

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

**3. CONFIRMATION OF MINUTES**

**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 24 January 2018**

**4. ITEMS FOR CONSIDERATION**

**4.1 ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : MESSRS PLAN ACTIVE ON BEHALF OF ALPAC INVESTMENT CC**

Report attached

**4.2 REMAINDER OF FARM 923, HEMEL AND AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE : MESSRS PLAN ACTIVE ON BEHALF OF BOSMAN ADAMA (PTY) LTD**

Report attached

**4.3 ERF 4612, 10 DISA AVENUE, NORTHCLIFF, HERMANUS : REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE : MESSRS ME PLANNERS ON BEHALF OF HBO JONES**

Report attached

**4.4 ERF 4118, 18 ASTER CRESCENT, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE AND RELAXATION : FF MATTHEE**

Report attached

**4.5 ERF 6114, 49 SIXTH STREET, VOËLKLIP (HERMANUS), OVERSTRAND MUNICIPAL AREA : APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND DEPARTURE: MESSRS PLANACTIVE ON BEHALF OF THE ZONDAGH FAMILY TRUST**

Report attached

# MUNICIPAL PLANNING TRIBUNAL (MPT)

28 February 2018

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## 4.1

**ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA :  
REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : MESSRS PLAN  
ACTIVE ON BEHALF OF ALPAC INVESTMENT CC**

3054 KBB (3205)

H van der Stoep

6 November 2017

(028) 313 8900

Hermanus Administration

## 1. EXECUTIVE SUMMARY

An application has been received on 1 February 2016 and a revised application dated 27 January 2017 from Messrs Plan Active Town & Regional Planners on behalf of Alpac Investments CC for the following :

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of the restrictive conditions Clauses C.(i)(5)(b) and C.(ii)(m) of Title Deed T54244/2014 applicable to Erf 3054, Betty's Bay in order to utilize the existing dwelling as an upliftment centre.

Clauses C.(i)(5)(b) and C.(ii)(m) reads as follows:

"C.(i)(5)(b)

*It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."*

C.(ii)(m)

*No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

- ❖ Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to enable the owners to utilize the existing dwelling house on the property as an upliftment centre.

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B, while the Motivation Report from the applicant in support of the proposal is attached as Annexure C. Title Deed T54244/2014 is attached as Annexure D and the Conveyancer Certificate as Annexure E.

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

## 3. BACKGROUND / SITE HISTORY

The erf is located in Betty's Bay and measure 1675m<sup>2</sup> in extent. The erf is zoned Residential Zone.

An application was lodged for the removal of the mentioned restrictive conditions and the consent use. During the comment period, the objectors did indicate that the distribution is not correct and that the erf falls under the "special residential" erven as per the township establishment conditions of Sunny Seas in Betty's Bay. The applicant was informed accordingly and the application was revised and the distribution was corrected to inform each and every owner of Sunny Seas of the application via registered letters as per the process procedures.

The application as submitted dated 27 January 2017 reflects the abovementioned.

#### **4. SUMMARY OF APPLICANT'S MOTIVATION**

The application is for the utilization of the dwelling consisting of five (5) bedrooms – two (2) guests per bedroom within the house - for the guests visiting the upliftment centre.

The land uses surrounding the application property consist of open space, dwelling houses and guest houses. The number of people will be the same as a guesthouse. The living area above the double garage consisting of a lounge, bedroom and bathroom will be occupied by the manager/owner. The guests visiting the upliftment centre do not require any medical intervention and do not have medical conditions that require a medical practitioner on-site.

The daily program consists of physical training under supervision and also taking part in daily lecture sessions. The guests are provided with food and the kitchen is seen as a communal facility. All activities are supervised and the present structures suffice to accommodate the upliftment centre, and no additional structures are proposed.

The proposed land use will have no more impact than a large family, two (2) families and or guesthouse consisting of five (5) bedrooms, consisting of ten (10) people. The proposed land use is thus seen as negligible.

Services on the application property exist. The access to the property is from Penguin Terrace. In terms of the Overstrand Zoning Scheme two (2) parking bays for the owner and or manager is required and one (1) parking bay per guestroom. The application property makes provision for seven (7) parking bays.

The Title Deed attached to the property has restrictive conditions relating to the proposed use for an upliftment centre. The conditions relate to the use of residential erven that prohibits any business use on the property. The upliftment centre will accommodate guests and thus qualify as a business.

In terms of the Policy document applicable the application is in line with the following documents:

- ❖ Overstrand Spatial Development Framework, 2006, earmarks the erf as residential and the zoning of the application erf will remain residential.
- ❖ Overstrand Municipal Growth Management Strategy, 2010 locates the erf in Planning Unit 1, Betty's Bay East, earmarked as low density due to the interface with the mountain. The application does not propose any subdivision that will entail a higher density in the area. The proposed land use will be accommodated within the existing structures and the impact will

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not be greater than the existing dwelling used for residential and or guesthouse purposes.

- ❖ Heritage Value: Erf 3054 has no heritage value as determined by the Overstrand Heritage Report, 2009.

The application complies with the Planning Principles indicated by the applicant:

**Spatial Justice**

The proposed upliftment centre will provide a much needed social service to people in the peaceful area of Betty's Bay. The people accommodated will be the same number as a guesthouse.

**Spatial Sustainability**

The proposed upliftment centre is accommodated in an existing urban area. A minimalistic approach is taken that will no impact on the conservation worthy area and land use will be in line with the character of the area.

**Efficiency**

The application property is easily accessible.

**Spatial Resilience**

A minimalistic approach is taken to accommodate the facility within the existing dwelling.

**5. ADMINISTRATIVE COMPLIANCE**

Methods of advertising		Date published	Closing date for comments
Press	Yes	2 March 2017	7 April 2017
Gazette	Yes	1 December 2017	12 January 2018
Notices	Yes	2 March 2017	7 April 2017
Ward councillor	Yes	2 March 2017	7 April 2017
Total comments	<b>81 (EIGHTY ONE)</b>		
Total letter of support	<b>1 (ONE)</b>		
Was public participation undertaken in accordance with Section 45- 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

## 6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation
<b>Building Control</b>	03/03/07	Support subject to any building changes to be compliant with SANS 10400 and plans to be submitted.	Supported
<b>Area Manager : Kleinmond Admin</b>	07/03/17	Support application.	Supported
<b>District Health</b>	03/04/17	As an accommodation establishment, need to apply for a Health Certificate. The kitchen must comply with Regulation 962 – Regulations governing general hygiene requirements for food premises; need to apply for a Certificate of Acceptability for the kitchen.	Supported
<b>Fire Department</b>	07/04/17	See Annexure I.	Supported
<b>Engineering Services</b>	11/04/17	See Annexure H.	Supported

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Eighty one (81) objections were received from individuals and one (1) letter of support (see objections attached as Annexure F). The applicant's response to the objections received is attached as Annexure G.

The objections and reply can be summarized as follows:

1. **Objection**

***The subject property and surrounding erven of the Sunny Seas Township are Special Residential erven and may only be used to erect a dwelling on the subject erven and that no businesses may be established on these erven. These erven have no other rights, other than what is stipulated in the Title Deed.***

**Applicant's response**

Erf 3054 Betty's Bay is indeed listed as one of the erven being referred to in the Title Deed and the Township Establishment Conditions as being a Special Residential erf. The land use of these erven is restricted to the following land use:

C.(i)(5)(b)

*"It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."*

C.(ii)(m)

*"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

The erven in the Sunny Seas Township are governed by these land use restrictions. Cognisance however should also be taken of the Zoning Scheme that is also applicable to these erven. In the past, the Section 8 Scheme Regulations of the Land Use Planning Ordinance, Ordinance 15 of 1985 was used to govern land uses and land use restrictions consisting of prescribed building lines, height restrictions and coverage.

The Section 8 Scheme Regulations was replaced by the Overstrand Municipal Zoning Scheme that came into effect on 1 January 2014 that makes provision for more land uses and consent uses and can be seen as a modern version of the land use restrictions applicable to Single Residential Erven. With the implementation of the Zoning Scheme the Title Deed restrictions of the Sunny Seas Township cannot be ignored and has preference over the land use restrictions imposed by the Zoning Scheme Regulations, and therefore necessitates an application for the removal of the more restrictive Title Deed conditions in order to make use of the land uses referred to in the Zoning Scheme.

With reference to our motivation report we mentioned that the Residential Zone 1 zoning will be retained. Our application does not constitute a change of zoning, but the change of land use as being provided for in the Zoning Scheme as a consent use. We have made it clear in our motivation report that we are referring to the Zoning Scheme and not the Title Deed when we mentioned land use rights other than being residential.

The relevant Zoning Scheme makes provision for the following land uses under a zoning of Residential Zone 1 that reads as follows:

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation and second dwelling unit;
- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation."

In order to make use of the above mentioned land uses other than being residential it is required that the Title Deed restrictions be addressed and therefore the reason for our application for the removal of the restrictive Title Deed restriction. Cognisance should also be taken that one of the following land use restriction have been imposed to all residential erven in Betty's Bay that read as follows:

*"This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purpose as the Administrator may from time to time after reference to the townships board and the local authority, approve, provided that of the erf is included within the areas of a town planning scheme, the local authority*

*may permit such other buildings as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme.”*

*“It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith.”*

With reference to the above restrictions it is clear that all residential erven may only be used for erecting thereon one dwelling, therefore limiting the use of the erven to a single residential use. Subsequently the following restriction - *“no hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven”* - does not have to be in the Title Deed to prohibit any business use, because all erven are limited to a single residential use only and therefore any other land use will be in conflict with each residential owner’s Title Deed that resides in Betty’s Bay.

### **Town Planner’s response**

It is correct that the establishment conditions indicated no business on the property, however the application to remove the condition to enable the upliftment centre.

## **2. Objection**

***The number of people accommodated and the impact of the proposed upliftment centre will be similar to a standard five (5) bedroom guesthouse.***

### **Applicant’s response**

The reason for us comparing the proposed upliftment centre to a guesthouse can be summarised as follows:

- The maximum number of guests that can be accommodated within a guesthouse is ten (10);
- The maximum number of guestrooms are limited to five (5), sleeping two (2) guests per room;
- Even though no visitors are allowed, provision was made for one (1) parking bay per room and two (2) parking bays for owner / manager;
- As stated in our motivation, guests visiting the upliftment centre do not require any medical interventions and do not have medical conditions that require medical attention. It is also the reason why we referred to visitors as guests and not patients.
- Strict rules apply to guests visiting the upliftment centre in order not to be a nuisance to surrounding land owners.

### **Town Planner’s response**

The comparison is valid in terms of people allowed. Should any of the other consent uses be implemented, the consent uses in terms of the zoning scheme listed are land uses in line with the land use of residential and that can be accommodated in a residential dwelling.

**3. Objection**

***Referral is made in the motivation to a Conveyancer Certificate, but no certificate was enclosed.***

**Applicant's response**

A Conveyancer Certificate accompanied our application submitted to the Overstrand Municipality. The municipality in return provided us with the notice and the information to distribute via registered post to owners of erven in the Sunny Seas Township. The Conveyancer Certificate was not included in the documents that we were instructed to distribute.

**Town Planner's response**

The objectors could at any time request the certificate and or any other relevant documentation submitted with the application. The objectors did request the Title Deed and thus could also request the Conveyancer Certificate.

**4. Objection**

***The primary right use of the subject property will remain residential. This contradicts and invalidates the proposal to change the restrictive Title Deed conditions.***

**Applicant's response**

The current zoning of Erf 3054, Betty's Bay will remain Residential Zone I. The application constitutes an application for a consent use to accommodate an upliftment centre. Even though the land use changes, the primary land use in terms of the Zoning Scheme will still be retained. Should the land be sold, the land use will revert back to being single residential and will the consent use lapse.

**Town Planner's response**

The zoning will remain residential in nature and thus should any owner intends to rezone the property, a process will have to be followed.

**5. Objection**

***The statement that surrounding land uses consist of mainly single residential, holiday houses and guesthouses is not true.***

**Applicant's response**

All residential erven in Betty's Bay are zone Residential Zone 1 and are either developed or vacant. Some of the developed residential erven are being used for other uses such as guesthouses, holiday houses and tourist accommodation. Making use of the following websites: *lekkerslaap.co.za*, *trevago.co.za* and *airbnb.com* we can list the following 13 advertised tourist accommodation establishments in the Sunny Seas area only:

- Helm's Deep – Sea and Mountain: Seaview Drive

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➤ Nature's Haven In Betty's Bay:	Seaview Drive
➤ Betty Blue:	Seaview Drive
➤ Sunny Seas:	Albertyn Drive
➤ 210 Degrees South:	Pearl Drive
➤ Havens Door:	Albertyn Drive
➤ ZAR Beautiful:	Albertyn Drive
➤ Paradise Getaway:	Luckhof Road
➤ Sanity Getaway:	Anemone Street
➤ Leopards View:	Mermaid Road
➤ Van Den Bergs Guesthouse:	Albertyn Drive
➤ Umoya Guesthouse:	Dolphin Drive
➤ Kalliste B&B:	Dolphin Drive

Making use of the website *airbnb.com* we have noted ±141 tourist accommodation establishments in the Betty's Bay area.

We question that all these tourist accommodation establishments had their Title Deeds amended and that they applied for a consent use to utilise their dwellings for tourist accommodation purposes. The Title Deeds for residential erven of Betty's Bay make it clear that the residential erven may only be used to accommodate thereon one (1) dwelling and associated structures. With reference to specifically the Sunny Seas Township there is a restriction that prohibits the use of residential erven for a canteen, hotel, any form of business, etc. Please refer to the restrictions below:

*"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

**Town Planner's response**

Noted.

**6. Objection**

***The proposal is to run a business from Erf 3054, Betty's Bay that will have a negative impact on traffic and no parking bays are provided on-site for the proposed use.***

**Applicant's response**

The application is to accommodate an upliftment centre on the subject erf. One (1) parking bay per guestroom is provided and two (2) parking bays for owner/manager. Therefore seven (7) parking bays are provided on-site.

The upliftment centre does not allow day visitors and therefore the impact on the road infrastructure will be minimal. The parking bays will only be used when a guest to the wellness centre is dropped off or picked up after their upliftment sessions. Guests are not allowed to arrive with their own transport.

**Town Planner's response**

The parking is in line with a guest house and would not have more traffic than a five (5) bedroom guesthouse.

**7. Objection**

***The grey- and black water will have a negative impact on the environment.***

**Applicant's response**

With our application to utilise the existing dwelling as an upliftment centre it is proposed that the five (5) existing bedrooms be used to accommodate two (2) guests each. Being an existing dwelling with existing services and the fact that only ten (10) guests may occupy the five (5) bedrooms will not have a negative impact on the services.

**Town Planner's response**

The application is in an existing building and the Engineering Services Department did not indicate any additional requirements with regard to the existing services.

**8. Objection**

***There will be no economic benefit to the area of Betty's Bay.***

**Applicant's response**

In order to run an upliftment centre it would be required that the guests be provided with food, beverages, laundry facilities, etc. Local businesses are supported to provide food, beverages, reading material and other groceries. Furthermore, the existing dwelling requires routine maintenance and this is also where local contractors are used. It is therefore clear that Betty's Bay does benefit economically from the upliftment centre.

**Town Planner's response**

It is unclear to what extent the economic benefit should be, except the normal benefits of making use of local business establishments and services.

**9. Objection**

***Refuse and refuse removal poses problems such attracting animals such as rats and mice.***

**Applicant's response**

Refuse is managed similar to that of a dwelling, and because of the fact that guests reside at the upliftment centre it is required that the premises be kept clean at all times. The stench of garbage or any mice or rat infestation will not be tolerated by guests and it will be to the detriment of the facility.

**Town Planner's response**

The erf is subject to the removal of refuse by the Municipality.

**10. Objection**

***The land uses that can be accommodated within a zoning of Residential Zone 1 includes single residential dwelling, holiday homes and guesthouses. The proposed upliftment centre does not fit into any of these categories.***

**Applicant's response**

The primary land uses under a zoning of Residential Zone I are as follow:

- day care centre,
- dwelling house,
- guest rooms,
- home occupation,
- second dwelling unit.

The Overstrand Municipality Zoning Scheme also makes provision for consent uses that are compatible with the Residential Zone 1 zoning that are as follows:

- crèche,
- green house,
- guest house,
- house shop,
- institution,
- place of instruction,
- place of worship,
- residential building,
- tourist accommodation.

Application is made for a consent use for an upliftment centre that can be categorised under and institution. Institution is defined as follows:

*“a property used as a social, health or welfare facility, or for the administration thereof and includes a hospital, special needs school, clinic, homes for the aged, indigent or handicapped, a reformatory or place of detention, whether of commercial or charitable nature, but does not include a jail;”*

The Title Deed in respect of Erf 3054, Betty's Bay however has a Title Deed restriction that prohibits the above mentioned primary and consent uses other than residential and that is why we have also applied simultaneously for the removal of the restrictive Title Deed conditions.

**Town Planner's response**

The proposed use is allocated under institution and thus falls under the consent use category.

**11. Objection**

***The upliftment centre will have a negative impact on the character of the area.***

**Applicant's response**

The zoning of Erf 3054, Betty's Bay will remain unchanged. The primary land uses applicable to the subject property will therefore remain in place. The subject property can therefore easily revert back to single residential use only if deemed necessary in future.

The proposed land use is compatible with surrounding guest house land uses. Erf 3054, Betty's Bay can alternatively also be developed for guest house purposes (maximum five (5) bedrooms), home occupation or second dwelling purposes. However, developing Erf 3054, Betty's Bay for upliftment centre purposes will have the same impact than developing the subject property for guest house purposes.

We are therefore of the opinion that the subject property has the potential to be developed for the proposed land use since it will not have a greater impact than accommodating a large family in the existing dwelling, or accommodating two (2) families in the existing dwelling (main and second dwelling), or accommodating six to ten (6-10) guests on the subject property (guest house).

**Town Planner's response**

The centre is located in an existing residential building. It will have the same amount of people as a guesthouse. It is therefore unclear with regard to the character of the area. The character will remain residential.

**12. Objection**

***Walls and fences will impact negatively on the movement of wild animals.***

**Applicant's response**

The subject property is not fenced and has no boundary walls.

**Town Planner's response**

Noted.

**13. Objection**

***The application mentions that the maximum number of guests to be accommodated is ten (10), but currently it is close to twenty (20) guests being accommodated.***

**Applicant's response**

Our application is to accommodate a maximum number of ten (10) guests only in order to minimize the impact on the surrounding neighbourhood and this was also why the proposed upliftment centre was compared to a land use such as a guesthouse.

**Town Planner's response**

The Municipality will only consider that has been applied for.

**14. Objection**

***No impact study was conducted for the change of land use to accommodate an upliftment centre.***

**Applicant's response**

Erf 3054, Betty's Bay is within an already developed residential area and it is proposed that the existing house and its infrastructure be used to accommodate an upliftment centre. The change of land use does not trigger any listed activities in terms of the National Environmental Management Act (NEMA) and therefore no impact study is necessary.

**Town Planner's response**

It is unclear what study needs to be done. NEMA is not triggered.

**15. Objection**

***The Municipality does not have the authority to deal with applications to remove Title Deed Restrictions - this can only be done by the Minister.***

**Applicant's response**

Legislation has changed and removal of restrictive Title Deed conditions is now being dealt with by the Overstrand Municipality. Application is made in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-Law on Municipal Land Use Planning, 2015, for the removal of restrictive Title Deed conditions. The correct procedure was followed in all aspects for the proposed removal of the restrictive Title Deed conditions and consent use.

**Town Planner's response**

The applicant is correct.

**16. Objection**

***The correct procedure was not followed to provide notices to all the residents of the Sunny Seas Township by registered mail.***

**Applicant's response**

We have been instructed by the Overstrand Municipality to send notices via registered post to all the land owners of the Sunny Seas Township and have also provided us with an address list. Notices were sent to a total of four hundred and thirty one (431) owners per registered mail of which we have proof of all addresses where the notice have been sent to and corresponding tracking number of each notices.

**Town Planner's response**

Residents as per the municipal system located in Sunny Seas were given to the applicant for distribution.

**17. Objection**

***The objections included a petition for the tarring of Disa Road due to dust problems those residents in the vicinity is experiencing.***

**Applicant's response**

This petition has no relevance to our application. Disa Road is ±5km from the subject erf.

**Town Planner's response**

Noted.

**18. Objection**

***Betty's Bay is a lifestyle seaside village with a rural / country atmosphere. Thus there are only a small number of business properties. No land has also been earmarked for industrial development, as there is no need for such. The proposed upliftment centre is a special residential area, will therefore negatively impact on the character of the village.***

**Applicant's response**

Generally the people making use of the services of an upliftment centre comes from busy cities and suburbs for treatment. The tranquillity and country atmosphere that Betty's Bay has to offer is beneficial to them. The proposal for an upliftment centre is also not suited to be located within an industrial area and is not related to an industrial land use.

The application is for a small upliftment centre that will only cater for a maximum of ten (10) guests that require no medical intervention or that have no medical condition as stated in our motivation report. Therefore the proposed upliftment centre is compatible with the surrounding land uses and residential character of the Sunny Seas area.

**Town Planner's response**

The application is not for any industrial activity.

**The owners of the upliftment centre in their own capacity also submitted a response on the objections and will be dealt with as per reply. These aspects were not dealt with by the consultant.**

Their response is as follows:

**Owner's response**

*Page 1 - 3: General comments and Introduction*

**Town Planner's response**

Noted.

**Owner's response**

*Page 3 - 5: Background to the need for the Upliftment Centre, known as Ocean Breeze.*

**Town Planner's response**

Noted.

**Owner's response**

*Page 5, Point 22: The By-Law of the Overberg did not make provision for an Upliftment Centre before 2015 and therefore is not unlawful.*

**Town Planner's response**

The By-Law is not the Overberg By-Law, but the Overstrand By-Law. It should be noted that the By-Law deals with procedural matters and the Overstrand Zoning Scheme, 2014 deals with the applicable land uses as allowed on erven. It should also be noted that a Municipal Zoning Scheme cannot cater for every type of land use that exists and similar land uses resort under an umbrella concept.

**Owner's response**

*Page 6, Point 30: Caledon Court Case No. OSC 14/2017 found the activity not unlawful.*

**Town Planner's response**

Point 31: In the case *Lester v Ndlambe Municipality & Another* [2014] 1 All SA 402 (SCA) is not applicable as the latter deals with a matter where the unlawfulness has been known beforehand and the building went ahead.

**Owner's response**

*Page 7, Point 32: Islamaphobia / Racism.*

**Town Planner's response**

No comment.

**Owner's response**

*Point 33: Title Deed Condition C(ii)(a) - "That the erf or any portion thereof shall not be transferred, leased or in any other manner assigned or disposed of to any Asiatic, African Native, Cape Malay or any person who is manifestly a "coloured person".*

*This class was omitted from all Title Deeds as it is unconstitutional.*

**Town Planner's response**

Agree with the applicant. The condition is not relevant in South Africa.

**Owner's response**

*Page 8 to 13: The comments refer to the different conveyance certificates obtained in respect of the conditions in the Title Deed. The applicant does not agree with the latest one received from Smith Tabatha Buchanan Boyes, dated 16 November 2016. The applicant elaborates in the above-mentioned pages on this matter.*

**Town Planner's response**

The planner is not a conveyancer and therefore cannot put a conveyancer certificate in dispute.

**Owner's response**

*Page 13: Erf 3273 is a Bed and Breakfast located in Sunny Seas and must abide by the same rules.*

**Town Planner's response**

The application referred to dated back to 2012 and the Department of Environmental Affairs and Development Planning dealt with the removal of restrictive conditions.

**Owner's response**

*Page 17: Erf 3108 is a Bed and Breakfast located in Sunny Seas and must abide by the same rules.*

**Town Planner's response**

Noted.

All other comments were dealt with thoroughly by the applicant's consultant.

**Internal Departments**

No objections or negative comments were received.

**AGENDA OF THE MUNICIPAL PLANNING TRIBUNAL: 29 NOVEMBER 2017**

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**8. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**

**8.1 Background**

N/A

**8.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)**

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

**Spatial Justice**

Not applicable.

**Spatial sustainability**

The application addresses the social and environmental nature of the site and the adjacent areas. The economic pillar is being addressed in a lesser manner. The proposed land use is needed within the wider community extending beyond the boundaries of Betty's Bay. The proposed use will be located in the existing dwelling and thus will have no impact on the surrounding environment. The economic benefit is the services to be provided by local businesses.

**Efficiency**

The proposed land use will optimize the erf's allowed developable parameters as per the Zoning Scheme. The existing structures and services are utilized and the carbon footprint versus a new development will be less.

**Spatial Resilience**

The combination of primary and consent uses on a residential erf is to ensure spatial resilience in terms of flexibility of the Scheme. The aforementioned ensures the capability of the erf, its owner and area to accommodate land uses to ensure optimal use of a property and limit the impact of extensive development for each and every possible land use. By implication ensures limiting impact on financial means and liability for the wider community.

**Good administration**

Procedure was followed and full public participation was applicable.

**8.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)**

Same as Point 8.2 above.

**8.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies**

Same as Point 8.2 above.

**8.5 (In)consistency with guidelines prepared by the Provincial Minister**

Not applicable.

**8.6 Impact on Municipal engineering services**

None.

**8.7 Outcomes of investigations/applications i.t.o other legislation**

Not applicable.

**8.8 Existing and proposed zoning comparisons and considerations**

The application is in line with the Overstrand Spatial Documents.

**9. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS****The financial or other value of the rights**

No financial gain as it is a non-profit organization.

**The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal**

No benefit will accrue.

**The social benefit of the restrictive condition remaining in place, and/or being removed / amended**

There is no social benefit should the condition remains in place.

**Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights**

The rights enjoyed by the beneficiary will remain in place since the erf will remain residential and the right obtained will be subservient to the main activity, e.g. residential.

**10. THE DESIRABILITY OF THE PROPOSAL**

The application is for an upliftment centre, which the Municipality resolved should be placed under the term Institution. The centre caters for any person, restricted to males only, who do experience stress, depression and or low self-esteem. It is not a rehabilitation centre, since no medical personnel is attached to the centre.

The Overstrand Zoning Scheme does provide for consent uses that can be accommodated on Residential Zone 1 erven. The uses are restricted in size and extent in order to ensure that the residential character of the area is maintained. The centre has been operating in Betty's bay for some time and rented a house to conduct their operation, subsequently due to expenses the operators purchased a property to ensure that their investment is not subject to non-permanency as in the case of renting a property. The property purchased is located in Betty's Bay East,

also known as Sunny Seas. The erf has an approved building plan and the operation is thus located in an existing approved building and internal services availability.

The land use proposed adheres to the same development parameters as a guesthouse. The amount of people in the centre is to accommodate ten (10) people with a manager and or owner residing on the premises. The amount of parking provided is thus seven (7) parking bays as indicated on the site plan. The access point to the erf will remain in place. Due to the fact that most of the visitors do not have vehicles, the impact on the street will be minimal and or no more than a guest house.

The centre's policy is to ensure that the visitors remain in a structured environment, which entails workshops, exercise and prayer. It is clear that the centre is more of a wellness or step down facility, operating as a guest house, but in a structured manner.

The removal of the restrictive conditions pertains to the erection of one (1) dwelling and associated outbuildings. It is correct that the erf has only one (1) dwelling, which is interpreted that when Sunny Seas were developed, the Zoning Scheme was not in place allocating other land uses or consent uses to the development. Thus the interpretation is that the one (1) dwelling refers to residential dwelling for a single family. The condition to be removed is to enable the consent use for an institution as per the application. In order to ensure that the erf remain residential in nature it is proposed that the condition rather be amended to read as follows:

*"It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith and that the property is used primarily for residential purposes and an institution be allowed subservient to the residential use."*

The following restrictive Title Deed condition relates to business and industrial uses.

*"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

The restrictive condition relating to business, industrial, etc. is relevant in terms of the Scheme Regulations that any other use, except if the house is occupied by the owner, will fall under the interpretation of the application for an upliftment centre is a non-profit organization, depending on funds. However, it is not clear if all guests are staying for free and or if the guests donate an amount for their stay. Due to the unclarity in this regard, the upliftment centre either pay in kind for people working there and or does have a fee attached to the visitor.

In terms of the restrictive condition it is clear that the intention was to eliminate any business, industrial, etc. activities that may impact on noise and traffic pollution that may disturb the peaceful character associated with residential living. In recent years land uses that can be accommodated without disturbing the peaceful nature of the area and character has been accommodated on Residential Zone 1 erven, with strict development parameters. In this case the application for the upliftment centre can either been seen as a business or a boarding house. The latter will fall under similar development parameters as a guesthouse restricting the use and

management of such a land use. Therefore it was a requirement that the condition be addressed in the application.

Similar to the aforementioned condition, it is advisable not to remove the condition, but rather to amend the condition to ensure that some of the land uses mentioned in the condition remain in place as it is not either a primary use and or a consent land use as per the Overstrand Zoning Scheme. It is therefore proposed the condition be amended to read as follows:

*“no hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven with the exception of guesthouses and the institution (upliftment centre only).”*

The upliftment centre as per the application complies with the development parameters of a guesthouse. The development will be restricted to ten (10) people, the use is restricted to the existing dwelling and the owner and or manager will reside on the property. The amount of parking bays is similar to that of a guesthouse. The comparison with the guesthouse is due to the fact that it is not an institution with medical related beds, but rather a guesthouse with a structured management system, catering for a specific grouping of people.

The house, in which the centre is to be located, remains residential as per the Zoning Scheme and the services requirement remains as for a residential house. The access to the dwelling remains in place and no additional structures or uses are added that may have an impact on services.

The Overstrand similar to the rest of South Africa does have a need for places of rest for people under stress. Not all cases relates to medical intervention, but rather to remove the person from its working surroundings to be able to recuperate. In this case the applicant opted to call it an upliftment centre due to its structured management system and catering for a specific grouping of people.

It can be reasoned that there are community zoned erven available in Betty's Bay, but it is in the ownership of either the Municipality or the Department of Public Works. The erven are large in extent and are held for clinics, school and other amenities such as police stations, etc. These erven are not intended for private initiatives on such a limited scale that warrant a community zoned erf to be used for an upliftment centre, especially as no medical intervention is required and or funded by public funds.

In evaluating the application, the objectors could not substantiate that the proposed land use will have more of an impact than a normal guesthouse with five (5) rooms. If the application is approved, the restriction of ten (10) people, two (2) persons per room will be strictly enforced.

**11. RECOMMENDATION**

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 3054, Betty's Bay for the removal of the restrictive conditions Clause C.(i)(5)(b) of Title Deed T54244/2014 applicable to Erf 3054, Betty's Bay in order to utilize the existing dwelling as an upliftment centre, **be amended** to read as follows:

*"It shall be used only for the purpose of erecting thereon one (1) dwelling, together with such outbuildings as are ordinarily required to be used therewith and that the property is used primarily for residential purposes and an institution (restricted to the upliftment centre) be allowed subservient to the residential use."*

2. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 3054, Betty's Bay for the removal of the restrictive conditions Clause C.(ii)(m) of Title Deed T54244/2014 applicable to Erf 3054, Betty's Bay in order to utilize the existing dwelling as an upliftment centre, **be amended** to read as follows:

*"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven with the exception of an institution (upliftment centre only)."*

3. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 3054, Betty's Bay for a consent use in order to enable the owners to utilize the existing dwelling house on the property as an upliftment centre, **be approved** in terms of the provisions of Section 61 of the By-Law;

4. that the amendments in Points 1. & 2. and the approval in Point 3. be subject to the following conditions:

- (a) that the consent use not be transferable;
- (b) that the amount of guests be restricted to ten (10) people;
- (c) that the consent use is valid only for an upliftment centre in its present form and not for any other land use;
- (d) that parking be provided on-site as per parking layout bett3054s.drw, dated 01/2016, as submitted with the application;
- (e) that a maximum of one (1) permanently demarcated parking bay per guest room and two (2) for the owner/manager be provided within the erf boundaries, subject to the approval of the Authorised Official;
- (f) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the upliftment centre;
- (g) that no facilities (bar/restaurant or any other) be provided for residents or non-residents of the upliftment centre;

- (h) that the selling or serving of liquor on the premises will not be allowed;
  - (i) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
  - (j) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
  - (k) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
  - (l) that the upliftment centre be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
  - (m) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
  - (n) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (o) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
  - (p) that all the conditions in the Services Report (attached as Annexure H), be complied with, and
  - (q) that all conditions imposed by the Fire Department (attached as Annexure I), be complied with.
5. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

## **12. REASONS FOR RECOMMENDATION**

- ❖ The application has followed due procedure.
- ❖ Eighty two (82) objections have been received.
- ❖ None of the internal departments have any objection.
- ❖ None of the municipal services will be needed.
- ❖ It is in line with policy documents.
- ❖ The impact will not be more than a guesthouse.
- ❖ The land use is not transferrable and will lapse once it ceases operating by the present owners.

## **13. ANNEXURES**

- Annexure A: Locality Plan
- Annexure B: Site Development Plan
- Annexure C: Motivation Report

**AGENDA OF THE MUNICIPAL PLANNING TRIBUNAL: 29 NOVEMBER 2017**

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- Annexure D: Title Deed T54244/2014
- Annexure E: Conveyancer Certificate
- Annexure F: Objections received
- Annexure G: Applicant's response to objections received
- Annexure H: Services Report
- Annexure I: Comment: Fire Department

**SIGNATURES**

**REGISTERED PLANNER**

Name : **H VAN DER STOEP**

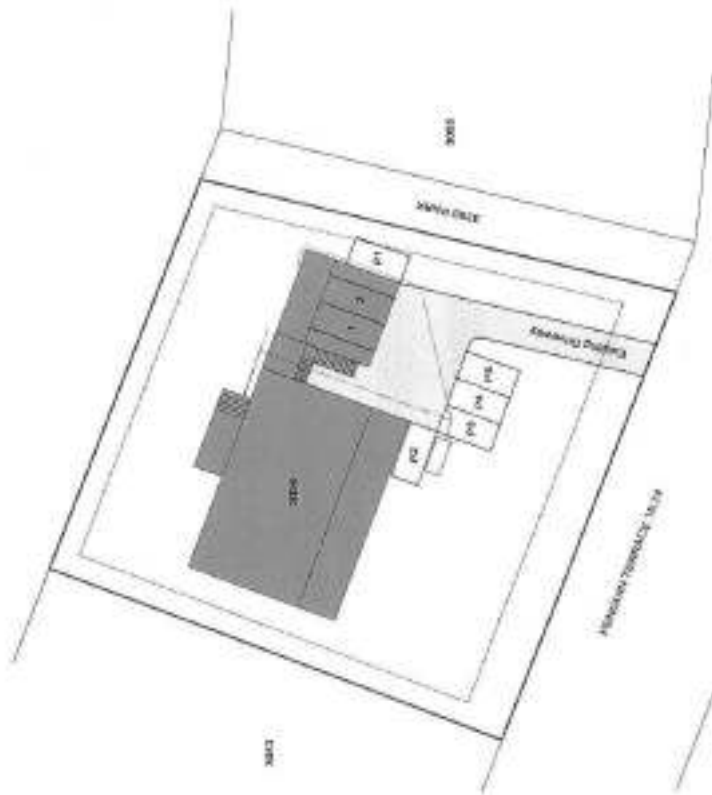
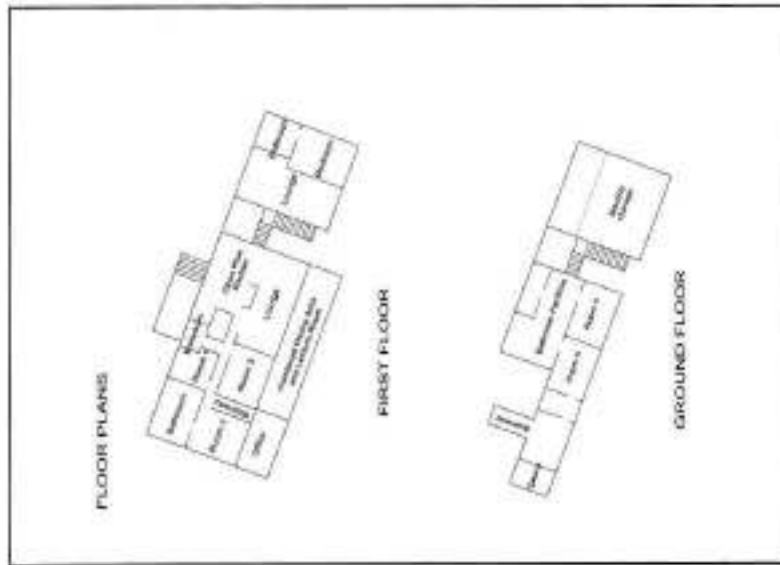
SACPLAN registration number: **A/1708/2013**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_



ANNEXURE B-1



	All distances approximate and subject to survey. COPY RIGHT RESERVED	Property Description: <b>ERF 3054 BAY</b>	Plan Description: <b>SITE DEVELOPMENT PLAN</b>	Scale: <b>1:500</b> Drawing No: <b>bet3054c.dwg</b> Date: <b>01/02/18</b>
		ANNEXURE B-1		

APPLICATION FOR A CONSENT USE AND REMOVAL OF  
RESTRICTIVE TITLE DEED CONDITIONS:

ERF 3054 BETTY'S BAY

OVERSTRAND MUNICIPALITY

CALEDON DISTRICT

**1. BACKGROUND**

The owner of Erf 3054 Betty's Bay, Alpac Investments CC instructed Plan Active to apply for a consent use and the removal of restrictive Title Deed conditions in order to utilise the existing dwelling as an upliftment centre. No additional structures will be constructed. The detail of the proposal and current land uses will be described in detail further in this document.

**2. APPLICATION DETAILS**

**2.1 Property Description**

Erf 3054 Betty's Bay is 1675m<sup>2</sup> in extent, held by Title Deed T54244/2014 and is situated north of the R44 on Penguin Terrace. Please refer to the enclosed locality map.

The property is situated within an established single residential area with land uses that can be accommodated within a zoning of Residential Zone 1 and includes single residential dwellings, holiday homes and guesthouses.

**2.2 Application**

It is the owner's intention to utilise 5 bedrooms that will accommodate 2 guests per room visiting the upliftment centre. In order to utilise the existing 5 bedrooms within the house for guests visiting the upliftment centre an application is made for the

following:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed condition in order to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre.
- Chapter 4, Section 16(2)(c) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a consent use to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre on Erf 3054 Betty's Bay.

### 3. ZONING

Erf 3054 Betty's Bay is zoned Residential Zone 1 in terms of the Overstrand Municipality Zoning Scheme and has the following land use rights:

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;
- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.

### 4. LAND USE

Erf 3054 Betty's Bay is used for residential purposes and as an upliftment centre. A dwelling with a double garage is situated on the subject property. Please refer to the enclosed site development plan.

Land uses that surround Erf 3054 Betty's Bay are single dwellings, holiday houses, guest houses, public roads and public open spaces. It is therefore evident that erf 3054 Betty's bay is within a predominantly single residential area.

## 5. PROPOSAL

Due to the demand for wellness centres, upliftment centres and related land uses in the area, the owner decided to make use of the existing dwelling as an upliftment centre, and submit an application to utilise 5 of the existing bedrooms as guestrooms for people visiting the centre. The number of people accommodated within the existing dwelling will be similar to that of a standard 5 guestroom guesthouse and the owner / manager will also reside on the premises.

The dwelling is located on the southern portion of the property facing the lower lying areas of Betty's Bay and the ocean. The use of the existing dwelling consists of the following:

### **First Floor Main Dwelling**

- Open plan kitchen;
- Lounge;
- 2 Bathrooms;
- 3 Bedrooms;
- Study / Office;
- Dining area on the covered stoep;
- Stairway;
- Above double garage: Lounge;
- Above double garage: Bedroom;
- Above double garage: Bathroom;

### **Ground Floor Main Dwelling**

- Sauna;
- 2 Bedrooms;
- Bathroom Facilities;
- Double garage;

With this application it is proposed that 5 of the existing bedrooms be used as bedrooms for guests visiting the upliftment centre. Each room will accommodate 2 people that totals to a number of 10 guests. The lounge, bedroom and bathroom that are situated above the double garage will be used as accommodation for the manager / owner. Please note that guests visiting the upliftment centre do not require any medical interventions and do not have medical conditions that require medical

attention.

A daily program for guests will consist of physical training such as supervised jogging and training using gym equipment. A small gym is situated within the double garage as indicated on the site development plan. Guests will enjoy breakfast, lunch and dinner on the premises and will also take part in daily lecture sessions. The sauna situated on the ground floor will be accessible to guests. All activities on site will be supervised. Amenities such as the kitchen and lounge area can be seen as communal areas that will be accessible to the guests.

With reference to the existing uses within the dwelling such as the spacious bedrooms, kitchen, dining and lounge area and other factors such as the property's tranquil location on the foothills of the mountain with great views over the lower lying areas of Betty's Bay and the ocean makes it ideal to utilise the house as an upliftment centre.

With reference to the proposal above it is clear that all the land uses exist and that no additional buildings will have to be constructed. The proposed change of land use is only to utilise the existing bedrooms within the dwelling as guest rooms.

## 6. CHARACTER OF THE ENVIRONMENT

The subject property is situated at the foot of the mountains in Betty's Bay. This area is characterised as a medium to higher income area and Betty's Bay is generally seen as a tranquil and quiet holiday town.

Since the proposed upliftment centre will be accommodated within the existing structure on erf 3054 Betty's Bay, the impact on the streetscape and the general character of the area will be kept to a minimum. No internal alterations are proposed to the existing dwelling and will therefore have no impact on the surrounding properties or the character of the area.

The impact on the existing low traffic flow in the area will be kept to a minimum since only 5 of the existing rooms will be used to accommodate guests to the upliftment centre.

7. **THE POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

The zoning of erf 3054 Betty's Bay will remain unchanged. The primary land uses applicable to the subject property will therefore remain in place. The subject property can therefore easily revert back to single residential use only if deemed necessary in future.

The proposed land use is compatible with surrounding guest house land uses. Erf 3054 Betty's Bay can alternatively also be developed for guest house purposes (maximum five bedrooms), home occupation or second dwelling purposes. However, developing erf 3054 Betty's Bay for upliftment centre purposes will have the same impact than developing the subject property for guest house purposes. We are therefore of the opinion that the subject property has the potential to be developed for the proposed land use since it will not have a greater impact than:

- a. accommodating a large family in the existing dwelling, or;
- b. accommodating two families in the existing dwelling (main and second dwelling), or;
- c. accommodating 6-10 guests on the subject property (guest house).

8. **IMPACT ON EXTERNAL ENGINEERING SERVICES**

**8.1 PROVISION OF SERVICES**

All services on the subject property already exist.

**Water**

The existing water capacity on erf 3054 Betty's Bay will be sufficient for the purposes of the application.

### Sewerage

The existing sewerage capacity on erf 3054 Betty's Bay will suffice for the purposes of the application.

### Electricity

Eskom is the electricity supplier to the subject property. It is not anticipated that the proposed development will necessitate an upgrade in the available electricity supply.

### Solid waste

Refuse / waste are collected by the municipality once a week and will remain unchanged.

### Conclusion

There will be no changes in the services capacities required.

## **8.2 TRAFFIC IMPACT, PARKING AND ACCESS**

Access to erf 3054 Betty's Bay will remain unchanged from Penguin Terrace.

The Overstrand Zoning Scheme Regulations determines that 1 parking bay per room and 2 parking bays for the owner / manager has to be provided for a wellness centre.

Ample parking is available on the subject erf as indicated on the proposed site development plan.

7 parking bays are provided onsite and should be sufficient to accommodate guests. 1 parking bay per guestroom is provided with 2 parking bays within the double garage for the owner / manager.

The proposed upliftment centre is a low impact land use and subsequently the proposed application will not adversely affect traffic flow, the streetscape or the general character of the area.

## **9 TITLE DEED**

There are restrictive title deed conditions that have to be removed to accommodate an upliftment centre on Erf 3054 Betty's Bay.

- Please refer to Clause No. C(i)(b) and C(ii)(m) of Title Deed T54244/2014 that read as follows:

C(i)(b) "It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."

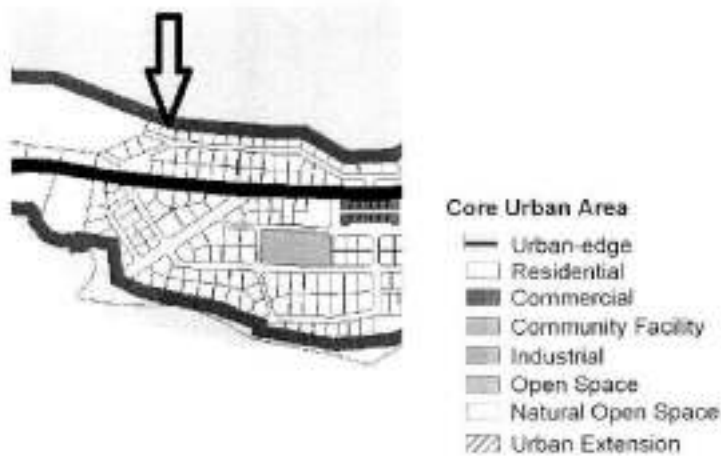
C(ii)(m) "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."

Due to the fact that the existing dwelling will now be used to accommodate guests at the upliftment centre and that it qualifies as running a business, the house will not be utilised as dwelling to accommodate a single family and it would therefore be required that the above mentioned restrictions be removed. Please refer to the enclosed Conveyancer Certificate from Smith Tabata Buchanan Boyes.

## **10 FORWARD PLANNING & OTHER LAND USE DOCUMENTS**

### **10.1 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006)**

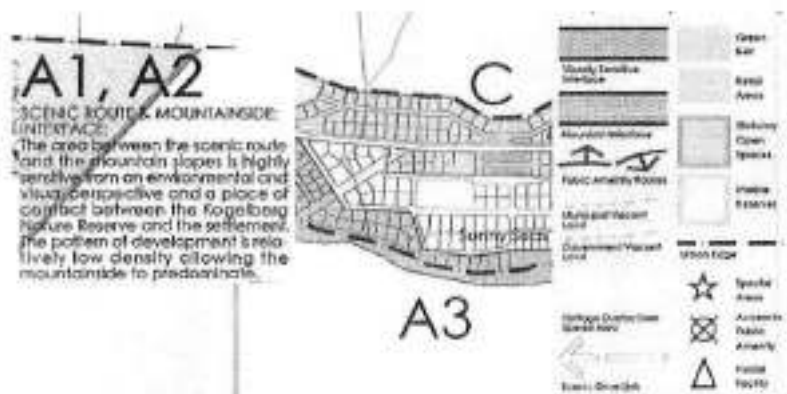
The Overstrand Spatial Development Framework (SDF), 2006, earmarks the area where erf 3054 Betty's Bay is situated, for residential purposes as indicated on the map below:



The zoning (Residential Zone I: Single Residential) for the subject property will remain unchanged. The primary land use of the subject property will remain for residential purposes and therefore the proposal is still in line with the existing spatial planning policies for the area.

#### 10.2 OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY (OMGMS, 2010)

The Overstrand Municipal Spatial Growth Strategy (2010) stipulates that the subject property falls within planning unit no. 1 in Betty's Bay East. Furthermore the subject property is also situated in the Mountain Management Zone as depicted below:



This application does not propose to subdivide the subject property and therefore the application will have no impact on the density of the area. Furthermore the proposed land use will be accommodated within the existing structures on the subject property and therefore the impact on the biophysical environment will remain unchanged. The proposed land use is a low impact land use (similar to a guest house on the subject property) and therefore the impact on the environment will not be greater than developing the subject property for guest house purposes.

In the light of the above mentioned the proposed consent use and removal of restrictive Title Deed conditions fall within the existing planning for the Betty's Bay area.

## **11 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

### **11.1 HERITAGE VALUE**

Erf 3054 Betty's Bay is not situated within the Heritage Overlay Zone as determined by the Overstrand Heritage Report (2009). The subject property is also not earmarked for heritage conservation purposes in terms of the OMGMS (2010).

The existing structures on the subject property will remain unchanged. The application does not involve changing the character of a site larger than 5000m<sup>2</sup>. It should also be noted that there are no structures on the subject property older than 60 years. The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

The proposed consent use and removal of restrictive Title Deed conditions do therefore not trigger any listed activities in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

In the light of the above mentioned it is evident that the proposed consent use and removal of restrictive Title Deed conditions will not have a negative impact on the heritage value of the Betty's Bay area.

### 11.2 ENVIRONMENTAL IMPACT

The proposed consent use and removal of restrictive Title Deed conditions do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

### 12 ACCESS ROAD

Access to Erf 3054 Betty's Bay is obtained directly from Penguin Terrace. Please refer to the enclosed Locality map on site development plan for easy reference. This access is an existing access that is currently being used.

### 13 PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial Justice: The proposed upliftment centre will provide a much needed social service to people within the peaceful area of Betty's Bay. The number of people that will be accommodated within the existing dwelling will be similar to that of the standard 5 guestroom guesthouse as previously mentioned.

Spatial sustainability: The proposed upliftment centre is accommodated within an established urban area consisting mainly of single residential houses, holiday houses and guesthouses. The existing dwelling will be utilised for the purpose of a functioning upliftment centre as mentioned in our motivation. A minimalist approach was taken with the proposed upliftment centre and therefore it will have no impact on the conservation worthy areas and the land use will be in line with the character of the area.

Efficiency: The proposed upliftment centre will be easily accessible and is conveniently located within an urban area utilising the existing dwelling.

Spatial Resilience: as mentioned in this document and minimalist approach was taken to accommodate the upliftment centre within the existing dwelling.

Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process.

#### **14 RECOMMENDATION**

- The proposed consent use and removal of the restrictive Title Deed conditions will not have a negative effect on the current character and land values of the surrounding erven.
- The area is already disturbed and the infrastructure exists on a well maintained erf and will not have a negative impact on the area.
- A minimalist approach was taken in order to minimise disturbance of the character of the area and to compliment the functionality of the township. The proposed upliftment centre would therefore be limited to a total number of 10 guests.
- The proposal creates great economic potential while it retains the integrity of the environment.


With regards to the above mentioned it will be appreciated if Council would approve and recommend the proposed:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed conditions in order to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre.
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a consent use to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre on Erf 3054 Betty's Bay.

52

Bisset Bochimke McBlain  
11th floor Triangle House  
22 Riebeeck Street  
Cape Town

	For registration purpose	Off to register
Purchase price/Value	R 1 600 000,00	R 900 000,00
Mortgage Capital Amount	R	R
Reason for exemption	Get	Section 44. a

Prepared by me  


CONVEYANCER  
Carl Christian Burger

**VERBIND MORTGAGED**

VR FOR R R 1 300 000,00

000028805 / 2014

10/4 -10- 13

REGISTRAR OF DEEDS

000054244 / 2014  
~~000054244 / 2014~~

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

RONEL ELS

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Hermanus on 28 July 2014 granted to him by

The Executrix in the Estate Late  
STEPHANUS TERBLANCHE  
Number 11000/2012

DATA / VERIFY  
22 OCT 2014  
LADREY FATGEVAH

DATA / CAPTURE  
16 OCT 2014  
MRS VAN DER MERWE

And the appearer declared that the deceased died on 16 April 2012 and whereas his principal had, on 2 June 2014, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

**ALPAC INVESTMENTS CC**  
Registration Number 2009/165613/23

or its Successors in Title or assigns, in full and free property

ERF 3054 BETTYS BAY  
IN THE OVERSTRAND MUNICIPALITY,  
DIVISION OF CALEDON, WESTERN CAPE PROVINCE

IN EXTENT 1675 (ONE THOUSAND SIX HUNDRED AND SEVENTY FIVE)  
Square Metres.

FIRST TRANSFERRED BY Deed of Transfer No.T1309/1957 with diagram No. 8799/1956 relating thereto and held by Deed of Transfer No.T46956/1993.

- A. SUBJECT to the conditions referred to in Certificate of Township Title No.T369/1956.
- B. SUBJECT further and ENTITLED to the benefit of the conditions referred to in the servitude endorsements on Certificate of Consolidated Title No. T3720/1937, which endorsements are dated and read as follows:

(1) DATED 24 JUNE 1940:

By Deed of Transfer No. 6068/40 certain conditions relating to (b) prohibition of Petrol Station on land (d) wood and iron buildings (e) slaughter poles, cattle kraals (f) manufacture of bricks, tiles etc. have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer.

(2) DATED 22 OCTOBER 1948:

By D/T 24234 DATED 22.10.48 certain conditions relating to water supply, type of business that may be carried on, prohibition of petrol station on land, slaughter poles, cattle kraals, wood and iron buildings, non-division, manufacture of bricks and tiles, have been

imposed, as will more fully appear on reference to the said Deed of Transfer.\*

(3) DATED 18 JULY 1949:

By D/T 11915 dd.18.7.1949 the remdr. of the land held hereunder is entitled to a right of way over Erf 487 Betty's Bay (Ext. No. 1) and marked A.E.D. on the diagram thereof. Subject to conditions as will more fully appear on reference thereto.

(4) DATED 1 DECEMBER 1950:

By Deed of Transfer No. 18877/50 dated this day certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of Petrol Station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc. non subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed measuring 5960,6615 ha. as will more fully appear on reference to said Deed of Transfer.

(5) DATED 28 AUGUST 1951:

By Deed of Transfer No. 14934/51 dated 28.8.51 certain conditions relating inter alia to :-  
prohibition against erection of certain types of building, slaughter poles, cattle kraals, pig-sties, cowsheds, manufacture of bricks, tiles, etc. the value of erections; water supply arrangements etc. have been imposed over the remainder of the land thereby conveyed in favour of the owner and successors in title to the remainder measuring 5955,3544 ha. held hereunder, as will more fully appear on reference to said Deed of Transfer.

(6) DATED 28 AUGUST 1951:

By Deed of Transfer No. 14935/51 dated 28.8.51 certain conditions relating inter alia to:-

arrangements re water supply, submission of plans for approval, fencing to be used; planting of trees, use of land for Tea Garden or Room; approval re types of trade to be undertaken; erection of only one building; prohibition against erection of Petrol Service Station, and other certain types of buildings, slaughter poles, cattle kraals, pig-sties, cowsheds, manufacture of bricks, tiles etc. subdivision without permission etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 5954,9428 hectares held hereunder, as will more fully appear on reference to said Deed of Transfer.

Ghosh & Ghosh 15.1.2.81

C. SUBJECT FURTHER to the following conditions contained in Title Deed No. T1909 / 1957, namely:

- (i) Imposed by the Administrator of the Province of the Cape of Good Hope under Ordinance 33 of 1934, as amended, upon approval of the establishment of Sunny Seas Township:
  - (1) Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17th October 1935, and in the memorandum which accompanied the said regulations.
  - (2) The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this subdivision to be conveyed across this erf if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
  - (3) The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
  - (4) Pending the establishment of a Local Authority for the Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf the owner shall, without compensation, be obliged to remove it after three months' written notice served upon him by such Local Authority.
  - (5) This erf shall be subject to the following further conditions provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the Local Authority, it is expedient that the restriction in

  
Ghorahney 15.1.81

any such condition should at any time be suspended or relaxed he may authorise the necessary suspension of relaxation subject to compliance with such conditions as he may impose:

- (a) It shall not be subdivided.
  - (b) It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith.
  - (c) Not more than half the area thereof shall be built upon.
  - (d) No building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf.
  - (e) In the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.
- (ii) Imposed by Hangklip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered owner of any property in the Township:
- (b) No wood and/or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
  - (c) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without the written consent of the Company.
  - (d) Save with the consent in writing of the Company and of any Local Authority, the owner shall have not have the right to make or cause to be made upon the erf for any purposes

whatsoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.

- (e) No building (including outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres.
- (f) No noxious trade or noxious business shall be carried on on this erf.
- (g) The Transferee shall not camp overnight or light fires on the erf save with the written consent of the Company, nor shall he permit any other person so to do.
- (h) No garage or service station may be erected or carried on on this erf, provided that this condition shall not apply to erven Nos. 1 and 263.
- (i) Until a Local Authority takes over the supply of water for the Township the Company or its successors in title shall be allowed to levy a charge on erf-holders for the service of administering the water of the Township, which charge shall be subject to the approval of the Administrator. This charge, however, shall not be levied until the erf-holder requests that the water be connected to this erf. The Company reserves the right, however, subject to the consent of the Administrator, to install a system for measuring the consumption of water supplied and to make charges based upon such consumption.
- (j) That the Company or its successors in title shall make a charge of R10.00 (Ten Rand) for the connection of water to the nearest point on this erf.
- (k) The buildings, including all fences and gardens or other gates, shall be of good design and sound construction and the plans, elevations and the specifications thereof must be lodged with and approved by the Company before tenders are called for, and no alterations in the plans, elevations and specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach of this Clause the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cost price thereof without compensation for improvements.

Shree Company 25.1.2011

- (l) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (m) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven.
- (n) No canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever with the exception of boarding houses) shall be opened or conducted upon the General Residential erven.
- (o) No signs, advertisements, advertisement boardings or other lettering shall be erected on this erf, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fence erected or to be erected on the said erf save and except with the written approval of the Company.
- (p) No debris, scrap or other unsightly material shall be deposited on the said erf nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said erf without the written consent of the Company first had and obtained.
- (q) In the foregoing conditions the expression "the Company" shall mean "The Hangklip Beach Estates, Limited, as owner of the remaining extent of the Township" and its successors in title to the whole of such remainder.



15.7.2011

WHEREFORE the said Appearer, renouncing all right and title which the said  
 Estate Late STEPHANUS TERBLANCHE

heretofore had to the premises, did in consequence also acknowledge the said Estate  
 to be entirely dispossessed of, and disentitled to the same, and that by virtue of these  
 presents, the said

**ALPAC INVESTMENTS CC**  
 Registration Number 2009/165613/23

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto,  
 conformably to local custom, the State, however reserving its rights, and finally  
 acknowledging the purchase price to be the sum of R1 600 000,00 (ONE MILLION SIX  
 HUNDRED THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have  
 subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape  
 Town on 13 OCT 2016

In my presence

REGISTRAR OF DEEDS





13 OCT 2016

## Conveyancer Certificate

I, Hanlie Ferreira hereby certify that a search was conducted in the Deeds Registry, Cape Town, regarding the following property:

Erf 3054 Bettys Baai

Situated in the Overstrand Municipality

Division Cape

Western Cape Province

In Extent : 1675.0000 Square meters

Held by Deed of Transfer Number: T54244/2014

The following restrictive conditions are applicable and will have to be dealt with:

Clause No. C(i)(b) and C(ii)(m) of Title Deed T54244/2014 that read as follows:

C(i)(b) "It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."

C(ii)(m) "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."

Signed at Cape Town on the 16th of November 2016

Hanlie Ferreira

SMITH TABATA BUCHANAN BOYES  
2ND FLOOR, 5 HIGH STREET  
ROSENPARK  
TYGERVALLEY, 7530

ANNEXURE F 1/185

TPA Theat  
(C H vld Stoep)

Loretta Gillion - REHABILITASIE-SENTRUM VIR VERLAAFDES: SUNNY SEAS,  
BETTIES BAAI

From: Santie Pienaar <pienaarsantie@gmail.com>  
To: <loretta@overstrand.gov.za>  
Date: 17/06/2016 12:51 PM  
Subject: REHABILITASIE-SENTRUM VIR VERLAAFDES: SUNNY SEAS, BETTIES BAAI

Erf 3054, Betty's Bay



Geagte Heer

**REHABILITASIE-"SENTRUM" VIR VERSLAAFDES te Sunny Seas, Betties Baai**

As permanente inwoner van Sea Way 2, Betties Baai, teken ek ten sterkste beswaar aan teen die bedryf van 'n rehabilitasie-"plek" in 'n residensiele area te Sunny Seas, Betties Baai.

Redes van beswaarmaking:

\* 'n Sentrum vir rehabilitasie teen verslawing hoort onder geen omstandighede binne 'n residensiele area nie, nog te meer nie in 'n area waar inbrake/kwaaddoen/see-stropery hoogty vier soos in Betties Baai nie.

\* Vanaf so 'n "sentrum" word die omgewing fyn bespied en kwaaddoen-planne intensief beplan indien dit in 'n residensiele area is. Dis 'n lewensbedreigende situasie vir inwoners van die omgewing.

\* Indien so 'n sentrum bedryf word deur opgeleide, SABS-goedgekeurde personeel, onder **streng toesig en doelgerigte rehabiliterings-programme**, kan dit in afsondering tot voordeel van 'n gemeenskap strek, maak verseker NIE binne 'n residensiele area nie.

Graag sou ek skriftelik terugvoer wou ontvang t.o.v:

1. Wie bedryf hierdie sentrum/akkommodasie?
2. Is dit deur die Overstrand Munisipaliteit goedgekeur?
3. Wie finansier dit hier tussen woonhuise?
4. Wie verskaf die opleidingsprogramme? SABS-goedgekeurde programme?

Vriendelik die uwe

S.M.Pienaar - 072 425 6050  
Sea Way 2  
Betties Baai  
Erf 3900  
17 JUN 2016

FILE NO:	EL 3054/16
GRAN NO:	56
COLLABORATOR NO:	911954

2 - JULY 2016

ANNEXURE F 2/185

**KEITH JENKINGS**  
ATTORNEY NOTARY CONVEYANCER

Your Ref:  
Our Ref: KEJ/sc/T9912

7 Sunninghill Road,  
7800 WYNBERG

P O Box 19003  
7824 WYNBERG

Tel: (021) 762 1516 / (021) 762 1519  
Fax: 086 616 5628  
Email: jenkslaw@yebo.co.za  
Docex: 26, Wynberg

TR A Thant  
(Huld Stoep)

2016-06-07



The Municipal Manager  
Overstrand Municipality  
16 Paterson Street  
HERMANUS  
7200  
TELEFAX: (028) 313 2093  
Email: [Loretta@overstrand.gov.za](mailto:Loretta@overstrand.gov.za)

FILE NO:	E1305466
SCAN NO:	
COLLABORATOR NO:	911030

Dear Sir // Madam

**Re: APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE BY ALPAC INVESTMENT CC (REGISTRATION NO. 2009/165613/23) OVER ERF 3054 BETTY'S BAY COMMENTS IN TERMS OF SECTION 51 AND SECTION 52 OF THE OVERSTRAND MUNICIPALITY BY-LAW OF MUNICIPAL LAND USE PLANNING, 2016**

I represent Mrs Susan Turton-Botha who is the owner of Erf 3056 Sea View Drive, Betty's Bay.

My client hereby opposes and objects to the Removal of the Restrictive Title Deed Conditions and Consent Use as applied for by the owner of Erf 3054 Betty's Bay (hereinafter referred to as the 'Applicant').

My client's reasons are as follows:-

1. My client will firstly comment on the application submitted by the applicant. In paragraph 2.1 of the application, the applicant states that the current land use can include single residential dwellings, holiday homes and guesthouses. At the moment, in the area surrounding the property, there are only single residential dwellings and holiday houses but no guesthouses. In fact, Betty's Bay is essentially an area which has holiday homes, residents who are retired persons and some families where the parents commute to towns outside of Betty's Bay to work. Betty's Bay has very few businesses and they are mainly situated

Keith Evan Jenkins (BA, LL.B.)

TP 21 JUN 2016

22 JUN 2016

2.

on Clarence Drive. The character of Betty's Bay is that of a small village of mainly holiday makers and retired persons.

2. In paragraph 2.2, the applicant states that he wishes to operate a "so-called" upliftment centre. In other parts of the application, the applicant refers to opening an institution. The applicant provides very few details as to the nature of the institution and the upliftment centre. The owner refers to the people who will visit the upliftment centre as guests. However, it is my client's contention that the use of the words "guests" is a misnomer as it implies that the institution will be similar to a guesthouse. My client's property is in close proximity to the applicant's property as it is one plot away from the property and the plot between the two properties is a vacant plot. The applicant has been running the upliftment centre since it took ownership of the property in 2014 in contravention of the by-laws of the Overstrand Municipality and my client has been able to observe its modus operandi. Firstly, at times, there have been more than ten persons with up to sixteen adult males at any one time, staying in the property. There have been only men aged between 20 to 40 years of age at the centre and no women and children. The activities involve physical training such as jogging and gym type activities, lectures and loud noise. At night, the noise levels are excessive and the first floor is lit with fluorescent lighting which is very bright. There are no curtains or blinds on the windows and the light shines outside and is a form of light pollution. There do not seem to be any domestic workers on the property so the "guests" do all their own domestic chores such as cleaning, tidying etc. The persons staying at the property are more like persons being assisted in some form of a recovery programme than guests. Also, no means of the occupants' owned transport has been observed since 2014 other than the communal used vehicle to transport the occupants which is normally a bakkie. With ten occupants and a manager and his family, it will mean that there will be least fourteen people staying on the property at any one time which is an excessive amount of people for a single dwelling.
3. In paragraph 5, the applicant states that there is a demand for wellness centres and upliftment centres in the area. There is no demand for an upliftment centre in Betty's Bay. The people visiting the upliftment centre are not from Betty's Bay but have been brought to Betty's Bay from other parts of South Africa. If the applicant runs an upliftment centre with two person per bedroom, it would be similar to a boarding house with the exception that the applicant's occupants would have to be part of the activities of the upliftment centre which is in contravention of the current land use of the property. It should be noted that the Applicant is already running the upliftment centre prior to obtaining approval and is in contravention of the Title Deed Restrictions and the current zoning of the property.
4. In paragraph 8, the applicant requests the upliftment of Title Deed Restrictions so that it can operate the upliftment centre. My client is opposed to the upliftment of these Title Deed Conditions. The restrictive conditions in the Title Deeds are there to serve a particular purpose which is to retain the character of Betty's Bay as a place for families. The Title Deed restrictions specifically state that there should be no hotel, boarding house, canteen, restaurant, bioscope, shop,

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factory or any place of business or entertainment whatsoever on these Erven. Should the Title Deed restrictions be uplifted, then it will immediately change the character and ambience of the area as businesses will be able to operate from the area. It will also create a precedent. Once the upliftment centre is allowed to operate legally, then it would be difficult to prevent other upliftment centres, wellness centres and institutions from opening in the area thus changing the character of the area.

5. In paragraph 9, the applicant states that the proposed consent use and removal of the restrictive Title Deed Conditions will not have a negative effect on the current character and land values of the surrounding erven. It is my client's contention that the opening of the upliftment centre will have a negative effect on the current character of the area. Since the applicant has been operating the upliftment centre, my client has come to Betty's Bay less frequently as it is no longer the quiet place that it used to be where my client could get away from the hustle and bustle of the city. Now, my client's previously peaceful and quiet home is situated next to a place where much activity takes place all day and late into the night. The quiet and stillness which my client previously experienced has been taken away by the activities of the upliftment centre. This will also have a negative effect on land values as it will no longer be sought after as a prime holiday area. My client notes that the owner of the plot next to the upliftment centre has put the plot up for sale and despite being many months on the market, it has not been sold as yet. The Application states that the proposal creates great economic potential which by implication suggests a commercial activity which is contrary to what the Title Deed permits and which will change the character of the area.
6. It is also a concern for my client that should this application be successful that the applicant will not operate within the conditions of the approval. The upliftment centre has been operating since 2014 in direct contravention of the by-laws of the Overstrand Municipality and the Title Deed Conditions of the property. The Municipality has tried to engage the applicant but to no avail. The applicant has evaded service of a summons on it and correspondence sent to it by the Municipality has been ignored.
7. On the diagram attached to the application, the applicant states that the area next to the property is a park. This is not the case. The land has a servitude running over it for the purpose of running utilities such as cables etc. Furthermore the area behind the properties in Sea View Drive is not a public open space but a biosphere which is a protected area and not for use by the general public.
8. My client also wishes to record that the local Ward Councillor Lisel Krige and the Betty's Bay Ratepayers Association are opposed to the present illegal activities on the property as well as the Application for the Removal of Restrictive Title Deed Conditions and consent use.

D

For the reasons as set out above, my client hereby opposes the Application for the removal of the restrictive conditions and for the consent use.

Yours faithfully



**KEITH JENKINGS**

## ANNEXURE F 6/185

Telephone: 028 2729996  
 Email: dmb.za@sonicmail.co.za

PO Box 402  
 Betty's Bay  
 7141  
 17 May 2016

Town Planning  
 Overstrand Municipality  
 Hermanus

for attn : Leonora

TP- A Theart  
 (Hild Steep)



Dear Sirs,  
 OBJECTION WRT PROPOSED DEVIATION FROM TITLE DEED RESTRICTION ERF3054,  
 BETTY'S BAY

I, David M Bossenger the owner and full time occupier of Erf 3162, Seaview Drive, Betty's Bay wish to bring to your attention my strongest possible objection to the application by ALPAC Investment CC for a deviation consent on the abovementioned property to enable them to run an institution.

Reasons:

As a long term resident of Betty's Bay I appreciate the quietness and to a degree the solitude that is found in the village. One of the reasons for moving to the Sunny Seas area from the Jock's Bay area was the restrictions in the title deeds of the erven in the area which prohibit "boarding houses" and restricts the use consent to single residential. This implies a certain degree of solitude and quietness especially in the Sunny Seas area with its large erven. This will be lost if an institution aka a rehabilitation centre/boarding house is permitted.

The present, illegal use of the erf as a rehabilitation centre has, over the past few years, brought this into perspective. Up to 15 persons are accommodated on the erf. There is a daily gym/ running activity both on the erf and in the local roads that causes undesirable activity of noise and bother to the local residents.

The extra noise pollution caused by the extra cars and occasional motor bike visitor accompanied by excessive speeding on roads not designed for more than 20kph.

The loud noises emanating from the property on Sunday evenings.

The light pollution every evening from the "dining room" in the enclosed stoep on the top floor of the property which burn till well after 2200hrs.

The fact that the said property was raided by police with many cars speeding on roads not designed for this purpose.

The general alteration in the deviation from the quietness of the area as well as the fact that laundry water gushes down the driveway carrying phosphate enriched water into the fynbos - something which it is not designed to accept.

It is my considered opinion that the above factors invade my privacy and will affect the value of my house and I therefore request that the application be refused.

Yours faithfully,

DM Bossenger

FILE NO: EL3054-BB
SCAN NO: 55
COLLABORATOR NO: 911946

21 Jun 2016

ANNEXURE F 7/185



**BBRA / BBBV** TP - A Theart  
 CH vid Steep  
 Betty's Bay Ratepayers' Association  
 Bettysbaaise Belastingbetalersvereniging



The Municipal Manager  
 Overstrand Municipality  
 16 Paterson Street  
 PO Box 20,  
 Hermanus  
 7200  
 Email: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

FILE NO: EL 3054 14 June 2016
SCAN NO: 54
COLLABORATOR NO: 911940

Dear Sir,

**FILE REF 3054 KBB (3205) PENGUIN TERRACE / 11 SEAVIEW DRIVE  
 BETTY'S BAY: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND  
 CONSENT USE: PLAN ACTIVE ON BEHALF OF ALPAC INVESTMENT CC**

As Chairperson of the Betty's Bay Ratepayers' Association (BBRA), I write in support of the members of our Association - some 400 property owners.

I wish to comment on the notice given in terms of Section 51 and 52 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016.

It must be noted that the erven in the entire Sunnysseas Area of the Betty's Bay Township are all zoned as 'special residential' to my knowledge. In view of this zoning, property owners, are restricted in accordance with their registered title deeds to the conditions prescribed.

I have received several complaints from our members in the Sunny Seas area, that the conditions as prescribed in the said title deeds, were not enforced timeously by the municipality, as the owner was allowed to use the property for other purposes as 'special residential', since 2014 and prior to this application for the removal of restricted conditions. It is with grave concern that we have taken note of the current state of affairs. This issue was also discussed at length at a ward 10 meeting, chaired by the Ward Counsellor, Lisel Krige, where concerned citizens expressed their unhappiness with the situation.

The application for the removal of the Restrictive Title Deed Conditions and Consent Use in order to utilize the existing dwelling as an upliftment centre/also called institution in the application, claims that the current zoning is that of residential zone 1. According to my knowledge, the Sunny Seas area and this specific stand, is zoned as 'special residential'. This has the implication that all the residents of the Sunny Seas area should be consulted on the matter.

**The BBRA opposes and objects to the Removal of the Restrictive Title Deeds Conditions and Consent Use as applied for by the owner of Erf 3054.**

Chairman: Rud Pistor  
 024 272 2704

Treasurer: Adrian de Kock  
 052 940 8879

Secretary: Adrian de Kock  
 0752725998

8876 P.O. Box 49 Betty's Bay, 7121

BBBV Postbox 49 Betty's Bay, 7121

21 JUN 2016



## BBRA / BBBV

Betty's Bay Ratepayers' Association  
 Bettysbaaise Belastingbetalersvereniging

The reasons are as follows:

1. This application is not supported by a needs assessment conducted within the area amongst residents, to confirm that the community has a need for such a facility. From all the complaints received from property owners, it is clear that not all the affected parties were consulted on the matter. Betty's Bay is an area with holiday homes, permanent residents who are mostly retired and a small number of families, where the man/woman is still employed outside the town.
2. Betty's Bay is a lifestyle seaside village with a rural/country atmosphere. Thus there is only a small number of Business Properties. No land has also been earmarked for Industrial Development, as there is no need for such. The proposed upliftment centre in a special residential area, will therefor negatively impact on the character of the village. The current zoning and Title deed restrictions as imposed by the Hangklip Beach Estates Limited, serve the purpose to maintain the character of the village. Therefor noise and light pollution is limited to a great extent.
3. It is not only the ratepayers in Sunny Seas that will be affected, should Council approve this application, but the entire village. The approval as such will create a precedent. It is foreseen that more applications would then certainly follow in terms of relaxation and/ or waving of title deeds restrictions.

Yours faithfully,

**(W.R.B. PEROLD)**  
**CHAIRPERSON BETTY'S BAY RATEPAYERS ASSOCIATION**

Chairman: W.R. Perold  
 026 272 8034

BBRA: P.O. Box 48 Betty's Bay, 7141

Treasurer: Adrian de Kock  
 082 940 4818

BBBV: Postbus 48 Betty's Bay 7141

Secretary: Adrian de Kock  
 026 272 8034

ANNEXURE F 9/185

The Municipal Manager  
Overstrand Municipality,  
PO Box 20  
Hermanus 7200



Re: Erf 3054 Seaview Drive, Betty's Bay.  
Removal of constrictive conditions and consent use

The Title Deeds imposed by the Hangklip Estate on the residents of Sunny Seas are explicit in explaining their rights with reference to Clause C (ii) (n) and C (ii) (m).

In view of the fact that all the properties above Clarence Drive in Sunny Seas have even more restrictive Title Deed conditions that limit all these properties to residential only. May I suggest you familiarize yourselves with all the conditions of the relevant Title Deeds.

With reference to the foregoing, my commentary follows:

Herald 5 May Edition:

- The advertisement contains incorrect information and is also vaguely worded. *Institutional rights* does not clearly define the intent of the current owners of the property. A more elaborate explanation and justification should have been supplied.
- I followed up by viewing the documents on display in the Kleinmond Library, only to find, to my dismay, that they were incomplete.

Should Sunny Seas property owners not have obtained a copy of the relevant Herald containing this notice – they are ignorant of all these

FILE NO:	Erf 3054 BB
SCAN NO:	51
COLLABORATOR NO:	911931

27 Jun 2016

proposals which I regard as being contra to the spirit in which we legally bought our properties. And to the conditions of our Title Deeds by which we abide.

In addition, Clause 17 (w) (5) (a) of the National Building and National Building Regulations of 1977 is prescriptive of how any change of Title Deed should take place. This has been ignored.

#### Queries

- How come this undefined business at 3054 Seaview has been allowed? It has been a year since 'it' (whatever 'it' may be) has been in operation.
- If the conditions of the Title Deeds were indeed drawn to the attention of the owners, how come the rights of 99.99% of the Sunny Seas population must accept them?
- Why were all the residents of Sunny Seas not informed by the Municipality of the proposed change?

In this instance, I have no other choice than to strongly object to the removal of the constrictive conditions.



Louis van Heerden

I am the registered and resident owner of Erf 3221 Dolphin Drive in Sunny Seas, Betty's Bay.

15 June 2016.

ANNEXURE F 11/185

TP-A Theart  
C H vld Stoep)Posbus 820  
SOMERSET WES  
7129

23/05/2016

Die Munisipale Bestuurder

OVERSTRAND MUNISIPALITEIT  
POSBUS 20  
HERMANUS  
7200

Geagte Heer/Dame

**ERF. 3054 SEAVIEWRYLAAN 11, BETTIESBAAI: OPHEFFING VAN BEPERKENDE VOORWAARDES EN VERGUNNINGSGEBRUIK**

1. Ons, Louis Schabbert Wessels en Susanna Johanna Wessels, is trustees van die Sulich Trust registrasie nr: ITS10/2001 wat 'n titelhouer is van Erf 3245 Sunny Seas dorpsgebied Bettiesbaai.
2. Ons verwys na u advertensie in Overstrand Herald van 05/05/2016 waarin u twee van die beperkings soos wat onderskryf word in die titel akte TS4244/2014 wil ophel.
3. Graag wys ons u daarop dat volgens die Wet op Nasionale Bou-regulasies en Bou Standaarde nommer 103 van 1977 en die "Removal of Restrictions Act" 84 van 1967, hierdie proses soos wat u dit voorstel onwettig is en ons daarteen wil beswaar maak.
4. Ons beskou die stigting van 'n "inrigting" of "upliftment centre" in 'n bestaande woonbeurt totaal onvallas en onaanvaarbaar is en wil hierteen beswaar maak.
5. Indien u voortgaan met u plan sal ons ongelukkig ons tot die reg moet wend.
6. Ons vertrou egter dat u nie sal voortgaan met u beplande opheffing van bestaande regulasies op hierdie onwettige wyse nie.

Vriendelike groete,

DR LS WESSELS

MEV SJ WESSELS

FILE NO:	EL 3054/B
SCAN NO:	49
CELLAR/BOEKHOUD NO:	911929

23 Jun 2016



DEPARTEMENT VAN JUSTISIE  
REPUBLIC VAN SUID-AFRIKA

## MAGTIGINGSBRIEF

Ingevolge artikel 6(1) van die Wet op Beheer oor Trustgoed, 1988 (Wet 57 van 1988)


No: IT510/2001

Hiermee word gesertifiseer dat **LOUIS SCHABORT WESSELS**  
en **SUSANNA JOHANNA WESSELS**

gemagtig word om as trustees van die **SULICH TRUST**

op te tree.

GEGEE onder my hand te KAAPSTAD op hede die            dag van            2001

  
Asst. Meester van die Hooggeregshof



SB

## ANNEXURE F 13/185

Posbus 278,

Betty'sbaai

7141

10 Junie 2016

Munisipale Bestuurder

Overstrand Munisipaliteit

Posbus 20

Hermanus

Meneer,

I/S Erf 3054, Seaview rylaan 11, Betty's baai en die opheffing van beperkende voorwaardes en  
-grunningsgebruik.

1. Ek, J de Koker, is die titelhouer van erf 3336, Sunny Seas, Betty's baai.
2. Die opheffing van beperkende titel voorwaardes ten einde die eienaars van erf 3054 in staat te stel om 'n inrigting vanaf die eiendom te bedryf is vir my totaal onaanvaarbaar en wel om die volgende redes:
  - Die erwe bokant Clarence rylaan, wat hierdie besondere erf insluit, se titelaktes beskryf die erwe juis as "special Residential" wat bogenoemde teenstaan.
  - Ons dorpie bestaan hoofsaaklik uit vakansie huise waarvan slegs 'n klein persentasie permanent bewoon word deur meestal afgetrede bejaarde persone.
  - U beskryf nie die aard van die inrigting nie! Ons verneem die huidige situasie is dat sogenaamde dwelm verslaafdes daar gehuisves word vir "rehabilitasie".
  - Ons het dié inligting met 'n omweg bekom, maar ons kommer is bevestig deurdat van die inwoners van erf 3054 nou die dag 'n man gesoek het wat, volgens hulle, "afgodwaal en gevaarlik" is!!!
  - Die manier waarop die inwoners van erf 3054 in ons strate op militaristiese manier gemarsjeer word en oefeninge doen skep vrees en onsekerheid onder die inwoners wat gewoon is aan 'n alledaagse rustige vakansie atmosfeer.
  - Die groep bly dan ook nie net op die paaie nie, maar betree sonder toestemming privaat eiendomme.
3. Wat my egter die meeste ontstel is dat ek u kennisgewing van 'n mede inwoner ontvang het! Is u nie veronderstel om ons as titelhouers skriftelik in kennis te stel van u voorneme nie. Die inwoners wat naaste aan erf 3054 woon was nie eens bewus van u voorneme nie!
4. Weet die uitstedege eienaars van eiendomme en vakansie huise in die omgewing van u voorneme? Hulle het nie 'n Overstrand Herald tot hul beskikking nie!
5. Indien u hierdie voorneme van die eienaars van erf 3054 toestaan, al is dit met die beste voorskrifte en beperkings, voorspel ek dat dit definitief die waarde van ons eiendomme en die aansien van ons dorpie nadelig gaan beïnvloed.

Johan de Koker

028 272 9281/083 282 5326



FILE NO:	EL 305468
SCAN NO:	50
COLLABORATOR NO:	911930

ANNEXURE F 14/185

Tel: 028 2729508

TR A-Heart  
(Huldstoep)Posbus 192  
Bettysbaai  
7141  
16 Junie 2016

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Posbus 20  
HERMANUS

Meneer

Erf 3054 Seaviewrylaan 11, Bettysbaai: opheffing van beperkende voorwaardes en vergunningsgebruik

- 1 Ek, F J J van der Westhuizen, is die titelhouer van erf 3242, Sunny Seas dorpsgebied, Bettysbaai.
- 2 In die eerste paragraaf van u advertensie in die Overstrand Herald van 5 Mei 2016 verwys u, onder andere, na Klousules C(i)(b) en C(i)(n). Beide hierdie klousules bestaan nie in die afskrif van Titelakte T54244/2014 wat u kantoor aan my beskikbaar gestel het nie. Vir die doel van hierdie skrywe aanvaar ek egter dat u in werklikheid moes verwys het na klousules C(i)(5)(b) en C(ii)(n).
- 3 Klousule C(ii) van die genoemde Titelakte lees "Imposed by Hangklip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered owner of any property in the Township". Ek heg hierby aan 'n Aktebesorger sertifikaat waarin dit bevestig word dat elke eienaar van enige Erf in Sunny Seas Dorpsgebied regte het of mag hê ten opsigte van klousules C(ii)(n) en C(i)(m) wat u wil verwyder.
- 4 Klousule 17(w)(5)(a) van die WET OP NASIONALE BOUREGULASIES EN BOUSTANDAARDE NO. 103 VAN 1977, en klousule (4)(b) van die REMOVAL OF RESTRICTIONS ACT 84 OF 1967, skryf 'n prosedure voor wat in sulke gevalle gevolg moet word. U het hierdie voorgeskrewe prosedure nog nie gevolg nie en twee van die beperkings wat u wil ophef kan nie gedoen word voordat u aan die voorgeskrewe prosedure voldoen het nie. Hierdie voorgeskrewe prosedure maak, onder andere, daarvoor voorsiening dat 'n afskrif van die kennisgewing (feitelik korrek) per geregistreerde pos aan die persone in wie se guns die serwituit, beperkende voorwaarde of ander bepaling geregistreer is, gestuur word.
- 5 Ek en nog 'n persoon het maande gelede, seker baie na aan 'n jaar, hierdie huidige onwettige gebruik van die betrokke huis met u Direkteur:

FILE NO:	EL 3054/BB
SCAN NO:	118
COLLABORATOR NO:	911925

Infrastruktuur en Beplanning bespreek. Tydens hierdie gesprek is ons onder die indruk gebring dat daar 'n poging aangewend word om hierdie onwettige benutting te staak. Dit is absoluut onaanvaarbaar dat die Munisipaliteit toelaat dat die regte van titelhouers vir maande lank geskend word. Die regte prosedure is dat die onwettige benutting onmiddellik, wanneer dit onder die aandag van die Munisipaliteit gebring word, gestaak moet word en dat goedkeuring daarvoor vooraf verkry moet word.

- 6 Hierdie besondere erf, tesame met andere aan die bokant van Clarence rylaan, is deur die Administrateur geproklameer as 'n "Special Residential erf" waar 'n inrigting soortgelyk aan wat nou daar be-oog word, nie bedryf mag word nie. Indien 'n inrigting soos be-oog word daar toegelaat word, sal dit die waarde van die ander eiendomme negatief beïnvloed want wie wil nou so 'n bedryf langs of in jou omgewing he.
- 7 Die gebruik van die woord "inrigting" of "upliftment centre" is totaal onvoldoende. Waarvan moet hulle ge"uplift" word? Is hulle gewoontemisdadigers, dwelmsmokkelaars, verkragters, spioene of wat? Daar word na tien persone verwys, maar ek het al in die hoogs gedissiplineerde peloton waarin hulle in die strate van Sunny Seas marsjeer vyftien persone getel. Daar word voorgestel dat tien persone in vyf kamers gehuisves word. Waar word die mense wat na hulle omsien geherberg? Daar is geen kommunikasie tussen die mense wat in hierdie gebou tuisgaan en die res van die gemeenskap nie. Dit is 'n totale geheimsinnige "inrigting". Die persone wat daar ge"uplift" word is nie van die plaaslike omgewing nie maar word van elders ingevoer. Die mense wat in hierdie dorpsgebied woon het nie "uplifting" nodig nie en wil nie gepla word deur mense wat wel "uplifting" nodig het nie.
- 8 Indien al die bogenoemde faktore in aanmerking geneem word het ek geen ander keuse as om u te versoek dat die aansoek nie toegestaan word nie. Ek versoek derhalwe dat die onwettige benutting van die eiendom binne 30 dae na 17 Junie 2016 gestaak word.

Die uwe

  
F. J. v. d. Westhuizen



T +27 21 671 1620  
F +27 21 671 1926  
E reception@legacyfs.co.za

Legacy House, Block Y  
Greenford Office Estate  
Purifiers Way, Randbush, 7708

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www.legacyfs.co.za

PO Box 23485,  
Claremont, 7735

15 June 2016

Attention: The Municipal Manager

Overstrand Municipality  
PO Box 20  
Hermanus  
7200

CC: loreita@overstrand.gov.za

Dear Sirs

**RE: ERF 3054, 11 SEAVIEW DRIVE, BETTYS BAY, OVERSTRAND MUNICIPAL AREA,  
REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE**

With reference to the above and in particular the notice which appeared in the Overstrand Herald on the 5<sup>th</sup> of May 2016 (Municipal Notice number: 73/2016), I advise that I am the administrative trustee of The Wavecrest Trust which is the registered owner of Erf 3418, Bettys Bay and situate at Dolphin Drive, Sunny Seas, Bettys Bay.

Please note that the aforesaid notice was by pure chance handed to me by a local resident since the beneficiaries of the trust live in Johannesburg and Cape Town. It is considered that the trust should have received a specific notice via prepaid registered mail in relation to the above application.

Please record and take note of the trust's objection to the aforesaid application based upon the following:

- The aforesaid notice merely makes mention that the owner of Erf 3054 applies for the removal of restrictive conditions of title to enable the owners to "operate an institution on the property". No mention is made of the nature of the institution but I have been given to understand that same is for the purpose of operating a drug rehabilitation center of some sorts.
- It is furthermore my understanding that the owner is already (and has been for a considerable time) been operating an illegal "institution" at the subject premises and is now belatedly applying for the removal of the restrictive conditions as well as a consent use to enable the owners to operate the aforesaid institution after the fact.

/s/

Shirley M. M. M. M.

D. V. M. M.

C. M. M.

M. M. M.

15 JUN 2016



TR A Theart  
(CH old stamp)

FILE NO:	ERF 3054-88
SCAN NO:	52
COLLABORATOR NO:	911934

## ANNEXURE F 17/185



FIDUCIARY SPECIALIST ADVISER

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 E mcephan@legacyfs.co.za

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 Claremont, 7715

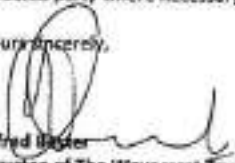
-2-

- c) By removing the restrictive conditions of title (which is desirable) it would pave the way for any other owner in the area to apply for a similar removal of restrictive conditions which is not desirable.
- d) The Title Deed of the applicant's property contains a clause reading "imposed by Hangklip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered owner of any property in the Township" (my underlining). The relevant Act regulating National Building Regulations and Standards (Act no. 103 of 1977) as well as the Removal of Restrictions Act no. 84 of 1967 prescribes the requisite procedures for the removal, *inter alia*, of restrictive conditions of title. It is submitted that these regulations have not been followed.
- e) The activity is out of character with the area and not desirable.
- f) The Doctrine of Legality (the legal principle which you are no doubt aware of and furthermore the numerous decided cases ruling on the issue) would prohibit any consent use after the fact and as such it is necessary that the requisite notice be serviced on the owner (immediately) to cease the activity which is conducted at present.
- g) The subject property is a "Special Residential Erf" and the current activity is specifically prohibited.

I hereby reserve the right to make further representations at the necessary place and forum and also as and when further information may come to light.

For record purposes, kindly acknowledge receipt of this letter and also register the trust as an interested and affected party where necessary.

Yours sincerely,

  
 Alfred Esterhuysen  
 (Trustee of The Wavecrest Trust)  
 DIRECTOR - FIDUCIARY SPECIALIST

Deborah Ann Hudson

Chris Murphy

Charles Green

Alfred Esterhuysen

ANNEXURE F 18/185

From: David Horne <david@horne.za.net>  
 To: <tricia@overstrand.gov.za>  
 Date: 17/06/2016 11:15 AM  
 Subject: Municipal Notice No. 73/2016

TP- A Theart  
 C H Vld Steep)  
 Erf 3054, Betty's Bay

To Whom it may concern,

Regarding Municipal Notice No. 73/2016, regarding application for removal of restrictive title conditions applicable to erf 3054, Betty's Bay, regarding running of an institution.

**My Details**

David & Tricia Horne  
 3193 Pearl Drive  
 Betty's Bay  
 david@horne.za.net  
 083 556 9117



I hereby register my interest in this matter as I am a resident of the immediate area in which the institution wishes to function. My comments and concerns are listed below, in no particular order.

1. No attempt has been made by the owners and/or operators to contact us, as close residents, to inform us as to their plans, objectives, methods of operating etc.

2. As the owners and/or operators have wilfully engaged in operations contrary to existing title conditions, and continue to wilfully operate disregarding municipal conditions, I believe that the owners and/or operators will likely continue to operate without due regard to the laws applicable. Precedence has been set where there is wilful defiance and contempt of the law, and this attitude is unlikely to change.

3. Current operations have resulted in a change to the local feel of the immediate area, where residents at said institute engage in regular walking exercise in the surrounding streets, in large groups. While no known problems have arisen from this, it has resulted in family and neighbours feeling less secure, and unwilling to walk in the streets unaccompanied. Clearly there is a level of inadvertent intimidation due to the size of the groups of men walking around. This therefore has a direct impact on our lifestyle in Betty's Bay. This is further exacerbated due to the fact that the residents of said institute are strangers to the area, unlike the permanent residents, who are known and recognised.

4. It is indisputable that drugs are closely linked to crime. This raises the very real and legitimate concern that there may be currently, or in the future, criminal activities due to the presence of the institution and its residents. In order to explain this point, I give an example below.

**EXAMPLE SCENARIO.**

Drug dealers become aware of the institution and decide to target the residents. As there are no fences, restrictions, or guards, they have easy access to the residents. Furthermore, as the residents engage in outside activity, open access to them is possible. As the residents are recovering addicts, they are exceedingly vulnerable to being tempted

FILE NO:	Er 3054-68
SCAN NO:	53
COLLABORATOR NO:	911938

TP 17 JUN 2016

21 JUN 2016

engage in further drug use. In order to get money for selling drugs, the dealers target them, offering, initially, free drugs. Once the target is "hooked" again, the offer of free drugs is withdrawn and payment is now required. As they do not have cash with them, the residents are encouraged to turn to crime, and are thus tempted to engage in petty, serious, and even dangerous crimes, in the immediate neighbourhood. This in order to obtain cash, sell-able items, or trade-able items in order to pay the drug dealers.

END

I sincerely believe this above scenario is a very real, legitimate and possible scenario. This would have a devastating effect on the Betty's Bay area.

While an institution for recovering addicts is admirable, and such institutions are necessary, I believe that the willingness to ignore the laws, and operate illegally show that the the owners and/or operators are not interested in running a legitimate operation.

The above forms a summary of my submission and expression of interest. I would like to receive receipt of my submission, and to be informed of any progress, changes, open and/or closed meetings regarding this situation.

Kind regards

David Home

ANNEXURE F 20/185

028 272 9509  
082 895 0870Seaview rylaan 3145  
BETTYSBAAI  
15 Junie 2016TR A Theat  
(Huldshop)Me H. v/d Stoep  
Senior Stadsbeplanner  
Overstrand Munisipaliteit  
HERMANUS

FILE NO:	E1 3054-88
SCAN NO:	47
DELETERATOR NO:	911920



Geagte Me v/d Stoep

OPHEFFING VAN BEPERKENDE VOORWAARDES ERF 3054, SEAVIEWRYLAAN 11, BETTYSBAAI

Munisipale kennisgewing Nr 73/2016 verwys.

Ek en my eggenote is eienaar van Seaviewrylaan 3145, Bettysbaai, en ook permanente inwoners van genoemde eiendom.

Die eiendom te Seaviewrylaan 11 ( 3954 ) is ongeveer 300 meter van ons eiendom af. Sederd die " inrigting " wat op genoemde perseel bydryf word, hulle bedrywighede begin het, ervaar ons op, feitlik 'n daaglikse basis, dat die mense wat daar " behandel " word, in tipiese militêre styl soos 'n infanterie peloton in die straat verby hardloop en dreuning.

Dit gebeur soms dat daar in die aand 'n geskree in die eiendom is soos wat mens hoor in universiteits koshuise wanneer eerstejaar studente ontgroen word.

Daar is oënskynlik nie toegangsbeheer by die perseel nie. In Nov 2015 was ek bo in my huis toe die huishulp baie benoud geskree het uit die waskamer. Toe ek afhardloop met die trap het ek een van die inwoners van daardie " inrigting " binne in my werkskamer aangetref. Hy het my op en af bekyk en my eerste indruk was dat hy besig was om te takseer of hy my gaan vat en of ek dalk te veel vir hom gaan wees. ( Ek is 64 jaar oud .) Ek het hom gelas om onverwyld my e eiendom te verlaat. Hy het in 'n vreemde taal begin praat en nader gekom na my toe. Ek het 'n hamer van die rak gegryp en hom opdrag gegee om dadelik pad te gee. Hy het toe omgedraai en weggehardloop. Ek het dadelik die polisie in Kleinmond gebel en die saak verduidelik en hulle gevra om uit te kom. Wat nooit gebeur het nie.

'n Paar minute later het daar twee ander van die " inrigting " af gekom en na die man gesoek. Hulle het hom later gevind en het saam met hom teruggestap na hulle perseel.

Dit is geen geheim dat dwelmafhandlikes onvoorspelbaar is en soms uiters gevaarlik is nie.

Ons het in Bettysbaai kom aftree uit die Noordwes provinsie. Die sêfte, ongereptheid en veiligheid was van die grootste oorwegings waarom ons hierdie eiendom gekoop het. Hier is oorwegend ouer mense en dames wat alleen woon in ons straat. Die gevoel is dat ons vrede nou bedreig word

TP 17 JUN 2016

25 JUN 2016

aangesien hierdie 'n residensiële area is en daar waarskynlik baie ander plekke is wat baie meer geskik is om 'n sentrum vir dwelmverslaafdes te plaas.

Hiermee wil ons ernstig verzoek dat u nie die aansoek van ALPAC INVESTMENT CC soos vervat in hulle aansoek, sal goedkeur nie. Dit is nou makliker as om te wag tot daar 'n insident plaasvind wanneer iemand beseer of gedood word!!

Die uwe,

Frik en Linda Le Roux  
510911 5047 080 ( Frik )  
550915 0060 080 ( Linda )

Handwritten signatures of Frik and Linda Le Roux in black ink. The signature of Frik is written above the signature of Linda.

ANNEXURE F 22/185

To: Senior Town Planner  
 Ms. H van der Stoep  
 Overstrand Municipality  
 Hermanus.  
 The Municipal Manager  
 Overstrand Municipality  
 P.O. Box 20  
 Hermanus  
 7200



Date: 12/06/2016

TR A Theart  
(H van der Stoep)

FILE NO:	EL 3054-6B
SCAN NO:	12
COLLABORATOR NO:	911523

To whom it may concern,

**Re: Municipal Notice No: 73/2016 - ERF 3054, 11 Seaview Drive, Bettys Bay, Overstrand Municipal Area: Removal of Restrictive Conditions and Consent use: Plan Active (job: Alpac Investments.)**

In accordance with the provisions of Section 51 and 52 of the said By-Law, We wish to submit our written objection to the above request for reasons as follows:

1. I am the property owner of erf 3160 Seaview Drive, Bettys Bay
2. The property was purchased for our retirement years, and the area was chosen due to its "village" feel, small holiday town and safe environment to name a few.

**In regard to the application submitted by the owner of Erf 3054 Bettys Bay: I submit the following comments,**

**Point 2.1**

The area of Bettys Bay, specifically Seaview Drive, is zoned RESIDENTIAL ZONE 1, in terms of the Overstrand Municipal Zoning Scheme and I am requesting that this remains in force and the area remains a residential area. If businesses are allocated approval to operate in this area the impact on the environment will be negatively affected. The current infrastructure, namely the roads would need to be upgraded etc..

**Point 2.2**

The request from the owner to have the property to be used as an institution and the removal of restrictions Act, Act 84 of 1967, for the removal of restrictive title deed conditions should be rejected. The owner is referring to an "institution" which as I understand is not legally registered and therefore does not exist.

20 JUN 2016

**Point 4**

Land use: All properties in Seaview Drive are Zoned for Residential use, and therefore subjected to the current Bay – Laws that are in existence. I believe, that the current property, erf 3054 is in contravention of these laws and is operating a business.

**Point 5 Proposal**

The owner of Erf 3054, sees similarities in a Guest House and his proposal. I would disagree. His proposal omits some important details, namely, is the proposed centre available to anyone? Is the centre a private initiative with some form of professional expertise in wellness or has been sanctioned by a higher legal authority? Is the proposed wellness centre a profit making business and therefore liable for income tax?

**Point 8**

The Title Deed: I strongly request that the proposed change to the current restrictions pertaining to erf 3054 is rejected and the current deed conditions remain in force. The proposal lacks both substance and offers no economic potential or added value for the area. The area of Betty Bay has maintained a uniqueness in its offering to its home owners and the many visitors to the area. It is internationally recognised as a picturesque seaside village largely unspoilt by commercial businesses.

Regards,



Paul and Dawn Discheiter

Erf 3160 Seaview Drive

Betty Bay

Contact Number: 0824927864

E mail : paulrisc@rweb.co.za

ANNEXURE F 24/185



Our Ref. : Letter 2016 05 04.docx  
 Your Ref. : Municipal Notice No. 73/2016  
 Date : 12 June 2016  
 Attention : The Municipal Manager

TP A Theat  
 CH vbl Stoep)

Municipal Manager  
 Overstrand Municipality  
 Patterson Street  
 HERMANUS  
 7200

FILE NO:	EL 3054 BB
SCAN NO:	
COLLABORATOR NO:	910800

Dear Sir

RE: Municipal Notice No. 73/2016  
 OVERSTRAND MUNICIPALITY  
 ERF 3054, 11 SEAVIEW DRIVE, BETTYS BAY, OVERSTRAND MUNICIPAL AREA: REMOVAL OF  
 RESTRICTIVE CONDITIONS CONSENT USE: PLAN ACTIVITY (obo ALPAC INVESTMENT CC)

**WRITTEN COMMENTS**

**Name:** Kornelius Lion-Cachet  
**Address:** 3159 Seaview Drive (Owners)  
**Contact Details:** [kameels.lc@gmail.com](mailto:kameels.lc@gmail.com), 083 555 0077, 5 Mountain Rose Road, Protea Valley, 7530  
**Interest in Application:** Neighbour  
**Reasons for comments:** Oppose removal of restrictive conditions application on Erf 3054

The property is used currently un-lawful already for institutional reasons and the following conditions are experienced.

- 1) We experience continued noise disturbance through singing and shouting of a group of young men especially during sundown and night times. Each evening for example the group of young men start shouting the name "Allah" for an hour, commencing with a pulsating song and ending most loud, enthusiastically and aggressively. During the day there are many times gymnasium sounds of weights being moved and shouts of young men vocally pronounced their efforts, and punching and kicking sounds into a punching bag. Very strict routine of song and vocal prayer is followed through the day and night. All of these change the character of the residential area which consists of holiday homes in the Kogelberg biosphere.

- 2) We experienced light pollution during night times which have a negative effect on the character of the area with no street lighting and where all residents are keen not to pollute the environment with lights protruding beyond erf boundaries. Erf 3054 installed fluorescent lights on the balcony protruding many erfens, lighting up a large area at night (including our property and beyond). This is contradictory to the character and intent of the residential and environmental area. The owner and residents of the house prove to be insensitive in this regard to all the surrounding residents acting without consideration to the environment.
- 3) The already un-lawful use of the property for institutional and/or rehabilitation? purposes prove an anticipated future attitude of disregard to bylaws and title deed restrictions. The approval of the request to remove some restrictive conditions could therefore, in anticipation, lead to other un-lawful activities.
- 4) These recorded negative impacts on the residents and area could lead to the de-evaluation of property values, and although the owner of erf 3054 could benefit economically from the renting out for institutional and rehabilitation purposes, the rest of the residents in the area could experience the opposite.



Kemeels Lion-Cochet

TR A Theart  
C H Vld Stoep

Loretta Gillion - Fw: PA15034



**From:** <terrsimo@mweb.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 24/04/2017 08:29 AM  
**Subject:** Fw: PA15034  
**Cc:** <planactive@hermanus.co.za>

Re: Erf 3054, Betty's Bay

Dear madam

I refer to the above and my e-mail to the applicant. Unfortunately i have not received a reply and thence was unable to make a reasonable evaluation of this application. Giving that they have been remiss in this issue I would be obliged if you would indeed lodge an objection to this application as I have not been given the courtesy of a reply from the applicant to enable me to respond appropriately by the 7th April.

Sincerely

Terry Simon  
 erf 3380 Mermaid Road

**From:** terrsimo@mweb.co.za  
**Sent:** Thursday, March 09, 2017 2:50 PM  
**To:** planactive@hermanus.co.za  
**Subject:** PA15034

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	37
COLLABORATOR NO:	1016510

Dear Sirs

The above was received by us today. Please respond to the following to enable us to evaluate this proposal with greater understanding so we can respond accordingly.

1. What is an upliftment centre, what is the target market and what type of guests is it envisaged to attract.
2. You advise in 3 zoning that the erf has the following rights – this is indeed not true as you are applying for the title deed restriction to single dwelling only to be removed. The area where commercial rights are allowed in Sunny Seas is clearly shown on the map on page 8.
3. In 4 you advise that erf 3054 is used as an upliftment centre – you are therefore not applying for a future use but to condone an already illegal use of the property. You also refer to surrounding guest houses. Please indicate the erven on which they are sited.
4. in 5 you refer to the demand for wellness centres and upliftment centres and related land uses in the area. From where does this demand stem and please provide evidence of it. We have had our house for some 28 years and have never heard of such a demand. YOU state that the number of people accommodated will be similar to a standard 5 bedroom guest house, but there are none to in the area to our knowledge

P 24 APR 2017

You also refer to guests visiting the centre not requiring medical interventions. I repeat my question - what is an upliftment centre?

5. In 7 you refer to the impact being compatible with surrounding guest house land use? – see 3 above. Your assumption c that a commercial enterprise is no different from family ownership a or b is

totally off the mark. Betty's Bay owners enjoy peace, quite, low lights, fynbos and nature. Commercial enterprise owners and guests have different objectives and attitudes.

6. Under 9 you refer to an enclosed conveyancer certificate – what is the relevance of this and none was enclosed.

7. In 10 you state the primary use of the subject property will remain for residential purposes. This contradicts and indeed invalidates your whole your proposal to change this to commercial and remove

the title deed restrictions.

8. In 10.2 you state the impact on the environment will not be greater than developing the subject property for guest house purposes – but a guest house is not permitted on this property.

9. In 13 you refer to a much needed social service to the people of Betty's Bay – much needed by whom and to whom. Although we have owned our property since 1987 we have never been asked or

consulted as to whether such a facility was required.

10. In 13 you also state the area consists "mainly" of single residential, holiday houses and guesthouses. This is blatantly not true.

11. In 14 you state the proposal creates great economical potential – yet nowhere in the whole document do you refer to this – the only economical potential we can foresee is for the applicant.

I trust you will provide a quick and enlightening response to the above which will persuade us that we should not object to this proposal without having a properly understanding, which I am afraid your communication as it stands does not provide.

Sincerely

TJ and JM Simon

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
	49
COLLABORATOR NO:	1012145

TR A Theart  
(CH Mol Stoop)

### VENTER FAMILIE

6 April 2017



Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus Administrasie  
Per epos

### BESWAAR TEEN OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK VAN ERF 3054 BETTIESBAAI

Geliewe hiermee ons beswaar te ontvang teen die voorgename opheffing van titelbeperkings en vergunningsgebruik van bogenoemde erf.

#### VERKEER

Ons is al vir meer as tien jaar inwoners van die rustige aftreedorpie wat Bettiesbaai is. Deel van die aantoklikheid van die dorp, buiten sy natuurskoon en vars lug, is die rustige karakter van die inwoners en veral die stilte op die strate waar dit tans vir residensiële gebruik gesoneer is.

Die voorgename veranderinge maak voorsiening vir die bedryf van 'n besigheid, wat heeljaar 'n in en uitvloei van mense sal teweegbring. Daar is dus ekstra lading geplaas op die toevoerroetes, en daar word geen voorsiening gemaak vir parkering van die persone wat van die besigheid se dienste wil gebruik maak nie.

Die paaië, buiten die hoofpad en sekere systrale, is oorwegend nou grondpaaië wat nie geskik is vir 'n toevloei van mense en voertuie wat vir verlengde periodes geparkeer sou staan nie.

Die blote vloei van meer verkeer op die rustige strate van ons dorp sal reeds 'n nadelige uitwerking hê op mense soos ons wat lief is om in die dorp te stap.

#### VEILIGHEID / MISDAAD

Dit is waarskynlik 'n mooi beskouing om te verwys na die voorgename besigheid as 'n opheffingsentrum. In der waarheid is dit 'n plek waar dwelm- of drankverslaafde persone tuis sal gaan en gehuisves sal word, in verskillende stadiums van hul verslawing.

Die persone lewer vanuit hul verslawing 'n risiko van terugval na hul voormalige lewe, en is sodanig ook 'n risiko vir die fisiese veiligheid van alle inwoners en eiendom in die omgewing.

[Pick the Date]

TD 7 APR 2017

Die van der merwe familie

Dit is 'n bewese feit dat dwelm- en drankverslaafdes se inhibisies aan bande gelê word en nie sal skroom om geweld te gebruik, of oneerlik op te tree soos met diefstal, om aan hul verslawing se drange te voldoen nie. Al is dit bloot 'n risiko, is die risiko gegrond op voor die hand liggende redes.

Daar is baie kwesbare, bejaarde teikens in 'n afgeleë en ongepoliseerde gebied soos Bettiesbaai, wie se naaste Polisie-stasie in Kleinmond geleë is, meer as 10 km ver.

Dit is dus deel van ons beswaar dat die Munisipaliteit nie moet titelbeperkings ophel wat sulke toestande kan bevorder nie.

#### GERAAS

Die inwoners van Bettiesbaai, het ons oor die jare gevind, is rustige en vredeliewende mense, soos ons. Daar word nie sommer harde musiek saans gespeel nie, daar is nie ontwrigting met oproerige onluste of soortgelyke probleme nie.

Die bedryf van 'n besigheid vir dwelm- en drankverslaafdes het die potensiaal om dit geheel en al te verander – vanaf die behoefte vir ambulansse vir noodgevallen met behandeling van inwoners tot harde musiek saans wat nie beperk sal word deur die normale gebruik van 'n residensiële eiendom, sonder inbreukmaking op die regte van buurmense nie.

#### EIENDOMSWAARDE

Die aansoek maak melding dat daar nie enige nadelige uitwerking sou wees op die eiendomswaarde van nabygeleë erwe nie. Dit is onsinnig om te glo dat die oprigting van 'n besigheid vir dwelm- en drankverslaafdes nie 'n nadelige uitwerking sou hê op sodanige waarde nie.

As die leser hom- of haarself in die situasie sou indink dat hy 'n eiendom in die mark wil plaas, maar alle potensieële kopers eers langs dié besigheid verby moet neem, kan dit nie anders as om 'n negatiewe indruk te skep by sodanige kopers nie. Eiendomswaarde sal dus negatief geraak word, en val in 'n ander kategorie as byvoorbeeld die vergunningsgebruik vir die bedryf van 'n gastehuis.

Die aansoek maak melding dat daar 'n groot behoefte bestaan vir die bedryf van so 'n besigheid in die area waar dit opgerig is, maar gee geen staving vir sodanige stelling nie. Daar is legio ander "opheffingsentrums" beskikbaar in die omgewings waar die behoefte daaraan groter is as in Bettiesbaai. Die aansoek wil effektiwelijk verseker dat die aansoeker alleenreg, in die sin van 'n monopolie, sal hê om so 'n diens te lewer in die area.

Dit is in plaas daarvan om mee te ding met ander bestaande besighede in areas waar daar groter behoefte is vir die voorgestelde diens wat gelewer sal word.

Dit is onbillik om die inwoners van Bettiesbaai te belas met die nadelige impak op hul finansies, ten bate van 'n individu wat homself finansiële bevoordeel met die oprigting van hierdie besigheid.

#### TITELBEPERKINGE

Die titelbeperkings gelys onder titelakte T54244/2014, spesifiek C(ii)(m) wat die bedryf van 'n besigheid verbied in 'n residensiële gebied, bestaan vir baie goeie redes en die Munisipale Raad moet uiters huiwerig wees om in te meng daarmee.

Die van der merwe familie

Vir die redes hierbo aangevoer is dit in ons submitisie dat die aansoek om ophaffing van die titelbeperkinge en toestaan van 'n vergunningsgebruik, van die hand gewys moet word.

Die skrywer meld spesifiek dat ons ons regte voorbehou om 'n regsaksie in te stel teen enige party wie ons regte benadeel.

Ons vertrou die bogenoemde sal u aandag en ooreweging geniet.

**MET OPREGTE DANK**

**Willem en Barbara Magdalena Johanna Venter**

6 April 2017

FILE NO:	Er 3054
	Bettys Bay
SCAN NO:	48
COLLABORATOR NO:	1012141

ANNEXURE F 31/185



7 April 2016

RE THE APPLICATION FOR A CONSENT USE AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS OF ERF 3054 BETTYS BAY OVERSTRAND MUNICIPALITY CALEDON DISTRICT. *TRATHERT (Huldsteep)*

We, Adriaan Nicolaas Smuts, ID no 4910315044087 and Naomi Smuts, ID no 5309230066086 are the holders of Erf 3161 in Sea View Street in Bettys Bay.

We STRONGLY OPPOSE of this application to remove for consent use and removal of restrictive conditions in the title deed of Erf 3054, Bettys Bay by Alpac Investments.

Bettys Bay are known for its beauty and serene environment where many of proud owners and retired people live and want to live. Now it appears that we all may be exposed to drug users and criminals if this application is approved by Overstrand, and it may even lead to an influx of people with wrong motives, acting as so-called visitors to their friends and family.

Such a grant may even lead to negative change in the value of property prices and also on the municipality itself.

Traffic will also become an issue with lot more movement of cars and parking in the street will have a negative effect on the movement of all other vehicles in the streets affected and especially that of the residents.

Grey water that will flow from the house because of bath or shower water used constantly by the so called patients and staff members of which no mention is made of how many will be on the premises as surely people under a rehab must surely be under constant

JP

7 APR. 2017

observation. One also ask the question will if only one septic tank will cope with that many people constantly on the premises. Then there are the question of toilet, laundry and dish water. Grey water also kill and is harmful to Fynbos

What will the age group that they will take for rehabilitation be and will they be allowed to move around freely in the area in their free time which in itself pose a constant risk for the rest of the people living in the surrounding areas and pose the question how are they keep them occupied as they will supposedly not on a holiday camp.

What happen and how will they be supervised at all times, day and night and at the premises and if they go out. This is a worrying risk.

This centre can lead to an influx of unwanted elements such as drug dealers in the area and this will lead to extra security problems.

There will be no economic benefit to the area of Bettys Bay as meals and all services will be supplied like meals to them. The Only beneficiary will be Alpac Investment CC if the so called guests pay for this so-called upliftment.

Refuge removal for such a large group pose other problems like stench and unwanted animals like rats, mice etc.

We strongly object against this application as we have experienced a similar upliftment centre in Melville Johannesburg which lead to the influx of unwanted unsavoury characters.

We want a quiet, tranquil environment to live in without fear and risks.

I hope that the property owners objections will be taken very serious.

Surely Alpac Investments can find a more suitable business premises for their business or so called upliftment centre.

A N SMUTS

N SMUTS

**Loretta Gillion - Re: Objection to further development of 3054 Seaview Drive, Sunny Seas, Betty's Bay**

**From:** Jos Visser <josvis@sonicmail.co.za>  
**To:** Loretta Gillion <lpage@overstrand.gov.za>  
**Date:** 08/04/2017 08:56 AM  
**Subject:** Re: Objection to further development of 3054 Seaview Drive, Sunny Seas, Betty's Bay

TR A Theart  
C Huldshoop

Sunny Seas is a single residential area as confirmed in the Herald which does not include boarding houses or rehabilitation centers of sorts. It is about time that the Municipality implement its own laws and by-laws.

J & JC Visser



On 04/06/2017 12:11 PM, Loretta Gillion wrote:

Dear Sir / Madam

Receipt is hereby acknowledged of your e-mail.  
Please provide our office with reasons for your objection, as well as a postal address.

Regards

**Loretta Gillion**  
Administration Town Planning



Overstrand Municipality  
A: 16 Paterson Street, Hermanus, 7200 | P: P.O. Box 20, Hermanus, 7200  
T: +27 (0)28 311 8900 | F: +27 (0)28 311 2095  
E: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za) | W: [www.overstrand.gov.za](http://www.overstrand.gov.za)

Vision Statement: "To be a centre of excellence for the community"

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Please consider the environment before printing this correspondence.

By View: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za), 18 04 2017 10:11 AM  
To the Municipal Manager, Overstrand Municipality

Please note my urgent objection to the development of 3054 Seaview Drive, Sunny Seas, Betty's Bay, as advertised in the Herald of the 2nd

FILE NO:	EZ 3054
SCAN NO:	Betty's Bay
	47
COLLABORATOR NO:	1012134

TP 10 APR 2017

From: Joe Visser <jovis@sonicmail.co.za>  
 To: <loritta@overstrand.gov.za>  
 Date: 06/04/2017 08:15 AM  
 Subject: Objection to further development of 3054 Seaview Drive, Sunny Seas, Betty's Bay

To the Municipal Manager, Overstrand Municipality

Please note my urgent objection to the development of 3054 Seaview Drive, Sunny Seas, Betty's Bay, as advertised in the Herald of the 2nd March 2017.

Also please acknowledge receipt of this objection

TR A Theart  
(H vld. Steep)

J & JC Visser  
 2693 Clarence Drive  
 Betty's Bay  
 0833803246  
 0842442084



FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	06
COLLABORATOR NO:	1011273

TP 1 2017

ANNEXURE F 36/185

From: Catherine Jaussaud <catherine.jaussaud12@gmail.com>  
To: <doratta@overstrand.gov.za>  
Date: 03/04/2017 05:02 PM  
Subject: Development of 3054

TR A Thout  
(H Jol Stoop)

I would like to strongly object to the further development of 3054 in Sunny Seas in Betty's Bay.

Can u please acknowledge receipt of this E mail. Many thanks

Regards  
Catherine Jaussaud  
Erf no 4211 Crassula Avenue Betty's Bay



Sent from my iPhone

FILE NO:	EC 3054
	Betty's bay
SCAN NO:	43
COLLABORATOR NO:	1010147

P - 3 APR 2017

TR A Theart  
(Hubstrop)

Loretta Gillion - Re: Development of 3054



**From:** Catherine Jaussaud <catherine.jaussaud12@gmail.com>  
**To:** Loretta Gillion <lpage@overstrand.gov.za>  
**Date:** 07/04/2017 12:03 PM  
**Subject:** Re: Development of 3054

My objections are based on the breach of conditions of the relevant title deeds

Regards  
 Catherine Jaussaud

Sent from my iPhone

On 04 Apr 2017, at 7:40 AM, Loretta Gillion <lpage@overstrand.gov.za> wrote:

Dear Ms Jaussaud

Receipt is hereby acknowledged of your e-mail. Please provide our office with reasons for your objection.

Regards

Loretta Gillion  
 Administrator: Town Planning



Overstrand Municipality  
 A: 16 Paterson Street, Hermanus, 7200 | P: P.O. Box 20, Hermanus, 7200  
 T: +27 (0)28 313 8920 | F: +27 (0)28 313 2033  
 E: loretta@overstrand.gov.za | W: www.overstrand.gov.za

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
COLLABORATOR NO:	46
	1012131

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Catherine Jaussaud - catherine.jaussaud12@gmail.com - 07/04/2017 12:03 PM

I would like to strongly object to the further development of 3054 in Sunny Seas in Betty's Bay.

Can you please acknowledge receipt of this E mail. Many thanks.

Regards

P

2 APR 2017

06 April 2017

The Municipal Manager  
Overstrand Municipality  
Hermanus Administrative  
PO Box 20  
Hermanus  
7200



TR A Theart  
(Huld stoep)

**Fax:** 028 313 2093

**E-mail:** [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

**ATTENTION:** Ms H. Van Der Stoep

**PLAN ACTIVE REF:** PA15034

Dear Madam

**RE: APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS AND  
CONSENT USE OF ERF 3054, BETTY'S BAY**

I refer to registered letter dated 28 February, 2017 and attachments, received from Plan Active Town and Regional Planners, in the above matter (Ref: PA15034).

My details are as follows:

**Full Name:** Joanne Marie Haslett

**Interest:** Joint owner of Erf 3341, Betty's Bay (together with VG Haslett).

**Current contact details:** Cell: 064 7421097

**Physical address:** E012, The Empire Building, Beach Road, Muizenberg.  
(Kindly DO NOT send any post to this address)

**Postal Address:** Postnet Suite 534, Private Bag X4, Sun Valley, Fish Hoek, 7987.

According to the said correspondence dated 28 February 2017, received from Plan Active Town and Regional Planners (see part 1. Background); this matter relates to application by the owners of Plot 3054 for removal of Title Deed restrictions in order to use the existing property as an upliftment centre.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	66
COLLABORATOR NO:	1011553

2/

TP

7 APR 2017

2.

According to information obtained from Overstrand Municipality regarding the nature and meaning of "Upliftment" centre; I was advised that the facility is for people recovering from Alcohol and /or drug addictions, stress related issues and or depression. The facility apparently serves as part of a rehabilitation process before residents are placed back into Community and/ or family Life. I asked for the name of the upliftment centre, and was advised that that it is T/A Ocean Breeze Upliftment Centre.

I hereby lodge an **objection** to the application for removal of title deed restrictions and consent use of ERF 3054, for the following reasons:

1. The property is situated within an established single residential area and, according to the property description in part 2.1 of the application details submitted by Plan Active; the land uses that can be accommodated within a zoning of Residential Zone 1 includes Single residential dwellings, holiday homes and guesthouses. The proposed upliftment centre does not fit into any of these categories.

As far as I am aware, the restrictions on the Title Deed regarding land use take precedent over any other attempt to change the land usage. I believe that the conditions imposed in the Title Deed of the property are there to ensure that the character of Betty's Bay is maintained. I believe that the restrictions in the title Deed, are in place for good reason and are there for our protection.

2. If you allow this removal of Title Deed Restrictions and consent use of land; you are setting a precedent for further similar centres / institutions. According to correspondence dated 28 February 2017, received from Plan Active Town and Regional Planners (see "**point 5. Proposal**", on the Application document): there is a "**demand for wellness centres, upliftment centres and related land uses in the area.....**"

3. According to the aforementioned correspondence from Plan Active Town and Regional Planners (see "**point 6. Character of the Environment**", on the Application document):

"No internal alterations are proposed to the existing dwelling and **will therefore have no impact on the surrounding properties or the character of the area**".

That may be so; but having an upliftment centre in the area **will**, I believe, have a serious impact on the value of the surrounding properties and on the character of the area.

3/

3.

4. According to the aforementioned correspondence from Plan Active Town and Regional Planners (see "point 7. The Potential of the property (Desirability of the proposed utilization" on the Application document):

"The proposed land use is compatible with surrounding guest house land uses. .... However, developing erf 3054 Betty's Bay for upliftment centre purposes will have the same impact than developing the subject property for guest house purposes. ....since it will not have a greater impact than:

- a) accommodating a large family ....., or
- b) accommodating two families ....., or
- c) accommodating 6 – 10 guests .....(guest house)"

I do not believe you can compare the upliftment centre to a family home or guest house, and I do not believe you can compare it's impact on the area and / or the general character of the area, to that of a family home or guesthouse.

5. According to the website (OBUC.co.za), the recovery process at the upliftment centre will be a minimum of 12 Weeks.

Why, if the residents are not yet ready for re-integration back into their communities; is the community of Betty's Bay expected to agree to such removal of Title deed restrictions and land use.

I cannot possibly know what future implications the proposed removal of Title Deed restrictions and consent use might have on our Erf, but I wish to avoid any future problems with regard to anything that may affect the value of our erf, and/or negatively impact on any of the following; including, but not limited to;

- General Character of the area.
- The Serenity and peaceful atmosphere of the area.
- Security and safety of the area.

I trust that this objection, to the application for removal of Title Deed restrictions, will be favourably considered.

Yours Faithfully



JM Haslett

ANNEXURE F 41/185

From: "Rea Borchers" <reaborchers@mweb.co.za>  
 To: <lorelta@overstrand.gov.za>  
 Date: 06/04/2017 12:35 PM  
 Subject: objection to rezoning Erf 3054 Betties Bay



TR A Theart  
 (H vld Stoeper)

dear madam

BREACH OF CONDITIONS

OF TITLE DEEDS WARD 10

As a longtime resident of Betties Bay (since 1981) I wish to voice the strongest objection to the proposed rezoning of Erf 3054, Seaview Drive. The drug rehabilitation centre should never have been allowed to commence operations in the first place.

The Municipality should have been aware of the title deed conditions relating to this area and imposed them. There can be no reason for permitting this kind of activity in an area specifically termed 'single residential'. There are many industrial and other areas available for this kind of activity.

It is obviously totally undesirable to permit a hostel for a number of drug addicts in the middle of a neighborhood of single residential dwellings. There are many environmental and aesthetic reasons to object to this proposed abuse of the area. However, my objection will focus only on the unfair and detrimental consequences to the persons who live in the neighborhood.

The property owners in that road did not buy there with the expectation of such a transformation of their surroundings. They bought because of the remoteness and peacefulness of the area, and because of the terms of the title deed. Undoubtedly, they will experience an immediate and negative alteration in the desirability of their location. They will no longer live there without disquiet.

The applicants, in an attempt to win the approval of the surrounding residents, seem to have disguised the nature of their establishment by calling their hostel "an upliftment centre". This name change changes nothing. Anyone who has dealt with addicts knows that, before agreeing to undergo rehabilitation, they would have supported their addiction for many years by illegal means, such as theft. Many of them will even be there against their will. Moreover, addicts do not just easily become 'uplifted'. They relapse, often repeatedly, and they escape.

No-one can deny that the temptation for these addicts to prey on the vulnerable, and mostly aging, neighbours will be irresistible. Without doubt the entire neighborhood must suffer, and the property owners, in particular, suffer loss on their investments.

I repeat, people purchase property in this area because the title deeds protect them from inappropriate development. Failure by this Municipality to refuse this development amounts to a betrayal of all the ratepayers of

FILE NO:	EL 3054
	Betties Bay ✓
SCAN NO:	
COLLABORATOR NO:	1011417

TP

6 APR 2017

ANNEXURE F 42/185

Bethes Bay.

Kindly lodge my objection, and acknowledge receipt of this correspondence.

yours faithfully

Mrs MM Borchers  
Erg 2857  
Protea Road  
Bethes Bay

---  
This email has been checked for viruses by Avast antivirus software.  
<https://www.avast.com/antivirus>

**Loretta Gillion - AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK VAN ERF 3054 BETTIESBAAI**

**From:** Petrus Basson <petrusb@mintek.co.za>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 06/04/2017 03:22 PM  
**Subject:** AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK VAN ERF 3054 BETTIESBAAI  
**Cc:** Petrus Basson <petrusb@mintek.co.za>



TR A Theart  
(H. Van Der Stoep)

PB2017/1

8 April 2017

Die Munisipale Bestuurder  
 Overstrand Munisipaliteit  
 Hermanus Administrasie  
 Posbus 20  
 Hermanus  
 7200

FILE NO:	EL 3054
	Bettiesbaai ✓
SCAN NO:	
COLLABORATOR NO:	1011415

Me. H. Van Der Stoep

**RE: AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK VAN ERF 3054 BETTIESBAAI**

Die volgende besware word geopper teen die aansoek van Alpac Investment CC:

- 1) Opheffing van die genoemde titelbeperkings vir Alpac Investment CC sou onregverdig wees teenoor die huidige eienaars van eiendom in die Bettiesbaai omgewing, wat hul eiendom wel onderhewig aan bg. titelbeperkings bekom of gebou het.
- 2) Die voorgestelde gebruik van die eiendom (op Erf 3054) as 'n opheffingsentrum ("upliftment centre") sal die residensiële karakter van die buurt en omliggende omgewing ontsier en versteur.
- 3) Die voorgestelde gebruik van die eiendom (op Erf 3054) as 'n opheffingsentrum ("upliftment centre") sal 'n negatiewe impak op die heersende stilte in die buurt en omliggende omgewing hê.
- 4) Die voorgestelde gebruik van die eiendom (op Erf 3054) as 'n opheffingsentrum ("upliftment centre") sal wel 'n negatiewe impak op die waarde van bestaande eiendomme in die buurt en omliggende omgewing hê.
- 5) Die voorgestelde gebruik van die eiendom (op Erf 3054) as 'n opheffingsentrum ("upliftment centre") hou ook 'n veiligheidsrisiko in vir die inwoners van die buurt en omliggende omgewing, asook eiendom in die omgewing.

8 APR 2017



**Loretta Gillion - ERF 3054 SUNNYSEAS: OBJECTION**

**From:** Stefne van Dyk <svdibrok@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 06/04/2017 11:11 PM  
**Subject:** ERF 3054 SUNNYSEAS: OBJECTION



TR A Theart  
(M. vd. Steep)

Municipal Manager  
 Municipality  
 OVERSTRAND

Dear Sir/Madam,

**ERF 3054 SUNNYSEAS: OBJECTION**

I hereby object to allowing a development on erf 3054, Betty's Bay contrary to the restrictions applying to the said plot and so registered against the title deed in the Deeds Office.

This will be detrimental to all the landowners in the vicinity who bought and developed their properties under the restrictions imposed without the right to deviate therefrom. By the precedent created all other landowners in the vicinity will also be negatively affected.

The applicants in this matter were aware of the restrictions from the time of purchase.

Please note this objection.

Please acknowledge receipt of this mail.

Yours,

S van Dyk  
 Occupier and spouse of owner erf 2943  
 Betty's Bay

FILE NO:	EL 3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	1011413

TP

06 APR 2017

Mr Peter Watson

3331, Car Oyster and Clarence Road, Bettys Bay | 0828029911 | pdougwatson@gm

2 April 2017

The Municipal Manager  
OverStand Municipality  
Hermanus Administration  
P.O Box 20  
Hermanus  
7200  
Dear Sir/Madam



FILE NO:	EL 3054
SCAN NO:	Betty's Bay
COLLABORATOR NO:	1011410

**Reply to the Application for the removal of the title deed restrictions and consent use of Erf 3054 Bettys Bay / PA15034 / my erf 3331 Bettys Bay**

Whilst the establishment of an upliftment center is honorable and noteworthy, there are too many unanswered questions to this application.

Bettys Bay can be described as a quiet and peaceful area with many elderly individuals which are currently on retirement and includes numerous vacant holiday homes and erfs.

To the average person, the words "upliftment Centre" is a wide-ranging word and could actually mean anything from a spa to a mental home?

Having comparisons to a guest house environment is totally questionable as the intention of a guest house and the upliftment center is different. A guest house has persons which have paid to enjoy and stay temporary in our community. An Upliftment Centre's intention is totally different, for instance if it equates to a drug rehabilitation center, I believe we would be bringing unwanted characters into a community which otherwise does not have this element.

The original intention of the title deed restrictions was to create a community that bears a resemblance to the environment and when we start to alter this, we start to change the Bettys Bay Environment, its community and its people.

I think the applicant should be open about their intention. I am getting the impression that the word upliftment center is used in a deliberate attempt to be vague and mislead other title deed holders.

Whilst it has been indicated that no medical assistance is required, what kind of "rehabilitation" are we speaking about, if it has to do with substance abuse, it would raise far more questions.

Having strangers in the community would impose security and community threats.

**With the current information to this application, I would oppose the application.**

TP

Sincerely,  
Peter Watson

ANNEXURE F 48/185



15 Kingfisher Walk  
Pinelands 7405  
6 April 2017

TR A Theart  
(H Jol Stoep)

The Municipal Manager  
Overstrand Municipality  
Hermanus Administrative  
PO Box 20  
Hermanus 7200

Attention: Ms H Van Der Stoep

**Re: APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS AND CONSENT USE OF ERF 3054  
BETTYS BAY**

As the owners of Erf 3422 Bettys Bay, we hereby object to this application for the

1. Removal of the Title Deed restrictions on Title Deed T54244/2014 (with ref to clauses C0(5)(b) and C(1)(m))
2. Consent use of Erf 3054 to enable the owners to utilize the existing dwelling as an Upliftment Centre.

To our knowledge there has already been "an Institution" (referred to as a Drug Rehab Centre by local residents) operating illegally on Erf 3054 and this matter has been taken to court.

The terminology "Upliftment Centre" is vague and it is not clarified as to exactly what the proposed business entails.

There is no "demand for wellness centre, upliftment centre's and related land uses in the area" as stated in point 5: proposal in the Application.

Such an application could set a precedent for other vague "centre's" in the future

Bettys Bay is a unique place situated in a Bio-Reserve and this should be protected.

We object to both parts of this application.

Yours sincerely

*M. B. Clark*  
GP and CL Clark

021 5315044

FILE NO:	GL 3054
	Bettys Bay
SCAN NO:	
COLLABORATOR NO:	1011408

TP

0 502 67

ANNEXURE F 49/185

From: "L.E. Swanepoel" <leswanepoel@gmail.com>  
To: <lorretta@overstrand.gov.za>  
Date: 06/04/2017 07:57 PM  
Subject: Proposed Sea View dr development

Re: Erf 3054, Betty's Bay

The Municipal Manager

Dear sir,

We strongly object to the proposed development at 3054 Seaview dr in Sunnyside as these erven are defined as special Residential erven.

C.J Swanepoel  
D.P. Swanepoel  
Clarence dr. 2696

Sent from my iPad

TP - A Theart  
(Huld Sheep)



FILE NO:	EL 3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	1011405

TP

4 APR 2017

Loretta Gillion - Re: Objection. 3054 Seaview Drive Erf 3054

TP - A Threat (Hudal Sheep)  
Betty's Bay

**From:** Lynda Tannett <lyndatannett@gmail.com>  
**To:** Loretta Gillion <lpage@overstrand.gov.za>  
**Date:** 06/04/2017 06:53 PM  
**Subject:** Re: Objection. 3054 Seaview Drive Erf 3054



Thankyou for your quick response.  
My objections are that the property should have no commercial enterprise  
and in theory should be single RESIDENTIAL.  
Another point is that Betty's Bay has no policing of any nature and that property could become a  
serious problem.  
Sincerely  
Mike Tannett  
Erf 2398

On 06 Apr 2017, at 12:08 PM, Loretta Gillion <lpage@overstrand.gov.za> wrote:

Dear Sir

Receipt is hereby acknowledged of your e-mail.

Please provide our office with reasons for your objection, as well as a postal  
address.

Regards

**Loretta Gillion**  
Administrator, Town Planning



**Overstrand Municipality**  
R: 16 Paterson Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200  
T: +27 (0)22 311 8900 | F: +27 (0)22 311 2093  
E: [lgillion@overstrand.gov.za](mailto:lgillion@overstrand.gov.za) | W: [www.overstrand.gov.za](http://www.overstrand.gov.za)

Vision Statement: "To be a centre of excellence for the community"

Disclaimer: This e-mail (including attachments) is subject to the disclaimer published at: <http://www.overstrand.gov.za>

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By replying to this e-mail or opening any attachment you agree to be bound by the provisions of the disclaimer

Please consider the environment before printing this correspondence

Lynda Tannett - Administrator (overstrand) 06/04/2017 12:08

FILE NO:	EL 3054 Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1011402

TP 06 APR 2017

ANNEXURE F 51/185

From: Lynda Tannett <lyndatannett@gmail.com>  
To: <lorefia@overstrand.gov.za>  
Date: 05/04/2017 07:02 PM  
Subject: Objection. 3054 Seaview Drive Erf 3054

TRATHART  
(Child Step)

I hereby object to any further development to the above property in Bettys Bay.  
Please acknowledge receipt of this e-mail  
Thank you.  
MR and Mrs Mike Tannett  
Erf 2398  
Bettys Bay



FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	07
COLLABORATOR NO:	1011282

TP  
L APR 17

**Loretta Gillion - Application for removal of title deed restrictions ..... plot 3054 Bettys Bay.**

**From:** "Jeanne Rogers" <jeannegayrogers@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 06/04/2017 06:21 PM  
**Subject:** Application for removal of title deed restrictions ..... plot 3054 Bettys Bay.  
**Cc:** <planactive@hermanus.co.za>

TR A Theat  
(Huld Stoep)

The Municipal Manager  
 Overstrand Municipality  
 Hermanus.  
 ( For attention Mrs H Van Der Stoep. )

6 April 2017

From : Jeanne Rogers,  
 Plot 3381 Mermaid Road,  
 Sunnyside, Betty's Bay, 7141.

Telephone :  
 Home 0282729047  
 Mobile 0820629513

Email :  
[jeannegayrogers@gmail.com](mailto:jeannegayrogers@gmail.com)

Interest in the application :  
 I am a resident in the area, and am not wanting the consent to be granted.  
 Full reasons to follow.

Reasons for comments :  
 To keep my area of residence safe and peaceful, as befitting a Biosphere of International standing and registration.

Dear Municipal Manager,

I bought my plot in Betty's Bay about 40 years ago as a retirement place.  
 I have worked as a social worker, active in the field of Child Protection and Child Rights for the past 50 years, working in the NGO field, as you well know with small remuneration all these years, knowing I will retire to peaceful pretty quiet Betty's Bay one day.  
 About 12 years ago I built my small house there, having saved all my life to make this dream come true. However even now I am forced into continuing to work as a consultant, trainer, assessor & moderator in my field, just to afford to continue living in this wonderful Overstrand municipal area, our little piece of heaven.  
 What I am trying to say is we as Betty's Bay residents are mostly elderly, and pay dearly for the privilege of living here, and it does not feel fair that we are having a drug rehab centre foist upon us just like this.  
 I beg to disagree with the sentence from Section 5 of the application : "Please note that guests visiting the upliftment centre do not require any medical interventions and do not have any medical conditions that require medical attention."



FILE NO:	EL 3054 Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1011397

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Because of my years of experience in the child and family welfare field, I am very aware of the sadness and seriousness of drug abuse, the poor success rate for real recovery from addiction, as well as the pain and terror and torment of withdrawal symptoms etc. This is not a peaceful easy process, and organisations offering this service should be registered as treatment centres with the government depart of Health or at least with the Department of Social Development, they need to comply with the licensing rules and regulations.

These places are not meant for the Betty's Bays of the world, the people who need this rehabilitation are mostly young people, needing serious intervention to stop their dependence on drugs, they do not need an UPLIFTMENT centre, they need serious intervention and therapy. Is an upliftment centre not a euphemism here? I have been told by friends and neighbours and once by patients themselves, that the place focuses on drug rehabilitation, particularly the serious drugs like heroin. One Friday evening after dark my little grand-daughter called me to the door, and there was a young man asking for "donations for the drug rehab up on the hill."

I also totally disagree with a sentence in Section 13 : "The proposed upliftment centre will provide a much needed social service to people within the peaceful area of Betty's Bay." This is truly nonsense .

We do not need upliftment centres because we are fortunate enough to live in Betty's Bay!

It is my opinion that calling a drug rehabilitation centre an upliftment centre is misrepresentation, or at least not totally honest.

In addition I know the actual house on Plot 3054 well, as when I was having my house built , I stayed there in the small flat over the garage, renting from the elderly couple who were the owners then. I do not think it is entirely suitable for drug rehab or an upliftment centre. It was designed for the couple who owned it, with some extra bedrooms for their adult children and families to visit for short holidays. The " combined dining room and lecture room" is no more than a very long and narrow enclosed balcony.

In Section 14, I disagree that "The proposal creates great economic potential....." , please explain what is meant by this ?

In the same section 14 : ".....will not have a negative effect on the current character and land values of the surrounding erven" , I completely disagree, I would never buy near there if the truth were known to me, and many people I have spoken to agree with me.

In conclusion I seriously request the Overstrand Municipality to turn down this application.

Thank you,

Yours sincerely,

Jeanne Rogers.

Municipal Manager  
Overstrand Municipality  
PO Box 20  
Hermanus  
7200

TR A Theart  
C Holdstock

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1011393



Dear Sir

**OBJECTION TO THE REMOVAL OF RESTRICTIVE CONDITIONS AT ERF 3054 (11 SEAVIEW DRIVE), BETTY'S BAY**

I refer to the application for the removal of restrictions from the title deed for Erf 3054 and for consent to use the house on the property as an 'Upliftment Centre', as advertised in the *Overstrand Herald* of 2 March 2017 and elaborated on per registered mail.

I am the owner of Erf 3214, Sunny Seas, Betty's Bay and, as an interested and affected party, I herewith place my objection to the above-mentioned application made by Plan Active on behalf of Alpac Investment CC, for the reasons provided below.

1. All properties along Seaview Drive and other roads in Sunny Seas above Clarence Drive (which includes Erf 3054) have more restrictive title deeds than the properties below Clarence Drive. Zoned as a 'Special Residential' area within Betty's Bay and, indeed, the Kogelberg Biosphere Reserve – an area recognised to be of international importance by UNESCO – the title deeds of these erven purposively restrict the opening or operation of any business whatsoever. The zoning and restriction of activities should be both respected and honoured. There should therefore be no guest houses of any sort, centres or similar businesses in this area.

Removing restrictive conditions for Erf 3054 would not only show disregard for the importance and privilege of co-managing this unique area, it would also set a precedence for the removal of restrictive conditions for other erven in this zone, and of any restrictive conditions for other zones of the reserve in general.

By removing the restrictive conditions, Overstrand Municipality would thus jeopardise the intrinsic value and attraction of the area – the principal reason why I chose to purchase my property and live here.

2. Apart from the above-mentioned points, I also object to the application for consent to use Erf 3054 as an 'Upliftment Centre':
  - a. There is insufficient information from the proposal to understand the purpose and objectives of the proposed upliftment centre, the associated activities and instruction of guests, and their expected period of stay – certainly not enough information on which to base a decision to remove restrictions and/or base consent. A full proposal should be submitted for assessment and comment.

IP


403 67

- b. Since I moved here permanently in March 2016, the property is quite obviously already used as some sort of centre and home for a number of young men. I have heard under good authority that the owner of Erf 3054 was instructed by the municipality at the beginning of 2016 to halt all such activities until such time all restrictions have been removed and legal consent is granted. Activities have nevertheless continued. If the municipality has been unable to control this, I have no confidence that the municipality would have control over the numbers of guests and the activities of the centre if consent were granted.

It is with these points in mind that I strongly object to the application for the removal of restrictive conditions and for consent to use it as an upliftment centre. I earnestly request that you maintain the current legal restrictions in this area.

Kindly acknowledge receipt of this letter.

Yours sincerely



Dr Rl Spaggiari  
Rightful owner: Erf 3214, Betty's Bay  
6 April 2017

PO Box 288, Betty's Bay  
Tel: 082 907 9075 (mobile)  
021 855 3056 (home)  
Email: rspaggs@gmail.com

ANNEXURE F 56/185  
Page 1 of 1

TP A Thout  
(H uid Steep)

Loretta Gillion - Objection to change of Title Deeds Erf.3054, Sunny Seas

**From:** laluna1 <laluna1@netscape.net>  
**To:** <loretta@overstrand.gov.za>, <laluna1@netscape.net>  
**Date:** 06/04/2017 05:17 PM  
**Subject:** Objection to change of Title Deeds Erf.3054, Sunny Seas



PLEASE, CONFIRM RECEIPT OF THIS E-MAIL!

We are hereby lodging an objection to any proposed development/change of title deed of Erf 3054, Sunny Seas, Betty's Bay, on the following grounds:

Sunny Seas Township was established in 1934 with Title Deeds that differ from those of the earlier development of Betty's Bay. In particular, the area above Clarence Drive along Seaview are defined as Special Residential Erven.

Fact: The Deeds are very specific and stipulate that there is to be no commercial enterprise whatsoever. In addition only single family dwellings may be built.

Therefore the fact that ERF 3054 operates as a rehabilitation center, after drug rehabilitation, should have never happened in the first place. When the business was asked to cease operations, they did not obey. They now made application to operate a Wellness/Upliftment Centre which is still in defiance of both the order to stop operating and of the restrictions imposed by the Deeds. Conceding any changes to the legislation governing these Seaview properties would set a precedent that affects everyone who lives /owns property in this area.

We specifically bought on the Seaview side in Sunny Seas because of the restrictions of title deeds, which we understood forbids business and therefore limits amount of traffic, noise levels etc. even in the future.

We also oppose the fact, that any business dealing with recovering drug addicts, should be allowed to operate without adequate medical supervision, professionally trained staff, appropriate registration etc.

To simply use the name 'Upliftment/Wellness centre', instead of calling it by its real name 'drug rehabilitation centre' does not change the nature of the business going on inside. Or could we or our family check into this wellness centre when in need of recuperation? No. Therefore it is not a guesthouse /wellness centre, since the public can not use it as such/book a room there.

So, since ANY kind of business is not permitted under the specifications of the Title deeds in our SPECIAL RESIDENTIAL ONLY part of Sunny Seas (all the erven on the Seaview side of Clarence Drive) and because any unregistered, unsupervised by appropriate medical staff, drug related business (especially since it caters exclusively to males) is by us, my husband and me, living on Seaview Drive directly, considered dangerous, we hereby STRONGLY oppose that permission is granted to officially operate this business or ANY business on the Seaview Drive side in Sunny Seas (stipulated in Title Deed no T 1909/1957 under Ordinance 33 of 1934), respectively that the change of title deeds will be permitted.

Elke Pittersberger and Dennis Lepore  
3065 Seaview Drive  
Sunny Seas  
7141 Betty's Bay

FILE NO:	EL 3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	1011390

Sent from my Samsung device

TP

ANNEXURE F 57/185

THE TRUSTEES FOR THE TIMEBEING  
 THE ELEPHANT ROCK INVESTMENT TRUST  
 P.O. BOX 23685  
 CLAREMONT 7735  
 FACSIMILE 021 6711026 E-MAIL cmurphy@legacyfs.co.za



The Municipal Manager  
 Overstrand Municipality  
 Hermanus Administrative

3<sup>rd</sup> April 2017

ATTENTION Ms H van der Stoep

TR A Theart  
 (H Jd Stoep)

PER E-MAIL loretta@overstrand.gov.za

Dear Sirs

Erf 3054, Sea View Drive, Betty's Bay, Overstrand Municipal Area: Application for Removal of Restrictive Conditions and Consent Use: PlanActive (obo Alpac Investments CC)

**FORMAL OBJECTION TO BE NOTED**

I refer to the above application. I am the administrative trustee of The Elephant Rock Investment Trust, the owner of Erf 3109 Sunny Seas, Betty's Bay. The trust is an interested and affected party in relation to the above application.

I hereby confirm that the trustees are against the current use of the property as an Upliftment Centre or a Wellness Centre, as this is contrary to the spirit of the residential area which is Sunny Seas, and is contrary to the current use and title deed conditions.

In the notice date the 28<sup>th</sup> of February 2017 mention is made as follows;

*"Due to the demand for wellness centres, upliftment centres"*

1. What demand is the applicant speaking of? What proof does the applicant have that such a demand exists? Does it exist in Bettys Bay for Bettys Bay residents? A mere statement saying there is a demand is not sufficient.
2. Define what an upliftment centre and wellness centre is? The general idea of the same is one of either a charitable enterprise to uplift underprovided communities or people with disabilities, or if W=wellness, then a form of spa or physiotherapy component. I am advised that the actual purpose of the current use, is one of a drug rehabilitation centre for "patients" from outside Bettys Bay and indeed outside the province. This is not in keeping with a) the residential component of Sunny Seas, nor is it congruent with a wellness centres or an upliftment centres.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1011385

P 0 APR 17

ANNEXURE F 58/185

THE TRUSTEES FOR THE TIMEBEING  
THE ELEPHANT ROCK INVESTMENT TRUST  
P.O. BOX 23685  
CLAREMONT 7735  
FACSIMILE 021 6711026 E-MAIL cmurphy@legacyfs.co.za

This is not acceptable in a residential holiday town environment.

We accordingly insist that the owners be instructed to immediately to stop the illegal use of the property and we formally object to it being used for anything other than a residence, and do not condone any amendments to either the title deeds of the property, or any amendments to the land use.

Yours



Christopher Murphy  
Trustee – Elephant Rock Investment Trust

ANNEXURE F 59/185

24 Maart 2017

Die Munisipale Bestuurder (Aandag Me H v d Stoep)  
 Overstrand Munisipaliteit  
 Hermanus Administrasie  
 Posbus 20  
HERMANUS 7200



TR A Theart  
 (H v d Stoep)

**AANSOEK OM OPHEFFING VAN TITELBEPERKING  
 EN VERGUNNINGSGEBRUIK ERF 3054 BETTY'SBAAI**

Geagte Meneer/Dame,

Ek verwys u vriendelik na bostaande aangeleentheid asook my navraag en die antwoorde van ALPAC INVESTMENT CC daarop.

Ek vind die inligting wat as respons op my navraag aangebied is volledig ontoereikend en aanduidend dat wat hier beoog word as 'n UPLIFTMENT en/of WELLNESS CENTRE hoegenaamd nie anders as vanuit die Menshulp Dissiplines beskou kan word nie. Die inligting oor presies wat met hierdie "Centre" [sic] bedoel word is totaal onvoldoende en my vermoede is dat hierdie niks anders gaan wees as 'n gastehuis waar sekere, tot nog toe, onverklaarde dienste aan die publiek gelewer gaan word.

Totdat daar meer duidelikheid is oor presies wie [lees MALES] hier sal tuisgaan en wat die presiese rede en doelstellings hiervan gaan wees maak ek hiermee graag my onvergenoegdheid met die geradbraakte antwoorde op my navraag aan u bekend en dui ek in besliste wyse aan dat ek nie geneë neem met die opheffing van die bestaande titelbeperinge en vergunningsgebruik van Erf 3054, Betty'sbaai nie.

Vriendelike groete.

H Guy Roberts

Erf 3099  
 391 Clarencerylaan  
 Betty'sbaai 7141

FILE NO:	EL 3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	101381

TP

ANNEXURE F 60/185



NUME VERTOEG SEAVIEW RYLAAN.TXT

028 272 9509  
rylaan 3145  
082 895 0870  
BETTIESBAAI

TR A Theart  
(H v/d Stoep)

Seaview

2017

7141  
5 April

FILE NO:	EL 3054 Bettiesbaai
SCAN NO:	09
COLLABORATOR NO:	1011292

Die Senior Stadsbeplanner  
Me H. van der Stoep  
Overstrand Munisipaliteit

toretta@overstrand.gov.za

Geagte Me van der Stoep

MUNISIPALE KENNISGEWING NR 36/2017

Ek is Frederik van Zyl le Roux, ID 510911 5047 080 en mede eienaar ( saam met my eggenote Linda Hofmeyr) van Seaview rylaan 3145 Bettiesbaai. Ons woon al ongeveer sewe jaar in Bettiesbaai en het hier kom aftree.

Met hierdie skrywe wil ons ten sterkste beswaar maak teen die voorgename opheffing van die titelbeperkings en vergunningsgebruik van Erf 3054 Bettiesbaai deur Alpac Investment CC soos vervat in dokument PA 15034 uitgereik deur Plan Active Stads & Streeksbeplanners asook u kennisgewing 36/ 2017.

Ons wil begin deur te sê dat ons nie noodwendig onderlê is in Munisipale prosedures en skryfwyse wat moontlik mag bestaan nie en dat ons ons punte van beswaar neerskryf soos ons dit ervaar in die deurlees van genoemde dokument PA 15034.

Die aansoek stel dit duidelik dat slegs 5 ( vyf ) kamers in die woning met twee gaste per kamer gebruik sal word. Dit is absoluut onwaar aangesien ons so onlangs as Sondag 19 Maart 2017 twee groepe gaste van die betrokke instelling voor ons huis sien verby draaf het, bestaande uit elf ( 11 ) gaste elk. Dit is dubbel wat in die aansoek beweerd word. Daar is geen misverstand hieroor nie aangesien ons die twee groepe gelyktydig waargeneem het terwyl hulle twee verskillende roetes gedraaf het.

Rakende die " Character of the Environment " word die area as "tranquil and quiet holiday town " beskryf. Seaview rylaan is nie 'n vakansie dorp nie aangesien die oorgrote meerderheid van die inwoners permanente inwoners, en hoofsaaklik pensioenarisse is. Mense wat juis die stilte en rustigheid opsoek na 'n lang loopbaan en nou rus en vrede soek. Die gaste van die betrokke eiendom is besig om juis hierdie stil en rustige atmosfeer te vernietig aangesien hulle geneig is om tot baie laat snags hulle verblindende ligte te laat brand, en ook baie luidrugtig en uitbundig te skree en te raas tot middernagtelike ure.

Die aansoeker skep die illusie dat daar " surrounding guest houses " te vinde is. In die area waar die eiendom ter sprake gelee is, bekend as Sunny Sea's, is daar nie enige wettige gastehuis binne etlike kilometers te vinde nie. Dit is 'n uitsluitlik " single residential use only " woonbuurt wat absoluut geen behoefte het aan enige " upliftment centre " of gastehuse nie!!

Page 1

P

16 APR 2017

## NUWE VERTOË SEAVIEW RYLAAN.txt

Die aansoeker beweer in par 13 dat die " proposed upliftment centre will provide a much needed social service to people within the peaceful area of Bettysbay ." Dit is 'n absolute wanvoorstelling aangesien daar GEEN behoefte onder die permanente inwoners bestaan vir so'n sentrum nie!! Die teendeel is egter die waarheid. Daar is nienand wat wil hê dat hierdie " sentrum " in ons midde moet bestaan nie!

Daar is geen studie gedoen om te bepaal wat die wense en behoeftes van die permanente inwoners is nie. Die goedkeuring om die beperkende voorwaardes op te hef, sal 'n president skep om enige toekomstige veranderinge aan te noedig wat die hele aard en bedoeling van "single residential only " sal verkrag en nietig maak.

Soos in ons vorige beswaarskrif genoem ( dd 15 Junie 2016 ) het ek persoonlik belewe dat een van die " gaste " sonder my toestemming my wergwinkel betree het en 'n baie dreigende houding teen my ingeneem het. Nadat hy etlike opdragte om my huis te verlaat ignoreer het, was ek genoodsaak om 'n hamer wat in die rak hang te neem om hom te laat beseef dat ek bedoel wat ek sê. My indruk was dat hy my takseer het om te besluit of hy my wou aanvat! Ek glo die hamer het die taksering in my guns laat swaai! Daar is ander insidente ook waar gaste inwoners geïntimideer het.

Ons versoek dus dat die aansoek van Alpac Investment CC soos gebring deur Plan Active Stads en Streeksbeplanners in dokument PA 15034 om sekere beperkende voorwaardes ten opsigte van Erf 3054, Bettiesbaai, op te hef, nie toegestaan sal word nie!!

Die uwe,

Frik Le Roux en Linda Hofmeyr

ANNEXURE F 62/185

FILE NO:	EL-3054 Bettiesbaai
SCAN NO:	08
COLLABORATOR NO:	1011291

TRATheart  
(Child Stoop)

Albert en Elza van Niekerk  
vnickerkalbertelda@gmail.com  
Foon Albert: 0823269521  
Foon Elza: 0835011540  
Woning: Randon-moni  
Seaviewrylaan 3071  
Postbus 324  
Bettiesbaai,  
7141.

Die Munisipale Bestuurder,  
Overstrand Munisipaliteit,  
Hermanus Administrasie,  
Postbus 211,  
Hermanus,  
7200.  
Aandag: Me H. Van Der Stoep  
e-pos: horetta@overstrand.gov.za



Dane,

Aansoek om ophoffing van tittelbeperkings en vergoeringsgebruik van erf 3054 Bettiesbaai.

Hiermee bevestig ek ontvangs van 'n geregistreerde posstuk gerig aan die eienaars van erf 3071 Bettiesbaai met betrekking tot bogemelde erf 3054 Bettiesbaai.

Gebaseer op die inligting verskaf in die huidige dokument om bogemelde aansoek kan ons nie ons goedkeuring verleen nie. Ons benodig meer inligting ten opsigte van die ondergemelde sake wat ons as kardinaal beskou vir die aansoek.

Hiermee word u versoek om die volgende onduidelikhede in die dokument met die eienaars uit te klaar en aan ons te verskaf:

Die aansoek verwys na dat die toekomstige gebruik van die eiendom as "an upliftment centre". Dit in die eerste plek beteken daar gaan mense bly wat om een of ander rede ophoffing nodig het wat deur verskeie omstandighede veroorsaak is. Dit kan solfs mense insluit wat as gevolg van kримinelle aktiwiteite ophoffing nodig het. Mense wat paaanwysings by ons gevra het het verwys na 'n rehasitasiesentrum. Daar moet meer duidelikhede verskaf word van watter aktiwiteite by die perseel vir die toekoms beplan word.

Die ophoffingsentrum sal verskeie kundige personeellede benodig; medies, sielkundig, welsynswerk, administrasie en bestuur en baie belangrik toesig. Die voorlegging meld dat die besoekers nie medieseorg of behandeling benodig nie sonder maar besonderhede oor die besoekers se toestand moet die stelling ignoreer word. Daar word slegs verwys na 'n bestuurder wat op die perseel gaan bly. Die kwalifikasies en bekwaamhede van die bestuurder word ook verwys. Die bestuurder gaan die verantwoordelikhede dra om 10 persone oor alle dissiplines op te hef. Dit vereis besondere bekwaamhede wat aan die gemeenskap verduidelik moet word.

Die Sunny Seas omgewing word bewaard deur hoofsaaklik afgetrede mense asook mense wat hulle wanings vir vakansie doeleindes gebruik. Die gedeelte Noord van Clarencorylaan het 'n atmosfeer ontwikkel waar inwoners na aan die natuur leef en siver moontlik die natuurlike omgewing

IP 08/07

ongeskoonde laat. Die meeste eiendomme is dus nie omhein nie en die fynbos groei tot naby geboue. Hier is min menslike bedrywighede. Daar is weinig kriminele aktiwiteite wat hier plaasvind. Die gebied Noord van Clarencerylaan alings Seaviewrylaan is gedefinieer as spesiale residensiële erwe met spesifieke batesvoorwaardes, onder andere geen kommersiële aktiwiteit nie.

Die vestiging van 'n reabilitasiesentrum vir skep 'n risiko vir 'n toename in misdaad. Eerstens bestaan die moontlikheid dat van die inwoners as gevolg van 'n drang na dit wat hy gelees het 'n misdaad kan pleeg om sy drang te bevredig. Die omringende eiendomme sal sagte telkens wees as gevolg van die huidige atmosfeer in Sunny Seas.

Die tweede risiko kan ontstaan as gevolg van dwelmshandelaars wat die sentrum as gevestigde mark beskou en hulle aktiwiteite na Sunny Seas uitbrei.

Dus het na hierdie omgewing verhuis om weg te kom van stedelike bedrywighede en besighede. Die feit dat ek ten minste 3km moet ry om 'n brood te koop spruit uit die feit dat ek die stê omgewing wil he en daarom hier bly.

Die besoekers aan die sentrum kom van oralis oor die land. Dit is nie nodig dat die sentrum hier aan die westelike punt bedryf moet word nie.

Beste wense.

  
A. J. van Niekerk  
5 April 2017

ANNEXURE F 64/185

FILE NO: EL 3054
Bettiesbaai
SCAN NO:
57
COLLABORATOR NO: 1011237

TP ATheart  
(Huld Stoep)

Albert en Eliza van Niekerk  
vniekerk@bertsida@gmail.com  
Foon Albert: 0823260521  
Foon Eliza: 0835011949  
Woning: Rondom-mooi  
Seaviewrylaan 1071  
Postbus 324,  
Bettysbaai,  
7141.

Die Municipale Bestuurder,  
Overstrand Munisipaliteit,  
Hermanus Administrasie,  
Postbus 20,  
Hermanus,  
7300.  
Kandag: Ms H. Van Der Stoep  
e-pos: hretta@overstrand.gov.za



Dame,

Aansoek om ophelling van titelbeperkings en vergunninggebruik van erf 3054 Bettiesbaai.

Hiermee bevestig ek ontvangs van 'n geregistreerde posstuk gerig aan die eienaars van erf 3078 Bettiesbaai met betrekking tot bogemelde erf 3054 Bettiesbaai.

Die eiendom word deur ons verhuur en die huurooreenkoms kan ook in gedrang kom indien die aansoek slaag wat 'n verdere rede by die ondergemelde is waarom ons die aansoek teen staan. Die huurder besit 'n besigheid in Somerset Wes en huur 'n eiendom in Sunny Seas omdat hy in die spesifieke omgewing wil woon.

Gebasseer op die inligting verskaf in die huidige dokument om bogemelde aansoek kan ons nie ons goedkeuring verleen nie. Ons benodig meer inligting ten opsigte van die ondergemelde sake wat ons as kardinaal beskou vir die aansoek.

Hiermee word u versoek om die volgende onduidelikhede in die dokument met die eienaars uit te klaar en aan ons te verskaf:

Die aansoek verwys na dat die toekomstige gebruik van die eiendom as "an upliftment centre". Dit in die eerste plek beteken daar gaan mense bly wat om een of ander rede ophelling nodig het wat deur verskeie omstandighede veroorsaak is. Dit kan selfs mense insluit wat as gevolg van kriminele aktiwiteite ophelling nodig het. Mense wat padaerwysings by ons gevra het het verwys na 'n rehabilitasiesentrum. Daar moet meer duidelikeheid verskaf word van watter aktiwiteite by die perseel vir die toekoms beplan word.

Die ophellingsentrum sal verskeie kundige personelede benodig: medies, sielkundig, wetsynswerk, administrasie en bestuur en baie belangrik toesig. Die voorlegging meld dat die besoekers nie mediese sorg of behandeling benodig nie sonder meer besonderhede oor die besoekers se toestand moet die stelling ignoreer word. Daar word slags verwys na 'n bestuurder wat op die perseel gaan bly. Die kwalifikasies en bekwaamhede van die bestuurder word ook verwys. Die bestuurder gaan

TP 2 APR 17

die verantwoordelikheid dra om 10 persone oor alle dissiplines op te hef. Dit verels besondere bewaamhede wat aan die gemeenskap verduidelik moet word.

Die Sunny Seas omgewing word bewoon deur hoofsaaklik afgetrede mense asook mense wat hulle wonings vir vakansie doeleindes gebruik. Die gedeelte Noord van Clarencerylaan het 'n atmosfeer ontwikkel waar inwoners na aan die natuur leef en sover moontlik die natuurlike omgewing ongeskonde laat. Die meeste eiendomme is dus nie omhein nie en die lynbos groei tot naby geboue. Hier is min menslike bedrywighede. Daar is weinig kriminele aktiwiteite wat hier plaasvind. Die gebied Noord van Clarencerylaan langs Seaviewrylaan is gedefinieer as spesiale residensiële erwe met spesifieke titevoorwaardes, onder andere geen kommersiële aktiwiteit nie.

Die vestiging van 'n rehabilitasiesentrum vir skep 'n risiko vir 'n toename in misdaad. Eerstens bestaan die moontlikheid dat van die inwoners as gevolg van 'n drang na dit wat hy gelos het 'n misdaad kan pleeg om sy drang te bevredig. Die omliggende eiendomme sal sagte teikens wees as gevolg van die huidige atmosfeer in Sunny Seas.

Die tweede risiko kan ontstaan as gevolg van dwelmhandelaars wat die sentrum as gevestigde mark beskou en hulle aktiwiteite na Sunny Seas sitstel.

Ons het na hierdie omgewing verhuis om weg te kom van stedelike bedrywighede en besighede. Dit leit dat ek ten minste 3km moet ry om 'n brood te koop spruit uit die feit dat ek die stil omgewing wil he en daarom hier bly.

Die besoekers aan die sentrum kom van orals oor die land. Dit is nie nodig dat die sentrum hier aan die westelike punt bedryf moet word nie.

Beste wense.

A J en E M C van Niekerk.

5 April 2017

ANNEXURE F 66/185

From: "L.E.Swanepoel" <leswanepoel@gmail.com>  
To: <loretha@overstrand.gov.za>  
Date: 05/04/2017 08:38 PM  
Subject: Erf 3054 Seaview dr. Sunny Seas

TP- A Theart  
(Huld Stoep)

Die Municipale Bestuurder

Hiermee maak ek ten sterkste beswaar teen ontwikkeling van bogenoemde erf.  
Dit is verbreking van voorwaardes van die relevante Titel Akte en gevolglik onwettig.  
Met agting  
L.E. Swanepoel  
Clarence rylaan 2897  
Bettysbaai

Mag ek vra vir erkenning v ontvangs asb.  
Baie dankie  
Sent from my iPad



FILE NO:	EL3054
	Bettysbaai
SCAN NO:	56
COLLABORATOR NO:	1011235

TP

11/04/17

ANNEXURE F 67/185

Loretta Gillion - Objeksie t o v Erf 3054 Betty'sBaai



**From:** "Jenny le Roux" <jenny@mailbox.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 06/04/2017 11:17 AM  
**Subject:** Objeksie t o v Erf 3054 Betty'sBaai

TR A Theart  
 C H vld Staap

Munisipale Bestuurder  
 Hermanus

Geagte Meneer

Insake: Opheffing van beperkende voorwaardes en vergunningsgebruik: Erf 3054 Betty'sBaai

Hiermee maak ek, Janine Le Roux, eienaar van erf 5122 Betty'sBaai, beswaar teen die opheffing van Titelvoorwaardes t.o.v. erf 3054 Betty'sBaai.

Gemelde erf is, soos alle erwe in SunnySea's, gesoneer vir residensiele gebruik alleenlik. Ek objekteer ten sterkste tot goedkeuring van enige sakebedrywighede.

Ek het my in 2013 hier kom vestig – my oorwegende rede was die ongerepte natuur en rustigheid van die omgewing.

Enige sakebedrywighede, insluitend 'n "Opheffingsentrum", keur ek ten sterkste af. 'n Bedryf van gemelde aard, dus ook my redes vir objeksie teen die opheffing, gaan meebring:

1. Mure en omheining wat die natuurlike beweging van diere-lewe gaan versteur. Hierdie is Bewaringsgebied!
2. Sterk beligting: Gaan diere- en insekte se natuurlike lewe versteur.... Asook steurend vir ander inwoners. Hierdie is Bewaringsgebied!
3. Meer voertuie as wat tans die geval is – in Seaview- sowel as ClarenceRyiaan. Seaviewryiaan is 'n pragtige nou straatjie, wat slegs '1 voertuig' breed is. Betrokkes by 'n "Opheffingsentrum", hetsy personeel of "wie ookal opgehef moet word", sal per bus of talle voertuie aangery moet word. Gemelde staat is nie voldoende vir die doel nie.

Ek wil ook u aandag daarop vestig, dat soos bepaal in die aktebesorgersertifikaat, ek as titelhouer nie 'n skrywe van die betrokke advertensie ontvang het nie. Besonderhede omtrent die aanleentheid het ek verneem van ander inwoners.

Ek vertrou dat my objeksie die nodige aandag sal geniet.

Groetend

J Le Roux

FILE NO:	E7 3054
	Betty's Bay
SCAN NO:	55
COLLABORATOR NO:	1011230

FP

06 APR 2017

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus  
7200



TP- ATheart  
(Huld Stoep)

Geagte Me H van der Stoep

**Kommentaar / Beswaar: aansoek om opheffing van titelbeperking en vergunningsgebruik van Erf 3054, Bettiesbaai**

1. Beswaar ten aansien van die motivering wat verskaf is in die aansoek om opheffing van titelbeperking en vergunningsgebruik van Erf 3054, Bettiesbaai

Die aansoekers dui aan dat hy/sy van voorneme is om Erf 3054 as 'n opheffingsentrum / upliftment centre te gebruik. Daar word voorts aangedui dat "guests visiting the upliftment centre do not require any medical interventions and do not have medical conditions that require medical attention". Die applikant noem dan verder aktiwiteite wat by die opheffingsentrum gaan plaasvind soos fisiese oefening, lesings, sauna en etes. Die punte van beswaar is daarom die volgende:

- Die applikant versuim om behoorlik te verduidelik wat 'n opheffingsentrum is.
- Die applikant beskryf bloot wat 'n opheffingsentrum NIE is nie, naamlik dat dit nie 'n plek van mediese versorging is nie.
- Die applikant versuim om te vermeld of die opheffingsentrum 'n rehabilitasiesentrum vir verslaafdes is, welke aktiwiteite dan wel binne die grense van "medical interventions" of "medical attention" val.
- Indien die sentrum bedoel is om verslaafdes te huisves / te rehabiliteer, versuim die applikant se aansoek om te vermeld of en hoe daar aan die *Prevention of and Treatment for Substance Abuse Act 70 of 2008* en die regulasies ingevolge hierdie wet voldoen word en/of die beoogde sentrum (en sy personeel) as 'n *early intervention centre*, en die dienste wat gelewer word as *community-based services* ingevolge die bogenoemde wet geregistreer is.

Op grond van die bogenoemde word daar dus verdere besonderhede ten aansien van die volgende versoek:

- Wat die aard van die opheffingsentrum is;
- of en hoe aan bogenoemde wetgewing voldoen word.

Groete,

Philip Stoep  
Eienaar: Bettiesbaai Erf 3082

FILE NO:	6L 3054
	Bettiesbaai ✓
SCAN NO:	
COLLABORATOR NO:	1010937

FP

5 APR 2017

**Loretta Gillion - Objection to development of 3054 Seaview Drive Betty's Bay**

**From:** "William" <William@photo.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 04/04/2017 10:10 AM  
**Subject:** Objection to development of 3054 Seaview Drive Betty's Bay

TR-A Theart  
(H. vd Steep)



**I object to the commercial development of 3054 Seaview Drive Betty's Bay based on the breach of the conditions of the relevant title deeds**

PLEASE ACKNOWLEDGE RECEIPT OF MY OBJECTION

William McIntosh  
4821 Oxalis Road Betty's Bay

FILE NO:	EZ 3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	1010894

TP 5 APR 2017

ANNEXURE F 70/185

TR A Theart  
C H v d Stoep



From: ulli niemann <ulliniemann14@gmail.com>  
To: <loretta@overstrand.gov.za>  
Date: 04/04/2017 09:37 AM  
Subject: Sunny seas development

Good day

I hereby strongly object to the further development of 3054 in Sunny Seas in Betty's Bay

Please acknowledge receipt of this E Mail

Regards  
EUC Niemann  
Ref 4211  
Betty's Bay

Sent from my iPhone

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010889

TP 1007 67

TP A Theant  
C H vd Stoep

Loretta Gillion - Objection to application for removal of title deed restrictions for Erf 3054 Betty's Bay



**From:** "Gerald Scholly" <gerald.scholly@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 05/04/2017 11:47 AM  
**Subject:** Objection to application for removal of title deed restrictions for Erf 3054 Betty's Bay

Attention: Ms. H. Van Der Stoep

Our response to the above application is as follows:

We refer to Chapter 4, Section 16(2)(f) and Chapter 4, Section 16(2)(g) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed condition in order to and also give consent to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre.

We object to the above for the following reason:

1. This removal of restrictive conditions in the Title Deed sets at precedent for future enterprises and businesses in this area. This is unfair to existing land owners who have purchased residential land here because of the peaceful and quiet environment that this area represents. (A present example is a proposed bed & breakfast in Seaview Drive opening in Sept this year. The owner intends to use AirBnB to rent the property out to clients).
2. There are no guarantees that the proposal that has been put forward by the client for the dwelling to remain as is, will not change in the future.
3. There are more than 10 'guests' on this premises as seen by all who live in Seaview Drive when they go for a jog down the road.
4. There have been incidences of 'guests' running away from this dwelling, one of which picked up a rock from our garden in order to 'protect' himself as he explained to the SA Police who were called out to assist. In each case, there was a mad scramble of people running everywhere to find the run-aways, asking residents if they had seen these persons?
5. There have also been incidents of a 'guest' appearing in a neighbour's garage and another at the front door of an elderly lady's home. There are times when chanting is heard from erf 3054. This is not conducive to a peaceful existence as the client is trying to assure in the proposal.

Please also note that the access to erf 3054 Betty's Bay is not from Penguin Terrace but from Seaview Drive. A lot of the traffic to and from erf 3054 comes down the tamed section of Seaview Drive past our property.

3147 Seaview Drive, Betty's Bay  
083 222 1109 (Gerald)  
083 222 5598 (Brenda)

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
COLLABORATOR NO:	1010382

TP 30767



Posbus 546  
Bettysbaai  
7341

4 April 2017

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Posbus 20  
Hermanus  
7200

TRATHAERT  
(H. vd Stoep)

Gaagte mnr. Groenewald

**ERF 3054 BETTYSBAAI: AANSOEK OM OPHEFFING VAN TITELBEPERKINGE  
EN VERGUNNINGSGEBRUIK**

Ek is die wettige eienaar van Erf 3074 geleë in Seaview Drive, Bettysbaai en het 'n geregistreerde brief van Plan Active in bogenoemde verband, ontvang. Hiermee teken ek beswaar aan teen die aansoek van hul klient, Alpac Investment CC, vir die opheffing van Titelbeperinge en Vergunningsgebruik t.o.v. Erf 3054, Bettysbaai. Die motivering vir my beswaar is soos volg:

1. Die Titelbeperinge vir eiendomme in Seaview Drive maak slegs voorsiening vir een woonhuis, d.w.s. 'n enkelgesinwoning op 'n erf en verbied, onder andere, die bedryf van 'n besigheid op die erf. Die getal inwoners wat kragtens die aansoek te enige tyd (en waarskynlik deurentyd) in die huis geakkommodeer gaan word en die feit dat die voorgestelde opheffingsentrum as 'n besigheid geklassifiseer kan word, strook nie met hierdie voorwaardes nie en skep myns insiens die wesenlike moontlikheid van versteuring van die rustige residensiële atmosfeer wat kenmerkend is van die buurten en wat een van die redes is waarom ek hier gebou het.
2. Die aansoeker verskaf geen toeligting oor die beweerde behoefte aan 'n sentrum van hierdie aard in Bettysbaai en ook geen besonderhede oor die aard van die opheffingswerk wat hulle wil aanbied nie. Daar word slegs gesê dat die besoekers aan die sentrum geen mediese versorging nodig sal hê nie. Die vraag kan egter gevra word of die rehabilitasie en versorging van o.a. persone wat aan die een of ander vorm van verslawing ly met moontlik gepaardgaande aanpassingsprobleme, deel van die taak van die sentrum sal wees. Blootstelling aan persone wat met sodanige krisisse in hul lewens ondersteun word, hou na my mening 'n potensieël risiko in vir ander inwoners van die buurt. Kortom, 'n fasiliteit van so 'n aard hoort nie in 'n uitsluitlik residensiële buurt nie.

Ek moet laastens meld dat ek bewus daarvan is dat 'n sentrum van hierdie aard reeds die afgelope twee jaar of wat op die erf bedryf word en dat daar tot nog toe, ten spyte van vorige besware van inwoners van die buurt, nog nie effektief teen die eienaars opgetree is nie. Dit is myns insiens van dringende belang dat die aansoek van Alpac nou afgekeur word.

Met agting

Johan Fourie  
fouriejoel@ican.co.za  
076 062 2734

FILE NO:	EL 3054
	Bettysbaai Bay ✓
SCAN NO:	
COLLABORATOR NO:	1010880

TP

5 APR 2017

ANNEXURE F 73/185



TP A Theart  
(H. J. de la Stoop)

PO Box 626, Bettys Bay 7141

3316 Clarence Drive, Bettys Bay

4<sup>th</sup> April 2017

Dear Sir/Madam,

**APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS AND CONSENT USE OF ERF  
3054 BETTYS BAY**

Your correspondence reference number PA 15034 dated 28 February has reference.

I am opposed to the removal of the title deed restrictions for the following reasons:

1. The application from Alpac Investments is vague and not transparent. They have not mentioned where their "guests" come from, have they been referred by other institutions or do they come on a voluntary basis.
2. We have seen the "guests" running in the streets of Sunny Seas, Bettys Bay so the "upliftment" centre is already operational. We thereby assume that they are operating illegally.
3. This appears to be a commercial undertaking and no mention is made of the selection criteria to be used to determine who requires the services of the "upliftment" centre. We are of the opinion that the "upliftment" centre is nothing but a rehabilitation centre for people who have a substance abuse problem. This is a security risk to our town.
4. We have seen that the "upliftment" centre currently only has male guests, in their 20's or 30's. This is in violation of the country's constitution as it is not open to all races and creeds.
5. If this application is approved it will create a precedent that will make it difficult to stop other similar applications.
6. If this application is approved who will audit this institution, this surely must be provided by some government department.
7. If the wording used in the application was for a rehabilitation centre this would jeopardise their application, therefore they have been vague and disguising the true intent. This type of centre would best be located on a farm or remote location, not in Bettys Bay.

Yours Sincerely

W.G. Steyn,

FILE NO:	EL 3054
	Bettys Bay
SCAN NO:	
COLLABORATOR NO:	1010878

TP

3022 67

TR A-Heart  
CH vld. Steep)



Selfoon 072 905 4702  
brj@orange@netactive.co.za

5 April 2017

DIE MUNISIPALE BESTUURDER  
OVERSTRAND MUNISIPALITEIT  
PATERSONSTRAAT 16  
HERMANUS  
7200  
(loretta@overstrand.gov.za)

FILE NO:	ET 3054
SCAN NO:	Betty's Bay ✓
COLLABORATOR NO:	1010853

Geagte Meneer

**BESWAAR TEEN AANSOEK OM OPHEFFING VAN BEPERKENDE TITELVOORWAARDES EN VERGUNNINGSGEBRUIK VAN TITELAKTE T54244/2014 OP ERF 3054, BETTYSBAAI TEN EINDE DIE BESTAANDE WOONHUIS OP DIE EIENDOM AS OPHEFFINGSENTRUM AAN TE WEND**

**BELANGE:** A & M J BURGER is eienaars van drie erwe in Bettysbaai in die nabye omgewing van die onderwerp erf naamlik:

1. Erf 3021, Clarencerylaan,
2. Erf 3110, Sea Viewlaan, en
3. Erf 3367, Dolphinrylaan.

Beswaar as volg:

#### 1. OPHEFFINGSENTRUM REEDS IN BEDRYF

Die dokumentasie wat die aansoek vergesel, verskaf ongelukkig geen inligting oor die tipe opheffing nie. By navraag, blyk dit egter dat die huis alreeds 'n geruime tyd gebruik word om persone wat klaar rehabiliteer is, daar op te hef. Geen melding word in die aansoek gemaak dat die Opheffingsentrum alreeds funksioneer sonder die nodige toestemming. Laasgenoemde skep die indruk dat die sentrum se eienaars/bestuur nie verantwoordelik gehou kan word nie, nie omgee om te oortree nie en nie die gemeenskap van Bettysbaai in ag neem nie. Dit is ons eerste beswaar.

#### 2. GESOGTE WOONBUURT SE PRYSE DAAL

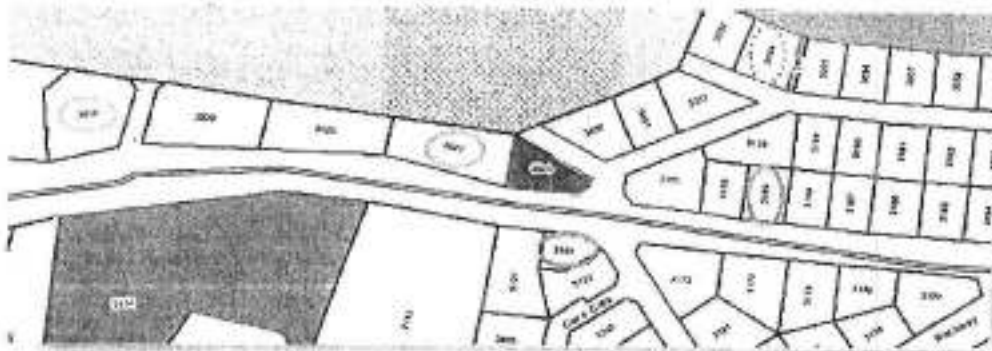
In die aansoekdokument, bladsy 11 onder die hoof 14, Recommendation, staan die volgende: "The proposed consent use and removal of the restrictive Title Deed conditions will not have a negative effect on the current character and land values of the surrounding erven." Tuiselende eiendomspryse toon egter dat die teenwoordigheid van die bestaande sentrum alreeds 'n negatiewe invloed op die gesogte

Bladsy 1 van 4

TP

3008.03

woonbuurt het. 'n Naby geleë onbeboude erf 3019 Clarencerylaan (sien figuur 1) met 'n Municipale Waardasie van R950 000 is gedurende Maart 2017 teen slegs R500 000 verkoop.



Figuur 1: Area kaart naby opheffingsentrum in Bettysbaai

Twee ander nabygeleë onbeboude erwe 3169 en 3402 (sien figuur 1) is as volg verkoop:

Erf nommer	Verkoop datum	Verkoop prys	Munisipale Waardasie
Erfno 3169	2016-05	R290 000	R480 000
Erfno 3402	2016-02	R270 000	R380 000

Mark Aktiwiteite in Omgewing van Opheffingsentrum sedert 2016



Figuur 2: Verkoop Opsomming

'n Verdere onbeboude erf 3022 naby die Opheffingsentrum, word tans onder die munisipale waardasie te koop aangebied (sien figuur 1).

Erf nommer	Bemerkings Bedrag	Munisipale Waardasie
Erfno 3022	R850 000	R950 000

Ons is van mening dat die Opheffingsentrum wat daar bedryf word 'n negatiewe effek op eiendomspryse het.

### 3. VERANDERING IN GESOGTE WOONBUURT

Die Sunny Seas woonbuurt het gewoonlik beleggers gelok om in hierdie rustige kusdorpie te belê sodoende aan goeie beleggingsbeginsels te voldoen. Afgetredenes het om dieselfde rede, hulle ook hier kom vestig. Mense leef langer en afgetredenes is genoodsaak om 'n ekstra inkomste te verdien om voorsiening te maak vir die langer leeftyd, inflasie, en stygende mediese- en voedselpryse. Hulle is nie 'n las op die gemeenskap nie. Trouens, hulle doen gratis werk in hul gemeenskap tot voordeel van almal. Hulle het byvoorbeeld 'n uitkapgroep wat indringers uitroei sodoende ons natuurlike fynbos te beskerm. Hulle streef daarna om op 'n omgewingvriendelike manier te leef wat die internasionaal beginsels van 'n Biosfeerreservaat onderskryf. Hulle werk hard om toerisme te bevorder, dien op verskeie komitees en betaal gereeld hul belasting. Dis vir hulle belangrik dat hul eiendom se waarde styg omrede die opbrengs daarvan in latere jare aangewend moet word om vir duur versorging in versorgingsorde te betaal. Hulle wil nie 'n las op die staat plaas om hulle te onderhou nie. Die dalende eiendomspryse is 'n groot bekommernis vir afgetredenes. Wanneer eiendomspryse daal moet munisipale belasting afwaarts aangepas word. Dit veroorsaak weer minder inkomste vir die Munisipaliteit wat tot gevolg het dat daar minder geld beskikbaar is om dienste te lewer. Dit benadeel alle inwoners.

### 4. TOERISME

Toeriste van oral oor die wêreld, kom kyk na ons ryke plantsverskeidenheid in Bettysbaai. Hulle hou van die mooi bewaarde natuurlike omgewing en die stiltes. Toeriste bly in gastehuse of huur vakansiehuse vir 2 tot 3 maande per jaar. Die sogenaamde Swaeltjies (toeriste uit Frankryk, Engeland en Duitsland) kom gedurende buite seisoen na ons kusdorpie en spandeer baie geld hier. Dis 'n belangrike voedingsaar tydens stil seisoen tyd vir ons gemeenskappe en die waarde daarvan moet nie onderskat word nie. Ons is dus van mening dat 'n opheffingsentrum van watter aard ook al, nie inpas in sulke omgewings nie.

#### 5. WERKSGELEENTHEDE IN GEDRANG

Indien ons nie aandag gee aan die dinge waaroor toeriste hierheen kom nie, gaan hulle eenvoudig na ander plekke. Gevolg sal talle werksgeleenthede hier verlore gaan. Ons is bekommerd dat broodwinners van hier nie kos op die tafel kan sit vir hul kinders nie. Dit gaan arm gesinne swaar tref.

#### 6. DAGPROGRAM

Omrede min inligting in die aansoek oor die sentrum bekend gemaak word, is 'n Dagprogram aangevra sodoende te bepaal wat die opheffing van die sentrum behels. Op 30 Maart is die dagprogram nog nie ontvang nie en is me. Van der Stoep daarvan in kennis gestel. Sy het onderneem om weer vir die Opheffingsentrum te vra om 'n dagprogram beskikbaar te stel.

#### 7. TOEREKENBAAR

Ten tye van hierdie skrywe is die dagprogram van die Opheffingsentrum nog nie ontvang nie. Omdat ons min besonderhede tot beskikking het, is ons nie verseker dat die Opheffingsentrum bedags en snags toerekenbaar is vir toesig oor ligamlike en emosionele gedrag, veiligheid, uitputting, noodhulp, en brandbeheer nie.

#### 8. OPSOMMING

Ons het respek vir die opheffing van mense maar het 'n beswaar teen die Opheffingsentrum op Bettysbaai. 'n Opheffingsentrum kan in enige dorp, stad, of land opgerig word. Daarenteen beskik Bettysbaai oor die meeste soorte natuurlike plantegroei ter wêreld. Dis 'n belangrike bate wat vandag en in die toekoms groot voordele vir alle inwoners inhou. Veral vir die groeiende aantal kinders wat hier grootword. Hulle behoort ook 'n kans op 'n blink toekoms gegun te word. Ons versoek dus dat die aansoek afgekeur word.

G E T E K E N, as gesamentlike eienaars van Erf 3021 Clarencerylaan; Erf 3110 Sea Viewlaan; en Erf 3367 Dolphinrylaan:



Mnr A BURGER



Mnr A BURGER

ANNEXURE F 78/185

2017/04/04 JL

4<sup>th</sup> April 2017TR A Theart  
(C H Vd Stoep)

Jean Lubbe

ERF 3181

P O Box 877

Betty's Bay

7141

For the attention: MS H Van Der Stoep

The Municipal Manager

Overstrand Municipality

Hermanus Administrative

PO Box 20

Hermanus 7200

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010847

Dear Madam

RE: OBJECTION TO APPLICATION FOR THE REMOVAL OF TITLE DEED  
RESTRICTIONS AND CONSENT USE OF ERF 3054 BETTY'S BAY.

My interest in the application and reasons for comments are that my residence is within 150 m from ERF 3054 and that I hereby lodge my objection, with reasons below, to the "application for the removal of title deed restrictions and consent use of Erf 3054 Betty's Bay".

I would like to point out that the area is populated by a very small percentage of permanent residents (10% permanent occupation) in a 10km strip between the mountain and the sea, i.e. Betty's Bay and these residents are mainly single, widowed and/or retirees. Against this background I challenge your rationale re your comment that there is a "demand for an upliftment centre". This is not factual. Plus in this same 10km strip of Betty's Bay there are already upliftment/wellness/ sports centres. The demand and need for one may be worldwide but is inappropriate in Betty's Bay and needs to be better justified.

Page 1 of 5

TP

3 APR 2017

2017/04/04 JL

I challenge the fact that an upliftment centre should be in a tranquil location, with great views- as there are many more cost effective farms/land/ available with the same prerequisite BUT without the view over the whole of the Walker Bay & Betty's Bay. With this access and view over the sea, and given the known peremoen poacher operation in this area, it could possibly be perceived that "a view of the sea" to be the real rationale for purchasing this specific site.

By your own submission the area is "characterised as a medium to higher income area, quiet and tranquil". I can confirm this as on any given day I can hear the voices of neighbours 3 to 4 houses away. This is in an area with very large stands and no fences.

**Your impact will be and already is enormous.**

For the past few months, I have observed between 12 to 14 young men from Erf 3054 being trained. So we are already subjected to the chanting, jogging, invasion into our tranquil and quiet area. My first reaction on observing them was fear and caution for my safety.

Your IMPACT has a second effect. This quiet environment has many empty holiday houses and the few that are occupied, specifically in Sunny Seas; have among them single widowed ladies and gentleman. Your current group of upliftees are comprised of only young MEN, perhaps rehabilitated drug addicts or, heaven forbid, with possible criminal records. The impact on a largely defenceless community (no barbed wire, high walls i.e.no gates and no fences) will have a very negative reaction – which will immediately eradicate the well-being and security and necessitate an increase in security measures.

For the past few months the community started a neighbourhood watch as crime increased in the area.

Whether perceived or real, the reaction to a possible threat to our security will bring a huge change. It will no longer be the safe secure area so sought after.

Recently I was on main beach Betty's Bay , tanning, reading and swimming, all alone. Took photo's to illustrate the fact when the same beach was invaded by a group of 20 young men. PHOTOS INCLUDED.

2017/04/04 JL



2017/04/04 JL

Under the circumstances I found it prudent to leave the beach. IMPACT: immediate and invasive, once again not a zero impact.

IMPACT on my life and retirement is enormous as we selected this property in 1999 after 7 years of research for the most tranquil, safe, retirement position with an awesome view. As illustrated, this invasion has challenged the safe secure tranquillity that used to be Sunny Seas.

IMPACT on my financial investment (house) is enormous as such a centre will reduce the value of my property. (taking away the tranquillity and introducing a possible security threat. Both aspects always have an impact on house prices)

IMPACT on my long term retirement plan is enormous as I may not be financially able to improve my security should the need arise and therefore it may not physically be safe to live in Sunny Seas.

One of the aspects that was not addressed in the application was under which organisation the upliftment will be run. No indication of oversight by a SETA, religious, welfare, health, sports, lifesaving, university, SANBI or even military organisation is given. The goals and outcomes are not defined. IMPACT and indications of no accountability basically gives carte blanche to possible exploitation.

Your rationale that this centre will have the same impact as a guest house may be valid, BUT I challenge this as very seldom would 20 young males of similar background book into a guest house for a month or two.

The same goes for the rationale of large families and two families as a family will seldom be comprised of MALE only of similar background, given to chanting early in the morning and late at night as is currently happening.

The impact of an upliftment centre for young males, moving in amongst our houses, chanting in the quiet of the early morning and late evenings, having blazing lights on in a "lights out after 10 area" is very real.

2017/04/04 JL

The impact on the financial, security and tranquillity of the Sunny Seas area is upsetting, and the general invasiveness of a group with no clear outcomes known to the community is very disconcerting.

In conclusion I propose that the current restrictions remain and are upheld.

Yours sincerely  
Jean Lubbe

ANNEXURE F 83/185

From: "Eugene" <eugenefountainsquare@sonicmail.co.za>  
 To: <doretta@overstrand.gov.za>  
 CC: <eugenefountainsquare@sonicmail.co.za>, <planactive@hermerius.co.za>  
 Date: 04/04/2017 11:15 AM  
 Subject: FW: Objection Re erf 3054 Bettys Bay

TR A Theart  
 C. Mulder (Stoep)



Attention: Ms H. Van Der Stoep

ERF 3054 Bettys Bay  
 Sunny Seas  
 Bettys Bay  
 7141

4th April 2017

To Whom it may concern,

Regarding Municipal Notice No. 36/2017, regarding application for removal of restrictive title conditions applicable to erf 3054, Betty's Bay, with respect to the running of an "upliftment centre".

My Details  
 Eugene Stolk  
 3195 Pearl Road  
 Sunny Seas  
 Bettys Bay  
 7141

Cell number 0820653163

I hereby register my interest in this matter as I am a resident of the Sunny Seas, nearby to the above plot. My comments and some concerns are detailed below.

1. The title deeds of the plot prohibit business activities on the plot. This I agree with as no businesses/commercial enterprises, means that the look and feel of Sunny Seas, Betty's Bay will be upheld.
2. There are insufficient details about what the "upliftment center" will do, and how they will do it for me to be able to accept this. There is no detail provided whatsoever, so we do not understand what they are wanting to achieve.
3. Intimidation - while the current residents appear friendly, there is an intimidation factor by the sheer number of people they have running and walking on the streets. It is a large group of men, which alters the feel for the area. Also of concern is of criminals taking advantage of the situation, leading to increased crime.
4. As the owners/operators are currently operating illegally, despite having been ordered to stop, I do not believe they propose to adhere to any rules or regulations over them.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010342

TP

3 April 2017

I therefore object to their application and oppose the application for altering title deeds, and I object to any consent for using the erf as a commercial enterprise and/or for an upliftment centre.

Kind regards

Eugene Stolk

TP-A Theart  
(H. J. de Stoop)



To Whom it may concern,

Regarding Municipal Notice No. 36/2017, regarding application for removal of restrictive title conditions applicable to erf 3054, Betty's Bay, regarding running of an "upliftment centre"

My Details  
David & Tricia Horne  
3193 Pearl Drive / PO Box 536  
Betty's Bay  
david@horne.za.net  
083 556 9117

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
COLLABORATOR NO:	1010827

I hereby register my interest in this matter as I am a resident of the immediate area in which the institution wishes to function. My comments and concerns are listed below, in no particular order.

1. As per the document sent by Plan Active, on behalf of their client, there is absolutely no description of what this "upliftment centre" actually entails. To this end, without a full description of purposes, modes of operation, planned activities etc. I have no option but to object and oppose their application. My concern is that without a full description, the "upliftment centre" could become a great intrusion into the neighbourhood. For example if the "upliftment centre" becomes a work skills upliftment centre, teaching metal working, carpentry and panel beating, with associated noise and intrusive activities. If permission was granted under the proposed application, there would be no reason why they could not do this.

2. Based on historical activities, including the existing court case against them, it is clear that the owners and/or operators have wilfully engaged in operations contrary to existing title conditions, and continue to wilfully operate disregarding municipal conditions. I believe that the owners and/or operators will likely continue to operate without due regard to the laws applicable. Precedence has been set where there is wilful defiance and contempt of the law, and this attitude is unlikely to change.

3. Current operations have resulted in a change to the local feel of the immediate area, where residents at said institute engage in regular walking exercise in the surrounding streets, in large groups. While no known problems have arisen from this, it has resulted in family and neighbours feeling less secure, and unwilling to walk in the streets unaccompanied. Clearly there is a level of inadvertent intimidation due to the size of the groups of men walking around. This therefore has a direct impact on our lifestyle in Betty's Bay. This is further exacerbated due to the fact that the residents of said institute are strangers to the area, unlike the permanent residents, who are known and recognised.

4. It is commonly mentioned in Betty's Bay, that the premises is currently operating as a drug rehabilitation centre. It is indisputable that drugs are closely linked to crime. This raises the very real and legitimate concern that there may be currently, or in the future, criminal activities due to the presence of the institution and its residents. In order to explain this point, I give an example below.

#### EXAMPLE SCENARIO.

Drug dealers become aware of the institution and decide to target the residents. As there are no fences, restrictions, or guards, they have easy access to the residents. Furthermore, as the residents engage in outside activity, open access to them is possible. As the residents are recovering addicts, they are exceedingly vulnerable to being tempted to engage in further drug use. In order to get money for selling drugs, the dealers target them, offering, initially, free drugs. Once the target is

TP

30-7-17

"booked" again, the offer of free drugs is withdrawn and payment is now required. As they do not have cash with them, the residents are encouraged to turn to crime, and are thus tempted to engage in petty, serious, and even dangerous crimes, in the immediate neighbourhood. This in order to obtain cash, sell-able items, or trade-able items in order to pay the drug dealers.

END

I sincerely believe this above scenario is a very real, legitimate and possible scenario. This would have a devastating effect on the Betty's Bay area.

While an institution for recovering addicts is admirable, and such institutions are necessary, I believe that the willingness to ignore the laws, and operate illegally show that the the owners and/or operators are not interested in running a legitimate operation.

5. Number of "Guests". The application document says hat they would have a maximum of 10 "guests". However already we see daily on the road more than 10, in fact closer to 20 people exercising. How would numbers be enforced? What penalties would be levied against them for failure to adhere to stipulated numbers.

The above forms a summary of my submission and expression of interest. I would like to receive receipt of my submission, and to be informed of any progress, changes, open and/or closed meetings regarding this situation.

In conclusion, I object to the application for removal of title deed restrictions and oppose consent to use the Erf 3054 for stated purposes.

Kind regards



David Horne

**BBRA / BBBV**

Betty's Bay Ratepayers' Association  
 Bettysbaaise Belastingbetalersvereniging



Municipal Notice no. 36/2017

The Municipal Manager  
 Overstrand Municipality  
 16 Paterson Street  
 PO Box 20,  
 Hermanus  
 7200  
 Email: [lorretta@overstrand.gov.za](mailto:lorretta@overstrand.gov.za)

TR A Theart  
(H. v.d. Steep)

FILE NO:	EL 3054
	Betty's Bay 5 April 2017
SCAN NO:	
COLLABORATOR NO:	1010810

Dear Sir,

**ERF 3054 - PENGUIN TERRACE, 11 SEAVIEW DRIVE, BETTY'S BAY:  
 PROPOSED REMOVAL OF TITLE DEED RESTRICTIONS AND CONSENT  
 USE: PLAN ACTIVE (obo) ALPAC INVESTMENT CC**

I wish to object to the removal of the title deed restrictions and consent use of the above mentioned property, in response to a registered letter received from Plan Active in this regard. As Chairperson of the Betty's Bay Ratepayers' Association (BBRA), I represent - some 400 +property owners.

I have received several complaints from our members that the conditions as prescribed in the said title deeds, were not enforced timeously by the municipality, as the owner utilized the property for other purposes as 'single residential special', since 2014. This is the second time that Plan Active obo the owner, applied for the removal of restrictive conditions on this property.

It is with grave concern that we have taken note of the current state of affairs, as the application was processed while a new court case is still in process regarding the same matter.

I wish to comment on the notice given in terms of Section 51 and 52 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016.

It must be noted that the erven in some areas of the Sunny Seas township, Betty's Bay, is zoned as 'single residential special'. In view of this zoning, property owners, are restricted in accordance with their registered title deeds to the conditions prescribed. Therefor the comment made in the application with regards to the usage in par.2.1, is incorrect.

The application for the removal of the Restrictive Title Deed Conditions and Consent Use in order to utilize the existing dwelling as an Upliftment centre, also called Institution in the application, claims that the current zoning is that of

TP

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## **BBRA / BBBV**

Betty's Bay Ratepayers' Association  
Bettysbaaise Belastingbetalersvereniging

residential zone 1. According to my knowledge, some of the Sunny Seas erven and this specific stand, is zoned as '**single residential special**'. This has the implication that all the residents of the Sunny Seas area should be consulted on the matter.

**The BBRA opposes and objects to the Removal of the Restrictive Title Deeds Conditions and Consent Use as applied for by Plan Active obo the owner of Erf 3054.**

The reasons are as follows:

1. This application is not supported by a needs assessment conducted within the area amongst residents, to confirm that the community has a need for such a facility. Betty's Bay is an area within the pristine Kogelberg Biosphere, with holiday homes, permanent residents who are mostly retired and a small number of families, where the man and or woman is still employed outside the town.

2. Betty's Bay is a lifestyle seaside village with a rural/country atmosphere. Thus there is only a small number of Business Properties. With the establishment of Betty's Bay, the business premises were limited to just a few areas, in line with the character of the village and the wish of the initial developer. No additional land has been earmarked by the town planners for Business and or Industrial Development, as there is no need for such additional stands in a World Class Heritage Environment.

The proposed institution/upliftment centre on erf 3054 is in an area zoned as **single residential special** and will therefore negatively impact on the character of the village and the Sunny Seas area. The current zoning and Title Deeds restrictions as imposed by the Hangklip Beach Estates Limited, serve the purpose to endorse the character of the village. The current Title Deeds restrictions prevents owners from conducting any type of business. The removal of such conditions would have a negative effect on the surrounding erven and land values. The intention with the current restrictions applicable, was to retain the original purpose and character of the erven for residential purposes. When people bought their properties in the area, it was with the explicit understanding that their neighbourhood would remain a quiet peaceful haven.

3. It is not only the 400 + ratepayers in Bettys Bay that will be affected, should this application before Council be approved, but the entire village/ community. It is also a concern that the approval of the said application will create a precedent. It is foreseen that in future more applications would then certainly follow in terms of relaxation and/ or waiving of Restrictive Title Deed restrictions.

**BBRA / BBBV**

Betty's Bay Ratepayers' Association  
Bettysbaaise Belastingbetalersvereniging

In closure I remain concerned as it seems that the process followed was incorrect. Several enquiries/complaints and numerous telephone calls were received from property owners, claiming that they were not informed in writing. Thus it would appear that not all the affected parties were consulted and received registered letters on the matter, despite the fact that Overstrand Municipality informed me that the property owner data base was provided to Plan Active.

Yours faithfully,

**(W.R.B. PEROLD)**  
**CHAIRPERSON BETTY'S BAY RATEPAYERS ASSOCIATION**

ANNEXURE F 90/185

TP - A Theart  
C H v/d Steep

From: Janet Meyer <janetmeyer@gmail.com>  
 To: <loretta@overstrand.gov.za>  
 Date: 03/04/2017 06:41 PM  
 Subject: Erf 3054, Seaview Drive, Bettys Bay

Good Day,

It has come to my attention that the correct procedure for title deed restriction removal for erf 3045 has not been followed.

This is illegal, and unacceptable.

The noncompliance of correct procedures is ILLEGAL and must be addressed.

I object to the total disregard of correct procedure and advertisement of the intention of "Apaca Investment cc" with regard to this property.

The properties of Sunny Seas have title deeds of 1934 which are DIFFERENT from the original BB plots. A drug rehabilitation centre- or a "wellness" centre- are not included in the title deeds of this property.

I wish to lodge my complaint and objection to any removal/change etc of the title deed restrictions of erf 3054, Sea View Drive, Bettys Bay.

Please acknowledge receipt of this email as well as acknowledgement of my objection.

Regards,  
 (Mrs) Janet Meyer  
 erf 2581, Bettys Bay.

Janet Meyer  
 janetmeyer@gmail.com  
 0027845801298

FILE NO:	EL 3054
	Bettys Bay
SCAN NO:	46
COLLABORATOR NO:	1010150

TP

3 APR 2017

TP - A Theart  
C Huld Stoep

Loretta Gillion - Erf 3054 Seaview Drive



**From:** Walter Crawford <wali.crawford@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 05/04/2017 07:44 AM  
**Subject:** Erf 3054 Seaview Drive

Dear Loretta,  
Without sounding insensitive, I would like to object to development of 3054 into a clinic/facility.  
It would change Betty's bay to better or worse, and I think it would be for the worse.

Thanking you

Walter Crawford  
Owner 3978 Betty's bay.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010802

TP

30-4-17

ANNEXURE F 92/185

Loretta Gillion - KENNISGEWING t.o.v AANSOEK OM OPHEFFING VAN  
TITELBEPERKINGE - Erf 3054



**From:** "Hartley Kennel" <hartley.kennel@sonicmail.co.za>  
**To:** "Die Munisipale Bestuurder" <loretta@overstrand.gov.za>  
**Date:** 04/04/2017 11:21 AM  
**Subject:** KENNISGEWING t.o.v AANSOEK OM OPHEFFING VAN  
TITELBEPERKINGE - Erf 3054

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus

ERF 3054, BETTIESBAAI - Munisipale Kennisgewing Nr 36/ 2017

Geagte Menere/Dames

Ek is die eienaar van Erf 3253 in Bettiesbaai.

1) My primêre beswaar teen die aansoek vervat in bogemelde kennisgewing, is die feit dat ek nie kan vasstel wat beoog word met 'n "upliftment centre" nie.

2) Wat my wel verontrus is die mans wat van die gemelde eiendom kom en gereed in militêre gelid by my huis verby draf.

3) Ek bemerk ook dat die gaste van die eiendom "lectures" sal bywoon; weereens kan ek nêrens vasstel wat die grondslag van die sentrum sal wees nie. Gepaardgaande met die oefeninge in militêre gelid, is dit ietwat kommerwekkend en onder die omstandighede opponeer ek die aansoek en weier om my toestemming te gee.

Die uwe,  
H.P.KENNEL

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FILE NO:	EL3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	1010800

TP  
407.07

Loretta Gillion - Objections to Erf 3054

TP - A Theart  
(H. J. de Steep)



**From:** Karin Borowski <kbbettysbay@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 04/04/2017 01:52 PM  
**Subject:** Objections to Erf 3054

To whom it may concern,  
Please be advised that we Egon Sommergerger and Karin Borowski, owner of Erf 4495 in Betty's Bay are very much concerned of further development of ERF 3054 Seaview Drive in Sunnyside and object any commercial enterprise.

Kindly acknowledge receipt of this e mail. Thank you.

Kind regards  
Egon Sommergerger + Karin Borowski

4495 Ixin Road  
7141 Betty's Bay

E-mail [kbbettysbay@gmail.com](mailto:kbbettysbay@gmail.com)

Sent from Samsung Tablet

FILE NO:	EL 3054
	KBB ✓
SCAN NO:	
COLLABORATOR NO:	1010798

TP 3/1/17

ANNEXURE F 94/185

**Loretta Gillion - Aansoek om opheffing van titelbeperkings en vergunningsgebruik van Erf 3054, Bettiesbaai**

**From:** "Cloete Du Bois" <exdlboz@sonicmail.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 04/04/2017 01:54 PM  
**Subject:** Aansoek om opheffing van titelbeperkings en vergunningsgebruik van Erf 3054, Bettiesbaai

TR A Theart  
(Huld Stoep)

Die Munisipale Bestuurder,  
 Overstrand Munisipaliteit,  
 Hermanus.  
 Aandag: Me. H. Van der Stoep



U skrywe insake bogenoemde gedateer 28 Februarie 2017 het betrekking.

In antwoord op bg skrywe die volgende:

- 1 Wat word spesifiek met 'n Opheffingsentrum bedoel soos in paragraaf 1 van die Aansoek genoem?
- 2 Erf 3054 is geleë in 'n woongebied en kan volgens alle regulasies en voorskrifte geensins as 'n besigheid aangewend word nie. Na verneem word is dit ook geleë in 'n Erfenisgebied.
- 3 In paragraaf 5 van die aansoek word verwys na 'n behoefte(demand) vir 'n "wellness centre, upliftment centre" in hierdie gebied. Is die omliggende gemeenskap daarin geken – hoe, wanneer en deur wie en ook vir watter spesifieke doeleindes word dit juis in die area beplan?
- 4 Wat is die doelwitte van die sentrum op kort, medium en langtermyn?
- 5 Dit sal totaal onmoontlik wees om te kan voorsien dat geen mediese dienste ooit nodig sal wees as daar dan fisiese opleiding aangebied en ook 'n gimnasium bedryf gaan word – beserings kan tydens opleiding van onfikse persone plaasvind.
- 6 'n Verdere bekommernis is die opleidingstandaard van die instruksors sodat hulle pro-aktief kan optree om beserings te voorkom of te behandel.
- 7 Daar word van 7 parkeerareas melding gemaak vir die beoogde sentrum; dws 5 vir die slaapkamers en 2 vir die bestuur. Die 2 plekke vir die bestuur is die dubbele motorhuis wat ook as gimnasium beoog word. Ook 'n bekommernis is die parking vir die personeel en besoekers. Al hierdie beweging gaan in 'n doodloopstraat geskied – iets wat sekerlik verkeersvloei kan beïnvloed.
- 8 Bettysbaai het reeds genoegsame beskikbare sake- en industriële erwe – geen verdere toevoegings is nodig nie.
- 9 In die lig van aksies wat 'n gerulme tyd reeds sonder toestemming op die erf plaasvind en toegelaat word, is dit vreemd dat daar nou toestemming op 'n post facto basis gevra word – blykbaar om gedane sake te wettig. Dit is totaal onaamvaarbaar. 'n Onwettige aksie word aan ons opgedwing.
- 10 Verder is daar by my 'n verwarring of die plaaslike owerheid of hoër gesag(provinsiaal of staat) die hersonering kan teweegbring. Dit is amper of daar 'n "terminale"( nie terminologiese) teenstrydigheid bestaan oor wie wat behoort te doen.

FC du Bois  
 Posbus 408  
 Bettysbaai.

ERF. 3096, Bettysbaai

FILE NO:	EL 3054
SCAN NO:	Bettys Bay ✓
COLLABORATOR NO:	1010795

TP

310717

ANNEXURE F 95/185



P O Box 325

Hermanus

7200

3 April 2017

The Municipal Manager  
Overstrand Municipality  
P O Box 20  
Hermanus 7200

TR A Theart  
(Hvd Stoep)

Sir

ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY:

## REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE

Your municipal notice No 36/2017 regarding the above application refers.

As registered owner of erf 3418, Betty's Bay I hereby object to both applications as submitted by Plan Active on behalf of Alpac Investment CC. My objection is based on various criteria and is detailed below.

#### 1. Removal of Restrictive Title Conditions

As regards the removal of the restrictive title conditions the applicant referred to an "enclosed certificate" of the conveyancing attorneys. No such certificate was enclosed.

When a township is proclaimed restrictive title conditions are imposed for specific purposes and to ensure future outcomes. Buyers of properties take cognisance of such restrictions as they know that their rights are protected and that the beneficial use of their properties will not be infringed by other property owners in that township. In the present instance only one dwelling per erf accommodating a single family was envisaged. The title deed condition C(i)(m) was clearly intended to prohibit the mentioned uses including the use proposed by the applicant whereas condition C(i)(b) limits the use of the erf to "one dwelling". Such use is restricted to one family/household.

The rational reason for such restrictions is that other erven in Betty's Bay were clearly earmarked for the mentioned uses. There are many such vacant erven that could be used for the envisaged purpose and, as a result, there is no real need to remove the restrictive title condition. The argument put forward by the applicant that there is a "demand for wellness centres, upliftment centres and related land uses in the area" is not only an unproven statement but, it is submitted, also devoid of the truth. Had there been such a demand "in the area" then surely one or more of the vacant erven with existing rights would have been snapped up by developers.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	16
COLLABORATOR NO:	1010497

FD

## 2. Upliftment Centre

Not only is there no definition of what an upliftment centre entails ( eg "uplift" from what to what and how and why) but there is also no provision for such a consent use. As the proposed use is not defined it will, in future, be impossible to determine whether the parameters of the use are exceeded or not.

The main problem is that the applicant is not truthful about the application. Why not state honestly who the "guests" are, how many will there be, why they are there, what is the purpose of their stay and what is the duration of the stay? It is presumed these are paying guests as in par 9 it is stated "that it qualifies as running a business".

The mere fact that the applicant has been operating illegally for quite some time is an indication of bad faith and a disrespect for prevailing legislation and binding rules.

## 3. Number of guests

The application is for 5 rooms plus a room for the owner manager. This equates to 10 guests ( 5 rooms x 2 guests) to a maximum of 12 people including the manager/owner. It is common cause that the actual figure is approximately 20 people. Actual counts on various days and photographic evidence to this effect exist. If the applicant at this stage, without any existing rights, already exceeds the limit, what is there to prevent the applicant to do so in future? Once the rights have been granted and vested the onus will then fall on the residents to prove that the applicant is non-compliant. This is a costly and time consuming exercise with no guarantee that there will be a positive outcome.

It is submitted that the Applicant is acting in bad faith and has no intention to abide by the very limitations proposed by the Applicant self.

## 4. Area of use

The applicant creates the impression that this is a tranquil activity restricted to the property itself.

This is **not** the case and the occupants regularly move as a large group in the whole eastern ("Sunny Seas") part of Betty's Bay. This is not only noisy but also an invasion of privacy of especially the permanent residents who are mainly elderly people and whose tranquility is impaired by this activity.

Most of the properties are not enclosed so as to allow the fauna, of which there are many species, to freely move through properties. As a result one feels exposed to strangers who regularly infringe upon the visual privacy of one's house.

#### 5. Comparison to a Guest house

There is a vast difference between a guest house and the proposed use. Firstly a guest house has fewer guests namely a maximum of 10 and in many instances less than that due to the single occupancy of a room. Secondly guest house occupancy is seasonal with low occupancy levels outside the peak holiday periods and weekends. In the present instance the occupancy is continuously high.

As a result this comparison is irrelevant and invalid to the point of being odious.

#### 6. Availability of services

It is common cause that the Overstrand municipality is experiencing serious problems with sewage disposal in the whole of the Kleinmond/Hangklip area due to the vacuum tanker fleet often being out of action and in any event under-capacitated. This has led to property owners being denied the opportunity to subdivide their properties in terms of the Municipality's Growth Management Strategy. Should the current application, with its continuous and excessively high occupancy levels, be granted there would be no justification whatsoever for the Municipality to deny any current or future subdivision applications.

This current state of affairs regarding sewage disposal should therefore result in a rejection of the current application in order to prevent a further burden being placed on this service.

#### 7. Environmental impact (par 11.2)

There is a negative environmental impact in that the extremely bright and glaring lights on the property disturb the ambient low lighting culture prevalent in Betty's Bay e.g. no streetlights – not even on Clarence Drive.

Erf 3054 is also fully walled, which is not a problem in itself, but it is contrary to the spirit of allowing freedom of movement for the rich fauna endemic to that part of Betty's Bay. (Refer again to par 4 above).

#### 8. Spatial Justice (par 13)

Again, as elsewhere in the application, reference is made to a "much needed social service to people within the peaceful area of Betty's Bay".

It begs the questions: What need? How was this need determined/proven? For whom? Which social service? Is this a Betty's Bay need that is being satisfied? If not, why Betty's Bay? As a result of the perceived secrecy rumours abound and until the applicant honestly informs the community of its intentions a negative and even suspicious attitude will prevail.

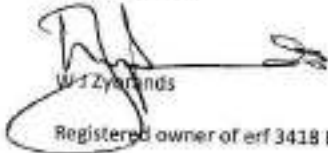
In essence there is neither a proven need nor a desirability for the proposed use.

The "peaceful area of Betty's Bay" is in fact disturbed by the current (and proposed) activity. It does NOT promote or enhance peacefulness and tranquillity.

**Conclusion**

It is submitted that for the foregoing reasons the application should not be approved and that the current illegal use be terminated forthwith.

Yours sincerely,



W. J. Zylbernd

Registered owner of erf 3418 Betty's Bay.

[wernerzy@iafrica.com](mailto:wernerzy@iafrica.com)

081 631 0667

ANNEXURE F 99/185

Die Munisipale Bestuurder  
Overstrand



04/04/2017

TR A Theart  
(Huld Stoep)

Aansoek om opheffing van Titelbeperinge en Vergunningsgebruik ERF 3054, Seaview Drive, Bettysbaai;

Geagte Mnr

Bostaande woning is binne 4 straatblokke van my woning af.

- 1) Die aansoek konstateer dat daar vir nie meer as 10 'gaste' voorsiening gemaak word nie. Ek sien gereeld 'n groep van ten minste 18 – 20 jong manne in die straat verbykom besig met oefeninge?! Hoe rym dit?
- 2) Wat behels die term "Upliftment Centre"? Niemand weet, en dit word geensins verder toegelig of gedefinieer nie! Dit is onaanvaarbaar.
- 3) Ek kan ongelukkig nie my toestemming vir bostaande aansoek verleen as daar NIE oop kaarte gespeel word met die aansoek nie.
- 4) As hierdie aansoek toegestaan/gekondoneer word, kan dit ulteraard die deur ooplaet vir ENIGE ander sulke **ONGEDEFINIEERDE** en vae aansoeke!

Dus kan ek geensins hierdie aansoek ondersteun of goedkeur nie.

Dankie.

Hoogagterd

J.M. Kruger

Erf 3417,

Albertynrylaan

Bettysbaai.

*Handwritten signature and notes:* (Tel: 0205 19 0011 087 / 082 7600172) <sup>Sel:</sup>

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	15
COLLABORATOR NO:	1010492

TR



Johannes de Koker

Dolphin Rylaan 3336

Bettiesbaai

03/04/2017

TR- A Theart  
( C H Jd Stoop )**BESWAAR TEEN:****Aansoek om opheffing van titelbeperkinge en vergunningsgebruik van erf 3054, Bettiesbaai.**

Met die skrywe maak ek ten sterkste beswaar teen die opheffing van beperkende titelvoorwaardes en vergunningsgebruik van toepassing op erf 3054, Betty's Baai, asook om die woonhuis op die betrokke eiendom as "opheffingsentrum" aan te wend.

1. Die titelaktes vir die erwe bokant Clarence Rylaan, reg teen die berg en die natuurreservaat is met goeie redes so saamgestel. ( wat Seaview Rylaan insluit) sien punt 8.
2. Die omgewing, Sunny Seas, is 'n rustige vakansie dorp en het geen behoefte aan 'n "opheffingsentrum" nie.
3. Daar word geen melding gemaak van navorsing/impakstudie om die behoefte vir 'n "opheffing sentrum" in die omgewing te staaf nie.
4. U beskrywing van 'n "opheffing sentrum" is baie vaag. Wat is die agtergrond en mediese/leuens geskiedenis van die persone wat die "opheffingsentrum" gaan besoek.
5. Vir 'n geruime tyd bedryf u reeds die "opheffingsentrum" omwettig, en die "gaste" is **slegs mans**. Wat is die rede hiervoor? Daar is al op 'n stadium 23 getel.
6. Wetgewing, Bestuur, Logistiek en Munisipale dienste is enkele faktore wat in plek moet kom vir die wettige bedryf van die voorgenome "opheffingsentrum".
7. Wat is die plaaslike Gesondheids inspekteur se reaksie/betrokkenheid by die goedkeuring van so 'n "opheffingsentrum"? Munisipale owerhede het reeds in die verlede 'n oudit gedoen en dit het ver te kort geskied? Die "soak away" is by totaal onvoldoende!!
8. Die **impak** van goedkeuring om Titelakte voorwaardes te omseil, kan net nadelig wees vir ons omgewing wat daarna streef om die natuurlike habitat te beskerm. Die verslag beskryf juis die mooi uitsig (lower lying areas of Betty's Bay and the ocean) vanaf die area bokant Clarence Rylaan. Goedkeuring van die aansoek gaan lei tot nog verdere aansoeke omrede die pragtige ligging van die Seaview Rylaan erwe, en kan lei tot 'n **groot impak** op munisipale dienste in die omgewing...dienste wat reeds onder druk verkeer!

Dolphin Rylaan 3336

Posbus 278, Bettiesbaai, 7141

Johannes de Koker

083 282 5326

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	50
COLLABORATOR NO:	1010184

̄  
- 3 APR .07



TR A. Hart  
C. H. v.d. Stoep

Stads en Streeksbeplanners

29 Maart 2017

Hermanus

Aansoek om opheffing van Titelbeperkinge en Vergunningsgebruik van erf 3053 Bettiesbaai.

L & A Nel ERF 3049 Sunny Seas Bettiesbaai

Met verwysing na bogenoemde aangeleentheid wens ek hiermee my ernstigste beswaar teen die opheffing van titelbeperkinge op erf 3053 Bettiesbaai aan te teken. En wel om die volgende redes.

1) Riool:

Dit is onverantwoordelik om te verwag dat 12 + volgroeide mans met slegs n plaastoilet ("soak away") moet klaarkom.

2) Opheffings Sentrum (omskrywing te vaag)

Wie word opgehef en waarvan word hulle opgehef

Wie doen die opheffing, is dit profesionele opvoedkundiges of is dit geloofs opheffing.

Wie hou oorhoofs toesig m.a.w. is daar n instansie, staats of munisipaal, wat die opheffingsentrum tot verantwoordelikheid kan roep indien nodig.

Met so vae omskrywing kan hierdie sentrum in enigeiets ontaard.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	49
COLLABORATOR NO:	1010181

JP 2 APR 07

**3) Lisensie:**

Hierdie opheffingsentrum word as n besigheid bedryf en moet dus n lisensie bekom - wie is by magte om so lisensie uit te reik.

**4) Veiligheid:**

Die opheffingsentrum is in die middel van huise wat grootliks deur afgetrede ouer mense bewoon word. Die peleton vormaat gedraf van n groep jong mans daagliks deur die strate intimideer van die ouer mense en hulle voel bedreig

**5) Geraas:**

Die oefening in die motorhuis en oprit met swaar gewigte en n boks slaansak gaan gepaard met geraas soos in n gymnasium en is hinderlik en ontsuur die rustige atmosfeer van die buurt.

**6) Geloofs gebonde**

Alhoewel Alpac Investments CC onken dat die sentrum geloofs spesefiek is, wys die werklikheid die teendeel. Die feit dat hulle dit ontken laat menige vrae ontstaan.

7) Daar is absoluut geen behoefte aan n opheffings sentrum in hierdie area nie en indien die vergunning toegestaan word laat die streeksbeplanners hulle oop vir regsaksie deur die inwoners wat die vergunning teenstaan.

Dankie

L&A Nel

Erf 3049 Sunny Seas Bettiesbaai

ANNEXURE F 103/185

TR Archant  
C Huldstoepl



**From:** Peter Lister <listma465@gmail.com>  
**To:** <lorcitta@overstrand.gov.za>  
**Date:** 04/04/2017 07:57 AM  
**Subject:** Objection to removal of Restrictions to erf 3054, Seaview Drive, Bettys Bay

Municipal Manager, Overstrand Municipality, Hermanus.

Dear Sir,

I Wish to record my objection to the lifting of restrictions to erf 3054 as envisaged by Plan Active in their reg. mail dated 28-2-2017 for the following reasons: 1. When I purchased my property at erf 3073, Seaview Drive it was pointed out to me what restrictions applied to the property in the title deed i.e. only one family to occupy the premises, no business, boarding house, etc to be permitted! 2. The owner of erf 3054 has apparently been operating a Drug rehabilitation center for the past year even after having been warned to stop by the Municipality. 3. The applicant is attempting to hide the fact that it is a drug rehab. center by calling it an Upliftment facility. 4. Persons with drug problems regularly 'escape' from this type of facility And commit crimes in order to obtain money for drugs! 5. This type of facility will impact on the value of property in our suburb! 6. If the application for rezoning is granted it will create a precedent for future applications of this sort!

Thank you

Please acknowledge receipt!

PSH Lister

Owner of 3073 Seaview Drive, Bettys Bay tel : 0218552215

Cell 0712993304

Email : listma4657@gmail.com

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	48
COLLABORAYOR NO:	1010178

TP 4 APR. 07

ANNEXURE F 104/185

TR A Theart  
C H vld Stoep

**Loretta Gillion - Application for removal of title deed restrictions and consent use of ERF 3054 Betty's Bay.**



**From:** "Era and Raoul van den Berg" <vandenbergs@sonicmail.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 03/04/2017 09:38 AM  
**Subject:** Application for removal of title deed restrictions and consent use of ERF 3054 Betty's Bay.

Ms. H van der Stoep,

Thank you for including us in the circulation of this application.

As your document clearly states: "This 'erf' 3054 is situated within a single residential area with land uses that can be accommodated within a zoning of Residential Zone 1 and includes single residential dwellings, holiday homes and guesthouses."

Betty's Bay character can be defined as a holiday town that creates a peaceful and tranquil setting for retired residence, residents, holiday makers and tourists. It is extremely important that this is maintained and is one of the reasons that so many holiday makers and tourists frequent our shores. By allowing another 'Upliftment Centre' (OBUC already exist, see [www.obuc.co.za](http://www.obuc.co.za)) is not in line with the character of this town for the following reasons:

1. Patients treated in these facilities suffer from physical and mental disorders often brought about by drug & substance abuse.
2. These patients often gets into the 'Upliftment' system due to criminal acts and have criminal records.
3. Although their treatment includes psychotherapy it also includes a militaristic regime of discipline and physical exercise. They can often be heard 'chanting' and running down the road in a military training squad.
4. This military regime feels threatening to the residents and tourists of the area and has already been given the nickname 'Isis Training Camp!'.

Please consider this application carefully before approving it. It is our view that such an establishment is better suited in the cities where the infrastructure, environment and resident's perceptions are already established to deal with this better.

Best regards.

PS: Please acknowledge receipt of this email.



Van Den Berg's Guesthouse,

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	47
COLLABORATOR NO:	1010172

TP

3 APR. 17

*B&B and Self Catering Suites*



**Era & Raoul van den Berg**

E-mail: [yandenbergs@sonicmail.co.za](mailto:yandenbergs@sonicmail.co.za)

Web Address: [www.vandenbergs.co.za](http://www.vandenbergs.co.za)

Home: [+27 28 272 9039](tel:+27282729039)

Mobile: [+27 83 302 9336](tel:+27833029336) or [+27 82 883 2807](tel:+27828832807)



Loretta Gillion - OBJECTION ERF 3054 SUNNYSEAS, *Betty's Bay*

**From:** Hans van Dyk <hansvdyk@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 03/04/2017 04:31 PM  
**Subject:** OBJECTION ERF 3054 SUNNYSEAS



*TR A Theaht  
CH vld stoep!*

The Municipal Manager  
Overstrand Municipality

Dear Sir/Madam,

OBJECTION ERF 3054 SUNNYSEAS

I herewith wish to register an objection against allowing a development on any erf in Sunnyseas or Betty's Bay and specifically on erf 3054 in defiance of the restrictions imposed by the deeds of the relevant erven.

Any such development will of itself and by means of the precedent created negatively affect all other landowners in the vicinity. Not allowing the development will affect nobody negatively as the owners of the relevant RESIDENTIAL plot were aware of the restrictions from the time of purchase. To apply for a change in zoning is a way of avoiding the higher prices of commercial or correctly zoned land, and is detrimental to the social structure of a residential area. This is also done to take advantage of lower prices in areas such as ours although the clients are drawn from other areas.

Please note my strongest objection, and kindly acknowledge receipt of this mail.

Yours,

H J van Dyk  
Owner erf 2943  
Betty's Bay

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	42
COLLABORATOR NO:	1010142

*P*

3 APR 2017



ANNEXURE F 109/185

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
HERMANUS  
U verwysing: H van der Stoep

FILE NO:	ERF 3054
	Betty's Bay
SCAN NO:	
	18
COLLABORATOR NO:	1009993



TRATheart  
(Hvd Stoep)

1 April 2017

ERF 3054 BETTIESBAAI  
MUNISIPALE KENNISGEWING NR 35/2017

Ek, die ondergetekende, is die eienaar van Erf 3237 Bettiesbaai en my kontakbesonderhede is:

[nielenw@nmilaw.co.za](mailto:nielenw@nmilaw.co.za), telefoonnommer: (021) 939-3007, selnommer: 0828152690.

1. Bogemelde kennisgewing verwys deurgaans na "upliftment centre" maar paragraaf 3b van die kennisgewing "zoning" maak geen vermelding van 'n "upliftment centre" nie.
2. Ek vind nêrens enige verduideliking van die term "upliftment centre" in die kennisgewing nie; die terminologie is vaag en niksseggend.
3. In paragraaf 5 word melding gemaak van "Due to the demand"; watter "demand" is daar as ek nie eens kan vasstel en my eie ondersoek en navrae doen as daar nie 'n verduideliking is van wat bedoel word met 'n "upliftment centre" nie.
4. In paragraaf 5 "Proposal" word daar gemeld dat die gaste nie mediese behandeling benodig nie en ook "do not have medical conditions". Wat is 'n "medical condition"?
5. In die gemelde paragraaf 5 word daar ook verwys na fisiese fiksheidopleiding en "lecture sessions"; ek weet nie wat die "lecture sessions" behels nie en dit laat my weer met die vraag wat bedoel word met "upliftment centre":
  - 5.1 die gaste is nie onderhewig aan mediese behandeling nie
  - 5.2 word hulle moontlik onderwerp aan een of ander vorm van indoktrinasië wat strydig is met die landswette?
  - 5.3 die inligting wat in die kennisgewing verskyn is so vaag dat ek as belanghebbende geen afdeling kan maak oor die bedrywighede van die "upliftment centre" nie

TP - 3 APR 2017

100

-2-

6. Is die "upliftment centre" geregistreer by enige staatsdepartement wat toesighouding vereis?
7. "n Aspek van die huidige bedrywighede op Erf 3054 wat ietwat ontstellend is, is die feit dat tussen 10 en 20 mans, afkomstig vanaf Erf 3054, in die oggend in militêre geled deur Sunny Seas draaf; is dit deel van die "upliftment centre" se program?

Aangesien u kennisgewing nie voldoende inligting bevat oor die beoogde aktiwiteite van die instelling nie, opponeer ek beide aspekte van die aansoek en spreek ek my kommer uit oor my waarnemings soos vervat in paragraaf 7 hierbo.



N W MARAIS

.....  
Ontvangserkenning.....  
Datum

ANNEXURE F 111/185

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	17
COLLABORATOR NO:	1009979

P S Simpson

**From:** P S Simpson <allete@telkomsa.net>  
**Sent:** 30 March 2017 05:52 PM  
**To:** Loreta@overstrand.gov.za  
**Cc:** 'sdkrige@gmail.com'  
**Subject:** BESWAAR TEEN DIE AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK VAN ERF 3054, BETTYSBAAI

Die Munisipale Bestuurder  
 Overstrand Munisipaliteit  
 HERMANUS



Vir Aandag: Me H Van Der Stoep

lum: 28 Maart 2017

Geagte Mnr Die Munisipale Bestuurder,

Ek, Philippus Strydom Simpson, eienaar en voltydse bewoner van Erf 3373, Albertynlaan, Sunny Seas, Bettysbaai MAAK TEN STERKSTE BESWAAR teen die aansoek van Alpac Investment CC om opheffing van titelbeperking en vergunningsgebruik van erf 3054, Bettysbaai ten einde 'n "Upliftment Centre" te vestig en te bestuur.

REDES VIR BESWAAR: Skrywer het die brief van Plan Active, gedateer 17 Maart 2017, en gerig aan Loreta Gillan met afskrif aan Guy Roberts onder oë gehad. Gegewe Ad Paragraaf 1 van bogenoemde brief is dit onduidelik wat die beoogde "Upliftment (Wellness) Centre" behels. Omdat dit onduidelik is wat die bedrywighede als behels en geen besonderhede verskaf word nie, is dit onmoontlik om 'n ingeligte besluit te maak. So is dit onmoontlik om te bepaal of beoogde bedrywighede moontlik 'n gevaar vir inwoners van Sunny Seas, Bettysbaai, inhoud en kan sake nie maar aan toeval oorgelaat word nie.

Ook word vermeld in die skrywe van Plan Active, gedateer 28.02.2017, namens Alpac Investments CC dat 'n maksimum van 10 "gaste" toegelaat sal word. Geen aanduiding word gegee van 'n instansie, van owerheidsweë, wat sal toesien dat hierdie onderneming gestand gedoen word nie. Tans is skrywer se waarneming dat tussen 15 en 22 "gaste" by Sea Viewweg, Erf 3054, gehuisves word. Huidige bedrywighede by vermeldde Sea Viewweg (Erf 3054) is reeds vir plus minus 2 jaar of meer aan die gang, sonder die nodige toestemming vir sodanige bedrywighede. Dit dui op 'n duidelike disrespek vir bestaande regulasies (verordeninge) van die Munisipaliteit en Regering, Provinsiaal en Nasionaal. Sodanige mentaliteit van die geregistreerde eienaar wek agterdog en kommer en die definitiewe moontlikheid bestaan dat sou toestemming deur die Overstrand Munisipaliteit verleen word, goedgekeurde stipulasie weer oorskrei/oortree sal word.

Volgens "5. Proposal" van Plan Active se brief van 28 Februarie 2017 is daar 'n "demand for wellness centres, upliftment centres and related land uses in the area". Geen besonderhede hoegenaamd van sodanige "demand for wellness centres, upliftment centres and related land uses in the area" word verskaf nie en geen ingeligte besluit kan dus geneem word nie. Dit is inderwaarheid skrywer (wie sedert 1983 op Erf 3373, Albertynlaan, Bettysbaai, woonagtig is) se waarneming en opinie dat daar geen sodanige "demand" bestaan nie en is gemelde bewering 'n onwaarheid.

Met verwysing na p.ii, paragraaf 14 "Recommendation" van Active Plan se skrywe van 28.02.2017 word aangevoer dat Alpac Investment CC se voorstel groot ekonomiese potensiaal skep. Ekonomiese potensiaal is iets waarby die

03 APR 17

## ANNEXURE F 112/185

groter gemeenskap in geheel of gedeeltelik moet baat vind. Weereens word geen besonderhede verskaf oor hoe sodanige potensiaal geskep sal word tot voordeel van almal nie, en kan geen ingeligte besluit geneem word nie.

'n Afskrif van hierdie brief gaan aan Raadslid F Krige in wie se wyk hierdie perseel in die aansoek ressorteer.

Die unwe;



P.S. SIMPSON

Tel: 028 2729133

ANNEXURE F 113/185

Die Munisipale Bestuurder (Aandag: Me H v d Stoep)

Overstrand Munisipaliteit

Hermanus Administrasie

Posbus 20

HERMANUS 7200

1 April 2017

**AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK ERF 3054 BETTYSBAAI**

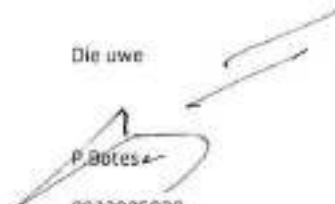
Geagte Mnr

As eienaar van Erf 3370 te Bettysbaai maak ek ten sterkste beswaar teen bogenoemde aansoek.

1. Dit verbaas my dat die Munisipaliteit kommentaar en/of beswaar van eienaars in die omgewing van bogenoemde erf, verwag met die gebrekkige inligting wat die aansoek vergesel.
2. Die opheffingsentrum. Wat behels dit? Selfs nadat Mnr. H. Roberts die punt aangehaal het in sy skrywe, is die antwoord daarop om die minste te se, niksseggend.
3. Hierdie sentrum bestaan al vir ongeveer 2 jaar sonder enige vergunningsgebruik van die Munisipaliteit waar 'n groep van 15-20 persone weekliks in hierdie omgewing fisieke aktiwiteite verrig.
4. As gevolg van die gebrekkige inligting en geheimsinnigheid van die aansoek en navrae wat nie volledig beantwoord word nie, doen gerugte die rondte dat dit 'n militaristiese/geloofs opleidingsentrum is. By enige Opheffingsentrum verwag 'n mens dat daar gekwalifiseerde personeel betrokke sal wees en seker vaardighede aangeleer sal word. Wat behels die opheffing en vaardighede?
5. Dit is vir my duidelik dat inligting rakende bogenoemde saak weerhou word van die inwoners van Sunny Seas en omgewing.

n Afskrif van hierdie skrywe gaan aan Raadslid F Krige in wie se wyk hierdie perseel resorteer

Die uwe



P. Botse  
0833005008

FILE NO: EL 3054
Betty's Bay
SCAN NO: 16
COLLABORATOR NO: 1009971

AP  
- 3 APR 17

ANNEXURE F 114/185

POSBUS 407,  
 BETTYSBAAI,  
 7141.  
 TEL: 083 744 1499.  
 3 April 2017.



TR A Theart  
 (H volstreef)

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	15
COLLABORATOR NO:	1009970

DIE MUNISIPALE BESTUURDER  
 POSBUS 20  
 HERMANUS.

Geagte Meneer,

Aansoek om opheffing van titelbeperkings en vergunningsgebruik van Erf 3054 BETTYSBAAL.

1. Ek is die eienaar en titelhouer van Erf 3058, Sunny Seas, Bettysbaai.
2. Die geregistreerde dokument wat ek in hierdie verband van Plan Active ontvang het, versoek dat die titelvoorwaardes vir erf 3054 gewysig word om voorsiening te maak vir 'n "upliftment centre." Hierdie konsep is geweldig wyd in sy moontlike bedoeling. Wie is die kategorie van persone wat dusdanig opgehef moet word? Wie gaan die opheffing fasiliteer? Het die fasiliteerders die bewese nodige kwalifikasies en die toepaslike ondervinding vir hierdie funksie? Het hulle die nodige wetlike sertifikasie vir die spesifieke opheffing?
3. Indien die opheffing in enige sin na persone met dwelmafhanklikheid verwys, het ek 'n ernstige probleem daarmee. Uiteraard het ek geen beswaar teen die behandeling en opheffing van dwelm-afhanklike persone nie, maar dan moet die nodige formele en veiligheidsstrukture ten volle in plek wees. 'n Sodanige behandelingsentrum in 'n dorpsgebied moet onder baie streng gereguleerde omstandighede toegelaat word om te opereer en die

TP

\* ANNEXURE F

gemeenskap se absolute veiligheid moet die hoogste prioriteit geniet. 'n Dwelm-afhanklike persoon wat in onttrekking in 'n psigotiese toestand verval, kan sekerlik lewensgevaar vir die omgewing inhou. Indien die titelvoorwaardes deur die Munisipaliteit verander sou word, sal die Munisipaliteit as plaaslike regering en bewaker van die gemeenskap se beveiliging sekerlik vir die risikos wat hieruit mag ontstaan, moet instaan ?

4. Sprake word in die aansoek gedoen van 10 persone wat as "gaste" in die akkommodasie-gedeelte van die eiendom gehuisves sal word. 'n Groep van tot 20 persone uit hierdie eiendom word gereeld op straat opgemerk. Watter verband is daar tussen die getalle ?
5. Die feit dat die genoemde 20 of wat persone tans, terwyl die aansoek om opheffing nog in onderhandeling is, reeds by die eiendom gehuisves en "opgehef" word, laat by my baie ernstige vrae oor die integriteit van die aansoek ontstaan. Het die Munisipale Wetstoepassers al ondersoek gaan doen oor die huidige situasie op die perseel en of dit aan die nodige voorwaardes voldoen ? So nee, waarom nie ? Hier is op Erf 3054 tog ostensief iets anders as gewone behuising aan die gang – juis ook in die lig van die aansoek om titelwysiging. Indien die Munisipale wetstoepassers wel ondersoek gaan instel het, behoort die Sunny Seas gemeenskap, wat gevra word om die wysigings toe te staan, tog op hoogte gehou te word van inligting wat die aansoek spesifiek mag beïnvloed ?

Die Uwe,



A.C. GOOSEN

24 Maart 2017



Posbus 399  
7141 BETTYSBAAI

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus Administrasie  
Posbus 20  
7200 HERMANUS

TR A Theart  
(CH vld stoep)

Meneer/Dame -

**AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN  
VERGUNNINGSGEBRUIK VAN ERF 3054, BETTYSBAAI**

Met verwysing na bogemeide aangeleentheid, wil ek begin deur my diepe misnoeë uit te spreek ten opsigte van die feit dat my persoonlike besonderhede aan 'n buite-instansie, nl *Plan Active*, verstrekk is.

Volgens my *Groot Woordeboek* (Kritzinger, Schoonees, Cronje, Eksteen), word "upliftment" vertaal as "verheffing/opheffing". Is "upliftment centre" dalk net 'n plaasvervanger vir "rehabilitation centre"? Nêrens in die lywige dokument wat ons ontvang het, word egter melding gemaak presies waarvoor/waarvan die "besoekers" aan die eiendom opgehef gaan word nie. Is dit misdadigers wat dalk op parool is; dwelm-/drankverslaafdes wat gerehabiliteer moet word of is dit dalk opleiding wat aan voornemende terroriste verskaf gaan word?

Verder is daar, volgens my kennis strek, geen gastehuse, boetiekhotelle of bed- en-ontbyt-ondernemings aan die bokant van Clarencerylaan nie. Indien daar is, is dit waarskynlik onwettig.

Ek gaan stap gereed in die buurt, en het al tussen 17-20 "besoekers" aan daardie eiendom in die pad teëgekóm. Watter waarborg het ons en wie gaan dit moniteer dat die getal "besoekers" aan die eiendom nie 10 gaan oorskry nie?

Hiermee wil ek dus my beswaar boekstaaf teen die aansoek om opheffing van die titelbeperkings en vergunningsgebruik van erf 3054, Bettysbaai.

Die uwe

(Me) A A L LOUBSER (E.A. 3208)

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	14
COLLABORATOR NO:	1009968

- 5 APR 2017

FROM : M VAN LYK

PHONE NO. : 021 0033691

ANNEXURE F 117/185  
Apr. 03 2017 03:08PM F1

Aandag: Ma H. Van der Stoep

Tel: 028-2729925



TP-A Theart  
(H. v.d. Stoep)  
Rus 448  
Betysbaai  
7141  
1 April 2017

Munisipale Bestuurder  
Posbus 20  
Hermannus  
7200  
Meneer

Erf 3054, Seawindrylaan, Betty'sbaai, Overstrand Munisipale  
Area: Opheffing van Bepaalde Voorwaardes en Vergunnings-  
gebruik: Plan Active (NMS Alpine Investment CC)

Hiernaas wil ek as eienaar van erwe 3243 en 3215  
te Sunny Seas, Betty'sbaai lewig bevoorwaarde maak teen  
die aansoek om opheffing van titelbeperkings en  
vergunninggebruik van Erf 3054 vir die gebruik  
van 'n "upliftment sentre".

Die mee  
C.M. van Wyk

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	13
COLLABORATOR NO:	1009967



ANNEXURE F 118/185

Tel 028 2729506

Posbus 192  
BETTYSBAAI  
7141  
23 Maart 2017



Munisipale Bestuurder  
Posbus 20  
HERMANUS

Meneer

ERF 3054, SEAVIEWRYLAAN, BETTYSBAAI, OVERSTRAND MUNISIPALE  
AREA: OPHEFFING VAN BEPERKENDE VOORWAARDES EN  
VERGUNNINGSGEBRUIK: PLAN ACTIVE (NMS ALPAC INVESTMENT CC)

- 1 Ek is die titelhouer van erf 3242 Sunny Seas.
- 2 U advertensie is geplaas kragtens Artikel 47 van die Overstrand Munisipaliteit Verordening vir Munisipale Grondgebruikbeplanning, 2016. Artikel 47 lees onder andere:
  - (1) "The municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications.
    - (g) an application in respect of a restrictive condition;".
- 3 Artikel 17(w)(5)(a) van die Wet op Nasionale Bouregulasies en Boustandaarde No. 103 van 1977 lees as volg:
 

"Ondanks andersluidende wetsbepalings kan die Minister, indien hy van oordeel is dat dit vir die behoorlike nakoming of werking van enige van of al die nasionale bouregulasies of voorskrifte nodig of dienstig is dat 'n serwituut of beperkende voorwaarde of ander bepaling wat by of kragtens enige wet ten opsigte van grond van toepassing gemaak is of ingevolge die Registrasie van Aktes Wet, (Wet No. 47 van 1937), ten opsigte van grond geregistreer is of andersins ten opsigte van grond van toepassing is, opgehef of gewysig word, na oorleg met die Administrateur van die provinsie waarin daardie grond geleë is en nadat die prosedure nagekom is wat by regulasie voorgeskryf is, daardie serwituut, voorwaarde of bepaling by kennisgewing in die Staatskoerant ophef of, in die mate wat hy aandui, wysig."
- 4 Dit wil voorkom asof die Munisipaliteit van voorneme is om die aansoek ten volle kragtens die verordening af te handel. Indien die voorskrifte van die Wet en Munisipale verordening met mekaar vergelyk word is dit

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
	12
COLLABORATOR NO:	1009965

TP

duidelik dat daar 'n botsing is tussen die Wet en die Munisipale Verordening omdat die een die bevoegdheid om 'n titelvoorwaarde op te hef aan die Minister toeken, terwyl die ander dieselfde bevoegdheid aan die Munisipaliteit toeken. Artikel 2 (c) van die betrokke Munisipale verordening lees as volg:

"When considering an apparent conflict between this By-law and national and provincial legislation the applicable national and provincial legislation will prevail."

- 5 Die Munisipaliteit het derhalwe nie die bevoegdheid om die betrokke titelvoorwaardes op te hef nie, dit moet deur die Minister kragtens die betrokke Wet gedoen word. Die betrokke advertensie en die hele proses wat tans daarop volg is derhalwe *ultra vires* en dus nietig.
- 6 Sedert bogenoemde advertensie verskyn het, het ek 'n geregistreerde dokument daaromtrent van Plan Active ontvang waarop my voorletters en van, adres en ernommer verskyn. Ek kan net die afleiding maak dat die Munisipaliteit hierdie inligting aan die firma verskaf het. Bo en behalwe die advertensie is 'n uitgebreide memorandum aangeheg wat motiveer waarom die aansoek toegestaan moet word. Hoekom tree die Munisipaliteit sodanig op dat die moontlikheid geskep word vir die verspreiding van inligting bo en behalwe die advertensie. Nie een van die betrokke Wet of Verordening maak daarvoor voorsiening dat die aansoeker 'n motivering aan titelhouers per aangetekende pos moet voorsien nie. Indien sodanige memorandum toegelaat word moet die titelhouers ook toegelaat word om 'n motivering van hulle keuse in so 'n skrywe in te sluit. U sal onthou dat in die geval van erf 3371 dieselfde prosedure deur die Munisipaliteit gebruik is en dat die persoon wat die dokumente uitgestuur het die adresse van titelhouers later misbruik het ter bevordering van sy eie besigheid. Hierdie optredes is onaanvaarbaar en moet gestaak word.
- 7 Hierdie besondere erf, tesame met al die ander erwe in Sunny Seas aan die berg se kant van Clarencerylaan, is deur die Administrateur as "Special Residential" geproklameer waar die bedryf van "any place of business or entertainment whatsoever" wat klaarblyklik 'n "Upliftment Centre" insluit, verbied word. Omliggende grondeienaars, trouens alle grondeienaars in Sunny Seas, het 'n regstreekse belang omdat indien so 'n bedryf wel op 'n perseel toegelaat word dit die markwaarde van omliggende eiendomme negatief sal beïnvloed. Dis betekenisvol dat die bedryf van enige "place of business or entertainment whatsoever" ongekwalifiseerd verbied word sover dit "special residential erven" betref, terwyl wat betref "general residential erven" daar wel 'n uitsondering gemaak word vir "boarding houses". Geen "boarding house" mag gevolglik met betrekking tot "special residential erven" toegelaat word nie.

- 8 Deur die kennisgewing alleen, is grondeienaars in Sunny Seas bowendien geensins behoorlik ingelig oor wat 'n "upliftment centre" behels nie. Dis 'n amorge en vae begrip wat feitlik enigiets kan beteken. Oenskynlik sal dit gesondheids- finansiële, sowel as welsyns implikasies hê, wat sou meebring dat verdere owerheidsorgane ook betrokke moet wees. Die blote bewering dat kliente van die "upliftment centre" of "wellness centre" nie mediese sorg sal verlang nie, is aanvegbaar. Is dit 'n reabilitasiesentrum? Waarvandaan en waarheen moet kliente ge-uplift word? "Upliftment" beteken dat hulle van 'n onaanvaarbare laer vlak opgehef moet word. Dit is insiggewend dat hierdie persone van elders ingevoer word en nie in hul eie omgewing opgehef word nie. Hierdeur word 'n rustige dorp wat hoofsaaklik uit afgetrede persone bestaan versteur.
- 9 Dit is ook opmerklik dat ten spyte daarvan dat die aansoeker reeds vir jare weet dat hulle die perseel onwettig benut hulle tot op datum nog geen poging aangewend het om die onwettige optrede te staak nie. Met betrekking tot hul verklaring dat die gebou gebruik word om 10 persone in te huisves het ek al by verskeie geleenthede tot 20 persone getel in die peloton wat ons strate betrap. Van my versoek op 16 Junie 2016 dat die onwettige benutting van die perseel binne 30 dae gestaak word het niks gekom nie. Met al hierdie negatiewe optrede wat hulle aan ons opdring, hoe kan dit verwag word dat hulle in die toekoms binne die wettlike voorskrifte sal optree.
- 10 Daar is 'n hofspraak hangende met betrekking tot die bedryf van 'n "upliftment centre" op hierdie betrokke perseel. Ek is van mening dat dit voortydige optrede deur die Munisipaliteit sal wees om 'n finale beslissing oor hierdie aangeleentheid te neem voordat die finale hofbeslissing beskikbaar is.
- 11 Aangehang is 'n regsmeening van professor Andre Rabie.

Die uwe

F. J. J. v. d. Westhuizen

ANNEXURE F 121/185

6261 Ennvale  
SOOMERSET WES  
7130  
23 Maart 2017

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Posbus 20  
HERMANUS

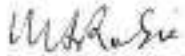
Meneer

INSAKE AANSOEK OM OPHEFFING VAN TITELBEPERKINGS EN  
VERGUNNINGSGEBRUIK VAN ERF 3054 BETTYSBAAI

Ek het kennis geneem van die aangehegte skrywe van mnr. F J J v d  
Westhuizen. As 'n juris onderskryf ek sy uiteensetting van die regsposisie.

Baie dankie vir u aandag.

Die Uwe



Professor Andre Rabie  
Emeritus Professor  
Departement Publiekreg  
Fakulteit Regsgeleerdheid  
Universiteit van Stellenbosch

ANNEXURE F 122/185

RE ERF 3054 & REMOVAL OF  
DEED RESTRICTIONS

TRATHENT  
(Child Stoop)



F & B S HELM  
PO BOX 676

Betty-bain - 7141

ERF 3315

R 073-22-73-175

15<sup>th</sup> March 2017

TO MUNICIPAL MANAGER OVERSTRAND MUNICIPALITY,

Sir,

We object in the strongest possible terms to any variation to the title deeds.

Reasons.

Any change will open the door to further expansion of the facilities, as believe that the proposed centre will be expanded beyond the present limits requiring further deviations to be required.

The restrictions were placed to maintain a standard for the area and should be retained.

If the removal is granted other residents may apply for changes to their title deeds and be granted on the precedent established.

Yours Faithfully,  
F & B S Helm

Faith Helm

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	11
COLLABORATOR NO:	1009964

TR

15 APR 07

STUART HORN

3276 Albertyn Street Bettys Bay  
stuaragehorn@gmail.com

24 MARCH 2017

Municipal Manager  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200TR A Theart  
(H van der Stoep)

ATT: Ms H van der Stoep

OBJECTION TO THE CONTENT OF MUNICIPAL NOTICE 36/2017  
re erf 3057 11 Seaview Drive Bettys Bay

I object to the proposed development as

1. "Upliftment Centre" is vague in description. What is being uplifted? If it is health, is the facility properly registered as a health facility? If it is a mental health facility or rehab clinic, please provide proof of the registration thereof with the Health Professions Council and other authorities.
2. It is apparent the business is already operating in defiance of current legislation re residential erven in the Sunny Seas Township
3. The legislation is quite clear that the land uses Residential Zone 1 are for dwellings, holiday homes and guesthouses. Business use is clearly excluded.
4. Please ask the owner of erf 3054 Bettys Bay Alpac Investments to provide a letter stating he has no objection to anyone establishing an upliftment centre next door to his own private home in Durban/Johanesburg/wherever he resides.

Thank you,

Stuart Horn

A handwritten signature in cursive script that reads "Stuart Horn".

FILE NO:	EL 2054
	Betty's Bay
SCAN NO:	10
COLLABORATOR NO:	1009962

Handwritten initials "TP" above the date "5 APR 07".

5 APR 07

ANNEXURE F 124/185

TR AtHeart  
CHILD STAMP)

**OBJECTION TO THE CONTENT OF MUNICIPAL NOTICE 36/2017 AND THE RELATED REGISTERED MAIL re: ERF 3054, 11 SEAVIEW DRIVE BETTY'S BAY (NO - this is SUNNY SEAS - different rules)**

The Title Deeds related to the Special Residential erven are very clear about the restrictions on the kind of business. Clause 5.8 m of the related Title Deeds reads:

"... as being applicable to all plots in Sunny Seas Township... NO hotel, boarding house... or any place of business **WHATSOEVER** shall be opened or conducted upon the SPECIAL RESIDENTIAL erven."

These conditions were stipulated in Title Deed No T 1909/1957 under Ordinance 33 of 1934, as amended, upon approval of the establishment of Sunny Seas Township. All the erven on the Seaview side of Clarence are SPECIAL RESIDENTIAL erven. Below Clarence Drive are GENERAL Residential erven which also have certain restrictions eg these General Residential erven may NOT be subdivided.

I am lodging an objection to any proposed development of Erf 3054 on the following grounds:

- The fact that this business has been allowed to operate (see \*\*\*) on this SPECIAL RESIDENTIAL erf ALREADY contravenes the specifications in the Title Deeds.
- Ergo, with reference to the previous point, this request for relaxation of conditions flies in the face of the fact that this business is, nevertheless, still operating and that there is a current court case in process.
  - Is this a actually a registered operation?
- \*\*\* Furthermore, the fact that the matter related to the operation of a business from these premises is being handled *sub judice* by the Municipality (vs Alpac) speaks to an enormous blunder and unless this application is quashed, the danger of a precedent being set will affect every aspect of life in Sunny Seas.

In addition, the correct procedure re the establishment of the business was not followed viz:

- that ALL residents in Sunny Seas be notified by registered mail. This was NOT done so now there is a situation that has led to a protracted court case, which is an indictment on both the Estate Agent AND the Municipality for not checking Title Deed specifications as applicable to Sunny Seas Township and to the conditions imposed on the Special Residential erven above Clarence Drive.

The Municipality does not have a leg to stand on in this matter as by sending out registered mails this time round, they have acknowledged that their omission in the first instance is yet another detail where due diligence in granting permission for this business to operate was not observed.

And, as not all Sunny Seas residents have received the current mail speaks to the fact that the Municipal records are not up to date.

I also question that the official notices reflect that the property is in Betty's Bay whereas Sunny Seas Township operates under a separate set of legislation with further restrictions imposed on the Special Residential erven above Clarence Drive.

- It is very wrong that we, the ratepayers and citizens, should have to accept any relaxation of the specified conditions because the Municipality bungled the original application.

*GJ Irvine* 29 March 2017

GJ Irvine  
3179 Rodwiew  
Sunny Seas

Postal address: Box 66, Betty's Bay, 7141.  
Acknowledgement of this letter is requested [gjirvine@iafrica.com](mailto:gjirvine@iafrica.com)

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	08
COLLABORATOR NO:	1009959

TR  
: ADD 0.1

The Municipal Manager  
Overstrand Municipality  
Hermanus Administrative  
PO Box 20  
Hermanus  
7200



Erf 3371  
Sunny Seas  
Betty's Bay

TR A Theart  
C H vd Stoep

31<sup>st</sup> March 2017

**Objections to the removal of title deed restrictions and consent for use of Erf 3054 as an Upliftment Centre, Municipal Notice No. 36/2017**

As the owner of Erf 3371, Betty's Bay I object to the aforementioned for the following reasons:

- 1) No information has been given as to the exact purpose of the said property.
- 2) "Upliftment Centre" is so vague as to convey no meaning whatsoever.
- 3) There is clearly no transparency regarding this whole matter.
- 4) Currently there is no adherence by the owner/owners to the bylaws of a residential area.
- 5) This is borne out by the fact that the residence has been functioning illegally for some time for purposes other than a primary dwelling.
- 6) The following attests to this fact:
  - A significant number of young men are always on the premises
  - Groups of 10 – 20 men jog in the streets of the suburb accompanied by 2 -3 men who are in charge
  - When approached they are extremely vague about what they are doing
  - We have witnessed a large gathering of men and women on the property
  - Traffic and parking in the street were a huge problem that day
  - There is no information as to the purpose of this gathering and how often it will occur

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
	07
COLLABORATOR NO:	1009953

TR  
- 3 APR 17





P O Box 472  
KLEINMOND  
7195  
3 April 2017

Mr Coenig Groenewald  
Municipal Manager, Overstrand Municipality  
P O Box 20  
HERMANUS  
7200

TR A Theart  
CH vbl Steep

Dear Mr Groenewald

**ERF 3054, SEAVIEW DRIVE, SUNNY SEAS, BETTY'S BAY:  
REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE AS ADVERTISED IN THE  
OVERSTRAND HERALD ON 2 MARCH 2017 AND ELABORATED ON PER REGISTERED MAIL**

I wish to strongly record my objections to the advertisement in the Herald for the following reasons:

- 1 During the first round of objections I was asked to reply to the Municipal Manager, Overstrand Municipality, P O Box 20, Hermanus. Much to my surprise I had **NO** direct reply from the Municipality, but correspondence came to me through Plan Active, who is appointed by the developer. I object to that.
- 2 The Municipality refers to this property in Sunny Seas in the same way as all the properties in Betty's Bay. This is absolutely incorrect as the Title Deeds of the Sunny Seas Township were in fact drawn up much later and differ from those of the village of Betty's Bay. In addition, the notice in the Herald is inaccurate as Seaview Drive is in the Sunny Seas Township and not, per se, in Betty's Bay. The truth of the matter is that all properties in Seaview Drive, Sunny Seas, which includes Erf 3054 have more restrictive Title Deeds than the area below Clarence Drive. In other words, provision is made in the related Title Deeds that this is a Special Residential area which allows only one family dwelling per property. These Title Deeds do not allow boarding houses, industrial development, sub-divisions, etc, etc, it is therefore quite clear that the Planning Department does not understand the urban layout of the properties in this specific area. Furthermore, by conceding this application a precedent will have been set. Any concession whatsoever is unacceptable.

My further objections are related with reference to the contents of the registered mail:

- 3 The subject matter is vague and rather misleading. There is no indication as to exactly what would take place on Erf 3054. It refers to an Upliftment Centre; a Wellness Centre; a Rehabilitation Centre – so which one of these is actually applicable? It should therefore have been imperative that an exact management plan and layout be made available for the change that is envisaged for the property. What does an Upliftment Centre entail? The words are embroidered in sentiment as they create the impression that this is a very innocent, worthwhile project and could therefore have been misleading to the residents of this area. This is beside the facts as laid out in (2).
- 4 In order for the Planning Department to apply their minds, they should not only look at the relevant Title Deed in taking a decision, but also include the National Building Regulation. If they understand these conditions and legal binding facets, they will see that it is virtually impossible to unilaterally, as a Municipality, take a decision on their own and advertise a removal of restrictive conditions and consent use as in the application by the developer.
- 5 As a tax payer I have certain rights which the Municipality is going to jeopardise by destroying the very reason why I purchased my property. It is not my duty as tax payer to explain the legal rights of this property to the Planning Department and Plan Active, who is acting on behalf of the developer.

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
	06
COLLABORATOR NO:	1009950

2/...

- 3 APR 2017

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-2-

6. The developer points out that this is a 5 bedroom house with bathroom facilities in which **only 10 people** will be accommodated after removal of restrictive conditions and consent use. That again is a fallacy, because this house has already been used as a Rehabilitation Centre for the last year and sometimes it was occupied by more than twenty individuals. How would the Municipality have control over number of occupants in this house at any given time? Again I refer to (2).
7. If this indeed is an Upitment Centre/Drug Rehabilitation concern, it would surely fall under town planning conditions which are the same as for hospitals and recuperation centres. What did the Municipality have in mind to regulate this kind of institution? There are many other areas throughout the Overstrand where this kind of semi-industrial activity could be housed. I do believe it should be close to a hospital and depending on the inhabitants of this particular establishment, surely they would need some form of security and control over the so-called 'patients'. This is a moot point as the business has continued to operate despite being ordered to cease operations.
8. According to point 11.1 this property is not situated within the Heritage Overlay Zone as determined by the Overstrand Heritage Report (2009). May I, however, point out that it's back boundary borders directly on the Kogelberg Biosphere Reserve and that the towns within the Biosphere Reserve are part and parcel of the Biosphere's management planning. This is an international heritage site and should be honoured by the Municipality as they have signed the management document with UNESCO and other State departments.
9. It became quite apparent that the Municipality ignored the Title Deeds in Sunny Seas and applied their own interpretation of the conditions laid down. For instance, the Title Deed calls for a registered letter to be sent to every land owner of Sunny Seas Township in the event of any changes. The Municipality did not ever adhere to these criteria previously. It is now an amusing incident that during the second round application, all residents seemed to have been notified by registered letter. Does this indeed mean that the local authorities recognise the legal and binding conditions laid down in the Title Deeds? I object to the inconsistent decision-taking of the Planning Department in the Overstrand Municipality.
9. Approximately a year ago the Municipality instructed the owner (Alpac Investment CC) to stop all activities on site - these were blatantly ignored. An application, which is still ongoing, was then brought by the Municipality in the Caledon magisterial court against this company. If the owners ignored the conditions laid down by the Municipality to stop these activities and first legalise this business, will they therefore adhere to their promises in the new application as advertised by Plan Active?

In conclusion: This is not a racist issue. I would have the same opinion if the Dutch Reformed Church, the Women's Agricultural Union or whatever other organisation wanted to develop this property for similar reasons. I therefore implore you to simply apply and uphold the legal restrictive conditions that exist for the area under discussion.

Please acknowledge receipt of my letter, thank you.



**F J VAN HEERDEN**  
RIGHTFUL OWNER  
ERF 3221  
BETTY'S BAY

028 272 9105  
083 538 1500

[frhb@myweb.co.za](mailto:frhb@myweb.co.za)

ANNEXURE F 129/185

TR A Theart  
C H vld StaapKOMMENTAAR TEN OPSIGTE VAN OPHEFFING VAN BEPERKENDE VOORWAARDES EN  
VERGUNNINGSGEBRUIK

ERF 3054, SEAVIEWRYLAAN 11, BETTIESBAAI



NAAM: Schalk Jacobus Engelbrecht  
 ID: 670531 5123 085  
 Adres: 3051 Seaviewrylaan (Seaviewrylaan 5) Bettiesbaai  
 Kontak Tel N: 082 927 6735  
 E-pos: schalkpfs@gmail.com  
 Belang in Aansoek: Eienaar van Erf 3051, Bettiesbaai

Redes vir kommentaar

Ek versoek graag dat bostaande opheffing van beperkende voorwaardes en vergunningsgebruik nie toegestaan word nie en wel om die volgende redes:

- Daar word geen melding gemaak van wat hierdie "upliftment centre" behels nie. Hierdie breë omskrywing is onbillik gesien in die lig dat omliggende inwoners sekerlik geregtig is om te weet aan watter toestand die klïente ly wat hier toegelaat gaan word of wat die rede is waarom klïente hier ingeneem word. Dit is bv. algemene kennis dat dwelingebruikers geneig is om diefstal te pleeg - selfs van hulle eie ouers. Net so is dit alombekend dat instansies wat pasiënte met sekere geestesgesondheidsprobleme inneem, daadwerklike prosesse in plek sit om seker te maak dat sommige van die klïente nie 'n gevaar vir hulself of die publiek inhou nie. Ek is verder van mening dat dit onmoontlik sal wees om te bepaal watter kategorie klïente / pasiënte hierdie "upliftment centre" sal of gaan besoek.
- Onder die amptelike aansoek Paragraaf 5 "Proposal" word vermeld dat daar 'n groot vraag na sodanige sentrums in die area is. Daar is NIE 'n groot vraag na sodanige sentrums in die onmiddellike residensiële area / buurt nie. Ek betoog verder dat, indien daar met "area" bedoel word die Overstrand, sodanige besigheid 'n perseel anders as 'n residensiële eiendom moet bekom.
- As bestaande inwoner het ek myself juis hier gevestig weens die rustigheid, stilte en veiligheid van die onmiddellike residensiële omgewing. Indien 'n besigheid hier toegelaat word, sal hierdie voorreg my ontnem word. Ek verwys verder spesifiek na 'n voorval waar een van die klïente / pasiënte (van hierdie "upliftment centre" wat reeds sonder toestemming in gebruik is) die perseel sonder toestemming verlaat het. Ek kan getuig dat verskeie mense (van die "upliftment centre") in die buurt en berg rondgehardloop het op soek na hom / haar. Een van die lede het my persoonlik verbaas gevra "of ek nie die outjie gesien het nie".
- Ek beroep my laastens op die bestaande titeelvoorwaardes, welke voorwaardes met 'n rede aangebring is en ook waarvolgens bestaande inwoners, myself ingesluit, eiendom in die buurt bekom het.

Met dank

*S.J. Engelbrecht*  
 S.J. Engelbrecht

FILE NO:	EL 3054 Bettys Bay
SCAN NO:	27
COLLABORATOR NO:	1009625

TP

03 APR 2017

Hans Strydomlaan 67  
Lyttelton  
Centurion  
0157  
26 Maart 2017



*TR A Theart  
(H. v.d. Staep)*

Overstrand Munisipaliteit  
Re: Erf 3054, Seaviewweg, Bettiesbaai

Ek, Anna Johanna Hugo, is die wettige eienaar van erf 3055 geleë langs erf 3054 in Seaviewweg, Bettiesbaai maak hiermee ten sterkste beswaar teen die opheffing van beperkende voorwaardes en vergunningsgebruik: plan active (nms ALPAC INVESTMENT CC) vir erf 3054.

Ek het my geld belê in hierdie erf omdat dit in 'n rustige en stil kusedorp is en ook omdat dit in 'n biosfeer geleë is.

Vriendelike groete

*Anna Hugo*  
(Prof AJ Hugo)

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	26
COLLABRATOR NO:	1009622

*TP*

4 APR 2017

Prof A J Hugo  
 E.F 3526  
 Bettysbaai  
 9 Januarie 2016

Raadslid L Krige, Bettysbaai  
 Overstrand Munisipaliteit

PETISIE: Teer van Disaweg Bettysbaai

Die persone wie die petisie onderteken het, versoek die munisipaliteit om dringend oorweging te skenk aan die teer van Disaweg om die volgende redes:

- Dit is uiters ongerieflik met die groot aantal voertuie wat in Disaweg ry se stof. Geen deur of venster kan aan die ooste of suidooste kant oopgelas word nie. Alles in die huis is altyd vol stof as die wind waai.

- Die voortdurende stof waai in die groot meer in en veroorsaak 'n sediment tussen die riete. Die stof en sediment beïnvloed nie net die padda-, voël- en vislewende nie, maar veroorsaak dat die riete die meer al hoe meer toegroei. Toe ons die huis vyf jaar gelede gekoop het, was die water nog sigbaar voor ons huis. Nou sien 'n mens net riete en die voëllewe en paddas is minder.

• Disaweg is 'n hooftoegang na die piklewynkolonie, asook vir die inwoners van Oxalis- en ander strate

U ernstige en spoedige oorweging van die versoek word hoog op prys gestel. Geliewe my skriftelik in kennis te stel van u besluit by die volgende adres: Hans Strijdomlaan 67, Lyttelton, Centurion, 0157

Vriendelike groete.  
Anna Hugo

Voorletters en van	Handtekening	Erf nr	Self nr
A J Hugo		3526	0827585499
A.V. NAIBOO		3525	0829942449
R. FANTAINA		3524	078587759
K. KIWIT		3522	0848867806
S FERGUSON		3527	0798145233
I J Goosen		3523	0836272395
T. VAN HOF		3551	0723465604
E. WOODMAN		3544	060456871
L. MENER		3533	0842499999
<del>E. MOEN</del>		3538	0828202511
J. BULL		3523	0822391171
R. WANSER		3545	0828711724



ANNEXURE F 134/185

**KEITH JENKINGS**  
ATTORNEY NOTARY CONVEYANCER



Your Ref:  
Our Ref: KEJ/sc/T9912

7 Sunninghill Road,  
7800 WYNBERG

P O Box 19003  
7824 WYNBERG

Tel: (021) 762 1516 / (021) 762 1519  
Fax: 086 616 5628  
Email: jenksw@yebo.co.za  
Docex: 26, Wynberg

TPA Theart  
(Huldsteep)

2017-03-28

The Municipal Manager  
Overstrand Municipality  
16 Paterson Street  
HERMANUS  
7200  
TELEFAX: (028) 313 2093  
Email: [Loretia@overstrand.gov.za](mailto:Loretia@overstrand.gov.za)

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	24
COLLABORATOR NO:	1009618

Dear Sir // Madam

**Re: APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE BY ALPAC INVESTMENT CC (REGISTRATION NO. 2009/165613/23) OVER ERF 3054 BETTY'S BAY**  
**COMMENTS IN TERMS OF SECTION 51 AND SECTION 52 OF THE OVERSTRAND MUNICIPALITY BY-LAW OF MUNICIPAL LAND USE PLANNING, 2016**

I represent Mrs Susan Turton-Botha who is the owner of Erf 3056 Sea View Drive, Betty's Bay.

My client hereby opposes and objects to the Application for the Removal of the Title Deed Restrictions and Consent Use as applied for by the owner of Erf 3054 Betty's Bay (hereinafter referred to as the "Applicant").

My client's reasons are as follows:-

1. My client will firstly comment on the application submitted by the applicant. In paragraph 2.1 of the application, the applicant states that the current land use can include single residential dwellings, holiday homes and guesthouses. At the moment, in the area surrounding the property, there are only single residential dwellings and holiday houses but no guesthouses. In fact, Betty's Bay is essentially an area which has holiday homes, residents who are retired persons and some families where the parents commute to towns outside of Betty's Bay to work. Betty's Bay has very few businesses and they are mainly situated

Keith Evan Jenkins (BA, LL.B.)

TP

3 APR 07

on Clarence Drive. The character of Betty's Bay is that of a small village of mainly holiday makers and retired persons.

2. In paragraph 2.2, the applicant states that it wishes to operate a "so-called" upliftment centre. The applicant provides very few details as to the nature of the upliftment centre. In fact, the Applicant has been very vague and nebulous with regards to the details of the upliftment centre. The owner refers to the people who will visit the upliftment centre as guests. However, it is my client's contention that the use of the words "guests" is a misnomer as it implies that the upliftment centre will be similar to a guesthouse. My client's property is in close proximity to the applicant's property as it is one plot away from the property and the plot between the two properties is a vacant plot. The applicant has been running the upliftment centre since it took ownership of the property in 2014 in contravention of the by-laws of the Overstrand Municipality and my client has been able to observe its modus operandi. Firstly, at times, there have been more than ten persons with up to twenty one adult males at any one time, staying in the property. There have been only men between approximately 20 to 40 years of age at the centre and no women and children. Consequently, the nature of the activities on the premises and the intent of the Applicant is to accommodate a specific group of men and not general accommodation for the general population or community of people. The activities appear to be more than recreational and consequently inconsistent with the domestic and social environment. The activities involve physical training such as jogging and gym type activities, lectures and loud noise. At night, the noise levels are excessive and the first floor is lit with fluorescent lighting which is very bright. There are no curtains or blinds on the windows and the light shines outside and is a form of light pollution. There do not seem to be any domestic workers on the property so the "guests" do all their own domestic chores such as cleaning, tidying etc. The persons staying at the property are more like persons being assisted in some form of a special recovery programme than guests. It has been speculated that it is a drug rehabilitation centre. My client is not convinced that the occupants of the upliftment centre are there voluntarily. Recently, one of the occupants of the upliftment centre ran away and was found hiding on a neighbouring property. He was collected by other occupants of the upliftment centre and forced to return. This incident caused fear amongst residents of the neighbouring properties and also raises security concerns. Also, no means of the occupants' own transport has been observed since 2014 other than the communally used vehicle to transport the occupants which is normally a bakkie. With ten occupants and a manager and his family, it will mean that there will be at least fourteen people staying on the property at any one time which is an excessive amount of people for a single dwelling. The number has been consistently exceeded since 2014 being the year that the Applicant took occupation.
3. In paragraph 5, the applicant states that there is a demand for wellness centres and upliftment centres in the area. My client disagrees with this assumption and the Applicant has not provided any evidence of this demand. There is, in fact, no demand for an upliftment centre in Betty's Bay. The people visiting the upliftment centre are not from Betty's Bay but have been brought to Betty's Bay from other parts of

South Africa. If the applicant runs an upliftment centre with two persons per bedroom, it would be similar to a boarding house with the exception that the applicant's occupants would have to be part of the activities of the upliftment centre which is in contravention of the current land use of the property. It should be noted that the Applicant is already running the upliftment centre, and has been since 2014, prior to obtaining approval and is in contravention of the Title Deed Restrictions and the current zoning of the property. In addition, the Applicant has resisted and ignored municipal directives to conform to the Regulations resulting in a Municipal Court instituting legal proceedings which are still in process.

4. In paragraphs 2.2 and 9, the applicant requests the upliftment of Title Deed Restrictions so that it can operate the upliftment centre. My client is opposed to the upliftment of these Title Deed Conditions. The restrictive conditions in the Title Deeds are there to serve a particular purpose which is to retain the character of Betty's Bay as a place for families. The Title Deed restrictions specifically state that there should be no hotel, boarding house, canteen, restaurant, bioscope, shop, factory or any place of business or entertainment whatsoever on these Erven. Should the Title Deed restrictions be uplifted, then it will immediately change the character and ambience of the immediate surrounds as businesses will be able to operate from the area. It will also create a precedent. Once the upliftment centre is allowed to operate legally, then it would be difficult to prevent other upliftment centres, wellness centres and institutions from opening in the area thus changing the character of the area. The Applicant would be running a business in a residential area which can only have a negative effect on the area. The Applicant states that the use of the house as an upliftment centre is similar to a guesthouse. My client begs to differ. A guesthouse does not have people staying in all its rooms every day of the year. Guesthouses have busy periods such as holiday times and weekends, but are rarely full on a permanent basis. Those who frequent a guesthouse are holiday makers looking for peace and quiet. The owner of an upliftment centre is running a business. He will want to house the maximum amount of people in the centre all year round. The occupants of the upliftment centre follow a programme of jogging, use of a gym etc which means that the property will be busy all the time. The Applicant states that it does not have any intention to alter the existing buildings. However, it has applied for the removal of the Title Deed Restriction Nos. C(i)(5)(b) which reads as follows: "C(i)(5)(b) - It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith" and C(ii)(m) which reads as follows: - "C(ii)(m): No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven." Section C(i)(5)(b) is not relevant to the Applicant's stated intention. If this restriction is removed, then the Applicant can extend the existing building or erect additional buildings on the property. Should Council agree to these particular Title Deed restrictions being removed, then a precedent is created for all other owners of properties constructed on the Special Erven to similarly apply for the removal of the restrictive

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conditions, including my client. At the time of the establishment of the township, some erven including the one in question and those in the immediate surrounding area were designated as Special Erven, the consequence of which was to impose greater restrictions on these erven than on the other erven in Betty's Bay designated as General. My client requests that the Council, in its deliberations applies its mind to these special distinctions of erven. The intention was to retain the original purpose and character of the special erven for domestic residential purposes.

5. In paragraph 6, the Applicant characterises the area as a medium to higher income area and Betty's Bay as a tranquil and quiet holiday town. The upliftment centre hardly fits within this characterisation. The upliftment centre currently operated by the Applicant is a centre for young men. They do not appear to have any transport and they do not appear to have any help to assist them in domestic chores. An upliftment centre, by its very nature, is a centre that assists those for whom life has been difficult, to uplift and improve themselves. While the Applicant may be lauded for trying to uplift the less fortunate, it is my client's submission that a medium to higher income area is not the appropriate place to have an upliftment centre. It is my client's submission that by allowing the upliftment centre to operate from the property, it will be deleterious for the area.
6. In paragraph 14, the applicant states that the proposed consent use and removal of the restrictive Title Deed Conditions will not have a negative effect on the current character and land values of the surrounding erven. It is my client's contention that the opening of the upliftment centre will have a negative effect on the current character of the area. Since the applicant has been operating the upliftment centre, my client has come to Betty's Bay less frequently as it is no longer the quiet place that it used to be where my client could get away from the hustle and bustle of the city. Now, my client's previously peaceful and quiet home is situated next to a place where much activity takes place all day and late into the night. The quiet and stillness which my client previously experienced has been taken away by the activities of the upliftment centre. This will also have a negative effect on land values as it will no longer be sought after as a prime holiday area. My client notes that the owner of the plot next to the upliftment centre has put the plot up for sale and despite being many months on the market, it has not been sold as yet. Also, the greater portion of the Betty's Bay community as represented by the immediate neighbours and Betty's Bay Ratepayers' Association have viewed these activities and developments, and it is seen in a negative light by these groups. It is also felt that the upliftment centre would have a negative impact on property sales. The Application, in paragraph 14, states that the proposal creates great economic potential which by implication suggests a commercial activity which is contrary to what the Title Deed permits and which will change the character of the area.
7. It is also a concern for my client that should this application be successful that the applicant will not operate within the conditions of the approval. The upliftment centre has been operating since 2014 in direct contravention of the by-laws of the Overstrand Municipality and the Title Deed Conditions of the property. The Municipality has tried to

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engage the applicant but to no avail. The applicant has evaded service of a summons on it and correspondence sent to it by the Municipality has been ignored.

8. There are presently court proceedings in the Courts instituted by the Municipality's legal department to enforce Applicant's conformity to the existing local regulations.
9. My client also wishes to record that the previous Ward Councillor Lisel Krige and the Betty's Bay Ratepayers Association are opposed to the present illegal activities on the property as well as the Application for the Removal of Restrictive Title Deed Conditions and consent use.

For the reasons as set out above, my client hereby opposes the Application for the removal of the restrictive conditions and for the consent use.

Yours faithfully



KEITH JENKINGS

Your Ref: PA15034  
Our Ref: Erf 3160 Bettys Bay

ANNEXURE F 139/185

Paul Ritschbieter  
3160 Seaview Drive  
Bettys Bay  
7141  
P O Box 13033  
Dalspark Est 1  
Brakpan  
1540

FILE NO:	EL 3054
	Bettys Bay
SCAN NO:	23
COLLABORATOR NO:	1009597

TP A Threat  
(H. v. d. Stoop)



02.04.2017

**The Municipal Manager**

Overstrand Municipality  
16 Paterson Street  
HERMANUS  
7200  
TELEFAX: (028) 3132093  
Email [Loretta@overstrand.gov.za](mailto:Loretta@overstrand.gov.za)

Dear Sir/Madam,

Re: APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE BY APPLIC INVESTMENTS cc ( Registration No. 2009/185613/23) OVER ERF 3054 BETTYS BAY  
COMMENTS IN TERMS OF SECTION 51 AND SECTION 52 OF THE OVERSTRAND MUNICIPAL BY-LAW OF MUNICIPAL LAND USE PLANNING 2016

I am the property owner of erf. 3160 Seaview Drive, Bettys Bay. The property was purchased for our Retirement years and chosen for its village feel and safe environment to name a few.

I oppose and object to the Application for the Removal of the Title Deed Restrictions and Consent Use as applied for by the owner of erf. 3054 Bettys Bay (herein referred to as the Applicant) for the following reasons:

TP - 2 APR 07

1. The Applicant states in his application he wishes to operate an "upliftment centre" institution. Very few details are provided as to the nature of this upliftment centre/institution. Over the past 3 years, the Applicant has, in contravention of the by-law, been illegally operating the "upliftment centre/institution". The "guests" are male adults aged from 18-40. At times between 12 and 14 men have been in occupancy at the residence. It is my considered view, based on what I have observed, that these guests are undergoing some sort of recovery programme.
2. The Title Deed Restrictions is very specific that there should be no Hotel, Boarding House, Canteen, Restaurant, Bioscope, Shop, Factory or any place of Business or entertainment whatsoever shall be opened or conducted on the Special Residential erven. Should the Applicant be successful, and the Title Deed restrictions be uplifted, it would set a precedent, which would make it difficult to prevent businesses opening in the immediate area, which would negatively change the character of the area. The current Title Deeds restrictions are there to protect the character of Bettys Bay.
3. There is no evidence or reference to support the Applicant comment (paragraph 5) that there is a demand for Wellness Centres/Upliftment Centres needed in the area.
4. The Applicant purchased the property in 2014, and has been operating, in contravention of the by-laws and Title Deed Conditions of the property, an "upliftment centre". The Applicant would have been aware of the Title Deeds Conditions at the time of purchase, which he had chosen to ignore and started operating the centre soon after taking ownership 3 years ago.

For the reasons as set out above, I strongly request the proposed changes to the current restrictions pertaining to erf 3054 is rejected and the current Title Deed restrictions remain inforce.

The Area of Bettys Bay has maintained a uniqueness in its offering to its homeowners and many visitors to the area. It is internationally recognised and described as a picturesque seaside village largely unspoilt by commercial businesses.

Regards

Paul Rischbieter

Cell (082) 4927864

Office (012) 6740444

ANNEXURE F 141/185

FILE NO:	EL 3012
SCAN NO:	Betty's Bay
	22
COLLABORATOR NO:	1009593

E. C. Knox-Davies on behalf of the  
 Laetitia Knox-Davies Family Trust  
 35 Unielaan  
 Stellenbosch  
 7600  
 ebnoxdv@yahoo.com

TR A Theart  
 (Huld Stoep)

Municipal Manager  
 Overstrand Municipality  
 PO Box 20  
 Hermanus  
 7200  
 lorotta@overstrand.gov.za  
 (By e-mail)



Dear Sir/Madam

**Objections regarding Municipal Notice No. 36/2017: application for land use change on Erf 3054, Betty's Bay**

I write in my capacity as trustee of the Laetitia Knox-Davies family trust, which owns Erf 5416, Seaview Drive. As a property owner in the area, I was notified by registered mail of the proposal and requested to send any objection by the closing date.

I object to the removal of the title deed restrictions and to the operation of an "upliftment centre" for the following reasons:

- The use of 5 double rooms in a residential house for any kind of "upliftment centre", "wellness centre" or guesthouse will definitely have an impact on the character of the area, and cannot be compared to the impact of a large family as is stated in the application (p. 5).
  - This is emphasised by the fact that 7 parking bays will be provided instead of the usual 1 or 2 of a residential house, which demonstrates a significant increase in vehicular traffic.
  - An increase in the number of people at the house (up to 10 in addition to the operator) cannot but increase the disturbance to the neighbourhood, particularly the direct neighbours.
- The land use restrictions on the title deeds were a deliberate and far sighted method of ensuring the tranquility of the area in the long term, to prevent it from becoming commercial. These cannot simply be removed or overruled because a new owner chooses not to abide by them.

TP

03 APR 2017

- The applicant has been particularly vague in his proposal:
  - The term "upliftment centre" has no objective definition and if approved as such, gives the owners carte blanche to do almost anything.
  - If this "upliftment centre" is actually a rehabilitation centre for drug addiction or young offenders, then there are serious potential consequences for the community.
  - The continued presence of groups of people who may have behavioural problems or links to inner city crime is of legitimate concern to the community.
  - Other manifestations of "upliftment centres" may also carry negative consequences for the existing community.
- The applicant has been less than frank in his motivation:
  - It is stated in the application (p. 3) that "Due to the demand for wellness centres, upliftment centres and related land uses in the area, the owner decided to make use of the existing dwelling as an upliftment centre, ...".
  - This implies that the decision to go for this venture was made only after purchasing the property and suggests that it was one of a number of normal commercial ventures considered, similar to a normal guesthouse, health spa or related.
  - It has come to my attention that the title deeds for the property contains an endorsement to the value of R1.3 million with the institution listed as IQRAA Trust South Africa. This suggests that more than 80% of the R1.6 million purchase price was loaned by IQRAA (a Section 18A PBO which provides funding for projects in line with its aims).
  - It thus appears that this property was actually purchased with the prior intent of setting up an "upliftment centre" and that this was done despite the title deed conditions.

In conclusion, I argue that neither the original conditions on the title deeds should be altered nor should operation of an "upliftment centre" be allowed, since doing so is likely to have negative consequences for the area and community. Furthermore, it should be investigated whether the property is currently being operated as an "upliftment centre" without permission.

Yours faithfully

*E.C. Knox-Davies*

E. C. Knox-Davies

FILE NO:	Erf 3054 Betty's Bay
SCAN NO:	21
Loretta Gillion--Erf 3054, Sea View Drive, Betty's Bay, Overstrand Municipal Area:	
Removal of Restrictive Conditions and Consent Use: PlanActive (obo Alpac Investments CC)	
COLLAB:	CU1009589

ANNEXURE F 143/185

TR. A. Thea  
CH. V. d. Stoop

**From:** "Alfred Bester" <alfieb@iafrica.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 02/04/2017 07:43 PM  
**Subject:** Erf 3054, Sea View Drive, Betty's Bay, Overstrand Municipal Area: Removal of Restrictive Conditions and Consent Use: PlanActive (obo Alpac Investments CC)  
**Attachments:** Lester v Ndlambe Municipality.pdf

Dear Sir/Madam,

Erf 3054, Sea View Drive, Betty's Bay, Overstrand Municipal Area: Removal of Restrictive Conditions and Consent Use: PlanActive (obo Alpac Investments CC)

Dear Sir,

I refer to the above application and advise that I am the administrative trustee of The Wavecrest Trust which is the owner of Erf 3218, Sunny Seas, Betty's Bay. The trust is an interested and affected party in relation to the above application.

I previously submitted an objection and commentary in respect of the subject application which remains in place.

Kindly note the following additional comments/objections to the application:

1. You are not the competent authority to remove the title conditions per the subject application. (Compare sect. 17(w)(5)(a) of the National Building Regulations and Building Standards Act 103 of 1977 with the purported "authority" in terms of which you advertised the notice. The advertisement is thus irregular and not lawful.
2. It is submitted that all property owners in Betty's Bay who have similar restrictive conditions are interested and affected parties who must be served with due notice of any application of this nature.
3. It is furthermore my understanding that the applicant has been using the property illegally for many years. In this regard I draw the Council's attention to the attached Supreme Court of Appeal case (*Lester vs Ndlambe Municipality (514/12)(2013)ZASCA95*)  
 Although this case revolved around a demolition order, the circumstances regarding illegal structures and illegal use overlaps. To this end I draw your attention to paragraph 27 of the decided case which is quoted below:

"[27] I conclude by reverting to what Harms J said in *United Technical Equipment, supra*, with regard to the City Council's obligations to enforce the law in the face of an ongoing illegality being perpetrated by the appellant company in that case: „The respondent has not only a statutory duty but also a moral duty to uphold the law and to see to due compliance with its town planning scheme. It would in general be wrong to whittle away the obligation of the respondent as a public authority to uphold the law. A lenient approach could be an open invitation to members of the public to follow the course adopted by the appellant, namely to use land illegally with a hope that the use will be legalise in due course and that pending finalisation the illegal use will be protected indirectly by the suspension of an interdict."25 Ndlambe is in exactly the same position as the respondent in the aforementioned case – it was statutorily and morally duty bound to approach the court below for a demolition order in order to uphold the law. The court a quo, in turn, had a concomitant duty to uphold the doctrine of legality...."

TP

- 2 APR 2017

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## ANNEXURE F 144/185

Accordingly you are required to immediately do all things necessary to stop the illegal use of the property until such time as the restrictive conditions of title are removed and/consent use has been obtained.

Kindly acknowledge receipt and I await your further advice.

Yours sincerely,

Alfie Bester,  
45 Parker Street,  
Aurora,  
Durbanville, 7550  
South Africa.  
Mobile: +27 (0)82 333 9940  
Home: +27 (0)21 976 3434



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## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

## JUDGMENT

Case No: 514/12

In the matter between

Reportable

**MATTHEW ROBERT MICHAEL LESTER****APPELLANT**

and

**NDLAMBE MUNICIPALITY****FIRST RESPONDENT****HIGH DUNE HOUSE (PTY) LTD****SECOND RESPONDENT****Neutral citation:** *Lester v Ndlambe Municipality* (514/12) [2013] ZASCA 95 (22 August 2013)**Coram:** MTHIYANE DP, CACHALIA, THERON and MAJIEDT JJA, ZONDI AJA**Heard:** 15 MAY 2013**Delivered:** 22 AUGUST 2013

**Summary:** Local Government – demolition of a building erected without approved building plans – court not vested with any discretion where demolition applied for in terms of s 21 of the National Building Regulations and Building Standards Act 103 of 1977 – doctrine of legality requires courts to enforce statutory prohibitions the contravention of which constitutes a criminal offence

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**ORDER**

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**On appeal from:** Eastern Cape High Court, Grahamstown(Alkema J, sitting as court of first instance):

The appeal is dismissed with costs, including the costs of two counsel, where so employed.

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**JUDGMENT**

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**MAJIEDT JA (MTHIYANE DP, CACHALIA and THERON JJA and ZONDI AJA concurring):**

**Introduction:**

[1] This appeal concerns the demolition of a luxury home in Kenton-on-Sea (Kenton) on the Eastern Cape coast. The home belongs to the appellant, Professor Matthew Robert Michael Lester. The first respondent, the Ndlambe Municipality, under whose jurisdiction Kenton falls, applied for and was granted a demolition order in respect of the appellant's home by Alkema J in the Eastern Cape High Court, Grahamstown. The learned judge also dismissed the appellant's counter-application to allow him to alter the house and made costs orders in accordance with these outcomes. This appeal is with his leave.

[2] The second respondent, High Dune House (Pty) Ltd, is a private company, whose shareholders and directors are Mr and Mrs Haslam. Their holiday home is registered in the company's name and is adjacent to the appellant's residence. Mr Haslam has deposed to all the affidavits on the

company's behalf. For the sake of convenience I shall refer to the various parties as 'Ndlambe', 'Lester' and 'Haslam'. Ndlambe's seat as local authority is in the nearby town of Port Alfred.

**The factual matrix:**

[3] This case has a long, sorry history, which includes seven high court applications, including the one presently on appeal, extending over a period of more than a decade. All these applications culminated in orders against Lester, either by consent or by the court finding against him. As these applications form an integral part of the factual backdrop to this matter, I consider it necessary to recount them in some detail. The facts are largely undisputed. Most importantly, it is common cause that Lester's dwelling, which is the subject of this dispute, has been erected unlawfully, without any approved building plans as required by s 4(1) of the National Building Regulations and Building Standards Act 103 of 1977. I shall revert to this and other relevant provisions of the Act presently.

[4] Kenton is a quaint seaside village, on the coastal road between Port Elizabeth and East London, the R72. It is flanked by this road, two rivers and the Indian Ocean. Its inhabitants consist mostly of retirees, holidaymakers and a few permanent residents. Lester, a professor in tax law at Rhodes University in Grahamstown, (some 60 kilometres from Kenton by road), falls into the lastmentioned category. It is undisputed that the property is his primary residence. As stated, the Haslams' neighbouring property is their holiday home. It is located (as the company's name suggests) on the flat top of a dune, with Lester's property to the south, lower down the sloping dune. Lester acquired his property in 1997 from his mother and aunt, to whom it had been bequeathed by Lester's grandfather. The property initially provided basic holiday accommodation but, upon joining Rhodes University in 1998, Lester decided in 2001 to make Kenton his permanent home. This necessitated the construction of a bigger house higher up the slope of the dune. This is when the trouble started.

[5] Before the construction began, the Haslams had sweeping, panoramic views over the ocean from their dwelling, spanning from the west to the east. This changed when Lester began building. Lester first engaged the architectural services of Ms Pollos Purden to design a dwelling higher up from the existing rudimentary dwelling. She designed a single storey pitched roof house. Her building plans were approved by Ndlambe on 3 May 2002 (the Purden plans). The design envisaged a split level home. It has erroneously been described by some of the parties as a 'double-storeyed' home, though nothing turns on this issue. Lester commenced building operations on the Purden plans. Haslam obtained copies of the Purden plans from Ndlambe's officials, after he saw foundations being cast for the new dwelling. He made it plain to the officials at that early stage that he had an interest in the matter and that he required to be notified of Lester's building plans, prior to their approval. Haslam raised an objection to the construction of a second, separate dwelling higher up on the dune because it contravened Lester's title deed restriction which prohibited more than one dwelling on the same property. Lester was notified of this objection, but chose to continue building, pending a council decision.

[6] These events led to the first high court application in which Haslam applied for an interdict restraining Lester from continuing building operations, pending the outcome of review proceedings. The application was successful before Pickering J who interdicted Lester from building further pending approval of amended plans. Of significance is that Lester, in his answering affidavit, acknowledged that in the event of a successful review he would be obliged to demolish the existing structure for lack of approved plans. On Lester's instructions, Ms Purden amended the plans to convert the old building to a boathouse and outbuildings, thus overcoming the prohibition against the construction of more than one dwelling on the property. The amended Purden plans were approved on 8 November 2002. It is common cause that these plans remain unchallenged and valid. One would have

thought that Lester, in view of what had happened, would have contented himself with this situation and to have proceeded with the building on these plans. This was not to be. Due to a change in his personal circumstances, which entailed Lester having to create additional space for his frail mother in his new house, he discarded the Purden plans altogether, and appointed another architect, Mr Sam Pelissier, with a mandate to design a double-storey building, using the Purden plans' footprint.

[7] Pelissier fulfilled his mandate by designing a dome-shaped roof in place of the envisaged pitched roof of the Purden plans to cater for the wind, height and shade factors (the Pelissier plans). It is important to note that these plans varied significantly from the Purden plans in respect of the general architectural design. In particular it had a bigger roof which considerably increased the height of the building. The Pelissier plans were taken to the relevant Ndlambe officials in Port Alfred for approval by Lester himself on 17 July 2003. In Lester's own words, he "walked the officials of the various [Ndlambe] departments through the plans", resulting in them being approved on the same day. Neither Ndlambe nor Lester gave notice to Haslam of the new Pelissier plans despite being undeniably aware of Haslam's interest in the matter. So, when construction of the new dwelling commenced, Haslam, completely unaware of the changed circumstances, assumed that building was still proceeding under the unchallenged Purden plans of November 2002. When he realised that this was not so during October 2003 he launched the second application to have the Pelissier plans reviewed and set aside.

[8] Several grounds for review were advanced by Haslam in the second application amongst others the fact that Ndlambe had failed to appoint a building control officer whose tasks in terms of the Act included the furnishing of a report on Lester's building operation. Ndlambe conceded this omission and consented to an order before Jennett J on 25 June 2004, setting aside the approval of the Pelissier plans and referring them to Ndlambe for

reconsideration, following the appointment of a building control officer and upon notice to Haslam. Lester also consented to the order.

[9] Ndlambe approved the Pelissier plans again during November, subject to certain conditions, which included the change in the conditions in the title deed. This prompted Haslam to launch the third application on 24 February 2005, for the review and setting aside of the conditional approval of the plans. Several grounds were relied upon for the review, of which the principal ground was that Ndlambe had no authority to approve plans 'conditionally', and that its purported 'conditional approval' was *ultra vires* s 7 of the Act. Goliath AJ made an order by consent on 22 September 2005, setting aside the Pelissier plans yet again and referring them back to Ndlambe for fresh consideration.

[10] The Pelissier plans were approved by Ndlambe for the third time on 14 February 2006, after it had received submissions from all interested parties and after it held a hearing on 25 November 2005. And so the fourth application was made for a review of this latest approval on substantially the same grounds as in the previous application. Jones J made an order by consent between the parties on 29 June 2007, setting aside this approval. This time, Jones J did not remit the matter to Ndlambe, but issued a declarator to the effect that the Pelissier plans (of July 2003) 'be not approved'. Lester's counter-application was dismissed. In effect Jones J's order required the submission of new building plans, a fact which Ndlambe acknowledged by passing an important resolution on 31 March 2008. The relevant part reads:

'That it be noted that the building on Erf 20 [Lester's dwelling] exists without plans, no plans have subsequent to Jones J's by the owner of Erf 20 for approval.'

The fifth application, in which Haslam sought a mandamus to compel Ndlambe to make a decision following the judgment of Jones J, was withdrawn when Haslam became aware of the resolution. But he was not satisfied with the terms of the resolution and brought the sixth application for the reviewing and setting aside of the resolution and substituting it with an order directing Lester to submit, within one month, building plans that comply

with all the applicable statutory and zoning prescripts failing which Ndlambe would apply in terms of s 21 of the Act for the dwelling to be demolished.

[11] On 22 April 2010 Plasket J made an order by agreement between the parties. The order granted Haslam the relief set out in the preceding paragraph. The significance of this order was twofold:

- (a) Lester was placed on terms to submit plans within one month that complied with all statutory and zoning requirements; and that,
- (b) the spectre of a demolition order being sought in the event of non-compliance, loomed large.

It bears emphasis that Lester had consented to Plasket J's order. The whole sorry saga surrounding Lester's dwelling raised the ire of several members of the community, forcing Lester to decamp to Cape Town for a brief sojourn. It is not in issue however, that the dwelling in Kenton remained his primary residence.

[12] Lester sought to comply with the Plasket J order by submitting various sets of amended and revised plans to Ndlambe, none of which met with the latter's approval. The final revised plans envisaging the removal of the top floor and the domed roof to be replaced with a flat roof in order to achieve a reduction in overall height and size, were submitted on 15 September 2010. On 5 December 2010 Ndlambe adopted the recommendations of the building control officer and resolved in terms of s 7(1)(b) of the Act not to approve the final plans since they did not comply with the Plasket J order. Lester was notified of this outcome on 13 January 2011 and the demolition application followed on 21 January 2011. As I have mentioned, Lester instituted a counter-application to permit him to alter the dwelling so as to avoid the demolition order.

**The judgment of the court below**

[13] The central disputes between the parties in the court below concerned the questions:

- (a) whether the existence of the requisite jurisdictional facts *ipso facto* warrants a demolition order under the Act;
- (b) whether a court has any discretion at all in deciding whether or not to order demolition where there has been non-compliance with the relevant statutory provisions;
- (c) if such a discretion exists, whether it is a wide or narrow discretion; and
- (d) lastly, whether an alteration of the dwelling, as sought by Lester, should be ordered instead.

[14] Alkema J made the following principal findings:

- (a) Lester was no innocent victim of Ndlambe's incompetence;
- (b) Absent any internal appeals under s 9 of the Act or challenges by way of reviews under the Promotion of Administrative Justice Act 3 of 2000 (PAJA) these decisions remain valid and legally binding until set aside on appeal or review;
- (c) Lester's property is, both judicially and administratively, an unlawful structure in terms of the Act, thus entitling Ndlambe to seek an order authorising it to have the dwelling demolished in terms of s 21 of the Act;
- (d) Whereas Ndlambe's case against Lester turns on s 4(1) read with s 21 of the Act, Haslam relies on both the common law principles of neighbour law and the statutory contraventions;
- (e) In all cases where a demolition order is sought, the court retains a discretion which has to be exercised judicially, ie in accordance with the disproportionality of prejudice test, bearing in mind the dictates of legal and public policy;

- (f) In applying the disproportionality of prejudice test, Lester's own conduct and the absence of any evidence that he would not be able to afford other housing, does not constitute sufficient prejudice, nor can he avail himself of the rights enshrined in s 26(3) of the Constitution;
- (g) Legal and public policy required the court to enforce the principle of legality and to uphold the rule of law by granting the demolition order.

[15] I do not propose dealing with all these findings. For the reasons that follow, I agree that the demolition order was warranted, but I am of the view that Alkema J chose an incorrect path in reaching his conclusion. He found firstly that neighbour law principles are applicable in this case and secondly that a court has a discretion in all demolitions sought under the Act. In this court Lester, understandably so, supported the finding that a court has a discretion, but contended that such discretion should have been exercised in his favour, by granting the counter-application for alteration of the dwelling. Lester's counsel relied for these submissions on s 26(3) of the Constitution and the common law's neighbour law principles for the existence of such a discretion. This discretion, contended counsel, was either a wide discretion, particularly if s 26(3) of the Constitution applies, or what he termed a 'residual discretion' which he contended emanates from the Act itself. I shall deal with these submissions separately by first examining the constitutional basis and then by considering whether neighbour law applies at all. Closely associated with the latter aspect is the question whether the statutory provisions themselves permit such a discretion, bearing in mind the principle of legality.

**Does s 26(3) of the Constitution afford a court a discretion in demolition cases?**

[16] Section 26 of the Constitution reads as follows:

**Housing**

26 (1) Everyone has the right to have access to adequate housing.

- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.'

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.<sup>1</sup>

It was submitted on behalf of Lester that the magistrate's authority (or in this instance that of the high court) to order a demolition under s 21 of the Act had to be read with s 26(3) of the Constitution, which requires 'all relevant circumstances' to be taken into account before making the order. This confers, so it was contended, a wide discretion on a magistrate when faced with such an application to consider all the relevant circumstances in this case before ordering the demolition of Lester's dwelling. For the reasons that follow, I consider this submission to be misplaced.

[17] Section 26(3) must not only be read in its historical context, ie as a bulwark against the forced removals, summary evictions and arbitrary demolitions of the shameful past dispensation, but also together with s 26(1) and (2), since s 26 must be read as a whole. Mokgoro J, writing for a unanimous court in *Jaffha v Schoeman; Van Rooyen v Stoltz*<sup>2</sup> emphasized that:

'(s)ection 26 must be seen as making that decisive break from the past. It emphasises the importance of adequate housing and in particular security of tenure in our new constitutional democracy.'<sup>2</sup>

The protection afforded in s 26(3) must therefore always, without exception, be read against the backdrop of the right to have access to adequate housing, enshrined in s 26(1). Thus where a person, facing a demolition order, does not adduce any evidence that he or she would not, in the event of his or her dwelling being demolished by order of a court, be able to afford alternative housing, s 26(1) is of no avail to him or her. Lester, as the court below correctly found in my view, is in precisely this position. Apart from alluding to the 'calamitous financial implications' which demolition of his dwelling (which he estimates to be worth around R8 million) would entail, he does not state anywhere in his papers that he would be rendered homeless and destitute by

<sup>1</sup> *Jaffha v Schoeman; Van Rooyen v Stoltz* 2005 (2) SA 140 (CC) para 28.

<sup>2</sup> *Ibid*, para 28.

the demolition.<sup>3</sup> This court pointed out in *Standard Bank of South Africa Ltd v Saunderson*<sup>4</sup> that what constitutes 'adequate housing' is always a factual enquiry and that executing a writ of execution in respect of a luxury home, which Lester's dwelling undeniably is, has no bearing on the right of access to adequate housing. And the fact that the dwelling sought to be demolished is the person's primary residence, as is the case here, does not detract from this principle. The cardinal question is whether demolition of Lester's property would infringe upon his right to access to adequate housing. The answer, on the papers before us, must be an emphatic 'no'. Lester's counsel contended that such an interpretation of s 26(3) would render the words '... an order of court made after considering all the relevant circumstances' nugatory. I disagree. Even taking into account 'relevant circumstances' (which the court below in any event did), the primary consideration is whether the right of access to adequate housing would be compromised by the demolition. That is the import and effect of the judgment in *Jaffa* and the plain, unambiguous meaning of s 26. I turn to consider the second submission, namely that the source of the discretion not to order a demolition is to be found in the statute and in the common law principles of neighbour law, which are based on principles of fairness and equity.

#### **The statutory provisions and neighbour law as possible sources of a court's discretion**

[18] Alkema J relied heavily on the case of *Benson v S A Mutual Life Assurance Society*<sup>5</sup> as authority for his finding that he does have a discretion whether to order demolition or not. Lester's counsel has correctly conceded that *Benson* does not lend such support, since it concerned the discretionary remedy of specific performance in breach of contract instances. The passage relied upon (783C-E) in particular, is clearly about this aspect and not about a discretion concerning demolition orders. The judge below appears to have given recognition to this in his judgment granting leave to appeal to this court,

<sup>3</sup> Lester's counsel was driven to an oblique concession in this regard in the course of his argument.

<sup>4</sup> *Standard Bank of South Africa Ltd v Saunderson* 2009(2) SA 264 (SA) para 17.

<sup>5</sup> *Benson v S A Mutual Life Assurance Society* 1986 (1) SA 776 (A) at 783C-E.

acknowledging that '[Benson] dealt with a discretion in cases of specific performance and not in demolition orders' and later on, that he had exercised his discretion 'on an extremely narrow, and perhaps novel basis'.

[19] A useful starting point, to my mind, in ascertaining whether there are other sources for such a discretion in demolition cases, is the statute itself. The Act's objective is to provide uniformity in the law relating to the erection of buildings in the area of jurisdiction of local authorities and to prescribe building standards. Section 4(1) reads as follows:

'(1) No person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.'

Section 4(4) renders the contravention of s 4(1) a criminal offence with a penal sanction of a fine not exceeding R100 for each day on which the offender was engaged in erecting the (illegal) building. Section 9 makes provision for an appeal against decisions of local authorities. For present purposes the refusal to grant approval of building plans is appealable – such appeal is to a review board. Section 21 reads as follows:

21. Order in respect of erection and demolition of buildings:

Notwithstanding anything to the contrary contained in any law relating to magistrates' courts, a magistrate shall have jurisdiction, on the application of any local authority or the Minister, to make an order prohibiting any person from commencing or proceeding with the erection of any building or authorizing such local authority to demolish such building if such magistrate is satisfied that such erection is contrary to or does not comply with the provisions of this Act or any approval or authorization granted thereunder.'

[20] It is plain that s 21 must be read with ss 4(1) and 4(4) of the Act. As stated, it was common cause before Alkema J that Lester's property is an illegal structure having been erected without approved building plans. It was therefore at risk of demolition by order of court at the instance of Ndlambe. Both Ndlambe and Haslam (in particular) adopted the stance in the court below and again before us that a court has no discretion in the circumstances and

must order demolition under s 21 once illegality is established. Lester's counsel valiantly sought to persuade us that such a discretion is to be found in the section itself and if not, that the neighbour law principles should be 'imported' into the section. He contended that s 21 implicitly permits partial demolition in the present case, as sought by Lester in his counter-application. These submissions are devoid of merit. First and foremost a mere reading of the provision makes it plain that there is no warrant for reading such implicit discretion into it. What is more, s 4(4) read with s 4(1), creates a criminal offence with a penal sanction in the event of a building being erected without approved building plans, an aspect which militates strongly against such discretion. I shall revert to the provisions of s 4 under the next rubric in which I will discuss the applicability of neighbour law and the doctrine of legality. Counsel was unable to expound on the legal basis for and the modalities of the importation of neighbour law principles into the provisions contained in s 21. It comes as no surprise that there is a complete dearth of authority for this novel proposition. Counsel was unable to point us to such authority and I am not aware of any. The conclusion that the statutory provision itself does not lend itself to such a discretion is unassailable. The language of the provision gives a magistrate no latitude not to order the demolition once the jurisdictional fact, namely that the building was erected contrary to the Act, is established. During argument Lester's counsel contended that the provision must at a minimum be read to give a residual discretion to the magistrate. But he was unable to advance authority for this proposition and it too is devoid of merit. I turn to a consideration of neighbour law principles and the doctrine of legality.

#### **The relevance of neighbour law and the role of the doctrine of legality**

[21] Alkema J commenced his judgment by stating that this case 'involve issues of neighbour law, public law and administrative law'. Lester's counsel vigorously endorsed the view that neighbour law principles apply here, understandably so. But this is not a neighbour law case at all. The misconception in this regard stems from the Haslams' involvement in the case. To illustrate why this was misconceived, a brief history of how they

joined the fray is required. Haslam (and I am still referring to him here representing the second respondent company) was initially cited in Ndlambe's demolition application as one of several respondents with an interest in the matter. Haslam, however, successfully and without any opposition thereto, applied for joinder as second applicant with Ndlambe in the main application. He did so because he supported fully the relief sought by Ndlambe. More importantly, in so doing, Haslam did not rely on any neighbour law principles, nor did he seek any additional remedies based on neighbour law. Haslam made common cause with Ndlambe in seeking public law remedies, ie demolition in terms of s 21 of the Act and ancillary relief. In the supporting affidavit in the joinder application, Haslam pertinently states that 'High Dune (ie second respondent) has a legal interest in ensuring that Ndlambe takes all appropriate steps to remedy any failure by Lester to comply with all statutory zoning and other requirements'. Alkema J wrongly found that 'the issues raised by the joinder (of Haslam), on the other hand, are essentially matters of neighbour law, which is a branch of the law of obligations, and which call into play certain legal principles which do not arise as between Ndlambe and Lester, but became relevant between Haslam and Ndlambe.' As a consequence of this misconception, a significant part of the judgment of the court below deals with neighbour law principles and cases. I intend restricting myself to a few of them only, to illustrate why this is not a neighbour law case and to contrast it with the doctrine of legality.

[22] It is plain that Ndlambe approached the court below for a public law remedy, namely a s 21 demolition. It simply sought enforcement of a statutory right flowing from a statutory contravention, which also amounts to a criminal offence. And Haslam supported the relief sought by the council. Lester's counsel's submission appears to be that there is no reason not to apply the common law principles of neighbour law, which give courts a wide and equitable discretion to avoid granting a demolition order in respect of encroaching structures in the context of a public law remedy. Neighbour law has long recognized that in matters such as encroachment, courts have a discretion to award damages instead of ordering the removal of the offending

building or structure, the deciding factor being the disproportionality between removal of the encroachment measured against the damage or inconvenience suffered by a plaintiff. There is an interesting academic discourse on whether the English law influence of equity finds application in this discretionary power, but it need not be discussed at all in this instance<sup>6</sup>. In *Rand Wateraad v Bothma*<sup>7</sup>, Hattingh J undertook a detailed analysis of this discretion in encroachment cases. Numerous cases and the Roman and Roman Dutch authorities are collated in the judgment. *Brevitatis causa*, it will suffice to summarize the conclusions reached by Hattingh J at the end of his detailed discussion<sup>8</sup> (loosely translated and condensed):

- (a) the *sui generis* nature of neighbourly relationships resulted in the development of legal rules based on equity in our common law;
- (b) the emphasis in neighbour law is always on the protection of the neighbourly relationship as such, rather than the individual interests of every neighbour separately;
- (c) neighbour law principles and precepts are aimed at attaining a just and equitable result and the correct application thereof ought always to lead to a result which satisfies one's sense of justice.

The law reports are replete with instances where the courts have held that such a discretion exists in neighbour law cases.<sup>9</sup> It is easy to understand why neighbour law, which is premised on considerations of fairness, equity and justice, would afford courts a discretion on whether to order removal of the offending structure or whether to award damages. But it seems to me that a public law remedy such as a demolition order in terms of s 21, is a different matter altogether. Here it is common cause that the dwelling is an illegal structure and not a mere encroachment on a neighbour's property. Moreover, as stated, it constitutes a criminal offence under s4(4) of the Act.

<sup>6</sup>See, inter alia, J B Cilliers and C G van der Merwe 'The "year and a day rule" in South African Law: do our courts have a discretion to order damages instead of removal in the case of structural encroachments on neighbouring land?' (1994) *THRHR* 587 at 592.

<sup>7</sup>*Rand Wateraad v Bothma* 1997(3) SA 120 (O) at 130F-138G.

<sup>8</sup>*Ibid.*, at 138D-G.

<sup>9</sup>See inter alia: *Hornby v Municipality of Roodepoort - Maraisburg and Arthur* 1918 AD 278 at 295 - 296 (in this dictum Solomon JA recognizes the existence of a discretion on principles of equity in English law, but appears to leave open the question whether those principles apply in our law as well); *Johannesburg Consolidated Investment Co Ltd v Mitchell Investments (Pty) Ltd* 1971 (2) SA 397 (W) at 405-407.

[23] Section 21 authorizes a magistrate, on the application of a local authority or the Minister, to order demolition of a building erected without any approval under the Act. This is undoubtedly a public law remedy. Alkema J questioned how a statutory breach which gives rise to the same claim under private law or public law can afford a court a discretion under private (neighbour) law, but not under public law. The answer is simply that the law cannot and does not countenance an ongoing illegality which is also a criminal offence. To do so, would be to subvert the doctrine of legality and to undermine the rule of law. In *United Technical Equipment Co (Pty) Ltd v Johannesburg City Council*<sup>10</sup> the Full Court was seized with an appeal against the granting of an interdict in the Local Division in terms whereof the appellant company (qua respondent a quo) was restrained from using property which was zoned residential in terms of the Town Planning Scheme, for business purposes (offices). It was common cause that by using the property as offices, the appellant was committing an offence. The appellant's case was that the court should have suspended the interdict pending the final dismissal of his application to the Administrator for rezoning of the property. Harms J, writing for the Full Court, considered whether a court has a general discretion to grant or refuse an interdict. The learned judge pointed out that in the leading case on interdicts, *Setlogelo v Setlogelo*<sup>11</sup>, this court granted a final interdict, having been satisfied that all the requisites for the granting of a final interdict had been met, without considering at all whether it should, in the exercise of a discretion, refuse the interdict. Harms J also referred to *Peri-Urban Areas Health Board v Sandhurst Gardens (Pty) Ltd*<sup>12</sup>, where the court refused to suspend an interdict under similar circumstances because, as Clayden J put it: 'where the breach of law interdicted is a breach of a statute a stricter approach is adopted.'<sup>13</sup> As Harms J correctly explains, what Clayden J meant to convey was not that there is a rule that a statutory right is stronger than a common law right, but simply that the statutory breach referred to is a breach

<sup>10</sup>*United Technical Equipment Co (Pty) Ltd v Johannesburg City Council* 1987(4) SA 343 (T).

<sup>11</sup>*Setlogelo v Setlogelo* 1914 AD 221.

<sup>12</sup>*Peri-Urban Areas Health Board v Sandhurst Gardens (Pty) Ltd* 1985 (1) SA 683 (T).

<sup>13</sup>*Ibid.*, at 685A.

which is visited by criminal sanctions (as is the case here). The following dictum of Harms J is apposite: 'It follows from an analysis of these cases that discretion can, if at all, only arise under exceptional circumstances. Furthermore, I am not aware of any authority which would entitle the court to suspend the operation of an interdict where the wrong complained of amounts to a crime'<sup>14</sup>.

[24] Courts have a duty to ensure that the doctrine of legality is upheld and to grant recourse at the instance of public bodies charged with the duty of upholding the law. In *Standard Bank of South Africa Ltd v Swartland Municipality*<sup>15</sup> Moosa J had to deal with an application that a demolition order, issued in the Malmesbury Magistrates' Court, be set aside and for Standard Bank, as mortgagee, to be joined. In stressing the courts' duty in enforcing demolition orders, the learned judge stated that:

'The unauthorised and illegal conduct of the third respondent (in unlawfully erecting a structure without approved plans) is contra boni mores and contrary to public policy, and cannot be condoned by the court. It militates against the doctrine of legality, which forms an important part of our legal system, and more especially since the Constitution became the supreme law of the country'<sup>16</sup>.

Moosa J referred to the oft quoted dictum of Chaskalson CJ in *Pharmaceutical Manufacturers of SA: In re Ex parte President of the Republic of South Africa and others*<sup>17</sup>, which bears repetition:

'The exercise of all public power must comply with the Constitution, which is the supreme law, and the doctrine of legality, which is part of that law'.

#### **The doctrine of legality as part of the rule of law**

<sup>14</sup>*United Technical Equipment Co (Pty) Ltd v Johannesburg City Council*, supra, at 347F-H.

<sup>15</sup>*Standard Bank of South Africa Ltd v Swartland Municipality* 2010(5) SA 478 (WCC); see also *Standard Bank of South Africa Limited v Swartland Municipality* 2011 (5) SA 257 (SCA).

<sup>16</sup>*Ibid.*, para 22.

<sup>17</sup>*Pharmaceutical Manufacturers of SA: in re Ex parte President of the Republic of South Africa* 2000 (2) SA 674 (CC) para 20. See also: *Minister of Justice and Constitutional Development v Choroa* 2010 (4) SA 82 (CC) para 27 and cases cited there.

[25] Wade and Forsyth correctly point out that in administrative law, the rule of law encapsulates, inter alia, the notion that 'government should be conducted within a framework of recognized rules and principles which restrict discretionary power'<sup>18</sup> It is self-evident that this principle encompasses all three arms of government, ie the executive, the legislature and the judiciary. Equally obvious is that it applies to the three spheres of government, ie national, provincial and local government. Yvonne Burns explains that this doctrine ensures in the sphere of public law that '(a) the exercise of public power by the administration conforms to constitutional principles; (b) public authorities comply with specific duties and obligations in the exercise of their discretionary powers and (c) the state and its officials obey the law to ensure good and fair administration'.<sup>19</sup>

[26] Local government, like all other organs of state, has to exercise its powers within the bounds determined by the law and such powers are subject to constitutional scrutiny, including a review for legality. In *Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* 1999 (1) SA 374 (CC)<sup>20</sup> the court expounded on the doctrine of legality as an essential component of the rule of law as follows:

'These provisions [ie ss 174(3) and 175(4) of the Constitution] imply that a local government may only act within the powers lawfully conferred upon it. There is nothing startling in this proposition – it is a fundamental principle of the rule of law, recognized widely, that the exercise of public power is only legitimate where lawful. The rule of law – to the extent at least that it expresses this principle of legality – is generally understood to be a fundamental principle of constitutional law.'<sup>21</sup> (footnote omitted).

The power to approach a court for a demolition order in s 21 is unquestionably a public power bestowed upon local authorities. As such, its exercise must conform to the doctrine of legality. Put differently, a failure to exercise that

<sup>18</sup>Wade and Forsyth *Administrative Law* 7ed (1994) 24.

<sup>19</sup>Y Burns 'A rights-based philosophy of administrative law and a culture of justification' (2002) 17 *SAPL*: 279 at 285.

<sup>20</sup>*Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* 1999 (1) SA 374 (CC) para 40.

<sup>21</sup>*Ibid* para 56; see also para 58.

power where the exigencies of a particular case require it, would amount to undermining the legality principle which, as stated, is inextricably linked to the rule of law. See *AAA Investments (Pty) Ltd v Micro Finance Regulatory Council and another* where the court held as follows:

'(t)he doctrine of legality which requires that power should have a source in law, is applicable whenever public power is exercised . . . . Public power . . . can be validly exercised only if it is clearly sourced in law<sup>22</sup>.

In *National Director of Public Prosecutions v Zuma*<sup>23</sup> Harms DP emphasized that the courts are similarly constrained by the doctrine of legality, ie to exercise only those powers bestowed upon them by the law.<sup>24</sup> The concomitant obligation to uphold the rule of law and, with it, the doctrine of legality, is self-evident. In this regard, the court below was constrained by that doctrine to enforce the law by issuing a demolition order once the jurisdictional facts for such an order were found to exist.

[27] I conclude by reverting to what Harms J said in *United Technical Equipment*, *supra*, with regard to the City Council's obligations to enforce the law in the face of an ongoing illegality being perpetrated by the appellant company in that case:

'The respondent has not only a statutory duty but also a moral duty to uphold the law and to see to due compliance with its town planning scheme. It would in general be wrong to whittle away the obligation of the respondent as a public authority to uphold the law. A lenient approach could be an open invitation to members of the public to follow the course adopted by the appellant, namely to use land illegally with a hope that the use will be legalise in due course and that pending finalisation the illegal use will be protected indirectly by the suspension of an interdict.<sup>25</sup>

Ndlambe is in exactly the same position as the respondent in the aforementioned case – it was statutorily and morally duty bound to approach the court below for a demolition order in order to uphold the law. The court *a quo*, in turn, had a concomitant duty to uphold the doctrine of legality, by

<sup>22</sup> *AAA Investments (Pty) Ltd v Micro Finance Regulatory Council* 2007 (1) SA 343 (CC).

<sup>23</sup> *National Director of Public Prosecutions v Zuma* 2009 (2) SA 277 SCA 28.

<sup>24</sup> *Ibid* para 15.

<sup>25</sup> *United Technical Equipment Co (Pty) Ltd v Johannesburg City Council*, *supra*, at 348f-J.

refusing to countenance an ongoing statutory contravention and criminal offence.

**Conclusion:**

[28] As stated, Lester has erected an unlawful structure on his property – this fact is unchallenged and common cause. The jurisdictional basis for a demolition order in terms of s 21 has therefore been established. All administrative actions, such as the unanimous resolution of Ndlambe's full council on 5 December 2010 not to approve the final revised plans, remain valid and legally binding until set aside on review or appeal. Absent any challenge on appeal, internally in terms of s 9 of the Act to a review board, or on review in terms of PAJA to a competent court, that resolution had legal consequences. In *Camps Bay Ratepayers' Association and another v Harrison and the Municipality of Cape Town*, the Constitutional Court,<sup>26</sup> in referring with approval to *Oudekraal Estates (Pty) Ltd v City of Cape Town*<sup>27</sup> said that:

[A]dministrative decisions are often built on the supposition that previous decisions were validly taken and unless that previous decision is challenged and set aside by a competent court, its substantive validity is accepted as a fact. Whether or not it was indeed valid is of no consequence. Applied to the present facts it meant that the approval of the February 2005 plans must be accepted as a fact. If the footprint issue was part of that approval, that decision must likewise be accepted as a fact unless and until it is validly challenged and set aside.

See also: *Member of the Executive Council for Health, Eastern Cape v Kirlend Investments*<sup>28</sup>. I have already found that the court below erred in finding that it had a discretion whether or not to issue a demolition order. Absent such discretion, the court below simply had to uphold the rule of law, refuse to countenance an ongoing statutory contravention and enforce the provisions of the Act.

<sup>26</sup>*Camps Bay Ratepayers and Residents' Association v Harrison* 2011 (4) SA 42 (CC) para 62.

<sup>27</sup>*Oudekraal Estates (Pty) Ltd v City of Cape Town* 2004 (6) SA 222 (SCA) para 31.

<sup>28</sup>*Member of the Executive Council for Health, Eastern Cape v Kirlend Investments (Pty) Ltd vs Eye & Laser Institute* (473/12) [2013] ZASCA 58] (16 May 2013) para 20.

[29] I turn to the counter-application. It was conceded on Lester's behalf that in the event of this court finding that the court below was correct in ordering demolition as sought by Ndlambe, supported by Haslam, the counter-application would inevitably be doomed to failure. In the counter-application Lester sought an order that the dwelling be demolished partly only to the extent that its design would then accord with the plans submitted by him to Ndlambe on 18 May 2010, alternatively 13 December 2010. But Ndlambe's council has already considered these final revised plans and the accompanying representations and has rejected them. As stated, that resolution remained extant and legally binding as a valid administrative act, unless and until set aside by a competent court. Moreover, it is undisputed that the final 2010 plans still offend the existing building regulations because of the height of the roof. As pointed out above, an order for partial demolition as sought by Lester, would amount to the sanctioning of an ongoing illegality and criminal offence, in the face an existing valid administrative decision. This can never be countenanced by a court. The counter-application was therefore correctly dismissed by the court a quo.

[30] Alkema J made certain adverse findings against Lester, *inter alia*, as stated above, that he was not the mere innocent victim of Ndlambe's incompetence, as contended by counsel, and further that the learned judge had 'a sense, nothing more, that Lester may have orchestrated the situation in which he now finds himself. In my view it is not necessary to come to any conclusion on these aspects. The common cause material facts suffice, namely that the structure was illegal and that Lester had, in the face of six preceding court orders against him, elected to continue building operations without approved plans. As stated (see para 8 above), Lester already acknowledged as early as 2002 during the first high court application before Pickering J, in his answering affidavit that, in the event of a successful review before the high court, he would be obliged to demolish the existing structure for lack of approved plans. And, as stated, the spectre of demolition loomed large in the order of Plasket J (see para 11 above).

[31] One is acutely aware of the financial calamity, inconvenience and disruption which the demolition of what is plainly and expensive, luxurious dwelling, and a primary residence to boot, would cause Lester. But the upholding of the doctrine of legality, a fundamental component of the rule of law, must inevitably trump such personal considerations. The appeal must therefore be dismissed with costs, including the costs of two counsel where so employed.

[32] In the result I make the following order:

The appeal is dismissed with costs, including the costs of two counsel, where so employed.

---

**S A MAJIEDT**  
**JUDGE OF APPEAL**

## APPEARANCES

- For Appellant: R G Buchanan SC  
Instructed by:  
DLA Cliffe Dekker Hofmeyer, Johannesburg  
Webbers, Bloemfontein
- For 1<sup>st</sup> Respondent: I J Smuts SC  
Instructed by:  
Wheeldon Rushmere & Cole, Grahamstown  
Symington & De Kok, Bloemfontein
- For 2<sup>nd</sup> Respondents: EAS Ford SC with TJM Paterson SC -  
Instructed by:  
Rushmere Noach Inc, Port Elizabeth  
McIntyre & Van Der Post, Bloemfontein

ANNEXURE F 168/185

ANNEXURE F 169/185

**BETTY'S BAY  
NEIGHBOURHOOD WATCH**



**BEWARE - PASOP - INGOZI**



TP A Theart  
C H vol Staep)

Cell: 072 015 5729

Email/E-pos: bbaynhw16@gmail.com

28<sup>th</sup> March 2017

Dear Sir/Madam,

**APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS AND CONSENT USE OF ERF 3054  
BETTYS BAY**

Your correspondence reference number PA 15034 dated 28 February has reference:

The Bettys Bay Neighbourhood Watch has 509 members and operates throughout Bettys Bay. Our organisation is strongly opposed to this application for the following reasons:

1. The application from Alpac investments is vague and not transparent. They have not mentioned where their "guests" come from, have they been referred by other institutions or do they come on a voluntary basis.
2. We have seen the "guests" running in the streets of Sunny Seas, Bettys Bay so the "upliftment" centre is already operational. We thereby assume that they are operating illegally.
3. This appears to be a commercial undertaking and no mention is made of the selection criteria to be used to determine who requires the services of the "upliftment" centre. We are of the opinion that the "upliftment" centre is nothing but a rehabilitation centre for people who have a substance abuse problem. This is a security risk to our town.
4. We have seen that the "upliftment" centre currently only has male guests, in their 20's or 30's. This is in violation of the country's constitution as it is not open to all races and creeds.
5. If this application is approved it will create a precedent that will make it difficult to stop other similar applications.
6. If this application is approved who will audit this institution, this surely must be provided by some government department.

TP 28 MAR 2017

EL 3054-Betty's Bay	
COLLECTOR NO.	
1007634	03
ON NAME	

7. If the wording used in the application was for a rehabilitation centre would it jeopardise their application therefore they have been vague and disguising the true intent. This type of centre would best be located on a farm or remote location, not in Bettys Bay.

Yours Sincerely



W.G. Steyn,

Co-ordinator, Bettys Bay Neighbourhood Watch

ANNEXURE F 171/185

H van der Stoep  
Munisipale Bestuurder  
Overstrand  
fax 028-3132093  
loretta@overstrand.gov.za

26.3.17

Geagte Me vd Stoep

FILE NO:	
SCAN NO:	
COLLABORATOR NO:	



TP-A Theart  
(Child Stoep)

**BESWAAR TEEN OPHEFFING VAN TITELBEPERKINGE OP ERF 3054 BETTIESBAAI**

Ek het onlangs erf 3159 aangekoop wat onmiddelik onder bogenoemde eiendom is en maak beswaar vir die volgende redes:

1. Die versoek is dat die eiendom hersoneer word ten einde 'n "upliftment centre" te word. Dit is direkte bedrog want dit word tans bedryf as 'n REHABILITASIE Sentrum vir drank en dwelmverslaafdes. Daar is 'n drastiese verskil tussen 'n opheffingsentrum en 'n rehabilitasiesentrum vir dwelm en drankverslaafdes!!! Nerens in die aansoek meld dit dat dit tans as 'n dwelm en drank rehabilitasiesentrum gebruik word nie, en na alle waarskynlikheid as sulks sal aanhou gebruik word nie.
2. Die area is vanselfsprekend 'n normale residensiële area. As ek geweet het daar is 'n rehabilitasie sentrum vir drank en dwelmverslaafdes sou ek nie hierdie woning gekoop het nie. Die aanhou van drank en dwelmverslaafdes moet asseblief ONMIDDELIK gestaak word.
3. Ek verneem van bure dat een van die aangehoudenes op 'n vorige geleentheid daar ontsnap het. Dit skep 'n gevaar vir ons hele buurt. Let Wel dat indien een van die ingehoudenes ontsnap en enige van ons as inwoners aanval, sal 'n geregtelike eis teen die munisipaliteit ingestel word omrede hulle die sentrum toegelaat het en nie betyds gesluit het nie.
4. Dwelm en drankverslaafdes se verstand is aangetas en hulle is nie altyd by hulle volle positiewe nie. Ek word bang as al die mans daar afkyk op my huis.
5. Daar is geen twyfel dat die teenwoordigheid van so 'n rehabilitasiesentrum 'n negatiewe effek het op die waarde van die omliggende eiendomme. Gaan vra maar vir die plaaslike eiendomsagente.
6. Die gimnasium toerusting maak tans 'n groot geraas. Elke keer as hulle met gewigte oefen dan laat hulle dit op die grond val en maak dit 'n onaantwoordbare geraas en steurnis.

Ek het medelye met verslaafdes en hulle behandeling. Ek glo egter hierdie is nie die regte plek daarvoor nie. As die eienaar so 'n rehabilitasie sentrum wil bedryf moet hy maar eerder hierdie woning verkoop en een aankoop op 'n meer gepaste plek.

Die uwe

DR A B D FICKER  
ficker@worldonline.co.za  
082-8814982

FILE NO:	ET 3054-Bettiesbaai
SCAN NO:	10
COLLABORATOR NO:	1007311

**NB: Bevestig asb ontvangs van hierdie skrywe**

TP

27 MAR 07

Re: Erf 3054, Betty's Bay

TR A Theart  
C H vd Stoep



T.C.  
Box 155  
Elgin  
7180  
27 March 2017

To Whom It May Concern:

RE: APPLICATION FOR REMOVAL OF THE TITLE DEED RESTRICTION AND CONSENT USE OF ERF 3054 BETTY'S BAY.

3054

I, Tim Jones, the owner of ERF 3054 object to the application mentioned above. Due to the following points mentioned below:

- 1 The property Erf 3054 is in buildup area and residential.
- 2 There are other properties that can be used as the application has be requested and there is registered place in other cities or town that have the correct medical advisors and staff and doctors to assist.
- 3 I feel it is putting the residents at risk due to the fact that it is can become a security risk, there are a lot of elderly permeant residents in the area and I have heard of a few incidents to date ra the people there already.
- 4 The value of the property in the area will in the end devalue due to the fact there will be unwanted people and people at risk.
- 5 I also feel strongly that the people are operating a business in a residential area and have been for the last few months and more than a year. This application should have been done in the first place NOT after there were complaints made.

I hereby STRONGLY object to this application.

Your Truly

Tim Jones

FILE NO:	Erf 3054
	Betty's Bay
SCAN NO:	09
COLLABORATOR NO:	1007309

TP

27 MAR. 07

ANNEXURE F 173/185

Re: Erf 3054, Betty's Bay

From: Mary Ann Miller <maryann\_miller64@icloud.com>  
To: <loretta@overstrand.gov.za>  
Date: 27/03/2017 05:00 PM  
Subject: Re ref 3054

TR A Theart  
(CH vld Steep)

Please note my objection to the removal of title deed restrictions and consent use of erf 3054 Betty's Bay. I have a home at 3164 Clarence drive. Soon to be my retirement home. I would not like to have an influx of persons with problems living for short periods among us.  
Regards  
Mary Ann Miller



FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	07
COLLABORATOR NO:	100-7306

TP 27 MAR 07



TR A Theert  
( H van der Stoep )

3377 Mermaid Road  
7141 Betty's Bay

16<sup>th</sup> March 2017

The Municipal Manager  
Overstrand Municipality  
Hermanus Administrative  
P O Box 20  
7200 HERMANUS  
ATT: MS H VAN DER STOEP

FILE NO:	EL 3054 Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1004015

Dear Ms Van der Stoep

**Re: APPLICATION FOR REMOVAL OF TITLE DEED  
RESTRICTIONS AND CONSENT USE OF ERF 3054 BETTY'S  
BAY**

I am in receipt of the application documents regarding the above, and have considered them carefully.

I hereby submit my **OBJECTION** to the proposed application on the following grounds:

1. The property is zoned for single residential dwelling and the terms of the Title Deed as stated on the Application make this clear.
2. It goes against the character of the existing residences in the area whose owners have abided by this restriction.
3. The property already appears to be used by more than the number of people (10) stated on the application.
4. The term "wellness/upliftment centre" is vague. Is this a health spa/ drug rehabilitation centre/place of instruction/worship or some other form of business as set out in 3 (b) of the zoning consent uses clauses?

Page 2/.....

TP

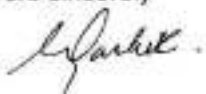
16-march-2017

- Page 2 -

5. I have owned my erf since 1987, been a regular weekender in Betty's Bay for 8 years, and a permanent resident for the past 2 years and have not heard of "the demand for wellness centres/upliftment centres".
6. When I purchased my erf in 1987 I did so because Betty's Bay was well known for being closely aligned with the Kogelberg Nature Reserve and a place of quiet beauty with residents who are passionate about preserving it as such.

I trust that you will take my objections, as a permanent resident, into consideration when this application is debated.

Kind regards  
Yours sincerely



MERYL GARLICK

TP-A Theart  
(H. Van der Stoep)

TO : Overstrand Municipality, Town Planning Hermanus  
ATTENTION : Ms. H. Van Der Stoep, Director : Infrastructure and Planning  
NO. OF PAGES : 1 (including this page)  
DATE : 15 March 2017

REF : Overstrand Registered Letter Dated 28 Feb 2017  
File Reference - PA15034



Dear Sir/Madam

Re: 3054 Betty's Bay

Firstly - I hereby lodge an objection to the removal of restrictive conditions as related to ERF 3054.

**Reasons for Objection**

- (1) The Upliftment Centre will be used to rehabilitate Drug and Substance Abuse users. This will bring a corresponding criminal element into the Betty's Bay holiday area. This increase in crime will reduce the overall resale value of the properties and also result in the residence having to install and maintain extra security in order to utilise their holiday homes. Further more, the Betty's Bay area is primarily a holiday environment and therefore we would like to use it to relax and de-stress. How do you do this when you there are Drug and Substance abusers just across the road.
- (2) Our ERF 3158 is located opposite your proposed site. Please keep in mind that the occupants of the Upliftment Centre will be receiving visitors (Family and Friends) This resultant increase in traffic is not conducive to a holiday environment. This traffic will be throughout the year.

Kind Regards

**Postal Address**  
Lyndek CC  
PO Box 28525  
Kensington  
2101

**Martin T. Fox**  
265 Braam Pretorius Street  
Sinoville, Pretoria  
0182

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1003921

KBE

TP 15 MAR 2017

**Loretta Gillion - OBJECTION TO : Application for removal of title deed restrictions and consent use of ERF 3054 Bettys Bay**

**From:** "Garth Bradley (Group)" <Garth.Bradley@dimensiondata.com>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 09/03/2017 04:54 PM  
**Subject:** OBJECTION TO : Application for removal of title deed restrictions and consent use of ERF 3054 Bettys Bay  
**Cc:** Therese Bradley <tbradley@aspenpharma.com>, "Garth Bradley (Group)" <Gar...

TR A Theart  
CHudsteeP)

Hi Loretta,

This is to confirm our objection to the above mentioned application.



**Reason :** The intended purpose or target market for the upliftment centre is not clear. Our concern is that this facility will be or could be used as a rehabilitation centre of sorts for addictive disorders e.g. drugs, alcoholism etc. The area has a number of teenagers who enjoy freedom of movement (on bicycles, foot etc) in the area. This type of establishment, should it be used for rehabilitation centre of sorts, is not suited to the environment and places risk to the local community especially children and the elderly.

We would like a clearer explanation of what the facility will be used for prior to consideration of consent. We would also like written confirmation that this facility will under no circumstances be used as a rehabilitation centre for people with any form of addictive disorder / rehabilitation of other psychological or psychiatric problems.

Garth & Therese Bradley  
ERF 5163 Bettys Bay  
Garth : 083 647 4938  
Therese : 083 301 3921  
Postal Address: 35a Kaniworth Drive, Kloof, 3160

This email and all contents are subject to the following disclaimer:  
["http://www.dimensiondata.com/emaildisclaimer"](http://www.dimensiondata.com/emaildisclaimer)

FILE NO:	EL3054 BR ✓
SCAN NO:	
COLLABORATOR NO:	1002725

P 13 MAR 2017



TR A Theart  
(C H vd Stoep)

Mr J H Potgieter  
Wandelstraat 33  
MALMESBURY  
7300

10 Maart 2017

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus Administrasie  
Posbus 20  
HERMANUS  
7200

VIR AANDAG: ME. H VAN DER STOEP  
PER E-POS: loretta@overstrand.gov.za

Geagte Mevrou

**AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK  
VAN ERF 3054, BETTYSBAAI**

In bogenoemde verband het ek die skrywe van Plan Active Stads- en Streeksbeplanners gedateer 28 Februarie 2017 ontvang.

Ek is die eienaar van erf 3219, Bettysbaai. Ek wil graag hiermee my beswaar opper teen die opheffing van die titelbeperkings op erf 3054, Bettysbaai en die toestaan van 'n vergunningsgebruik vir die bedryf van 'n ophettingsentrum.

Dit blyk nie uit die aansoek presies welke ophettingswerk op die betrokke perseel gedoen sal word nie. Ek aanvaar egter dat die besoekers aldaar sosiaal-waarnaangepaste persone sal wees en moontlik persone met probleme aangaande dwelmgebruik of drankmisbruik.

Dit blyk voorts uit waarnemings wat ons gadoen het dat daar alreeds ophettingsaktiwiteite op die perseel plaasvind. Ons het al waargeneem dat groepe persone van die gemelde eiendom afbeweeg tot op die roete voor ons woning in Dolphin Rylaan. Blykbaar word dit gedoen tydens stapogte of ander groepsaktiwiteite vir die inwoners.

My beswaar teen die opheffing van die titelbeperkings en toestaan van 'n vergunningsgebruik berus hoofsaaklik op die volgende gronde:

1. Ek aanvaar dat die besoekers ( pasiënte) sosiaal-waarnaangepaste persone is wat ophettingswerk benodig. Dit skep op sigself reeds 'n risiko vir die nabye inwoners.
2. Ek is van mening dat die sekuriteitsmaatreëls by erf 3054, Bettysbaai onvoldoende is ten einde te verseker dat inwoners ( pasiënte) nie die perseel vryelik kan verlaat nie.
3. Klaarblyklik sal die inwoners ook van tyd tot tyd besoekers ontvang wat 'n aansienlike verkeersopeerhoring in die nabye omgewing van die erf sal veroorsaak.

FILE NO:	EL 3054 BB
SCAN NO:	
COLLABORATOR NO:	

TP 12.04.2017

✓  
10/3

4. Groepsaktiwiteite van die inwoners (pasiente) sal waarskynlik baie storend wees op nabygeleë inwoners. In die verband word gedink aan kerkbyeenkomste, sanggeleenthede, staptogte ensovoorts.

In die lig van bostaende maak ek formeel beswaar teen die opheffing van die titelbepokings en die toestaan van 'n vergunningsgebruik op erf 3054, Betty'sbaai.

Geloue volige ontvangs hiervan te erken.

Die Lwv

J H POTGIETER





Die Municipale Bestuurder [Aandag: Me H v d Stoep]  
 Overstrand Munisipaliteit  
 Hermanus Administrasie  
 Posbus 20,  
**HERMANUS 7200**

TP A Theart  
 (H v d Stoep)

**AANSOEK OM OPHEFFING VAN TITELBEPERKINGE  
 EN VERGUNNINGSGEBRUIK ERF 3054 BETTY'SBAAI**

Geagte Meneer,

Met verwysing na bovermelde aansoek en die skrywe van PLANACTIV dd 28 Februarie 2017, namens ALPAC INVESTMENT CC, versoek ek u vriendelik om my per kerende pos te voorsien van die volgende inligting sodat 'n skriftelike beswaar, indien enige, voor die verstekdatum van 7 April 2017 aan u bedien kan word.

1. Kan u my verwittig wat die aard van ALPAC INVESTMENTS CC se betrokkenheid by sg "upliftment" behels? Is daar bv terapie en behandeling of berading by betrokke en is hierdie Beslote Korporasie geregistreer by die betrokke gesondheids-owerhede om hierdie soort dienste te mag lewer? Voorsien my ook asseblief van die registrasienuommer van die aansoeker by die verwante gesondheids-owerhede?
2. Mag ek voorsien word van 'n verwysing na die navorsing, indien enige, wat gedoen is om die stelling onder 5. PROPOSAL van die aansoek nl: "*Due to the demand for wellness centres, upliftment centres and related land uses in the area*" te regverdig?
3. Wat is die maksimum individue wat onder optimum besetting hier gehuisves gaan word?
4. Mag ek ook voorsien word van detail ivm die personeel wat betrokke sal wees om die getal persone teen maksimum okkupasie te bedien van die dienste waarna in 1 hierbo verneem is en wat inmiddels voedselvoorsiening en sanitêre en riooldienste insluit.

FILE NO:	57 3054
	BB
SCAN NO:	
COLLABORATOR NO:	1002720

✓  
KSB

TP

F. HANCOCK

5. Is enige spesifieke religie, ras, geslag en/of ander eksplisiete oortuiging relevant tot hierdie aansoek en tot die individue wat hier beoog geakkomodeer te word?

Ek sal dit waardeer om bovermelde inligting so spoedig doenlik van u of van die aansoeker te ontvang.  
'n Afskif hiervan gaan aan Raadslid F Krige in wie se wyk hierdie perseel in die aansoek resorteer.

Vriendelike groete

H Guy Roberts VDM  
EMERITUS

TP A Theart  
(Huld Stoop)

Loretta Gillion - ERF 3054 SEAVIEWRYLAAN 11 BETTYSBAAL / Section 51 and 52 / Complaint



**From:** "De Klerk van Niekerk" <deklerkvn@sonicmail.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 07/03/2017 09:13 AM  
**Subject:** ERF 3054 SEAVIEWRYLAAN 11 BETTYSBAAL / Section 51 and 52 / Complaint

**TO WHOME IT MAU CONCERN**

We are permanent residence in ERF 3063 SEAVIEWRYLAAN 29 BETTYSBAAL close to the applicants house:

1. My first complain is as follows. During February last year one of the 15 plus residence in that house used a high speed motorcycle and drive up an done at high speed in Seaviewrylaan. At first it was not as disturbing at that stage but we did confront them with this.
2. The most disturbing complaint is as follow. On Mei 2016 my neighbour at 3147 an elderly woman knocked on my door and ask me for help. She said that she was in the garden busy housing the plants and one of the 15 plus residence walked pass her and pick up a brick looking at her. Immediately I jumped into my car and chase him. I ask him why he did that and his disturbing answer was my dad know people and is very rich , do not confront or talk to me. At that stage I did manage to calm myself not to hit the guy.
3. We did phone the Police and traffic department because on certain days there is different cars park there without any number plates.
4. My brother visited me this past Desember 2016 and as he stand on my deck he pick up a guy from that house that was busy looking at us with binoculars.
5. Some day when we pass the house you can here during the week sounds of Muslem coming from the house.
6. This house started with 6 people then 12 and now more than 17, Where will it end and we know that because they are jogging some mornings pass our residence.

Please take note we are still young 47 of age and we are not old people that complain of any small things around us but I will put this on record , that if something bad is to happen in the future we will held the Municipality responsible for granted the application in terms of Section 16(2)(l) of the aforementioned By Law in order to enable the owner to utilize the existing dwelling house on the property as an Upliftment Centre.

De Klerk van Niekerk , Thelma van Niekerk  
 3063 Seaview rylaan 29  
 Bettysbaal  
 7141  
 Cell numbers :0712894284 huis :028 2729848  
 Residence in Seaviewrylaan  
 Reason for comments : Very worried residence of what will happened in the future.

Kind regards  
 D van Niekerk en T van Niekerk

FILE NO:	EL 3054
SCAN NO:	Bettysbaal
COLLABORATOR NO:	1001919

TP + inv. Df

ANNEXURE F 183/185

Loretta Gillion - Objection to the consent use and the restrictive conditions Erf 3054  
Betty's Bay

TP A Theart  
C Huldstomp

From: "Conrad Wegelin" <wegelin@mweb.co.za>  
To: <loretta@overstrand.gov.za>  
Date: 07/03/2017 08:32 PM  
Subject: Objection to the consent use and the restrictive conditions Erf 3054 Betty's Bay



The Municipal Manager  
Overstrand Municipality  
Hermanus

For attention: Ms. H. Van Der Stoep

6 March 2017

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1001663

Dear Overstrand Municipality

Re: Application for removal of title Deed restrictions and consent use of FRF 3054 Betty's Bay

I, Conrad Johan Wegelin, owner and living full time at Erf 3058, Seaview Drive, Sunny Seas, Betty's Bay object in the strongest possible terms to the application of ALPAC Investments CC for a consent use and the removal of restrictive Title Deed conditions for consent to run an "Upliftment Centre" on erf 3054.

Reasons for objection:

I bought my property in Betty's Bay as it is zoned single residential which would give me a certain amount of quiet and peace.  
This has, over the past years, been a wonderful place to live for this very reason. This area also gives us a sense of solitude.

This "Upliftment Centre" has been operating illegally for a while now and we, the local residents, are subjected to constant running up and down the road I presume as fitness classes.  
One man even blew my wife a kiss while she was looking through the bathroom window as they ran past. This sort of familiarity does not give one the feeling of safety and security at home.  
I have grandchildren who come to visit regularly and I am uncomfortable with all these young men, who I know nothing about, living down the road from us.

At the "Upliftment Centre" lights are left on until late at night which is not part of the ethos of Betty's Bay where light pollution is taken seriously. This was also a reason for me buying in this area.

My privacy has also been compromised as there is a clear view from the rear of the "Centre" to our back yard where these young men spend a lot of time.  
I would have no objection if it was a private family but all these men, maybe 10-15 at a time, does not make one feel very comfortable.

I believe rezoning to allow an "Upliftment Centre" in a single residential area would detrimentally affect the value of my property and of the entire area.

TP

08 MAR 2017

✓  
KRS

I request that this application be refused.

Yours sincerely  
CJ Wegelin  
0083 532 5622  
[wegelin@mweb.co.za](mailto:wegelin@mweb.co.za)  
P.O. Box 394  
Betty's Bay  
7141

ANNEXURE F 185/185

Telephone: 028 2729966  
 Email: [dmbzo@sonicmail.co.za](mailto:dmbzo@sonicmail.co.za)



PO Box 402  
 Betty's Bay  
 7141  
 3 March 2017

TP A Theart  
 CH Veldstap

Town Planning  
 Overstrand Municipality  
 Hermanus

for attn : Leonora

Dear Sirs,

OBJECTION WRT PROPOSED DEVIATION FROM TITLE DEED RESTRICTION ERF3054, BETTY'S BAY

I, David M Bossenger the owner and full time occupier of Erf 3162, Seaview Drive, Betty's Bay wish to bring to your attention my strongest possible objection to the application by ALPAC Investment CC for a deviation consent on the abovementioned property to enable them to run an upliftment centre.

Reasons:

As a long term resident of Betty's Bay I appreciate the quietness and to a degree the solitude that is found in the village. One of the reasons for moving to the Sunny Seas area from the Jack's Bay area was the restriction in the title deeds of the erven in the area which restrict the use consent to single residential. This implies a certain degree of solitude and quietness especially in the Sunny Seas area with its large erven. This will be lost if an institution aka a rehabilitation/rehabilitation centre/boarding house is permitted.

The present, illegal use of the erf as a rehabilitation centre has, over the past few years, brought this into perspective. Up to 15 persons are accommodated on the erf. There is a daily gym/ running activity both on the erf and in the local roads that causes undesirable activity of noise and bother to the local residents.

The extra noise pollution caused by the extra cars and occasional motor bike visitor accompanied by excessive speeding on roads not designed for more than 20kph.

The loud noises emanating from the property on Sunday evenings.

The light pollution every evening from the "dining room" in the enclosed stoep on the top floor of the property which burn till well after 2200hrs.

The fact that the said property was raided by police with many cars speeding on roads not designed for this purpose.

The general alteration in the deviation from the quietness of the area as well as the fact that laundry water rushes down the driveway carrying phosphate enriched water into the fynbos - something which it is not designed to accept.

I doubt very much that the septic tank at the house is designed to cope with the large number of persons residing on the property.

It is my considered opinion that the above factors invade my privacy, affect the relative quietness of the street and will affect the value of my house and I therefore request that the application be refused.

Yours faithfully,  
 DM Bossenger

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1001093

✓  
K23

TD 03 MAR 2017

## ANNEXURE G 1/73

**PLAN** Town & Regional Planners  
**Active** Stads- en Streeksbeplanners

6 Magnolia St / Str  
 PO Box / Postbus 296  
 HERMANUS

7200

Tel: (028) 313 3672

Fax / Faks: (028) 312 3551

Email: [planactive@hermanus.co.za](mailto:planactive@hermanus.co.za)

Website: [www.planactive.co.za](http://www.planactive.co.za)



24 July 2017

Our reference: PA15034  
 Your reference: 3054 KBB (3205)

The Municipal Manager  
 Overstrand Municipality  
 PO Box 20  
 HERMANUS  
 7200

TP-A Theart  
 (Huld Stoep)

FILE NO: EL 3054-KBB ✓

SCAN NO:

COLLABORATOR NO:

1055585

For attention: Mrs. Hanneen van der Stoep

Sir,

**COMMENTS ON OBJECTIONS: ERF 3054 BETTY'S BAY: PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE**

Your letters dated 26 April and 2 May 2017 with the objections attached thereto refer. The objections and our comments on the objections can be summarised as follow:

1. The subject property and surrounding erven of the Sunny Seas Township is Special Residential erven and may only be used to erect a dwelling on the subject erven and that no businesses may be established on these erven. These erven have no other rights, other than what is stipulated in the Title Deed.

*Erf 3054 Betty's Bay is indeed listed as one of the erven being referred to in the Title Deed and the Township Establishment Conditions as being a Special Residential Erf. The land use of these erven is restricted to the following land use:*

*C(i)(b) "It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."*

*C(i)(m) "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

Divisie 16501/2006 Trading 329 (Pty) Ltd trading as Plan Active  
 Reg. No. 2006/030823/07  
 Vat. No. 4770250340

John McTachian: R&G (Town Planning) Tech Witwatersrand, WSAF Nr. 10908, SACPLAN To:Phn 8/0250/2014  
 Pauline Spronk: B (Spes 3) LS, BA Hon (URISA)  
 Merel Lamm: B, Art et Scien Curt Leade (Town Planning) UMM, SACPLAN Fr:Phn A/158/2009

24 JUL 2017

TP

The erven in the Sunny Seas Township are governed by these land use restrictions. Cognisance however should also be taken of the Zoning Scheme that is also applicable to these erven. In the past, the section 8 Scheme Regulations of the Land Use Planning Ordinance, Ordinance 15 of 1985 was used to govern land uses and land use restrictions consisting of prescribed building lines, height restrictions and coverage.

The Section 8 Scheme Regulations was replaced by the Overstrand Municipal Zoning Scheme that came into effect on 1 January 2014 that makes provision for more land uses and consent uses and can be seen as a modern version of the land use restrictions applicable to Single Residential Erven. With the implementation of the Zoning Scheme the Title Deed Restrictions of the Sunny Seas Township cannot be ignored and has preference over the land use restrictions imposed by the Zoning Scheme Regulations and therefore necessitates an application for the removal of the more restrictive Title Deed conditions in order to make use of the land uses referred to in the Zoning Scheme.

With reference to our motivation report we mentioned that the Residential Zone 1 zoning will be retained. Our application does not constitute a change of zoning but the change of land use as being provided for in the Zoning Scheme as a consent use. We have made it clear in our motivation report that we are referring to the Zoning Scheme and not the Title Deed when we mentioned land use rights other than being residential. The relevant Zoning Scheme makes provision for the following land uses under a zoning of residential Zone 1 that reads as follow:

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;
- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation,

In order to make use of the above mentioned land uses other than being residential it is required that the Title Deed restrictions be addressed and therefore the reason for our application for the removal of the restrictive Title Deed restriction. Cognisance should also be taken that one of the following land use restriction have been imposed to all residential erven in Betty's Bay that read as follows:

*"This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purpose as the Administrator may from time to time after reference to the townships board and the local authority, approve, provided that if the erf is included within the areas of a town planning scheme, the local authority may permit such other buildings as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme."*

*"It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."*

*With reference to the above restrictions it is clear that all residential erven may only be used for erecting thereon one dwelling, therefore limiting the use of the erven to a single residential use. Subsequently the following restriction, "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven." does not have to be in the Title Deed to prohibit any business use because all erven are limited to a single residential use only and therefore any other land use will be in conflict with each residential owner's Title Deed that resides in Betty's Bay.*

**2. The number of people accommodated and the impact of the proposed upliftment centre will be similar to a standard 5 bedroom guesthouse.**

*The reason for us comparing the proposed upliftment centre to a guesthouse can be summarised as follows:*

- *The maximum number of guests that can be accommodated within a guesthouse is 10;*
- *The maximum number of guestrooms is limited to 5, sleeping 2 guests per room;*
- *Even though no visitors are allowed, provision was made for 1 parking bay per room and 2 parking bays for owner / manager;*
- *As stated in our motivation, guests visiting the upliftment centre do not require any medical interventions and do not have medical conditions that require medical attention. It is also the reason why we referred to visitors as guests and not patients.*
- *Strict rules apply to guests visiting the upliftment centre in order not to be a nuisance to surrounding land owners.*

**3. Referral is made in the motivation to a Conveyancer Certificate, but no certificate was enclosed.**

*A Conveyancer Certificate accompanied our application submitted to the Overstrand Municipality. The municipality in return provided us with the notice and the information to distribute via*

registered pool to owners of erven in the Sunny Seas Township. The Conveyancer Certificate was not included in the documents that we were instructed to distribute.

- 4. The primary right use of the subject property will remain residential. This contradicts and invalidates the proposal to change the restrictive Title Deed conditions.**

*The current zoning of Erf 3054 Betty's Bay will remain Residential Zone 1. The application constitutes an application for a consent use to accommodate an upliftment centre. Even though the land use changes, the primary land use in terms of the zoning scheme will still be retained. Should the land be sold, the land use will revert back to being single residential and will the consent use lapse.*

- 5. The statement that surrounding land uses consist of mainly single residential, holiday houses and guesthouses is not true.**

*All residential erven in Betty's Bay are zone Residential Zone 1 and are either developed or vacant. Some of the developed residential erven are being used for other uses such as guesthouses, holiday houses and tourist accommodation. Making use of the following websites, [leiderslap.co.za](http://leiderslap.co.za), [trivago.co.za](http://trivago.co.za) and [airbnb.com](http://airbnb.com) we can list the following 13 advertised tourist accommodation establishments in the Sunny Seas area only:*

- |  |  |  |   |
|--|--|--|---|
| • Helm's Deep –<br>Sea and<br>Mountain:<br>Seaview Drive | • Nature's Haven<br>In Betty's Bay:<br>Seaview Drive | • Betty Blue:<br>Seaview Drive                   | • Sunny Seas:<br>Albertyn Drive         |
| • 210 Degrees<br>South: Pearl<br>Drive                   | • Havens Door:<br>Albertyn Drive                     | • ZAR Beautiful:<br>Albertyn Drive               | • Paradise<br>Getaway:<br>Luckhof Road  |
| • Sanity<br>Getaway:<br>Anemone<br>Street                | • Leopards View:<br>Mermaid Road                     | • Van Den Bergs<br>Guesthouse:<br>Albertyn Drive | • Umoya<br>Guesthouse:<br>Dolphin Drive |
| • Kalliste B&B:<br>Dolphin Drive                         |  |  |   |

*Making use of the website airbnb.com we have noted ±141 tourist accommodation establishments in the Betty's Bay area.*

*We question that all these tourist accommodation establishments had their Title Deeds amended and that they applied for a consent use to utilise their dwellings for tourist accommodation purposes. The Title Deeds for residential erven of Betty's Bay make it clear that the residential erven may only be used to accommodate thereon one dwelling and associated structures. With reference to specifically the Sunny Seas Township there is a restriction that prohibits the use of residential erven for a canteen, hotel, any form of business etc. please refer to the restrictions below:*

*"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

**6. The proposal is to run a business from Erf 3054 Betty's Bay that will have a negative impact on traffic and no parking bays are provided onsite for the proposed use.**

*The application is to accommodate a upliftment centre on the subject erf. 1 parking bay per guestroom is provided and 2 parking bays for owner / manager. Therefore 7 parking bays are provided onsite.*

*The upliftment centre does not allow day visitors and therefore the impact on the road infrastructure will be minimal. The parking bays will only be used when a guest to the wellness centre is dropped off or picked up after their upliftment sessions. Guests are not allowed to arrive with their own transport.*

**7. The grey- and black water will have a negative impact on the environment.**

*With our application to utilise the existing dwelling as a upliftment centre it is proposed that the 5 existing bedrooms be used to accommodate 2 guests each. Being an existing dwelling with existing services and the fact that only 10 guests may occupy the 5 bedrooms will not have a negative impact on the services.*

**8. There will be no economic benefit to the area of Betty's Bay.**

*In order to run an upliftment centre it would be required that the guests be provided with food, beverages, laundry facilities etc. Local businesses are supported to provide food, beverages, reading material and other groceries. Furthermore the existing dwelling requires routine maintenance and this is also where local contractors are used. It is therefore clear that Betty's Bay does benefit economically from the upliftment centre.*

**9. Refuse and refuse removal poses problems such attracting animals such as rats and mice.**

*Refuse is managed similar to that of a dwelling, and because of the fact that guests reside at the upliftment centre it is required that the premises be kept clean at all times. The stench of garbage or any mice or rat infestation will not be tolerated by guests and it will be to the detriment of the facility.*

**10. The land uses that can be accommodated within a zoning of Residential Zone 1 includes single residential dwelling, holiday homes and guesthouses. The proposed upliftment centre does not fit into any of these categories.**

*The primary land uses under a zoning of Residential Zone 1 are as follow:*

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;

*The Overstrand Municipality Zoning Scheme also makes provision for consent uses that are compatible with the Residential Zone 1 zoning that are as follow:*

- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.

*Application is made for a consent use for a upliftment centre that can be categorised under and institution. Institution is defined as follows:*

**"institution"** means a property used as a social, health or welfare facility, or for the administration thereof and includes a hospital, special needs school, clinic, homes for the aged, indigent or handicapped, a reformatory or place of detention, whether of commercial or charitable nature, but does not include a jail;

*The Title Deed in respect of Erf 3054 Betty's Bay however has Title Deed restriction that prohibits the above mentioned primary and consent uses other than residential and that is why we have also applied simultaneously for the removal of the restrictive Title Deed conditions.*

**11. The upliftment centre will have a negative impact on the character of the area.**

*The zoning of erf 3054 Betty's Bay will remain unchanged. The primary land uses applicable to the subject property will therefore remain in place. The subject property can therefore easily revert back to single residential use only if deemed necessary in future.*

*The proposed land use is compatible with surrounding guest house land uses. Erf 3054 Betty's Bay can alternatively also be developed for guest house purposes (maximum five bedrooms), home occupation or second dwelling purposes. However, developing erf 3054 Betty's Bay for upliftment centre purposes will have the same impact than developing the subject property for guest house purposes. We are therefore of the opinion that the subject property has the potential to be developed for the proposed land use since it will not have a greater impact than:*

- accommodating a large family in the existing dwelling, or;*
- accommodating two families in the existing dwelling (main and second dwelling), or;*
- accommodating 5-10 guests on the subject property (guest house).*

**12. Walls and fences will impact negatively on the movement of wild animals.**

*The subject property is not fenced and has no boundary walls.*

**13. The application mentions that the maximum number of guests to be accommodated is 10, but currently it is close to 20 guests being accommodated.**

*Our application is to accommodate a maximum number of 10 guests only in order to minimise the impact on the surrounding neighbourhood and this was also why the proposed upliftment centre was compared to a land use such as a guesthouse.*

**14. No impact study was conducted for the change of land use to accommodate an upliftment centre.**

*Erf 3054 Betty's Bay is within an already developed residential area and it is proposed that the existing house and its infrastructure be used to accommodate an upliftment centre. The change of*

*land use does not trigger any listed activities in terms of the National Environmental Management Act and therefore no impact study is necessary.*

**15. The Municipality does not have the authority to deal with applications to remove Title Deed restrictions, this can only be done by the Minister.**

*Legislation has changed and removal of restrictive Title Deed conditions are now being dealt with by the Overstrand Municipality. Application is made in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed conditions. The correct procedure was followed in all aspects for the proposed removal of the restrictive Title Deed conditions and consent use.*

**16. The correct procedure was not followed to provide notices to all the residents of the Sunny Seas Township by Registered Mail.**

*We have been instructed by the Overstrand Municipality to send notices via registered post to all the land owners of the Sunny Seas Township and has also provided us with an address list. Notices were sent to a total of 431 owners per registered mail of which we have proof of all addresses where the notice have been sent to and corresponding tracking number of each notices.*

**17. The objections included a petition for the tarring of Disa Road due to dust problems those residents in the vicinity is experiencing.**

*This petition has no relevance to our application. Disa Road is ±5km from the subject erf.*

**18. Betty's Bay is a lifestyle seaside village with a rural / country atmosphere. Thus there are only a small number of Business properties. No land has also been earmarked for industrial development, as there is no need for such. The proposed upliftment centre is a special residential area, will therefore negatively impact on the character of the village.**

*Generally the people making use of the services of an upliftment centre comes from busy cities and suburbs for treatment. The tranquility and country atmosphere that Betty's Bay has to offer is beneficial to them. The proposal for an upliftment centre is also not suited to be located within an industrial area and is not related to an industrial land use.*

## ANNEXURE G 9/73

*The application is for a small upllment centre that will only cater for a maximum of 10 guests that require no medical intervention or that has no medical condition as stated in our motivation report. Therefore the proposed upllment centre is compatible with the surrounding land uses and residential character of the Sunny Seas area.*

Enclosed please also find the comments on the objections that were received from our client for your attention.

We trust that you would find our comments on the objections in order and we look forward to the finalisation of this application.

Yours faithfully



John Mc Lachlan

## REPLICATION TO OBJECTIONS

### GENERAL REPLICATION

#### INTRODUCTION

1. In order to have a systematic and coherent approach to the objections and not to be repetitive, the Applicant chose to have a general reply addressing all the issues raised in the objections before dealing individually with the respective objections.

#### UPLIFTMENT CENTRE

2. Oceanbreeze Upliftment Centre [hereinafter referred to as "Oceanbreeze"] provides a safe and tranquil environment for persons with stress, anxiety, depression, low self-esteem and/or low self-confidence ... or who is burnt out. In the premises, it needs to be in a tranquil area such as Betty's Bay.
3. An Upliftment Centre must be distinguished from a rehabilitation centre; the latter is defined in terms of the Mental Health Care Act, No 17 of 2002, and incorporates the use of various medical personnel. Like a wellness centre, an upliftment centre is self-regulatory.
4. Oceanbreeze is open to all races; it has accommodated, inter alia, Whites, Coloured, Black and Indian people.

5. Oceanbreeze is open to persons of all religions; it has accommodated, inter alia, Muslims, Christians and Hindus.
6. Oceanbreeze only accommodate males in order to cater for the religious approach of its largely Muslim guests. In terms of Islam, they cater separately for male and females, in order to eliminate the element of distraction based on sexuality. Section 31 of the Constitution of the Republic of South Africa, Act 108 of 1996 does facilitates the practice of religious freedom.
7. The modus operandi of Oceanbreeze roughly has the following breakdown:
 

Scripture reading	40%
Discussions on self-esteem and self-confidence, life-skills and team-building	40%
Meditation spiritual awareness	10%
Physical exercises	10%
8. Oceanbreeze has been operating since about February 2013 in Betty's Bay.
9. However, it was first run in a rented house at 4418 Ixia Street, on the corner of Ixia and Lobelia Streets, Betty's Bay.
10. Oceanbreeze relocated to the present address, 3054 Seaview Drive, Betty's Bay [hereinafter referred to as "Erf 3054"], about January 2015.
11. Alpac Investments Close Corporation, registration number 2009/165613/23 [hereinafter referred to as "Alpac"], bought

Erf 3054, permitting Oceanbreeze to operate the Upliftment Centre.

12. Due to the high demand for such an institution, Oceanbreeze has the potential to and does screen which guests it permits and does have an excellent administration which includes building and maintaining a profile and record of every guest. In principle, it does not accommodate any person with a criminal record.
13. Lastly, it is a non-profit organisation which sustains itself from private donations; and it does have to account to such donors. Hence, it is not a business [a commercial venture] and does not operate for profit [it is a charitable organisation].

#### **BETTY'S BAY**

14. Betty's Bay has no industrial area and a very limited number of commercially zoned erven. However, Betty's Bay is largely a commercial hub, albeit it in a tone-down manner. The commercial activity is the provision of accommodation. At least ±141 of erven in Betty's Bay are listed on AirB&B for accommodation. Considering the unknown number of erven listed with other agencies or those who operate such businesses privately and unlisted, it is quite clear that Betty's Bay is indeed a commercial hub. This includes, inter alia, guest houses, bed and breakfast [B & B's], holiday houses and guest rooms.

15. A large number of houses of Betty's Bay are holiday houses with their owners residing outside Betty's Bay.
16. There is a small portion who reside permanently in Betty's Bay ... they are especially retired people. However, even this demographic is changing ... with progressively younger people taking up residence in Betty's Bay.
17. The South African immovable property market took a serious dip since 2008 with the prices of immovable properties taking a plunge. The market became a 'buyer's market' in that potential purchasers could drive the selling price down dramatically. Potential sellers struggled to sell their immovable property.
18. The property market where holiday housing is a major component [such as Betty's Bay] gets hit harder than a CBD [central business district] or city area. In the premises, Betty's Bay has been hit very hard indeed.
19. Furthermore, one third of potentially employable South Africans are unemployed and two thirds of young employable South Africans are unemployable. Again, the rural area and small towns [including Betty's Bay] usually carry a larger portion thereof.
20. This gives rise to crime and criminality, again of which Betty's Bay has its substantive portion.
21. It also gives rise to wide-spread drug and alcohol abuse and related problems. Find accompanying an article [annexed hereto as Annexure "UC 1"] which is self-explanatory ... of ex-

Councillor Lisel Krige supporting a local organisation dealing with such issues.

### LEGALITY

22. Prior to May 2015 there had been no provision in the bylaws of Overberg Municipality [hereinafter referred to as "the Municipality"] dealing with an Upliftment Centre. In the premises, it was not unlawful for Oceanbreeze to operate as such.
23. Beginning May 2015, however, the Municipality made a ruling that henceforth an Upliftment Centre would be regarded as an "institution" in terms of the Overstrand Zoning Scheme and hence that Oceanbreeze would have to apply for consent use in order to remain lawful.
24. Simultaneous to the ruling being made, Oceanbreeze was given the ultimatum to either apply for consent use or terminate its operation as an Upliftment Centre. This can be confirmed from written correspondence and a written interoffice memorandum from the Municipality.
25. Oceanbreeze elected to apply for consent use and the very same day it was given such ultimatum it appointed PlanActive Town and Regional Planners [hereinafter referred to as "PlanActive"] as its agent to process such application.
26. Since then PlanActive has been interacting with the Municipality to process such application, more specifically with respect to

the specifications, terms and conditions for the Upliftment Centre.

27. As a result of the aforementioned, Oceanbreeze has spent at least R220 000.00 to upgrade the building and premises in accordance with this process in order to facilitate a successful application.
28. On or about the 1<sup>st</sup> February 2016, Oceanbreeze indeed submitted its application. And the application has been processing ever since by the Municipality and is presently still ongoing.
29. In the premises, Oceanbreeze has always been operating lawfully.
30. The legality of Oceanbreeze has also been subjected to the test of a court. In Caledon Court case number OSC 14/2017 the Honourable Court handed down judgment on or about 13<sup>th</sup> November 2016 finding Oceanbreeze not to be acting unlawfully.
31. In the premises, the case of *Lester v Ndlambe Municipality & Another* [2014] 1 All SA 402 (SCA) is not applicable as the latter deals with a matter where the unlawfulness had been known beforehand and despite thereof the building went ahead.

**RACISM / ISLAMAPHOBIA**

32. Kindly be reminded that there had been no complaint about the Upliftment Centre until an incident where two white male residents armed with firearms confronted occupants of the Upliftment Centre threatening them that '**they do not belong there as they were not white and were Muslim**'. Hence we have no doubt that the only substantial objection is based [albeit indirectly and in a clandestine manner] on racism and Islamaphobia.
33. The standard condition in the Title Deeds of the erven of Sunny Seas Township read as follows:
- \*C (ii) (a) That this erf or any portion thereof shall not be transferred, leased or in any other manner assigned or disposed of to any Asiatic, African Native, Cape Malay or any person who is manifestly a "coloured person" ... \*
34. This clause is now omitted from all the Title Deeds as it is unconstitutional. However, it appears that these two persons are hell-bent to maintain such status quo albeit it in a clandestine manner. It appears that in the new South Africa some whites hope to prolong the racist privilege that they enjoyed in the old apartheid South Africa.
35. We have noticed the radicalization of people if they are not allowed to live out reasonable norms and/or values. The France government prohibited the wearing of the burka ... now it has to deal with 'terrorists'. The

apartheid South Africa denied black people to live out their reasonable norm and/or values ... not surprisingly the country went up in flames.

36. In the apartheid South Africa, it is the support of whites against apartheid that curtailed hatred between whites and blacks and facilitated reconciliation. In the premises, we appeal to white residents not to be abused by those narrow-minded racists and Islamaphobics ... but to take a firm stand on a higher road.
37. Fortunately the Court [especially the Appeal Court and Constitutional Court] in the new South Africa has shown pertinently that it provides for and accommodates 'otherness'. In the premises, we have no doubt that we have the judiciary on our side.

**ERF 3054**

38. Find accompanying a copy of the Title Deed [annexed hereto as Annexure 'UC 2'] of Erf 3054 upon which the Upliftment Centre is housed.
39. We quote verbatim from Annexure 'UC 2':

\*C. SUBJECT FURTHER to the following conditions contained in the Title Deed No. T1909 / 1957 namely:-

- (i) Imposed by the Administrator of the Province of the Cape of Good Hope under Ordinance

9

No. 33 of 1934, as amended, upon approval of the establishment of Sunny Seas Township;

...

5. This erf shall be subject to the following further conditions provided especially that where in the opinion of the Administrator after consultation with the Township Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension of (sic) relaxation, subject to compliance with such conditions as he may impose:

...

- (c) It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith.

...

- (ii) Imposed by Hangklip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered

10

owner of any property in the Township:

...

- (m) No hotel, boarding house, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erven.

... "

- 40. When the application for consent use was initiated, the Municipality on or about the 13<sup>th</sup> May 2015 requested a Conveyancer's Certificate to ensure that there are no conditions on the Title Deed of Erf 3054 which would restrict the operation of an Upliftment Centre.
- 41. As a result, a Conveyancer's Certificate [annexed hereto as Annexure "UC 3" was obtained and submitted to the Municipality.
- 42. Kindly note that the said Conveyancer certified that there is absolute no restriction in the said Title Deed which prohibits the operation of an Upliftment Centre on the said erf.
- 43. There upon the Municipality advertised on or about the 5<sup>th</sup> May 2016 the application for Consent Use.

44. There upon the Municipality acquired another Conveyancer's Certificate, annexed hereto as Annexure "UC 4".
45. The said Conveyancer's Certificate states that Clauses C(ii)(m) and C(ii)(n) do not constitute a restriction for the operation of an Upliftment Centre on the said erf and hence there is no need for applying to set aside such conditions.
46. The said Conveyancer's Certificate states that Clauses C(i)(5)(b), however, does present such restriction and must be applied for to be set aside.
47. However, the Conveyancer is wrong in such conclusion.
48. First, the Conveyancer erred by stating that "It shall *not* be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith." [our emphasis]
49. In fact, the condition in the Title Deed states that "It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith."
50. However, the Upliftment Centre does not intend to add any other building to the existing building and does not apply for such deviation.
51. In the premises, the application for the operation of the Upliftment Centre is not restricted by Clause C(i)(5)(b) and hence there is no need for an application to remove such

clause.

52. Thereafter a third Conveyancer's Certificate was obtained [annexed hereto as Annexure "UC 5"] ... from the same Conveyancer who sufficed the second Conveyancer's Certificate.
53. This time she stated that she erred by perceiving it from the perspective as a 'single residential erf' as this perspective relates to zoning purposes and not to Title Deed conditions. The latter refers to "Special Residential Erven" and as such not only Clause C(i)(5)(b) but also Clause C(ii)(m) is applicable and restrictive ... hence there should be an application to remove both.
54. In the premises, there was a second advertisement; for the removal of both Clauses C(i)(5)(b) and C(ii)(m).
55. We do not agree that there should be an application for any condition, *id est*, neither for Clause C(ii)(m), on the Title Deed; but we submitted to such directive in order to continue with the application process.
56. A "business" is any activity or enterprise ***entered into for profit*** [*id est*, a commercial venture] an Upliftment Centre is a Non-profit Organisation [it is a charitable organisation]. It is not a "business"; it does not operate for profit. In the premises, it does not resort in Clause C(ii)(m).
57. In May 2015 the Municipality has ruled the Upliftment Centre as "an institution"; in the premises, it had to apply for consent use

in terms of the Zoning Scheme.

58. The definition of "business premises" is defined in "DEFINITIONS" of the Overstrand Municipality Zoning Scheme June 2014 as follows:

"**business premises**" means a property from which business or services is conducted and includes a shop, supermarket, restaurant, sale of alcohol beverages, plant nursery, offices, service, trade, financial institution and building for similar uses, sale of any small or big items; but **does not include** a place of assembly, place of entertainment, **institution, ...** "  
[our emphasis]

59. It is re-iterated, in the aforementioned, that the upliftment centre, being ruled as an institution, does not resort under "business".

**ERF 3273**

60. Erf 3273 BETTY'S BAY is also known as 3273 Albertyn Drive, Betty's Bay [hereinafter referred to as Erf 3273]. It is also located in the same Sunny Seas Township as in which the Upliftment Centre is located.
61. Find a copy of two photo's [annexed hereto as Annexures "UC 6" and "UC 7" of the building at 3273 Seaview Drive extracted from the internet.

62. Erf3273 is a Guesthouse and Bed-and-Breakfast, a **commercial** venture. It also has a bar and hence sells liquor to the public.
63. Find accompanying a copy of the title deed of Erf 3273, marked as Annexure "UC 8".
64. We quote verbatim from Annexure "UC 8":

°C. SUBJECT to the following conditions:-

- I Imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of SUNNY SEAS TOWNSHIP in terms of the provisions of Ordinance No. 33 of 1934 as amended and contained in Deed of Transfer T36498/1980, namely:

...

5. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Townships Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to

35

compliance with such conditions as he may impose:

...

- (c) not more than one building, excluding a hotel, maisonettes and semi-detached houses, shall be erected on this erf together with such outbuildings as are ordinarily required to be used therewith;

- ii Imposed in Deed of Transfer T 36498/1980 by HANGKLIP BEACH ESTATES LIMITED as being applicable to all erven in SUNNY SEAS TOWNSHIP, as being in favour of the registered owner of any erf in the Township:

...

- (i) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erven.

... \*

- 65. The terms and condition of Erf 3273 were more onerous than that of Erf 3054 in the following respects:

- (a) the term and condition, that "it shall be used for residential purposes only" applied to Erf 3273 and not to Erf 3054. [which was successfully applied for its removal]
  - (b) the term and condition that only one building or dwelling shall be built on the erf specifically excluded a hotel, maisonette and semi-detached houses in the case of Erf 3273 ... which is not applicable to Erf 3054.
66. Except these differences, and a few other negligible language differences, the relevant aforementioned terms and conditions of the two erven are substantively similar or alike.
67. Section 33 of the Constitution of the Republic of South Africa, Act 108 Of 1996 [hereinafter referred to as "the Constitution"], states as follows:
- "33. Just administrative action. – (1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair."
68. In the premises, if the Municipality demands that the registered owner of Erf 3054 must apply to set aside the abovementioned two clauses in its title deed, then the same demands must have been done to the registered owner of Erf 3273.
69. However, it did not.
70. In the same premises, if the Municipality demanded from the registered owner of Erf 3054 that the relevant application had to

be sent by registered mail to all the residents of Sunny Seas Township, then the same should have been demanded of the registered owners of Erf3273.

71. However, it did not.
72. This constitutes transgression of Section 33 of the Constitution.

#### **ERF 3108**

73. Erf 3108 BETTY'S BAY is also known as 3108 Seaview Drive, Betty's Bay [hereinafter referred to as Erf 3108]. It is in the same street as that in which the Upliftment Centre is located.
74. Find a copy of two photo's [annexed hereto as Annexures "UC 9" and "UC 10" of the building at 3108 Seaview Drive extracted from the internet. [the encirclement on Annexure 9 is added in order to pinpoint the exact property]
75. Erf 3108 is a holiday house ... providing accommodation, it is a **commercial** venture.
76. Find accompanying a copy of the title deed of Erf 3108, marked as Annexure "UC 11".
77. We quote verbatim from Annexure "UC 11":

"C. SUBJECT to the following conditions:-

- I Imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of SUNNY SEAS TOWNSHIP in terms of the provisions of Ordinance No. 33 of 1934 as amended and contained in Deed of Transfer T36498/1980, namely:

---

5. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Township Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:

...

- (b) it shall be used for residential purposes only;
- (c) not more than one building, excluding a hotel, maisonettes and semi-detached houses, shall be erected on this erf together with

such outbuildings as are ordinarily required to be used therewith;

- II Imposed in Deed of Transfer T 36498/1980 by HANGKLIP BEACH ESTATES LIMITED as being applicable to all erven in SUNNY SEAS TOWNSHIP, as being in favour of the registered owner of any erf in the Township:

---

- (I) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erven.

---

78. The terms and condition of Erf 3108 is more onerous than that of Erf 3054 in the following respects:

- (a) the term and condition, that "it shall be used for residential purposes only" applies to Erf 3108 and not to Erf 3054,  
(b) the term and condition that only one building or dwelling shall be build on the erf specifically excluded a hotel, maisonette and semi-detached houses in the case of Erf 3108 ... which is not applicable to Erf 3054.

79. Except these differences, the relevant aforementioned terms and conditions of the two erven are similar.
80. If the Municipality demands that the registered owner of Erf 3054 must apply to set aside the abovementioned clauses in its title deed, then the same demands must have been done to the registered owner of Erf 3108.
81. However, it did not.
82. In the same premises, if the Municipality demanded from the registered owner of Erf 3054 that the relevant application had to be sent by registered mail to all the residents of Sunny Seas Township, then the same should have been demanded of the registered owners of Erf 3108.
83. However, it did not.
84. This constitutes transgression of Section 33 of the Constitution.
85. We doubt that either demand was made on any of the hundreds of commercial accommodation ventures in Betty's Bay ... this constitutes transgression of Section 33 of the Constitution.

#### **HEADING**

86. The character of the area incorporates a number of other businesses which not only potentially but actually result in occasional disturbance and/or noise ... such as those premises

with liquor licenses and at holiday houses.

87. The Upliftment Centre has been indeed an integral part of the character of the area since mid-2013.
88. There is already sufficient parking for seven (7) cars. However, the guests do not come in their own respective motor vehicles; they are all transported between the Upliftment Centre and the intake office in Athlone in only one vehicle.
89. Furthermore, prior to the lodging of the application there was continuous interaction between our agent [PlanActive] and the Municipality which resulted in us having spent about R220 000.00 to bring the Upliftment Centre in line with the recommendations. Hence, not surprisingly, when official of the various departments of the Municipality made inspections *in loco*, they could not find any shortcoming.
90. Moreover, we gave them the assurance that if there any modification required we shall gladly oblige.
91. Find accompanying two statements by various neighbours reflecting on the excellent **actual** consequences of the Upliftment Centre for the immediate community.  
[See Annexure "UC 12" and "UC 13" hereto]

#### CONCLUSION

92. In the above premises, we pray for the Municipality to grant the application as requested.

DATED AT BETTY'S BAY ON THE 19<sup>TH</sup> JULY 2017



APPLICANT

# Hulp teen dwelms nou plaaslik

**KLEINMOND** – Die takkantoor van PASA (People Against Substance Abuse), het Maandagoggend hul deure amptelik op die dorp geopen.

PASA is a non-profit organisation with its aim to prevent drugs destroying the life of young people. The organisations started in an around the Garden Route. Freddie Trout an Wayne Windvoel started a programme by means of which children and youngsters were warned and informed against the evils of alcohol and drug addiction, gangsterism and violence and to live life with a purpose. The response to the program was overwhelmingly positive. PASA still runs the programmes with aid from community organisations in that area.

Die plaaslike kantoor sal bemaan word deur Edmund Arendse as direkteur en Denise, sy vrou as assistent. Die programme soortgelyk aan dié wat in die Tuinroete aangebied is, sal hier aangebied word. PASA bied kursusse aan om veerdigheid aan kinders te leer om in 'n snel-veranderende wêreld waarvan hul ouers nie



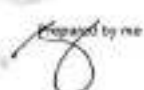
Hier verskyn Freddie Trout, Edmund Arendse en Wayne Windvoel by die openingsgeleentheid

weet nie, te oortref. Hulle wil ook graag saam met gemeenskapsinstansies en die polisie werk.

Dwelms en drankverslaafdes sal gehelp kan word om te rehabiliteer. Sentrums uit te kom en steun sal aan diegene wat skoon terugkom, gebied word.

Edmund is baie dankbaar teenoor instansies wat reeds hul steun beloof het, soos Silwain en Ingrid van Le Révé, 08365 10 37 (Pringlebaai, rd). Lisel Krige, Ulrika Jacobs en venter Wynhose vir die hulp met die opening. Skakel 074 318 1152 vir afspraak.

**52**  
 Siset Booynke Molten  
 119 Soer Triangle House  
 22 Raboek Street  
 Cape Town

Prepared by me  
  
**CONVEYANCER**  
 Carl Christian Burger

No. registered		Amount	Offer for
1	600 000,00	25	400 000,00
Mortgage to the			
Account			
Mortgage to the			
Account			

**VERBIND MORTGAGED**  
 vir R 1 200 000,00

**B** 000078805 / 2014  
 21-10-14 REGISTRAR DEEDS

**I** 000051244 / 2014  
 22-10-14 REGISTRAR DEEDS

**DEED OF TRANSFER**

BE IT HEREBY MADE KNOWN THAT

**HOÏEL ELIS**  
 appeared before me, REGISTRAR OF DEEDS of Cape Town, the said applicant being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Hermanus on 20 July 2014 granted to him by

The Executor in the Estate Late  
**STEPHANUS TERBLANCHE**  
 Number 15002/2012

**DATA / VERIFY**  
 22 OCT 2014  
 LARRY PATSON

**DATA / CAPTURE**  
 16 OCT 2014  
 www.megacloud.com

OliverDorsey 15.1.2011



Page 3

imposed, as will more fully appear on reference to the said Deed of Transfer."

## (3) DATED 18 JULY 1948:

By D/T 11915-dt 18.7.1948 the remainder of the land held hereunder is entitled to a right of way over Erf 487 Bady's Bay (Ext No. 1) and marked A.E.O. on the diagram thereof. Subject to conditions as will more fully appear on reference thereto.

## (4) DATED 1 DECEMBER 1950:

By Deed of Transfer No. 15877/50 dated this day certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of Petrol Station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc. non subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed measuring 5960,8515 ha. as will more fully appear on reference to said Deed of Transfer.

## (5) DATED 26 AUGUST 1951:

By Deed of Transfer No. 14934/51 dated 28.8.51 certain conditions relating inter alia to:-  
prohibition against erection of certain types of building, slaughter poles, cattle kraals, pig-sties, cowsheds, manufacture of bricks, tiles, etc. the value of erections; water supply arrangements etc. have been imposed over the remainder of the land thereby conveyed in favour of the owner and successors in title to the remainder measuring 5955,3544 ha. held hereunder, as will more fully appear on reference to said Deed of Transfer.

## (6) DATED 26 AUGUST 1951:

By Deed of Transfer No. 14935/51 dated 28.8.51 certain conditions relating inter alia to:-

arrangements re water supply, submission of plans for approval, fencing to be used; planting of trees, use of land for Tea Garden or Room; approval re types of trade to be undertaken; erection of only one building; prohibition against erection of Petrol Service Station, and other certain types of buildings, slaughter poles, cattle kraals, pig-sties, cowsheds, manufacture of bricks, tiles etc. subdivision without permission etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 5954,9428 hectares held hereunder, as will more fully appear on reference to said Deed of Transfer.

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C. SUBJECT FURTHER to the following conditions contained in Title Deed No. T1909/1957, namely:

- (i) Imposed by the Administrator of the Province of the Cape of Good Hope under Ordinance 33 of 1934, as amended, upon approval of the establishment of Sunny Seag Township:
- (1) Any works and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17th October 1935, and in the memorandum which accompanied the said regulations.
  - (2) The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or even within or without this subdivision to be conveyed across this erf if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
  - (3) The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
  - (4) Pending the establishment of a Local Authority for the Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf the owner shall, without compensation, be obliged to remove it after three months' written notice served upon him by such Local Authority.
  - (5) This erf shall be subject to the following further conditions provided especially that where, in the opinion of the Administrator after consultation with the Township Board and the Local Authority, it is expedient that the restriction in




March 1971

Page 5

any such condition should at any time be suspended or relaxed he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose:

- (a) It shall not be subdivided.
  - (b) It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith.
  - (c) Not more than half the area thereof shall be built upon.
  - (d) No building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf nor within 3,35 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erfes this condition shall apply to the consolidated area as one erf.
  - (e) In the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.
- (f) Imposed by Hengklip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered owner of any property in the Township:
- (a) No wood and/or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
  - (b) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without the written consent of the Company.
  - (d) Save with the consent in writing of the Company and of any Local Authority, the owner shall have not have the right to make or cause to be made upon the erf for any purposes.




18.11.2011

Page 6

whatsoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.

- (e) No building (including outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres.
- (f) No noxious trade or noxious business shall be carried on on this erf.
- (g) The Transferee shall not camp overnight or light fires on the erf save with the written consent of the Company, nor shall he permit any other person so to do.
- (h) No garage or service station may be erected or carried on on this erf, provided that this condition shall not apply to eren Nos. 1 and 263.
- (i) Until a Local Authority takes over the supply of water for the Township the Company or its successors in title shall be allowed to levy a charge on erf-holders for the service of administering the water of the Township, which charge shall be subject to the approval of the Administrator. This charge, however, shall not be levied until the erf-holder requests that the water be connected to this erf. The Company reserves the right, however, subject to the consent of the Administrator, to install a system for measuring the consumption of water supplied and to make charges based upon such consumption.
- (j) That the Company or its successors in title shall make a charge of R10.00 (Ten Rand) for the connection of water to the nearest point on this erf.
- (k) The buildings, including all fences and gardens or other gates, shall be of good design and sound construction and the plans, elevations and the specifications thereof must be lodged with and approved by the Company before tenders are called for, and no alterations in the plans, elevations and specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach of this Clause the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cost price thereof without compensation for improvements.

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 2011/01/27

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- (n) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (m) No hotel, boarding house, caravan, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential area.
- (l) No caravan, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever with the exception of boarding houses shall be opened or conducted upon the General Residential area.
- (k) No signs, advertisements, advertisement boardings or other lettering shall be erected on this erf, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fence erected or to be erected on the said erf save and except with the written approval of the Company.
- (j) No debris, scrap or other unsightly material shall be deposited on the said erf nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said erf without the written consent of the Company first had and obtained.
- (i) In the foregoing conditions the expression "the Company" shall mean "The Hartogslip Beach Estates, Limited, as owner of the remaining extent of the Township" and its successors in title to the whole of such remainder.

Page 8

WHEREFORE the said Apparer, renouncing all right and title which he said  
Estate Late STEPHANUS TERBLANCHE

heretofore had to the premises, did in consequence also acknowledge the said Estate  
to be entirely dispossessed of, and devolved to the same, and that by virtue of these  
presents, the said

ALPAC INVESTMENTS CC  
Registration Number 2333/16561323

or its Successors in Title or assigns, now is, and henceforth shall be entitled thereto,  
conformably to local custom, the State, however reserving its rights, and finally  
acknowledging the purchase price to be the sum of R1 600 000,00 (ONE MILLION SIX  
HUNDRED THOUSAND RAND).


IN WITNESS WHEREOF, I the said Registrar, together with the Apparer, have  
subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THIS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape  
Town on

13 OCT 2016

In my presence

REGISTRAR OF DEEDS



52

Bissel Boetnicka McEllin  
11th floor Triangle House  
22 Riebeeck Street  
Cape Town  
8001

1-7-18  
0

Witnessed by me

*[Signature]*

CONVEYANCER  
Carl Christian Burger

### POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

**MARJORIE DALPHINE TERBLANCHE**, in my capacity as Executor in the Estate Late **STEPHANUS TERBLANCHE**, who died on 18 April 2012, acting under Letters of Executorship Number 11000/2012 issued by the Master of the High Court of South Africa (Western Cape Division, Cape Town) of Cape Town on 24 August 2012

do hereby nominate and appoint Tertius Uzotte Kiehl and/or Rensd Hubert Deeselaar and/or Carl Christian Burger and/or Robert Christopher Farnand and/or Ronel Els and/or Johannes Pieter Phlips and/or Lisa Ann Visagie

with power of substitution to be its true and lawful Attorney and Agent in its name, place and stead to appear at the Office of the REGISTRAR OF DEEDS at Cape Town or any other competent official in the Republic of South Africa and then and there to act as its Attorney and Agent and to pass transfer to:

ALPAC INVESTMENTS CC  
Registration Number 202016561102 ✓

The property described as:

ERF 304-BETTYS BAY  
IN THE OVERSTRAND MUNICIPALITY,  
DIVISION OF CALEDON, WESTERN CAPE PROVINCE

IN EXTENT 1078 (ONE THOUSAND SIX HUNDRED AND SEVENTY  
FIVE) Square Metres

HELD BY Deed of Transfer Number T46050/1400 ✓

the said property having been sold by me on 2 June 2014, to the said transferee for the sum of R1 000 000,00 (One Million Six Hundred Thousand Rand)

*[Signature]*  
PB

Glenn Coetzee M.A.S.E.

ANNEXURE G 42/73

ANNEXURE "UC 3"CERTIFICATE

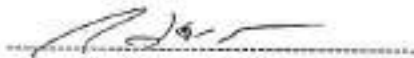
I the undersigned, SHAIK HASSAN MAHOMED ABBAS do hereby certify that:

1. I am a Conveyancer practicing in Durban, KwaZulu Natal.

2. I have perused Deed of Transfer Number 54244/2014 relating to Erf 3054 Bettys Bay.

3. To the best of my knowledge and belief there is no condition thereon which will restrict the operation of an upliftment centre on the property.

Dated at Durban this 26<sup>th</sup> May 2015



SHAIK HASSAN MAHOMED ABBAS



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

ANNEXURE G 43/73  
**ANNEXURE UC 4**

MPE - UMa 03  
**PLANNING AND BUILDING  
DEVELOPMENT MANAGEMENT**

Print Form

**CONVEYANCER'S CERTIFICATE**

I/we, **HANLIE FERREIRA**  
(conveyancer's name)

hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town, regarding the following property(ies) (including both current and earlier title deeds/prior deeds/deeds of master):

**ERF 3054 BETTYS BAY, IN THE OVERSTRAND MUNICIPALITY, DIVISION CALEDON, PROVINCE OF THE  
WESTERN CAPE, IN EXTENT: 1675 SQUARE METRES**  
(ref number/s and description/s as it appear in the title deed)

in respect of which it was found that there ~~were~~ no restrictive conditions registered against such property(ies) prohibiting it from being used/developed for the following purposes (as elaborated on in the accompanying application):

**TO ESTABLISH AN UPLIFTMENT CENTRE IN THE DWELLING**

(\*delete whichever not applicable) (proposed use/developing/altering of property)

**LIST OF RESTRICTIVE TITLE CONDITIONS (if any)**

Categories	Are there title deed restrictions (indicate below)	Title deed and clause number if restrictive conditions are found (see Annexure A if more space is required)
Use of Land	X	T54244/2014 Clause C(i)(m) See Annexure "A" Clause C(i)(n)
Building lines		
Height		
Number of dwellings	X	T54244/2014 Clause C(ii)(5)(b) See Annexure "A"
Bulk floor area		
Coverage / built upon area		
Subdivision		
Services that may be registered over or in favour of the property		
Other restrictive conditions		

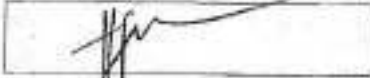
ANNEXURE G 44/73

PROCESS BY WHICH RELEVANT CONDITIONS WILL BE ADDRESSED (please tick appropriate box)

Application in terms of the City of Cape Town's Municipal Planning By-Law (application type 42(a) or (b))	Notarial Deed of Cancellation (Submit copy of signed agreement)	Exemption by means of 'ultra vires' application to the High Court (Submit copy of court order)	If other, please specify:
---	---	--	---------------------------

Signed at **BELLVILLE** on this **18TH** day of **MAY** 20 **18**

Signature



Postal address

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Tel

\_\_\_\_\_

Email

\_\_\_\_\_

Kindly endorse certificate by affixing firm's official stamp here and initialing it.

SMITH TABATA BUCHANAN SOYES  
 2ND FLOOR, 5 BRGH STREET  
 ROSENBURG  
 TYSERWALLEY, 7535

ANNEXURE "A"

The following reference is made to restrictive conditions in Deed of Transfer Number T54244/2014:

Ad Clause C(i)(m):

"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erf."

Ad Clause C(i)(n)

"No canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted upon the General Residential erf."

The above conditions C(i)(m) and C(i)(n) are however not applicable in respect of this application due to the fact that the applicable erf is not a Special or General Residential Erf but a Single Residential Erf.

The following clause will have to be removed in order to accommodate the upliftment centre on Erf 3054 Betty's Bay: *per hand 405*

Ad Clause C(i)(5)(b)

"It shall not be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith."

ANNEXURE G 46/73

ANNEXURE "UL 5"

## Conveyancer Certificate

I, Hanlie Ferreira hereby certify that a search was conducted in the Deeds Registry, Cape Town, regarding the following property:

Erf 3054 Bettys Baai

Situated in the Overstrand Municipality

Division Cape

Western Cape Province

In Extent : 1675.0000 Square meters

Held by Deed of Transfer Number: T54244/2014

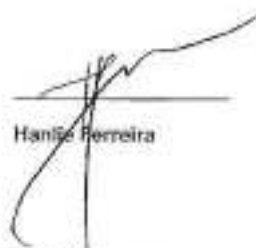
The following restrictive conditions are applicable and will have to be dealt with:

Cause No. C(i)(b) and C(ii)(m) of Title Deed T54244/2014 that read as follows:

C(i)(b) "It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."

C(ii)(m) "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."

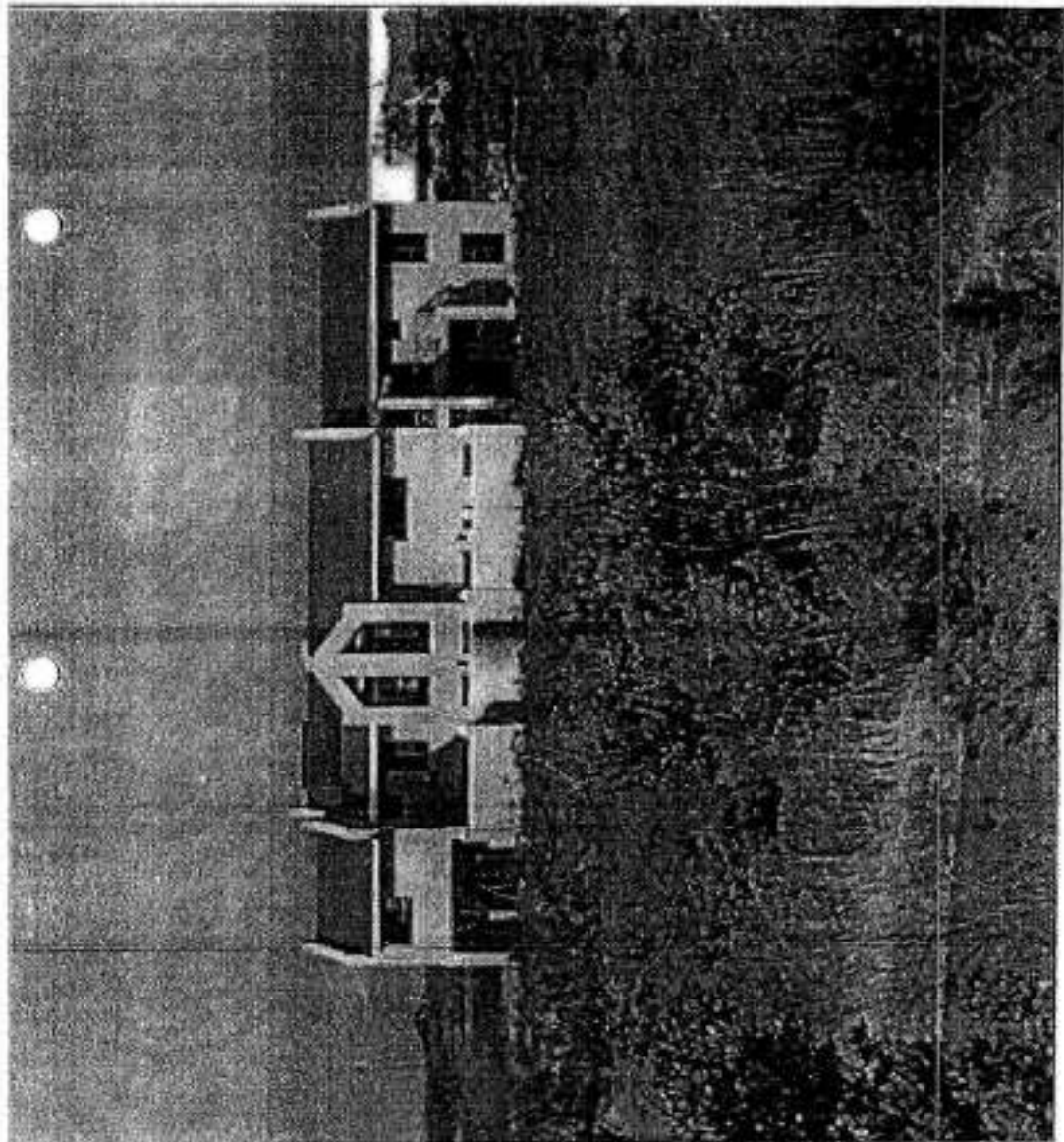
Signed at Cape Town on the 16th of November 2016



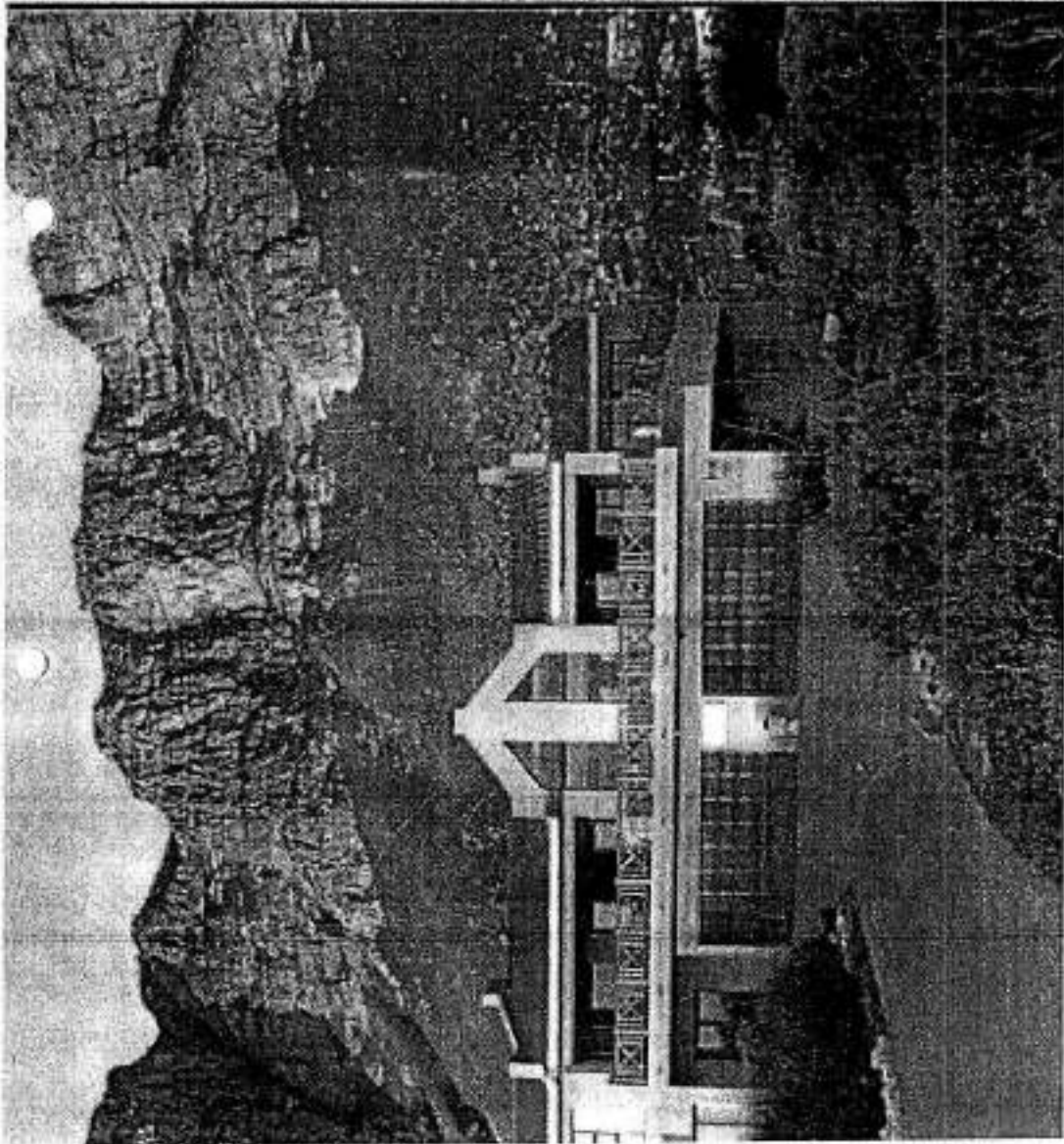
Hanlie Ferreira

SMITH TABATA BUCHANAN BOYES  
2ND FLOOR, 5 HIGH STREET  
ROSENPARK  
TYGERVALLEY 7538

ANNEXURE G 47/73  
ANNEXURE "UC 6"



ANNEXURE G 48/73  
ANNEXURE "UC 7"





ROWAN + PULLEN  
No 98

264

VB ENCLOSURES EYK 27-2004  
FOR ENCLOSURES SEE PAGE 8

Prepared by me,  
C. J. VAN DRUTEN  
CONVEYANCER  
VAN DRUTEN C.J.

VERBIND MORTGAGED  
VB FOR R. 4 200 000,00

B 00133449 / 2005  
1 SEP 2005  
REGISTRAR OF DEEDS

C. J. VAN DRUTEN  
PO Box 3300  
Somerset West  
7120

DEED OF TRANSFER

KNOW ALL MEN WHOM IT MAY CONCERN  
THAT CELIA JOAN VAN DRUTEN  
appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said  
Apparator, being duly authorized thereto by a Power of Attorney executed at  
KLEINMOND on 7 SEPTEMBER 2005 and granted to her by

CHRISTOS ATHANASIOS XIATSES  
Identity Number 710302 5267 08 4  
and  
MARIA CATHARINA MAGDALENA XIATSES  
Identity Number 706987 0135 06 6  
Married in community of property to each other

DATA / VERIFIE  
30 JAN 2005

DATA / CAPTURE  
23 JAN 2005  
L. VAN DER BEEK

Erif 2273, Gieby's Bay.



AND the said Appraiser declared that he/her principal the said CHRISTOS ATHANASIOS YIATSES and MARIA CATHARINA MAGDALENA YIATSES had on 4 July 2005 truly and legally sold the undermentioned property and that he/she, the said Appraiser in his/her capacity aforesaid, did by these presents create and transfer to and on behalf of :

**RACUL VAN DEN BERG**  
 Identity Number 698425 6104 08 3  
 Married out of community of property

his heirs, executors, trustees or assigns, in full and free property

**ERF 3271 BETTYS BAY**  
 Situate in the OVERSTRAND MUNICIPALITY  
 Administrative District of CALEDON, The Province of the  
 WESTERN CAPE

**IN EXTENT - 1491 (ONE THOUSAND FOUR HUNDRED AND  
 NINETY ONE) square metres**

**FIRST TRANSFERRED** by Deed of Transfer No. T1327/1958 with  
 Diagram No. 12351/1957 relating thereto and held by Deed of  
 Transfer No. T136870005

- A. **SUBJECT** to the conditions referred to in Certificate of Township Title No. T369/1958
- B. **SUBJECT** and/or **ENTITLED TO** the benefit of the conditions referred to in the Servitude Endorsements appearing on Certificate of Consolidated Title No. T3729/1007, which endorsements are dated and read as follows :-
1. **DATED 24 JUNE 1946**  
 By Deed of Transfer No. 686860 dated 24/6/46 certain conditions relating to (a) prohibition of Petrol Station on land; (b) wood and iron buildings; (c) slaughter pens, cattle kraals; (d) manufacture of bricks, tiles, etc., have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer.
  2. **DATED 22 OCTOBER 1948**  
 By Deed of Transfer No. T24234 dated 22.10.48 certain conditions relating to water supply, type of business that may be carried on,

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prohibition of petrol station on land, slaughter poles, cattle kraals, wood and iron buildings, non-division, manufacture of bricks and tiles, have been imposed as will more fully appear on reference to the said Deed of Transfer.

3. DATED 18 JULY 1949

By Deed of Transfer No T 11915 d.d. 18/7/1949 the remainder of the land held hereunder is entitled to a right of way over Erf 487 Sany's Bay (Erf. No 5) and marked A.E.D. on the Diagram attached, subject to conditions as will more fully appear on reference thereto."

4. DATED 1 DECEMBER 1950

By Deed of Transfer No. T18877/1950 dated this day certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of petrol station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc. non-subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed measuring 6259,2645 mgn as will more fully appear on reference to said Deed of Transfer.

5. DATED 28 AUGUST 1951

By Deed of Transfer No T14334/51 dated 28/8/1951 certain prohibitions relating inter alia to:

Prohibition against erection of certain types of building, slaughter poles, cattle kraals, pipelines, cowsheds, manufacture of bricks, tiles, etc., the value of electric water supply arrangements, etc. have been imposed over the remainder of the land hereby conveyed in favour of the owner and successors in title to the remainder measuring 6952,8845 mgn held hereunder as will more fully appear on reference to said Deed of Transfer.

6. DATED 28 AUGUST 1951

By Deed of Transfer No T14625/1951 dated 28/8/1951 certain conditions relating inter alia to:

Arrangements re water supply, submission of plans for approval, fencing to be used, planting of trees, use of land for Tea Garden or Forest, approval re types of trade to be undertaken, erection of only one building, prohibition against erection of Petrol Service Station, and other certain types of buildings, slaughter poles, cattle kraals, pipelines, cowsheds, manufacture of bricks, tiles, etc., subdivision without permission, etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 6952,3890 mgn held hereunder, as will more fully appear on reference to said Deed of Transfer.

(8)

C. SUBJECT to the following conditions contained in Deed of Transfer No. T13271988, imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of Sunny Glen Township in terms of the provisions of Ordinance No. 33 of 1954 as amended:

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 401 dated 17 October 1935, and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall without compensation be obliged to allow electricity cables and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this subdivision to be conveyed across this erf, if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank, owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
4. Pending the establishment of a Local Authority for this Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic if the nature of the soil permits, otherwise into a properly constructed vaulted tank serving one or more erven. If any such tank is situated on this erf, the owner shall, without compensation, be obliged to remove it after three months' written notice served upon him by such Local Authority.
5. This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator after consultation with the Township Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed he may authorize the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:
  - (a) It shall not be subdivided;
  - (b) It shall be used for residential purposes only;
  - (c) not more than one building excluding a hotel, motels and semi-detached houses shall be erected on this erf together with such outbuildings as are ordinarily required to be used therewith;
  - (d) not more than half the area thereof shall be built upon;

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-5-

- (g) No building or structure or any portion thereof, except boundary walls and fences shall be erected nearer than 4.72 metres to the street line which forms a boundary of this erf nor within 3.15 metres of the rear or 1.57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3.66 metres in height measured from the floor to the roof plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space. On consolidation of any two or more erf's this condition shall apply to the consolidated area as one erf.
- (h) In the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above then the provisions of such scheme shall apply.

D. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T13271928 imposed by Hangleik Beach Estates Limited as being applicable to all erf's in Sunny Coast Township, as being in favour of the registered owner of any erf in the Township:

- (a) No wood and/or iron building of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
- (b) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without the written consent of the Company.
- (c) Save with the consent in writing of the Company and of any Local Authority, the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any pits, ditches or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.
- (d) No building (including outbuildings) shall be erected on this erf of a footprint area of less than 99 square metres.
- (e) No noxious trade or noxious business shall be carried on on this erf.
- (f) The Transferee shall not camp overnight or light fires on the erf save with the written consent of the Company, nor shall he permit any other person so to do.
- (g) No garage or service station may be erected or carried on on this erf, provided that this condition shall not apply to erf's No 1 and 203.
- (h) Until a Local Authority takes over the supply of water for the Township the Company or its successors in title shall be allowed to levy a charge on erfholders for the services of administering the water of the Township, which charges shall be subject to the

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-6-

approval of the Administrator. This charge, however, shall not be levied until the self-holder requests that the water be connected to this erf. The Company reserves the right, however, subject to the consent of the Administrator, to install a system for measuring the consumption of water supplied and to make charges based upon such consumption.

- b) That the Company or its successors in title shall make a charge of R10,00 (Ten Rand) for the connection of water to the nearest point of this erf.
- c) The buildings, including all fences and garden or other gates, shall be of good design and sound construction and the plans, elevations and the specifications therefor must be lodged with and approved by the Company before tenders are called for and no alterations in the plans, elevations and the specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company in his plans, elevations and specifications. In the event of a breach of this clause, the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cost price thereof, without compensation for any improvements.
- d) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- e) No hotel, boarding house, caravan, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erf.
- f) No caravan, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted on the General Residential erf.
- g) No signs, advertisements, advertisement hoardings or other lettering shall be erected on this erf, nor shall any advertisements, signs or lettering be posted on any buildings, walls or fences erected or to be erected on the said erf, save and except with the written approval of the Company.
- h) No debris, scrap or other unsightly material shall be deposited on the said erf, nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said erf, without the written consent of the Company first had and obtained.
- i) In the foregoing conditions the expression "the Company" shall mean "The Harglip Beach Estates Limited, as owner of the

remaining estate of the Township and its successors in title to the whole of such remainder.

WHEREFORE the said Appraiser, renouncing all the right and title which the said CHRISTOS ATHANASIOS YIATSES and MARIA CATHARINA MAGDALENA YIATSES heretofore had to the premises, did in consequence also acknowledge CHRISTOS ATHANASIOS YIATSES and MARIA CATHARINA MAGDALENA YIATSES to be entirely dispossessed of, and demitted to, the same; and that, by virtue of these presents, the said RAOUL VAN DEN BERG, his heirs, executors, trustees or assigns now and in hereafter shall be entitled thereto, conformably to local custom, the State, however, reserving its rights and finally acknowledging the purchase price of the property hereby transferred to be the sum of R450 000,00 (Four Hundred and Fifty Thousand Rand);

IN WITNESS WHEREOF, I, the said Registrar of Deeds together with the Appraiser have subscribed to these presents and have caused the Seal of office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 13 December 2005.

  
 Signature of Appraiser

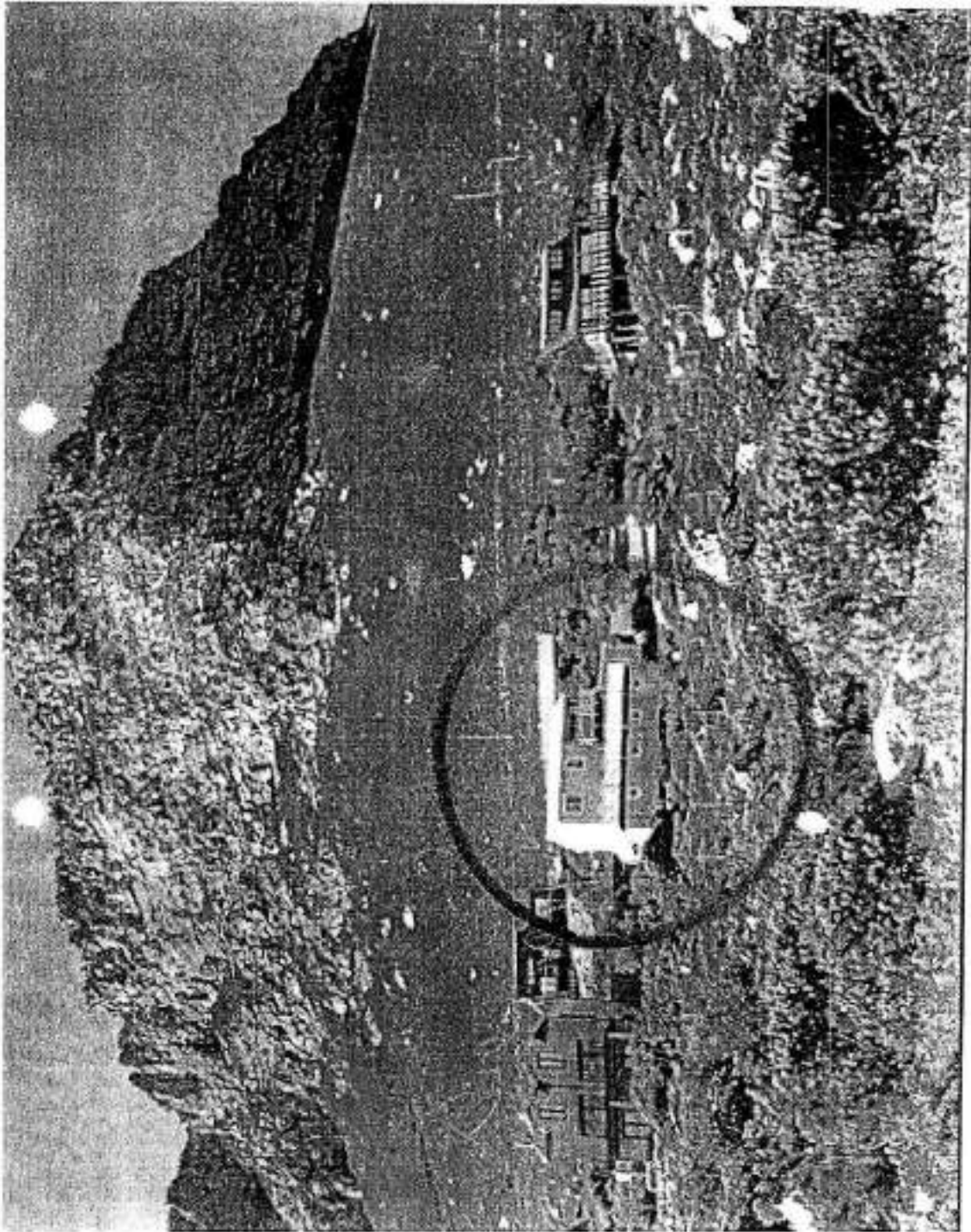
In my presence:

  
 REGISTRAR OF DEEDS

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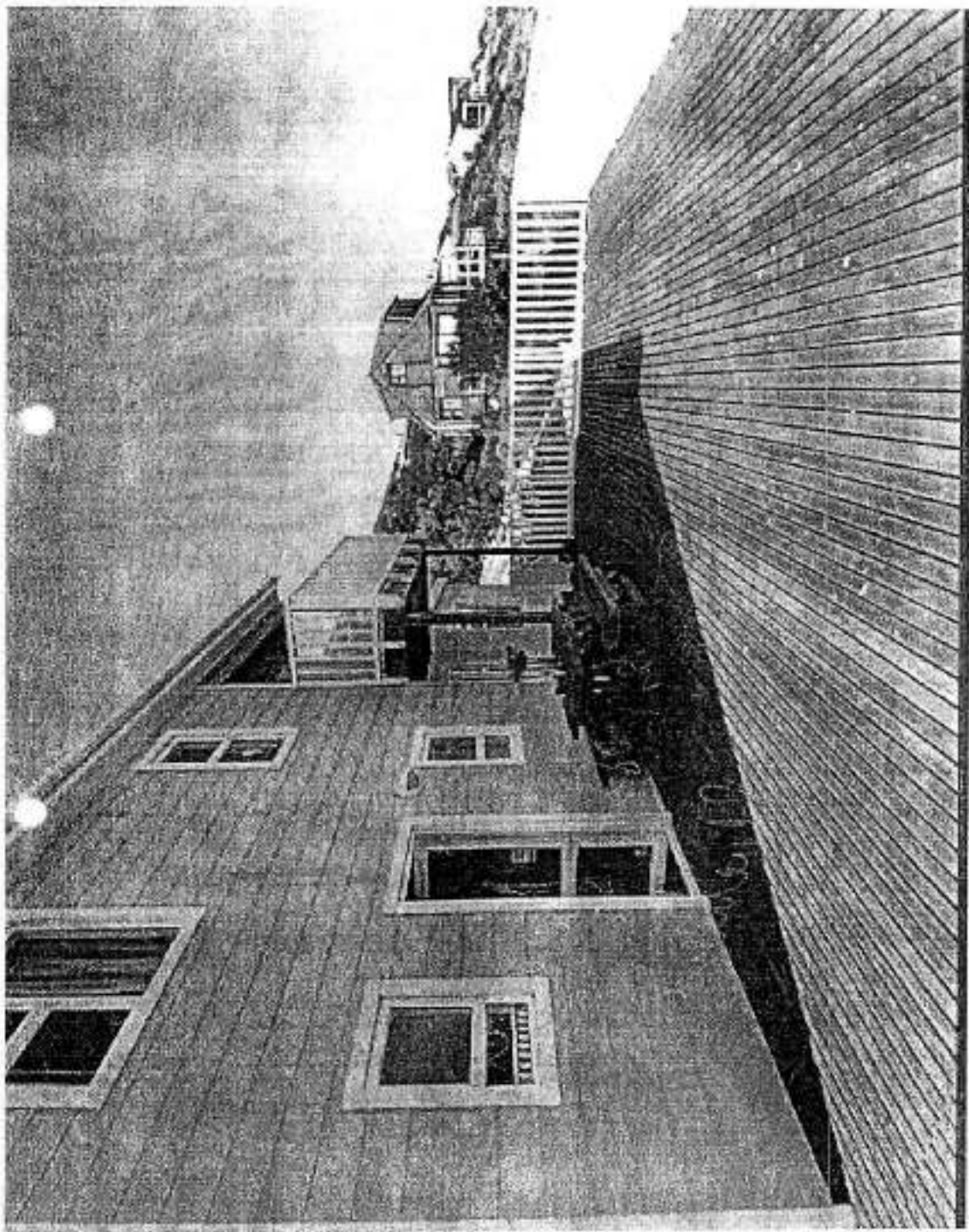
ANNEXURE G 58/73

ANNEXURE "JL9"



ANNEXURE G 59/73

ANNEXURE 'UL 10'



ANNEXURE "UC II"

53

324

Leah Frank & Partners  
Block B, The Beachhead Office Park  
10 NBlock Way  
Somerset West  
7150

Prepared by me  
*[Signature]*  
CONVEYANCER  
MERINO DJ

**FEE**  
R. 500,00

VERBIND		MORTGAGED	
VR FOR R. 550.000,00			
<b>B</b>	112248/07		
	08 DEC 2007	REGISTRAR/REGISTRAR	

**T** 000007545 / 2007

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

**MKHLE MARAIS** GREGORY JOHN CLAUGHTON

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said appearer being duly authorized thereto by a Power of Attorney which said Power of Attorney was signed at Durban Bay on 1 October 2007 granted to him by

**MARIA DO CARMO FERREIRA**  
Identity Number 386913 0023 08 9  
Unmarried

DATA / VERIFY  
17 JAN 2008  
MARINUS 2

VR ENDOUWINGEN BYE SLABBY  
FOR ENDOUWINGEN MEE HATE *9*

DATA / CAPTURE  
16 JAN 2008  
MARINUS 1

page 9.

VERBIND		MORTGAGED	
VR FOR R 575000,00			
<b>B</b>	060781/88	<i>[Signature]</i>	
26 OCT 1988			
		REGISTRAR	3.13

QSDA... QSD...  
BY R 101

VERBIND		MORTGAGED	
VR FOR R 270 000,00			
<b>B</b>	0002324T/2012	<i>[Signature]</i>	
20-8-55			
		REGISTRAR	

Page 2

And the appraiser declared that his said principal had, on 10 September 2007, truly and legally sold by Private Treaty, and that he, the said Appraiser, in his capacity aforesaid, did, by virtue of these presents, order and transfer to and on behalf of:

**DUARTE-MUNO DE RESENDE FONSECA FERREIRA**  
 Identity Number 698514 5329 08 6  
 and  
**LIANA FERREIRA**  
 Identity Number 740928 0227 08 9  
 Married in community of property to each other

their Heirs, Executors, Administrators or Assigns, in full and free property

ERP 3108 BETTEYS BAY  
 in the Overstrand Municipality  
 Division of Caledon,  
 Western Cape Province;

IN EXTENT 1338 (ONE THOUSAND THREE HUNDRED AND THIRTY EIGHT) SQUARE METRES

FIRST TRANSFERRED by Deed of Transfer No. T36498/1960 with General Plan TP 1376 relating thereto and held by Deed of Transfer No. T178182004

- A. SUBJECT to the conditions referred to in Certificate of Township Title T 3719/1937.
- B. SUBJECT FURTHER and ENTITLED to the benefit of the conditions referred to in the following Servitude Endorsements appearing on Certificate of Consolidated Title T 3720/1937 which endorsements are dated and read as follows :-

1. DATED 24 JUNE 1940

"By Deed of Transfer No. 6068460 dated 24/6/40 certain conditions relating to (b) prohibition of Petrol Station on land (d) wood and iron building, (e) slaughter poles, cattle tracks (f) manufacture of bricks, tiles, etc., have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer."

2. Dated 22 OCTOBER 1948

"By DIT No 24234 dated 22.10.48 certain conditions relating to water supply, type of business that may be carried on prohibition of petrol station on land, slaughter poles, cattle tracks, wood and iron building, non-division, manufacture of bricks, tiles, etc., have been imposed as will more fully appear on reference to said Deed of Transfer."

3. DATED 16 JULY 1948

CherCooney P.T. 1/20

Page 3

"By O/T 11915 dated 18.7.1949 the remainder of the land hold hereunder is entitled to a right of way over the lot 487 Dury's Bay (Ext No 1) and marked A.C.D. on the diagram thereof. Subject to conditions as will more fully appear on reference thereto."

## 4. DATED 1 DECEMBER 1950

"By Deed of Transfer No. 14877/50 dated this day certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of petrol stations, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc., non subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed measuring 5560,8615 ha, as will more fully appear on reference to said Deed of Transfer."

## 5. DATED 28 AUGUST 1951

"By Deed of Transfer No. 14934/51 dated 28.8.51 certain conditions relating inter alia to: prohibition against erection of certain types of building, slaughter poles, cattle kraals, pigsties, cowsheds, manufacture of bricks, tiles, etc., the value of erections, water supply arrangements, etc., have been imposed over the remainder of the land thereby measuring 5955,3544 ha held hereunder, as will more fully appear on reference to said Deed of Transfer."

## 6. DATED 28 AUGUST 1951

"By Deed of Transfer No. 14935/51 dated 28.8.51 certain conditions relating inter alia to: arrangements in water supply, submission of plans for approval, fencing to be used, planting trees, use of land for Tea Garden or Room, building, prohibition against erection of Petrol Service Station and other certain types of building, slaughter poles, cattle kraals, pigsties, cowsheds, manufacture bricks, tiles, etc., subdivision without permission etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 5945,9428 hectares held hereunder, as will more fully appear on reference to said Deed of Transfer."

But without rights to water referred to in (2), (4), (5) & (6) which are retained by the Transferor as owner of the said Township held as aforesaid."

## C. SUBJECT to the following conditions:

1. Imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of SUNNY MEAS TOWNSHIP in terms of the provisions of Ordinance NO. 33 of 1904 as amended and contained in Deed of Transfer T3648671980, namely:

1. Any words and expression used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published



J. van der Merwe

Page 4

under Provincial Notice No. 401 dated 17 October 1935, and in the memorandum which accompanied the said regulations.

2. The owner of this erf shall without compensation be obliged to allow electricity cables and water mains and the sewage and drainage of any other erf or erf or erf within or without this subdivision to be conveyed across this erf, if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as firstly constructed and the erf, unless he elects to build retaining walls to be satisfaction of and within a period to be determined by the Local Authority.
4. Pending the establishment of a Local Authority for this Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed vacuum tank serving one or more erf. If any such tank is situated on this erf, the owner shall, without compensation, be obliged to remove it after three months' written notice served upon him by such Local Authority.
5. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Township Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorize the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:
  - (a) It shall not be subdivided;
  - (b) It shall be used for residential purposes only;
  - (c) not more than one building, excluding a hotel, masonry and semi-detached houses, shall be erected on this erf together with such outbuildings as are ordinarily required to be used therewith;
  - (d) Not more than half the area thereof shall be built upon;



2/2/35

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- (d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4.72 metres to the street line which forms boundary of this erf nor within 3.15 metres of the rear or 1.57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3.05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space. On consolidation of any two or more erf's this condition shall apply to the consolidated area as one erf;
- (f) in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above then the provisions of such scheme shall apply.

II. Imposed in Deed of Transfer T. 35458/1980 by HANGKIP BEACH ESTATES LIMITED as being applicable to all erf's in SUNNY SEAS TOWNSHIP, as being in favour of the registered owner of any erf in the Township:

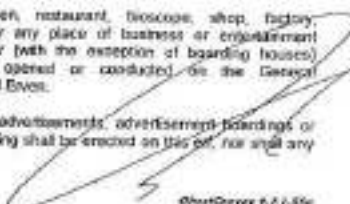
- (a) No wood and/or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
- (b) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without the written consent of the Company.
- (c) Save with the consent in writing of the Company and of any Local Authority, the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.
- (d) No building (excluding outbuildings) shall be erected on this erf of a superficial area of less than 90 square metres.
- (e) No serious trade or noxious business shall be carried on this erf.
- (f) The Transferee shall not camp overnight or light fires on this erf save with the written consent of the Company nor shall he permit any other person to do so.



W. J. J. J. J.

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- (iii) No garage or service station may be erected or carried on this erf, provided that this condition shall not be over Nos 30419 and 3311.
- (iv) Unless Local Authority takes over the supply of water for the Township the Company or its successors in title shall be allowed to levy a charge on erf-holders for the service of administering the water of the Township, which charge shall be subject to the approval of the Administrator. This charge, however, shall not be levied until the erf-holder requests that the water be connected to this erf. The Company reserves the right, however, subject to the consent of the Administrator, to install a system for measuring the consumption of water supplied to make charges based upon such consumption.
- (v) That the Company or its successors in title shall make a charge of R10,00 (Ten Rand) for the connection of water to the nearest point of this erf.
- (vi) The buildings, including all fences and garden or other plots, shall be of good design and sound construction and the plans, elevations and the specifications thereof must be lodged with and approved by the Company before tenders are called for and no alterations in the plans, elevations and the specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach in this clause, the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cost price thereof, without compensation for any improvements.
- (vii) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (viii) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erf.
- (ix) No saloon, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted on the General Residential Erf.
- (x) No signs, advertisements, advertisement-boards or other lettering shall be erected on this erf, nor shall any

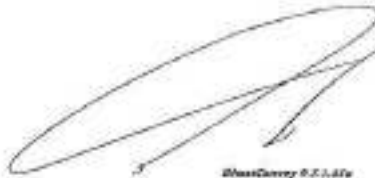


Shun Cheng 9.7.86

Page 7

advertisements, signs or lettering be painted on any buildings, walls or fences erected or to be erected on the said erf, save and except with the written approval of the Company.

- (ii) No debris, scrap or other unsightly material shall be deposited on the said erf, nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said erf, without the written consent of the Company first had and obtained.
  - (iii) In the foregoing conditions the expression "the Company" shall mean "the HANGKLIIP BEACH ESTATES LIMITED, as owner of the remaining extent of the Township" and its successors in title to the whole of such remainder.
- D. NOT ENTITLED to the benefit of the water rights referred to in Endorsement dated 1 December 1958 on Certificate of Township Title T 369/1956, which water rights shall be held by the Transferor Company as owner of the remainder of the Township.



Alan Davery P.O. 11/16

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WHEREFORE the said Appointer, renouncing all right and title which the said

**MARIA DO CARMO FERREIRA, Unmarried**

heretofore had to the premises, did in consequence also acknowledge her to be entirely dispossessed of, and discribed to the same, and that by virtue of these presents, the said

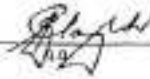
**DUARTE-NUNO DE RESENDE FONSECA FERREIRA and LIANA FERREIRA, Married as aforesaid**

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 100 000.00 (ONE MILLION ONE HUNDRED THOUSAND RAND).


IN WITNESS WHEREOF, I the said Registrar, together with the Appointer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape Town on

*6 December 2007*



in my presence

  
REGISTRAR OF DEEDS



*To whom it may concern*

*We've learned that complaints were launched concerning the Upliftment Centre at 3054 Sea View Drive, Betty's Bay. We don't know the reason for the complaint but, as fellow ratepayers also residing in Sea View Drive, we've decided to write this letter.*

*The Upliftment Centre is up and running now for approximately a year and a half already.*

*If anyone is concerned that it's a business, an upliftment centre is not a business but a service to the community and therefore falls under community services. If one takes into consideration that many people in South Africa suffers from mental and emotional exhaustion due to today's stressful life style, you would think that anybody would be super supportive of ANY centre opening their doors to help our young people uplifting their lives again.*

*Any other complaints e.g. Religions (seeing that most/all of the occupants of the centre are Muslims) should not even be taken in consideration because South Africa is after all still a country where you can practise your Religious views freely.*

*All the young men and staff of the house are very friendly and also very helpful e.g. house 3151 had to move a piano and asked if the young men could help with the move. They did. We have old people living in Sea View Drive and, (again at 3151) when the Pais couple goes on holiday and the two 80+ year olds are alone at home, the young men make sure to 'look out' for them. Anyone hanging around not belonging in our street gets asked to leave immediately. The house (centre) is very high up in the mountain and serves as a good lookout point to the rest of the street so, they can see when people don't belong! A knock on the door with a: 'are you ok oupie' will be part of their running routine in the morning and again during their afternoon run, just to make sure that the old couple is fine. If the complaint is about them running in the street, well then, many other people should be stopped as well and also the many families walking their dogs and cycling with their children.*

*With all this said, we would like to sign this letter to show our support to the centre and also to ask that you grant them the necessary documents so that they can keep on running their centre because they are doing a wonderful job and they are well loved by those who allow themselves to make the effort to know the occupants of the house.*

*Kind Regards*

*PAUL G. JANNOORA PAIS 082 416 5807*  
*JAN G. NOORA BOSHOFF 082 461 7025*  
*FRAN'S S. BRESQUE DE VILHES 082 444 7560*  
*BENJAMIN S. JOSEPH DE VILHES 071 663 1108*  
~~*PAUL G. JANNOORA PAIS 082 416 5807*~~

*LEONIE H. DAPHNE LINDEN 075 283 4024*

Jannora Pais <jannorapais@yahoo.com>

To

patrickarndse@yahoo.co.uk

16 Mar at 9:12 AM

**PRIVAAT EN VERTROULIK!!!**

Geagte leser,

*Ek gaan begin deur te se dat hierdie nie 'n "complaint" is nie alhoewel die mense wat besig is met 'n petisie ons op 'n nie so mooi manier "georder" het om een te stuur!!*

*Ek wil wel kommentaar lewer oor 'n saak wat nie so mooi hanteer word nie. Hierdie skrywe gaan oor Erf 3054, Sea View Rylaan nommer 11, Bettiesbaai.*

*Ons was nou die aand alreeds in die bed toe die man met sy groot rooi dubbel-cab 4x4 bakkie hier voor ons huis in Sea View Rylaan kom stop en ons deur amper afgeklop het. So met kamerjas aan het ons toe maar gaan oopmaak want ons kon hoor aan die klop dat iets dringend is.*

*"Afrikaans or English" is al wat aan ons gevra is met die oopmaak van die deur en ons se toe maar: "English please", want my man verstaan en praat mos nie Afrikaans so lekker nie.*

*'n Overstrand Municipality brief word toe in ons hand geprop met 'n : "submit a complaint immediately" maar dis bietjie vaag vir my en ek vra toe vir wat die "complaint" moet gaan. Ek meen rerig, ek is mos nie lus om daardie tyd van die aand die hele brief te staan en deurlees nie!! en so word ons toe meegedeel : "to stop this rubbish at the top".*

*Ek hou my toe maar baie dom en vra watter rubbish die kwaai man van praat ... en dis hier waar ek nou eerder 'n lang storie korter gaan maak. Dit gaan toe als oor die aansoek om goedkeuring vir 'an upliftment centre' deur die inwoners van Erf 3054, nommer 11 Sea View Drive.*

*Nou, my kommentaar loop so: Eerstens het ek niks van die man se "attitude" gehou wat amper ons deur kom afklop het nie. Ek gee glad nie om dat mense 'n petisie optrek nie want dit is ons almal*

wegkruip het, het al soveel arends vlerke bygekry dat dit klink na iets waarvan 'n movie gemaak kan word en definitief nie meer die waarheid nie.

As mens na die polisie statistieke gaan kyk oor die "crime" in die area vandat hulle hier in ons straat woonagtig is, sal mens sien dat dit nie gestyg het nie. Inteendeel, hierdie manne is baie trots en beskermend oor hulle straat. Ons het al gehad dat bouers rondstaan na ure en dan is nommer 11 se manne gou teenwoordig om te hoor hoekom daar rondgesnuffel word deur mense wat nie hier hoort nie.

Wanneer ek en my man met vakansie gaan en ons twee ou mensies is alleen by die huis word daar geklop om te hoor of oupa en ouma iets nodig het. My ouers het van die mans se selffoon nommers indien hulle hulp sou benodig. Dis hoeveel hulle vertrou word deur ons en met rede!!

Feit: Erf 3054 se mense is Muslims en dit maak mens hartseer om te WONDER of dit nie dalk die regte rede is waarom die petisie gaan nie want, nie een van die ander redes maak sin nie. Ek is 'n Christen en so ook die res van my huis. Ek kan met liefde in my hart 'n voorstel maak aan die mense wat in vrees lewe oor ERF 3054 se doen en late. Spandeer 'n bietjie tyd saam met hulle deur te stop en te gesels. Leer hulle ken of gaan lees op oor Muslims – nie Islamic State nie – Muslims!! .. dan sal hulle agterkom dat al die redes wat gegee word om die sentrum af te keur ongegrond is. Hierdie mense drink nie. Hulle is maw nooit dronk nie. Hulle moor nie. Hulle verkrag nie. Hulle baklei nie.

Dit is meer as wat mens kan se van die "PUB" oorkant die straat van ons wat deur die vorige eienaars in die nag "dronk-street-racings" parties gehou het. Mens wonder hoe het hulle daarmee weggekome terwyl daar "complaints" ingedien word teen mense wat wil HELP. Upliftment sentrum bied Hulp. Hulp vir jong mans vir wie die lewe effe te veel geword het. 'n Nuwe lewe met HOOP. Laat mens dink ne? Mens sou dink dat die 'community' hulle met ope arms sou ontvang.

Ek wil afsluit deur te se, hier is baie van ons in Sea View Drive wat NIE teen die inwoners van Erf 3054 se planne is nie en hulle met ope arms en liefde hier verwelkom. Ons pad-loop saam met hulle is al paar jaar oud. Soos reeds gese, ons is al gehelp met

se reg in 'n demokratiese land om te verskil soos ons wil maar ek moet se, die kom vra of ons wil deelneem aan so 'n petisie het vir ons veel eerder gevoel na intimidasie en nie 'n keuse nie!! Tweedens: Hierdie "rubbish" waarvan die man praat is wat?? Die mense wat daar bly of wat?? Verkeerde woord keuse sou ek se want, as dit gesinspeel word op die mense wat daar bly, dan weet ek nie so mooi nie!! Hierdie is beautiful mense wat al vir meer as twee jaar hier in vrede saam met ons lewe so sy woords keuse het nie vir my, my man of die res van ons gesin regtig aangestaan nie!!

Die woord Rubbish kan ook nie in die selfde sin as "an upliftment centre" gebruik word nie want, hoe kan "om ander te help" as rubbish beskou word?? Dan se ek weer: Die man het die reg om te voel soos hy voel en ook om kwaad te wees omdat ons nie saam met hom stem of belangstel om deel te neem aan sy petisie nie. Ek voel tog, om weg te trek in sy groot rooi 4x4 met 'n spoed van wil lig en klippe op te skiet, soveel so dat dit amper my kar se venster tref, en dan nog met 'n : "we will see what you will do when they come and steal your vehicle, rape or murder you!!" vanuit die venster half te skree vir ons?? Ek het nie eens woorde of kommentaar vir sy gedrag nie!

Die inwoners van Erf 3054 is, soos ek reeds geskryf het al 'n geruime tyd hier woonagtig in Sea View Rylaan nommer 11 - meer as 2 jaar. In daardie tyd is nog nie een van ons voertuie gesteel, nog nie een van ons is verkrag of vermoor nie. Hoekom sal dit nou skielik gebeur nadat die sentrum goedgekeur word? so sy argument tot 'n petisie maak vir my glad nie sin nie.

Hierdie jong manne hardloop party oggende hier verby met 'n groet of 'n kort geselsie. Dis met die verbyhardloop wat ons met hulle kennis gemaak het paar jaar gelede. Ons het hul gaan vra om ons asb te kom help klavier skuif vanaf die onderste vloer na vloer nommer 2. So het ons pad-loop saam met hulle begin. Ons het hulle al gehelp met kar regmaak. My pa 86 het hulle ook al vele male 'n "lift" gegee (10 jong manne) in sy combi na Palmiet se strand toe vir 'n lekker swem en nog nie een keer het hulle hom besteel, beroof of enigsins bedreig of leed aangedoen nie. Hoekom sal dit nou skielik gebeur as die sentrum goedgekeur word?

Die storiëttjie wat hulle voorhou as die rede vir die petisie van die een outjie wat eenkeer "ontsnap" het en by Mev C. se huis gaan

*Klaviere trappe opdra, erwe skoonmaak en vele meer. Ons het al in die twee + jare lekker saam ge'curry', ge'snoek', even ge'kersfees' en ge'easter-egg' en ja, saam gekuier, gelag en gehuil en nie een van ons is slegter af daardeur nie.*

*Ek hoop regtig dat julle alles baie mooi sal oorweeg en hierdie aansoek sal goedkeur sodat hulle nou vir eens en altyd kan voortgaan met die goeie werk wat hul reeds al 'n paar jare lank doen.*

*Dankie vir U tyd!!*

*Die Boshoff-Pais gesinne van Sea View Drive!!*

Reply Reply to All Forward More

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS & CONSENT  
USE: ERF 3054, BETTY'S BAY (3205)**

Stormwater (SW)	:	In order
Electricity	:	Escom
Water	:	In order
Sewer	:	In order
Roads and traffic	:	In order

**Conditions**

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that stormwater be allowed to discharge through Erf 3054, Betty's Bay, unobstructed;
4. that no on-street parking be allowed.

  
\_\_\_\_\_  
DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES

11 | 4 | 2017  
\_\_\_\_\_  
DATE



File reference: 3054 KBR (3205)  
Date: 2 March 2017

**INTERNAL MEMORANDUM**

From : Town Planning Department  
Town Planner : Hanneen van der Stoep

TO:

<u>Area Manager</u>	<u>Building Department</u>	<u>District Health</u>	<u>Electrical Department</u>
Environmental Officer	<del>Fire Department</del>	<u>Infrastructure and Planning</u>	Local Heritage Committee
<u>Operational Services</u>	<u>Traffic Department</u>	<u>Ward Councillor (Cllr. F. Kriss)</u>	Waste Management

Applicant	PLAN ACTIVE (obo ALPAC INVESTMENT CC)
Property Details	ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY
Application Description	PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE

**ATTACHMENTS :**

1. Notice	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
2. Locality Plan	
3. Site Development Plan	
4. Motivation	

**YOUR DEPARTMENT'S COMMENTS:**

**Must submit a Fire Plan**

Approval is subject to compliance with requirements of National Fire Protection Regulations - SANS 10400T:2011 - See Attached ANNEXURE A.

Signature:	Date: 07 APR 2017
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MUNICIPALITEIT OVERSTRAND MUNICIPAALITY  
FIRE BRIGADE / BRANDWEER  
APPROVED / GOEDGEKEUR

Please provide your comments (with specific reference to any conditions of approval that should be proposed) in the space provided above or in a separate Memo **do not later than the date stated below**. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objections to the proposed approval and where appropriate, the Municipal Committee will be referred accordingly.

Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.

**COMMENTS REQUIRED BY: 7 APRIL 2017**



STANDARD REQUIREMENTS FOR OPERATION OF AN ESTABLISHMENT CLASSIFIED HOSPITALITY - H6  
- TOURIST or TEMPORARY ACCOMMODATION IN ANY H3 OR H4 CATEGORY BUILDING IN TERMS OF  
THE NATIONAL FIRE PROTECTION REGULATION SANS10400T:2011

**ANNEXURE A – Erf 3054 Betty's Bay, Hangklip Application No: 3054KBB (3205)**

In order to obtain a fire safety clearance the following requirements are prescribed together with any other building compliance requirements:

**Fire Extinguishers:**

SANS10400T:2011 – 4.37:

1 x Portable Fire Extinguisher per 100m<sup>2</sup> of a type - 4.5kg Dry Chemical Powder, 5kg CO<sub>2</sub> or 9 litre H<sub>2</sub>O.

**Combustibility of Floor Coverings:**

Shall comply with requirements of Section 4.14 of SANS10400T:2011.

**Combustibility of Wall Coverings:**

Shall comply with requirements of Section 4.15 of SANS10400T:2011.

SANS10400T:2011 – 4.58 require the provision of:

- Escape route signs – Photoluminescent SANS1186-5 in all passages and corridors and also above all exit doors.
- Self-contained luminaires (automatic actuating battery operated lights) in all passages and corridors
- Stand-alone smoke alarms compliant with the requirements of European Standard EN14604 in each:
  - > Sleeping room
  - > Communal area
  - > Passage or corridor leading to rooms
- Fire Hose Reels for premises larger than 250m<sup>2</sup> at a ratio of 1 per 500m<sup>2</sup> of the establishment.
- Doors leading to the outside of the building with single turn locks or any other lock device approved by the Fire Authority.

A table approved emergency plan indicating evacuation routes that informs guests as to action that must be taken in the event of an emergency that is affixed to the back of each room door or prominent place in the room.

These plans must include:

- Action to be taken when discovering a fire or if an emergency arises
- Action to be taken for evacuation of the building and assuring accountability of all occupants
- The interim action to be taken pending the arrival of emergency services
- An evacuation floor plan that identifies the escape route, appropriate exit doors and post evacuation mustering point.

Chief Fire Officer