



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

**A G E N D A**

<b>DATE:</b>	<b>28 NOVEMBER 2019</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM HERMANUS</b>
<b>TIME:</b>	<b>10:00</b>

# OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT  
Civic Centre  
HERMANUS  
7200

6 November 2019

**TO : THE 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 **Thursday, 28 November 2019 at 10:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

**S MÜLLER**  
**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. Mr P Roux (Town Planner)
10. Secretariat

- 1. OPENING**
  
- 2. APPLICATIONS FOR LEAVE OF ABSENCE**
  
- 3. CONFIRMATION OF MINUTES**
  - 3.1 Minutes of a Municipal Planning Tribunal Meeting held on 31 October 2019**
  
- 4. ITEMS FOR CONSIDERATION**
  - 4.1 ERF 9854, 241 ELEVENTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS TV3 PROJECTS (PTY) LTD ON BEHALF OF GROTTTO BEACH VILLA (PTY) LTD**

Report attached.

**MUNICIPAL PLANNING TRIBUNAL  
(MPT)**

**28 November 2019**

**I N D E X**

**ITEM**

**PAGE  
NUMBER**

**APPLICATIONS FOR LEAVE OF ABSENCE**

- |            |   |          |
|------------|---|----------|
| <b>4.1</b> | <b>ERF 9854, 241 ELEVENTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND<br/>MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS TV3<br/>PROJECTS (PTY) LTD ON BEHALF OF GROTTA BEACH VILLA (PTY) LTD</b> | <b>1</b> |
|------------|---|----------|

## 4.1

**ERF 9854, 241 ELEVENTH STREET, VOËLKLIIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS TV3 PROJECTS (PTY) LTD ON BEHALF OF GROTTO BEACH VILLA (PTY) LTD**

**9854 HVK (2970)**

**P Roux**

**27 September 2019**

**(028) 313 8900**

**Hermanus Administration**

## **1. EXECUTIVE SUMMARY**

An application for consent use has been received on 22 February 2019 from Messrs TV3 Projects (Pty) Ltd on behalf of Grotto Beach Villa (Pty) Ltd in terms of Section 16(2)(o) of the Overstrand By-Law on Municipal Land Use Planning, 2015 in order to conduct a self-catering unit consisting of two (2) bedrooms for tourists at the first floor level of the dwelling unit.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the Revised Home Owners Association Constitution (HOA) is attached as Annexure C.

## **2. DECISION AUTHORITY**

Municipal Planning Tribunal

## **3. BACKGROUND / SITE HISTORY**

Erf 9854, Voëlkliip hereafter referred as the subject property, is situated in Hermanus within the Sandals Beach House Estate. The Municipality made the property owner aware that the utilization of the property for tourist accommodation purposes is illegal. An application was therefore submitted in order to regularize the use.

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

- ❖ The purpose of the application is to obtain planning approval in order to allow the property owner to let rooms or individual units on a temporary basis.
- ❖ The proposed use will be accommodated within the existing dwelling and comprises of a self-catering unit with two (2) rooms on the first floor.
- ❖ The subject property is located in Sandals Estate, No.3.
- ❖ The property is zoned General Residential Zone 1: Town Housing, and tourist accommodation is a consent use under the zoning.
- ❖ The proposed activity will contribute to tourism in the local area and also contribute to the local economy there by aligning itself with the IDP.
- ❖ The proposed activity will be limited to one (1) self-catering unit with two (2) bedrooms.
- ❖ The surrounding area has similar land use activities.
- ❖ Although the property is zoned General Residential Zone 1: Town Housing the size of the property is of such a nature that it can be practically used as a single residential erf. In terms of the Zoning Scheme a guest room is a primary right (acceptable and permissible) in terms of a single residential erf. It is therefore accepted that a guest room is suitable for the subject property.
- ❖ No additional services will be required.

## 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	23/04/2019	31/05/2019
Ward Councillor	Yes	23/04/2019	31/05/2019
Total letters of support	<b>NONE</b>		
Total letters of objection	<b>ONE (1) from Sandals Home Owners' Association</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the 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
Building Department	29/04/2019	No comment, if any building work to be done in compliance with SANS 10400.	Supported.
Local Heritage	30/04/2019	No comment.	Supported
Fire Department	12/06/2019	No objection.	Supported
Telkom	28/06/2018	Attached as Annexure F.	Supported.
Engineering Services	18/07/2019	Attached as Annexure G.	Supported

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

An objection was received from Sandals Home Owners' Association (HOA) and the objection is summarised in bold below:

**The subject property, Erf 9854, was purchased in 2003 and is one of six residential erven. The property owners of the erven could only purchase the erven subject to the acceptance of the Sandals Beach Houses Home Owners Association's Constitution and the Rules of Conduct. All documents (constitution and the rules of conduct) were signed by Dr Matthys De Kock as owner/occupier of the subject property.**

Applicant's reply to comments

The applicant did not contest the statement.

Town Planner's comment

The group housing development was approved by Council in 2001 in terms of the Land Use Planning Ordinance, 1985 (Act 15 of 1985) (LUPO). The establishment of a HOA for group housing development is considered in line with legislation. It is normal practice that the HOA's consent is received before changes are made to the dwelling or prior to the submission of an application to the Municipality. Throughout the motivation the applicant did not provide evidence that prior approval has been received.

**Clause 8 of the Rules of Conduct specifically forbids an owner/occupier using the property to supply temporary accommodation for consideration in the form of a guesthouse or bed and breakfast establishment. The clause has been breached by Dr De Kock and he has also tried to repeal the clause. In each case the Sandals Beach Houses Home Owners' Association rejected the proposed repeal. The Municipality has also in the past sent letters to the property owner and the property owner has flagrantly and persistently violated the By-laws from the Municipality and from the HOA.**

Applicant's reply to comments

The applicant contests that Clause 8 of the Rules of Conduct does not forbid an owner from supplying temporary accommodation in the form of guest rooms.

Guest rooms are not the same as a guest house and bed and breakfast establishments. The Zoning Scheme makes clear distinction between temporary accommodation in the form of a guest house and guest rooms.

Town Planner's comment

The HOA has the ability to interpret its house rules as it sees fit, subject to it not being in conflict to any other law. In terms of the minutes from the Annual General Meeting (AGM) it is clear that the HOA of Sandals does not regard the current land use activities as being in line with temporary accommodation.

In terms of the current Zoning Scheme guest rooms or self-catering unit as motivated under tourist accommodation is defined as: *means the letting of rooms or individual units on a temporary basis to paying lodgers or guests, and includes a guest house, bed and breakfast, backpacker's establishment, and camp sites, provided that the use complies with the requirements of any other relevant legislation;*

It should also be noted that the applicant contradicts himself (when considering the comments received and the motivation submitted) due to the applicant stating that guest rooms are the same as self-catering units. The Zoning Scheme considers guest rooms to be rooms which are rented out on a bed and breakfast manner whereas self-catering units are the provision of a unit where the occupiers have access to cooking facilities and provide their own meals. From the Municipality's point of view guest houses (guest rooms) and self-catering units are categorised together as they occur on a temporary basis, but the use on the property differs in the way the property will be managed. Considering the aforementioned it is

understood why the HOA concludes that the proposal made by the applicant correlates to what is specified in Clause 8 of the Rules of Conduct.

**It is clear from only advertisements that the subject property forms part of a larger, commercial portfolio of guesthouses which are marketed across the internet.**

Applicant's reply to comments

Marketing is in line with the advertising guidelines as set out in the Zoning Scheme. No provisions are made regarding online marketing.

Town Planner's comment

The current use of the property for tourist accommodation is considered as an illegal activity due the property owner not having consent from the Municipality. Any advertisement of an illegal activity is not allowed and indicates that the owner does not have regard for the Zoning Scheme.

**The wording of the application is contended as there are three bedrooms on the first floor and not two as stated by the applicant. It has always been the stance that the HOA forbid the operation of self-catering units and guest houses, as the proposal will have an undesirable effect on the enjoyment of the owners of their properties in the complex and the whole dynamic and ambiance of the area will change with guests arriving and departing. This also has an impact on security of the estate.**

**The quality of life of the other property owners has been negatively affected by the continued activity on the subject property. The HOA contends that this violates the objectives of their constitution. Further, the commercial enterprise is subsidised by the other property owners who have to contribute to the maintenance of the common area and bulk infrastructure.**

Applicant's reply to comments

The approval will have no effect on the manner in which the temporary accommodation will be provided going forward. Temporary accommodation in the form of guest rooms has been operated on the property since 2004. No complaints have been received from the home owners that the activities detract from their use and enjoyment of their properties. To the contrary compliments have been received for the manner in which the property is managed.

The home owners of the subject property have always been mindful of to preserve the character of the housing development, there is no evidence to suggest otherwise. The home owners of the subject property have conducted the activities in a responsible and professional manner. The wording used by Mr. Harding the behaviour is 'selfish' and 'delinquent' is ironic, given the heavy handed approach he has adopted to prevent the home owners of the subject property to quietly go about their business, knowing that the constitution does not forbid temporary accommodation.

The issue of maintenance has never been raised at previous annual meetings of the HOA. Further, guests usually park in front of the subject property and not in visitors parking.

Regarding security of the estate, guests are carefully screened, never left unattended at the property and the home owner's lives on the property. The presence of guests also contributes to the safety and security of the home owners in the estate.

#### Town Planner's comment

The subject property can only be used in terms of the primary rights as indicated in the current Zoning Scheme; one primary right is a **dwelling house**, a dwelling house is defined as *"a self-contained inter-leading group of rooms, used for the accommodation and housing of one family, together with adequate sanitary facilities and kitchen, and such outbuildings as are ordinarily used therewith, provided further that a dwelling house may not have more than two (2) kitchens.* The second primary right is a **town house** which is defined as *"a dwelling unit which forms part of a town housing scheme".* A **dwelling unit** is defined as *"a unit containing one or more rooms, with adequate sanitary facilities and a kitchen which may be used for long or short term accommodation purposes, and may be included in or separate from the main building on the property".*

The current structure on Erf 9854, Voëlklip is considered a dwelling unit due to it being developed in a town house development and therefore only one (1) dwelling unit and one (1) kitchen is allowed. The approved building plans for the subject property only indicated a bar on the first floor level and a kitchen on ground level. However, reviewing the advertisement of the guest accommodation on the website shows a kitchenette instead of a bar area, this change was done without the consent of the Municipality or the HOA. Secondly by utilising the first storey as a self-catering unit the property owner inadvertently uses the first storey section as a second dwelling which is not allowed in terms of the Zoning Scheme.

The HOA has the ability to interpret its house rules as it sees fit, subject to it not being in conflict to any other law. From the objections received it is clear that the HOA does not regard the proposed use in line with the current character of the development.

The opinion is held that should the proposed activity be considered acceptable by the HOA then all the land owners in the estate must have equal access to the same rights and not just one person. Therefore, the HOA will have to pass a resolution in support of the proposed activity for all its members and not just one owner. However, by releasing such a resolution the HOA will change the current status quo and change the character of the estate, this could impact the quality of life for better or worse.

With regards to the parking area, the applicant did not provide a parking schedule or Site Development Plan for the proposed land use activities. In the applicant's reply to the objection it is stated that visitors usually park in front of the subject property. This statement is of concern as it is presumed that the parking will be provided on Erf 9839, which is the common property shared between all the property owners of the estate. The HOA is mandated to ensure that the common areas and services in a group housing development is maintained and accessible to all and may therefore set out rules of conduct.

Regarding security of the estate, security risks can be mitigated by effective management of guests and their arrivals and departures.

**It is contended that the examples provided by the applicant of similar tourist accommodations are not considered relevant as none of the examples are situated in estates and not bound by similar conduct rules. The applicant failed to address the compatibility of the proposed use with other properties in the complex.**

**A precedent will be created allowing similar uses in the estate at the cost of ignoring the owners who purchased their properties with a set character in mind.**

Applicant's reply to comments

As per the motivation the property is surrounded by similar tourist accommodation establishments and will not be foreign in the area. The proposed land use will therefore be compatible with the surrounding land uses. A new precedent will not be created.

Town Planner's comment

The opinion is held that the motivation does not fully address the current location in which the subject property is situated as this is evident throughout the motivation and the lack of a Site Development Plan. It is further agreed with the objector that the examples mentioned by the applicant are all on properties which are not situated in an estate.

**The motivation states that the broader community will benefit from the socio-economic benefits should the application be approved. The property has been operated illegally for many years and has two permanent staff which resides in the dwelling. The proposed consent will only legalize the existing arrangement and prejudice all investments made by all of the other owners in the estate.**

Applicant's reply to comments

The point is not directly contested.

Town Planner's comment

The Overstrand economy is underpinned by the influx of tourists to the area due to tourists staying and spending. Therefore, the statement made by the objector is not fully agreed with. That being said, the approval of one establishment cannot occur in spite of the other members in the estate. Further, due regard must first take place prior to the operation of consent use activity.

**The proposed land use rights on the subject property will be different from all the other land uses in the estate which will compromise the position of the HOA with regard to its conduct rules and constitution.**

Applicant's reply to comments

As per the motivation the property is zoned General Residential Zone 1: Town Housing and tourist accommodation is a consent use under the zoning. The property will not be rezoned. The approval will not change the underlying land use rights – it will only provide consent to the current owner to provide temporary accommodation in the form of guest rooms.

Town Planner's comment

As stated previously, from the Municipality's point of view guest houses and self-catering units are categorised together as a consent use as they occur on a temporary basis and for this reason it is understood why the HOA makes the same correlation between what is proposed by the applicant and what is specified in Clause 8 of the Rules of Conduct.

From the abovementioned the following points will be considered in the desirability of the proposal:

- ❖ The applicant does not have the approval from the HOA.
- ❖ No SDP has been submitted with the application.
- ❖ Internal changes were made to the dwelling without prior consent of the Municipality and HOA.
- ❖ Guest houses and self-catering units are categorised together as a consent use.
- ❖ The character of the area was not fully considered by the applicant.
- ❖ Parking occurs on the common properties, which are shared between all the owners of the estate.
- ❖ Changing the current status quo will change the character of the estate, and this could impact the quality of life for better or worse.
- ❖ The applicant contradicts what type of applicant is submitted when comparing between the motivation and the comments received in reply to the objections.
- ❖ Management of tourist accommodations is key to provide a quality accommodation and the effect it has on the surrounding neighbouring property owners.

**8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

Comments received in response to the objection received were discussed under point 7.

**9. MUNICIPAL ASSESSMENT OF COMMENTS**

No objections were received from the internal departments. Objection received was assessed under point 7.

**10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)****10.1 Background**

N/A

**10.2 (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

N/A

Spatial sustainability

The application is within the urban edge with no impact on the environment or agricultural valuable land.

Efficiency

N/A

Spatial Resilience

N/A

Good administration

The application followed the required planning procedures in terms of the Municipal By-Laws and the public process has been followed.

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

Same as Point 10.2 above.

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

The zoning of the property will remain unchanged and the proposal will not have an impact on the objectives is contained in the Municipality's forward planning documents.

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

N/A

**10.6 Impact on Municipal engineering services**

The existing services are available and the application has been viewed positively by the Engineering Services Department. Should additional capacity be required then the developer must contact the user department.

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

N/A

**10.8 Existing and proposed zoning comparisons and considerations**

As stated by the applicant, the subject property is zoned General Residential Zone 1: Town Housing and tourist accommodation is a consent use under the zoning.

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

N/A

**12. THE DESIRABILITY OF THE PROPOSAL**

When assessing the desirability of the proposal the main aspects which must be considered are the following:

- ❖ the comments in response to the notice of the application;
- ❖ the response by the applicant to the comments, and
- ❖ the compatibility of the proposed use with surrounding land uses.

General Residential Zone 1: Town Housing categorise guest houses and self-catering units together under tourist accommodation and as such is considered a consent use. Therefore, approval must first be obtained prior to the operation of such an activity. Due regard must be taken to the proposed developments impact on the adjacent property owners and the character of the area. In this regard the property owner did not acquire previous approval from the Municipality and it was further indicated by the HOA to the property owner that the proposal will not be approved.

From the comments (objection) received it is clear that the applicant does not have the support nor the approval from the Sandals HOA. The HOA has the ability to interpret its house rules as it sees fit, subject to it not being in conflict to any other law. From the objection received it is clear that the HOA does not regard the proposed use in line with the current character of the development. When assessing a proposed development in a group housing development the Municipality always have regard for the comments of the HOA as it is the HOA's mandate to ensure that the character and standard of living in the development is maintained.

It is clear that the motivation did not fully consider the character of the area, meaning the character of the estate, due to the following:

Should the proposed activity be considered acceptable by the HOA then all the land owners in the estate must have equal access to the same rights and not just one property owner. Therefore, the HOA will have to pass a resolution in support of the proposed activity for all its members and not just one owner. However, by releasing such a resolution the HOA will change the current status quo and change the character of the estate, this could impact the quality of life for all residence in the estate for better or worse.

It is also found that there are flaws in the application submitted, the first being that no Site Development Plan was submitted with the application. This means that not all the elements of the application can be considered in full, which include internal changes were made to the dwelling (changing the first floor bar area into a kitchenette) without prior consent of the Municipality and HOA. As discussed under section 7 of this item by utilising the first storey as a self-catering unit the property owner inadvertently uses the first storey section as a second dwelling which is not allowed in terms of the Zoning Scheme. The second being that the applicant states that the guest parking is being provided on the common property which is shared between all the owners of the estate.

When comparing the statements made in the motivation and comments received in reply to the objections, it is noted that the applicant made contradictions with regard to what type of use is being applied for. More specifically what type of use guest rooms are versus self-catering units? Guest rooms are considered rooms which are rented out on a bed and breakfast manner, whereas self-catering units are the provision of a unit where the occupiers have access to cooking facilities and provide their own meals. From the Municipality's point of view guest houses (guest rooms) and self-catering

units are categorised together as they occur on a temporary basis, but the use on the property differs in the way the property will be managed. From the objection received it is clear that the HOA draws correlation between what is proposed and Clause 8 of the Sandals Estate Conduct Rules.

Considering the abovementioned the application cannot be considered desirable.

### 13. RECOMMENDATION

1. that the application for consent use on Erf 9854, Hermanus in terms of Section 16(2)(o) of the Overstrand Municipal Land Use Planning By-Law, 2015 in order to conduct a self-catering unit consisting of two bedrooms for tourists accommodation at the first floor level of the dwelling unit, **not be approved** in terms of the provisions of Section 61 of the By-Law;
2. subject to the non-approval in point 1 above the following must be adhered to:
  - (a) that property owner must cease the use of the property for tourism accommodation immediately and remove all advertising.
2. that the applicant and objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

### 14. REASONS FOR RECOMMENDATION

- ❖ It is clear that the Sandals Home Owners' Association does not support the proposal.
- ❖ When comparing the statements made in the motivation and comments received in reply to the objections it is noted that the applicant made contradictions with regard to what type of use is being applied for. Guest rooms are considered rooms which are rented out on a bed and breakfast manner whereas self-catering units are the provision of a unit where the occupiers have access to cooking facilities and provide their own meals.
- ❖ Not all points of objection could be sufficiently addressed.
- ❖ The impact of the proposal on the character of the area was not motivated.
- ❖ No Site Development Plan was submitted with the application, this means that not all the elements of the application can be regarded in full including internal changes were made to the dwelling on first floor (changing the first floor bar area into a kitchenette) without prior consent of the Municipality and HOA.
- ❖ Guest parking is being provided on the common property which is shared between all the owners of the estate, this could negatively affect the use of the common property.
- ❖ By utilising the first storey as a self-catering unit the property owner inadvertently uses the first storey section as a second dwelling which is not allowed in terms of the Zoning Scheme

### 15. ANNEXURES

- Annexure A: Locality Plan
- Annexure B: Motivation
- Annexure C: Constitution for Sandals Beach Houses Home Owners' Association
- Annexure D: Objection

Annexure E: Comment on objection  
Annexure F: Comment: Telkom  
Annexure G: Services Report

**SIGNATURES****AUTHOR**

Name : **P ROUX**

SACPLAN Reg No: **A/2246/2015**

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

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

**REGISTERED PLANNER**

Name : **S VAN DER MERWE**

SACPLAN Reg No: **A/1850/2014**

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

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



**Notation:**

Cadastral information obtained from Surveys and Mapping (DRDLR).

Aerial Photography obtained from Surveys and Mapping (DRDLR).

All areas and dimensions are approximate and should be verified by a professional land surveyor.

This drawing is the property of TV3 Architects and Town Planners (Pty) Ltd and copyright is reserved



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ARCHITECTS AND TOWN PLANNERS

**Erf 9854,  
 Hermanus**

Drawing:	Locality Map	Plan no.:	1
Date:	14/02/2019	Scale:	1:2000 (A4)
Project no.:	3819-P	Drawn:	WH
		Checked:	CH

COPY  
ASKRIT



ARCHITECTS AND TOWN PLANNERS  
ARQUITECTOS Y URBANISTAS

REGISTERED  
MEMBER  
OF THE  
SOUTH AFRICAN  
COUNCIL OF ARCHITECTS  
REGISTERED  
MEMBER  
OF THE  
SOUTH AFRICAN  
COUNCIL OF TOWN PLANNERS

Our Reference: 3619-P

19 February 2018

Director: Town and Spatial Planning Department  
Overstrand Municipality  
16 Paterson Street  
7200 HERMANUS

Attention: Mr. Riaan Kuchar

Sir

**RE: APPLICATION FOR A CONSENT USE (TOURIST ACCOMMODATION) ON  
ERF 9854, HERMANUS**

**1. Land use planning application**

Pertaining to Erf 9854, Hermanus – hereafter referred to as the subject property – application is made in terms of the Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law), for:

- *A consent use for a tourist accommodation establishment.*

We confirm that the preliminary municipal consent land use application fee of R2 908 has been paid to the Overstrand Municipality. The proof of payment is attached below (see Figure 1).

TVS PROJECTS (PTY) LTD • REGISTRATION NO. 2005/014278/07

DIRECTOR: Town and Spatial Planning Department • 16 Paterson Street • 7200 Hermanus • Overstrand Municipality

ASSOCIATES: • 16 Paterson Street • 7200 Hermanus • Overstrand Municipality

22 FEB 2018



## Absa Aanlyn : Kennisgewing van betaling

19 Februarie 2019

Geogte GETAWAY GATEWAY MANAGEMENT

### Onderwerp: Kennisgewing van betaling: Overstrand Munisipa

Wees asseblief ingelig dat u 'n betaling aan Overstrand Munisipa soos hieronder aangedui gemaak het.

Transaksienommer :	805196B500-2
Betaaldatum :	2019-02-19
Betaling gemaak vanaf :	Sandals Hoof
Betaling gemaak aan :	Overstrand Munisipa
Begunstigde se banknaam :	ABSA BANK
Begunstigde se rekeningnummer :	3220000035
Bankalkode :	632005
Vir die bedrag van :	2,908.00
Onmiddellike interbank betaling :	N
Verwysing op begunstigde se bankstaat :	Erf 9854
Adisionele kommentaar deur die betaler :	

*Figure 1: Proof of payment of application fee*

## 2. Purpose of the application

The purpose of this land use planning application is to obtain planning approval for a tourist accommodation which will allow the land owner to let "rooms or individual units on a temporary basis to paying lodgers or guests". The proposed tourist accommodation establishment will be located within the existing residential dwelling house and will entail a self-catering accommodation facility with two bedrooms on the first floor. No new structures are proposed.

## 3. Subject property details

The subject property's details are listed below.

Erf no.	Size	Title Deed	Ownership	Zoning
Erf 9854, Hermanus	909m <sup>2</sup>	T51146/2004	Grotto Beach Villa (Pty) Ltd	General Residential Zone 1: Town Housing

A copy of the subject property's Title Deed and SG Diagram is attached hereto.

### 3. Locality of the subject property

The subject property is located at 241 11<sup>th</sup> Street, Sandals Estate No. 3, Voëlklip, Hermanus. The locality of the subject property is indicated on the attached locality maps and the aerial photograph (see Figure 2 below).

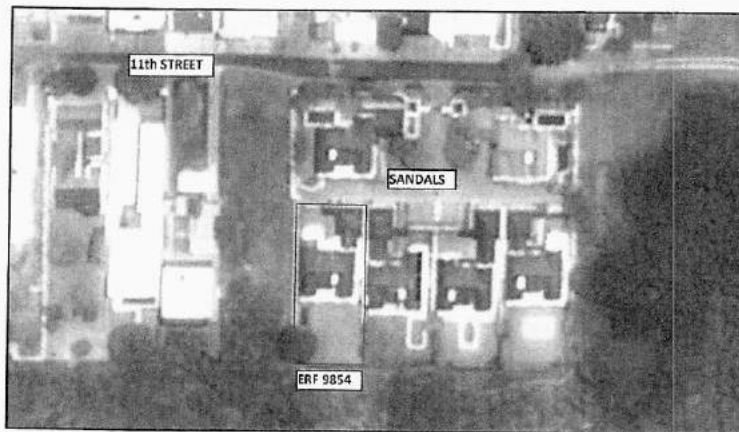


Figure 2: Locality of the subject property

### 4. Zoning and land uses

Mr. Helgaardt Boshoff (Town and Spatial Planning Department, Overstrand Municipality) has informed us that the subject property is zoned *General Residential Zone 1: Town Housing* and according to the Overstrand

Municipality's Zoning Scheme Regulations (2013) a tourist accommodation is a permissible consent land use which is defined as follows:

**"tourist accommodation"** means the letting of rooms or individual units on a temporary basis to paying lodgers or guests, and includes a guest house, bed and breakfast, backpackers establishment, and camp sites, provided that the use complies with the requirements of any other relevant legislation;

The existing building on the subject property – see Figure 3 below – is used for residential purposes.



Figure 3: Existing dwelling house on the subject property

#### 5. Motivation for a tourist accommodation establishment

The proposed development's need and desirability is motivated as follows:

- Application is made for a consent land use (a tourist accommodation establishment) so that the land owner may let "rooms or individual units on a temporary basis to paying lodgers or guests".
- The Overstrand Municipality's Integrated Development Plan (IDP)

acknowledges that a healthy and vibrant economy is essential for the development of the local community. Tourism is identified by the IDP as an important contributor to the Overstrand's economy and singled out as one of the fastest growing industries. This thriving industry relies on good infrastructure and an educated work force. The Overstrand is focussed on changing the perception that tourism is an elite industry that benefits only a few. Tourism is helping businesses to align strategies to maximise the impact on poverty alleviation and development. The proposed tourist accommodation establishment will therefore be in line with the IDP's vision.

- According to the Overstrand Municipality's *The Impact of Tourism on the Overstrand Economy* report (2010) and *A Tourism Market Strategy* report (2018 - 2022) the Cape Whale Coast and Overstrand is the jewel in South Africa's tourism crown. It attracts a growing number of international and local visitors. Proximity to Cape Town International airport is a major advantage which makes the Cape Whale Coast a destination and a central point from where to commute for work or leisure. Tourism plays a momentous role in the Overstrand region and contributes significantly to job creation in the area. It is therefore clear that tourism is the main economic engine for Hermanus and the proposed tourist accommodation establishment will support this industry. It will also create new employment opportunities and general positive spin-offs (such as support of local restaurants, shops, wine farms, etc.) which will be to the general benefit of the broader Hermanus community. It will promote cultural awareness and help to preserve local culture and traditions. Money gained from tourism will be used to develop the infrastructure and services.
- The proposed tourist accommodation establishment will be limited to one self-catering unit with two bedrooms and will be located within the erf's existing building – i.e. no new buildings will be constructed.
- The subject property is surrounded by similar tourist accommodation establishments and will consequently not be foreign to the area or create a

precedent for a new type of land use. Examples of these surrounding land uses include the Psychic Octopus Guest House (11<sup>th</sup> Street), Larch House (11<sup>th</sup> Street), Mosselberg on Grotto Beach (11<sup>th</sup> Street), Roofer's Nest (10<sup>th</sup> Street), Fynbos Guest House (9<sup>th</sup> Street), Old Salt – Cape Villa Connection (9<sup>th</sup> Street), Home @ Hermanus (9<sup>th</sup> Street), etc. The proposed land use will therefore be compatible with the surrounding tourist accommodation land uses (which are clearly supported by Council).

- Even though the subject property is zoned *General Residential Zone 1: Town Housing* – and not *Residential Zone 1* – owing to its size it is practically used as a single residential erf. According to the Overstrand Municipality's Zoning Scheme Regulations (2013) a guest room is a primary, permissible and acceptable land use on a single residential property. It can therefore be accepted that a guest room (such as the proposed tourist accommodation establishment) is suitable for the subject property.
- The existing residential building is already linked to the municipal infrastructure (water, sewerage, stormwater and electricity) and since the proposed development entails an alternative land use for existing buildings (i.e. no new buildings will be constructed) no problems are foreseen in this regard. Development contributions (DC) for the tourist accommodation establishment will be paid to Council in accordance with the approved DC policy.

#### 6. List of attachments

Find attached hereto the following supporting documents:

- **Section A:** Company Resolution and Power of Attorney
- **Section B:** Title Deed and SG Diagram
- **Section C:** Locality Plans
- **Section D:** Land Use Management Application Form

## 7. Conclusion

From the above motivation it is clear that the proposed development is in line with the town's general planning principles and philosophies. It will be similar to the surrounding land uses and support the town's tourist-based economy by providing additional holiday accommodation and new employment opportunities. It will not adversely affect any group or person but will positively affect the broader community of Hermanus. For this reason, we deem the proposal to be desirable and recommend that it be granted.

Please feel free to contact the undersigned at 021-861 3800 or [clifford@tv3.co.za](mailto:clifford@tv3.co.za) if you have any queries or require any additional information, application fees, etc.

Yours faithfully



**CLIFFORD HEYS**  
**TV3 PROJECTS (PTY) LTD**

**CONSTITUTION FOR  
SANDALS BEACH HOUSES HOME OWNERS ASSOCIATION**

1. **NAME**

The name of the Association is Sandals Beach Houses Home Owners Association.

2. **DEFINITIONS AND INTERPRETATION**

Headings to clauses in this constitution are for purposes of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms nor any clause herein. Herein, unless a contrary intention clearly appears, words importing any one gender include the other genders; the singular include the plural and *vice versa*; and natural persons include created entities (incorporated or unincorporated) and *vice versa*.

In this constitution unless the context indicates the contrary:

- |     |                   |  |
|-----|-------------------|--|
| 2.1 | "the Development" | shall mean the 6 residential erven being developed on erf 7501, Hermanus as indicated on the diagram annexed hereto as Annexure A, as well as the Common Area adjoining such erven.  |
| 2.2 | "the Developer"   | shall mean Veneotikap Riviera ZA who will be responsible for the development.  |
| 2.3 | "the Association" | shall mean Sandals Beach Houses Home Owners Association.   |
| 2.4 | "the Common Area" | shall mean the portion of erf 7501, Hermanus, excluding the sub-divided erven as per Annexure A and depicted as such on said annexure, including all facilities to be established thereon for the benefit, use and enjoyment of all purchasers of Properties in the Development. |
| 2.5 | "the Rules"       | shall mean such rules as the Association, represented by its Committee, may make from time to time for the proper management control and maintenance of the Common Area and other relevant matters, and shall include the Conduct Rules appearing herein below.                  |
| 2.6 | "Person"          | shall include a representative of a company, trust, partnership or other Association of persons entitled by Law to hold title to immovable Property.   |
| 2.7 | "Member"          | shall mean a Member as defined in clause 4 hereof.   |
| 2.8 | "Property"        | shall mean a vacant erf or an erf improved by the erection of a dwelling thereon in the development.   |

## 3. OBJECTIVES

The objectives of the Association, are, *inter alia*, to:

- 3.1 Manage, control and administer the Common Area and all facilities established thereon for the mutual benefit, use and enjoyment of all Members, in such a manner as to ensure that Members derive the maximum collective benefit therefrom.
- 3.2 Maintain and repair from time to time the Common Area and all facilities established thereon for the mutual benefit, use and enjoyment of all Members, in such a manner as to ensure that Members derive the maximum collective benefit therefrom.
- 3.3 Promote and encourage Members to at all times maintain the external appearance of the Properties in a clean and tidy condition and to maintain acceptable standards in this regard so as to ensure that the appearance of the Property is both aesthetically pleasing and desirable when viewed from the outside and further to take steps to enforce the maintenance of such standards where necessary in the opinion of the Developer and/or the Association.
- 3.4 Promote the preservation of maximum privacy of Members, but at the same time promote and encourage a strong sense of harmonious communal life in the development.

## 4. MEMBERS

- 4.1 Membership of the Association by all Purchasers of Property in the development shall be obligatory and shall be established by registered ownership of each of the Properties at the Deeds Registry in Cape Town.
- 4.2 Upon registration of ownership of a Property in the name of a Purchaser, membership of the Association by such Purchaser shall be automatic and Members shall be obliged to comply fully with the provisions of this constitution and any Rules made or adopted in terms hereof. Conversely upon the sale by a Member of a Property, membership shall *ipso facto* cease.
- 4.3 No persons shall be entitled to cease to be a Member of the Association while remaining the registered owner of a Property.
- 4.4 Each Member shall be entitled to 1 (one) vote for each Property owned. Ownership of a Property in undivided shares shall constitute only one membership, which membership shall be represented by one individual in terms of the provisions of clause 6 hereof.
- 4.5 Membership shall be transferred by the registration of a Deed of Transfer in the Deeds Registry in Cape Town, passing transfer on a Property in a development from a current Member to a new Member.
- 4.6 To ensure compliance by the Member with the terms and conditions of this constitution and the Deed of Sale imposed against a Member on acquiring the Property from the Developer, no Member or his successors in title may transfer a Property owned by him without the prior written consent of the Association and a condition to such effect will be recorded in the title deed of each Property.

## 5. LEVIES

- 5.1 The Association shall from time to time impose levies upon Members for the purpose of meeting all the expenses which the Association has incurred, or to which the Association reasonably anticipates to incur by the way of maintenance, repair, improvement and keeping in order and condition of the Common Area, and for payment of all rates and other charges payable by the Association in respect of the Common Area, and for the services rendered to it and for payment of all expenses necessary or reasonably incurred in connection with the

management of the Association, the Common Area and the Association's affairs. In calculating levies the Association shall take into account income, if any, earned by the Association.

#### 6. MANAGEMENT

- 6.1 The affairs of the Association shall be managed and controlled by a Committee consisting of 3 (three) registered owners of Properties elected by majority vote and who shall remain in office for one year. Until all the Properties have been registered in the names of purchasers thereof, the Developer shall constitute the Committee and as soon as all the Properties have been sold and registered in the names of the purchasers, a General Meeting of the Members shall be called for purposes of electing a Committee as hereinafter envisaged.
- 6.2 The Committee members as envisaged under clause 6.1 and subsequent Committee members shall, after proposal and seconding, be selected by poll or show of hands (if the meeting so determines) of those persons who attend the General Meeting of Members, and successive Committee members shall be elected likewise at each successive Annual General Meeting of Members, provided that no Member shall be eligible for election unless he has been duly proposed and seconded in writing by Members and such written proposal, endorsed by the candidate, has been handed to the Secretary not later than the day preceding a meeting and provided his levies have been fully paid to date.
- 6.3 The Committee shall consist of a Chairman, a Treasurer/Secretary, and an additional Committee member and they shall form a quorum.
- 6.4 Committee members shall cease to hold office at every Annual General Meeting but shall be eligible for re-election.
- 6.5 Casual vacancies on the Committee may be filled by the remaining Committee members subject to confirmation at the next Annual General Meeting.
- 6.6 A Committee member's appointment shall immediately cease upon the sale of his Property or that of his principal in the event of such person holding office as a representative of a company, trust, partnership or other association.
- 6.7 Committee members shall receive no remuneration.
- 6.8 No Committee member shall be liable to the Association or to any Member or to any other person whomsoever for any act or omission by himself or the Association or its servants or agents. All Committee members are indemnified against any loss or damage suffered by them in consequence of any purported liability provided that such Committee member has, upon the basis of information known to him, acted in good faith and without gross negligence or dishonesty.
- 6.9 The Members may by resolution at an Extraordinary General Meeting, remove any Committee member from his office before the expiration of his term of office and appoint another Member or nominee of another Member who is a juristic person, to hold office until the next Annual General Meeting.
- 6.10 Committee meetings shall be held when so decided by the Committee or when directed to do so in writing by 3 (three) Members. Notwithstanding anything to the contrary, a Committee meeting shall take place at least once every twelve months.
- 6.11 The Committee shall
  - 6.11.1 keep minutes of its proceedings;
  - 6.11.2 cause minutes to be kept of General Meetings;

- 6.11.3 ~~cause proper books of account to be kept in respect of all sums of money received and expended by it and matters in respect of which such receipt and expenditure occur;~~
- 6.11.4 ~~for each Annual General Meeting, prepare proper accounts, audited by a registered accountant, relating to all moneys and the income and expenditure of the Association;~~
- 6.11.5 ~~on the application of an Owner or any person authorised in writing by him, make the books of account available for inspection at all reasonable times;~~
- 6.11.6 ~~make rules regarding the group housing development, including alterations to the privately owned buildings, erection of any structure or wall additions to the privately owned buildings or arven, the colour of the unit and/or anything in connection therewith.~~
- 6.12 Any act performed in good faith by the Committee shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or continuance in office of any Committee member, be as valid as if such member had been duly appointed or had duly continued in office.
- 6.13 The chairman of the Committee shall sign every instrument of behalf of the Association.

#### 7. MEETINGS

- 7.1 The Annual General Meeting shall be held on a date fixed by the Committee in the month of December and 14 (fourteen) days written notice thereof accompanied by the agenda shall be sent to all Members by the Secretary.
- 7.2 Save that consideration of the accounts and the election of the Committee members at an Annual General Meeting shall be ordinary business, all business at any General Meeting shall be special business.
- 7.3 At General Meetings a quorum will consist of not less than 4 (four) Members present in person or by proxy.
- 7.4 Save as in this constitution otherwise provided, no business shall be transacted at any General Meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business.
- 7.5 If within half an hour from the time appointed for a General Meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the persons present and entitled to vote shall constitute a quorum.
- 7.6 At the commencement of a General Meeting, a chairman shall be elected for the meeting.
- 7.7 At any General Meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any Member in person or by proxy.
- 7.8 Unless a poll is so demanded, a declaration by the chairman that a resolution has on the show of hands been carried, shall be conclusive evidence of that fact without proof of the number or proportion of votes recorded in favour of or against such resolution.
- 7.9 A demand for a poll may be withdrawn.
- 7.10 A poll, if demanded, shall be taken in such manner as the chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

- 7.11 In the case of equality in the votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to his deliberative vote.
- 7.12 Special General Meetings may be called by the Committee whenever they consider it desirable and shall be convened on a minimum of 14 (fourteen) days written notice to all the Members of the Association specifying therein the business to be dealt with.

### 8. VOTES OF OWNERS

- 8.1 On a show of hands, or on a poll:
- 8.1.1 A Member shall have one vote for every Property registered in his name;
- 8.1.2 votes may be given either personally or by proxy.
- 8.2 An instrument appointing a proxy shall be in writing under the hand of the Member or his agent and may be either general or for a particular meeting.
- 8.3 A proxy need not be a Member.
- 8.4 No Member shall be entitled to vote at any General Meeting unless all contributions payable by him in respect of his Property or his undivided share in the Common Property, have been duly paid.
- 8.5 Where any Property is owned by more than one person, all the registered Member of the Property shall together be deemed to be one Member of the Association and have the rights and obligations of one Member, provided however that all co-owners of any Property shall be jointly and severally liable for the due performance of any obligation to the Association.

### 9. POWERS

- 9.1 The management and administration of the Association shall vest in the Committee which may exercise all such powers the Association may have and shall on behalf of the Association do all such acts as may be done by the Association itself.
- 9.2 Without in any way limiting the generality of the foregoing, such powers shall include the following:-
- 9.2.1 The performance of such acts as are necessary to accomplish the objectives expressed or implied herein;
- 9.2.2 The investment and re-investment of monies of the Association not immediately required, in such manner as may from time to time be determined;
- 9.2.3 The operation of a banking account with all powers required therefor;
- 9.2.4 The making of, entering into and carrying out of agreements for any of the purposes of the Association;
- 9.2.5 The employment and payment of agents, servants and any other parties;
- 9.2.6 The making, amendment and repeal of Rules which shall be binding upon Members as if they form part of this constitution, provided these have been passed at a General Meeting of Members called for that purpose;
- 9.2.7 the formation of sub-committees and the delegation of such powers to such sub-committees as may be deemed necessary;

9.2.8 To sue and to defend actions in the name of the Association and to appoint legal representatives for this purpose;

9.2.9 The imposition of a levy payable by Members as provided in clause 5 hereof and, subject to the said clause, the determination from time to time and as frequently as they may in their sole and absolute discretion consider necessary or expedient, of the amount of such levy.

#### 10. STATUS OF THE ASSOCIATION

The Association shall be an Association:-

10.1 with legal personality, capable of suing and being sued in its own name; and

10.2 none of whose Members in their personal capacity shall have any right, title or interest to or in the Property, funds or assets of the Association, which shall vest in and be controlled by the Committee in terms hereof; and

10.3 not for profit but for benefit of the owners of Properties in the D development.

#### 11. WINDING-UP

The Association may be wound up by a resolution of the Members in a General Meeting provided that:

11.1 90 % (ninety percent) of all Members to be convened vote in favour thereof; and

11.2 the relevant authorities consent thereto;

In the event of such winding-up it shall be the duty of the Committee or a Receiver appointed by it, to convert the Association's assets into cash, pay all the liabilities of the Association and thereafter distribute the rest to all the Members in accordance with the number of Properties that is registered in the name of each Member.

#### 12. ARBITRATION

Any dispute under or arising out of this Constitution and Regulations shall be referred to a single arbitrator in accordance with the provisions of the Arbitration Act, 1965 or any statutory modification or re-enactment thereof for the time being in force.

#### 13. AMENDMENTS TO THIS DOCUMENT

No amendment of this document will be of any force or effect unless and until such time as a document setting out such amendment has been signed by or on behalf of at least 75 % (seventy five percent) of the members.

### CONDUCT RULES

1. **VEHICLES:**

No Owner/Occupier shall park or stand any vehicle upon the Common Property, so as to exceed the reasonable use of the Common Property. In determining the nature of this definition circumstances such as the reasonable number of motor-cars, the agreed rules of parking and the rights of other Owners/Occupiers shall be taken into account;

2. **SIGNS AND NOTICES:**

No advertising boards or signs may be erected for business purposes or any other purposes on any part of the Property of any Owner or of the Common Property without the prior written consent of the Association.

3. **APPEARANCE**

An Owner/Occupier shall not place or do anything on any part of his Property or the Common Property that is aesthetically displeasing or undesirable for the general appearance of the Complex.

4. **REFUSE DISPOSAL:**

Each Owner/Occupier shall ensure that his refuse is securely wrapped and placed out for removal no earlier than the night before the day of removal at the place demarcated for this purpose at the entrance of the Complex. Individual refuse bins shall be placed out of sight, in a hygienic manner and not on the Common Property.

5. **ANIMALS AND OTHER PETS**

5.1 No Owner/Occupier shall, without prior written approval from the Association, keep any pets other than a maximum of 2 dogs or 2 cats on his Property.

5.2 When unreasonably exercised, i.e. excessive barking, or any other acts by such pets creating a nuisance to the general enjoyment and undisturbed use of the Property by Owners/Occupiers, the Association shall give the owner of such pets written notice to curb such nuisance.

5.3 Should the nuisance continue after such notice, the Association shall at its discretion, have the right to prescribe to have the offending animal(s) removed.

6. **NOISE**

No Owner/Occupier shall allow loud noise or any public disturbance to emanate from his Property that would adversely affect the rights of other Owners/Occupiers.

7. **ERADICATION OF PESTS**

Each Owner/Occupier shall keep his Property free of pests such as rodents, cockroaches and other pests. If the Association in its discretion decides that a health risk exists due to an Owner/Occupier not complying herewith, the Association shall be entitled to employ the services of pest controllers and such Owner/Occupier shall be liable for the cost thereof.

3. GUESTHOUSE / B&B

No Owner / Occupier shall be allowed to use his Property for the supply of temporary accommodation for consideration in the form of a guesthouse or Bed and Breakfast establishment

We Chris Carl and Desire Wehner

as owner of Erf 9836 hereby agree and accept the constitution of the Sandals Beach Houses Home Owners Association.

AS WITNESSES

1. [Signature]

2. [Signature]

[Signature]  
[Signature]

[Signature] 8 [Signature]

**SANDALS BEACH HOUSES HOME OWNERS  
ASSOCIATION**

13 Honey Guide Lane, Steenberg Estate, Tokai 7945  
Tel: 073 156 2314 (Neil Harding – Chairman)

Date: 24 May 2019

Your Ref: Erf 9854 Hermanus

Town and Spatial Planning Department  
Overstrand Municipality  
16 Paterson Street  
Hermanus 7200

For attention: Mr Helgaardt Boshoff

Dear Sir/Madam,

**SUBJECT: ERF 9854, 141 ELEVENTH STREET, VOELKLIP, HERMANUS:  
OBJECTION TO APPLICATION FOR CONSENT USE AS TOURIST ACCOMMODATION.**

Your notice advertising the aforementioned application for comment, has reference.

1. Interest in the application:

As Chairman of The Sandals Beach Houses Home Owners Association on behalf of and representing the remaining four Home Owners (attachments 1a to 1d), I submit this objection to the Application to enable Erf 9854 to be used for Tourist Accommodation as per the application of TV3 Architects and Town Planners, dated 19 February 2018. Our objection is predicated on the following:

2. Reasons for the objection:

2.1 Inconsistency with Sandals Beach Houses Home Owner's Constitution and Rules of Conduct:

- The property designated as Erf 9854 in the application was originally purchased as Erf 9838 by Prekron (PTY) Ltd in December 2003. The Erf is one of seven erven (six being residential and one being common property) comprising the Sandals Beach Houses Estate which is a private estate zoned for Residential General. In all cases the purchase

of their properties was conditional on the Owner/Occupier's acceptance of the Sandals Beach Houses Home Owners Association's (SHOA) Constitution and the Rules of Conduct. All relevant documentation was signed for by Dr Matthys De Kock as Owner/Occupier of Erf 9838 including the Constitution and Rules of Conduct of the Sandals Beach Houses Home Owners Association (attachment 2). We have been informed of the changes of Erf number and name of company from Prekron to Grotto Beach Villa (Pty) Ltd.

- Clause 8 of the Rules of Conduct **explicitly forbids** an Owner/Occupier using the property for the supply of temporary accommodation for consideration in the form of a guesthouse or Bed and Breakfast establishment. Despite committing to abide by the Constitution and its Conduct Rules, Dr De Kock has, for many years, breached and attempted to repeal this rule. In each case the other Home Owners have unanimously rejected such attempts as is clearly evident from the Minutes of the SHOA Annual General Meetings (attachment 3) which show their consistent and united opposition. Despite these rebuttals, and even a '*cease and desist*' order having been issued against the applicant in 2010 by the Municipality itself (attachment 4), the Applicant has flagrantly and persistently violated the by-laws of the Overstrand Municipality as well as the SHOA Constitution's Rules of Conduct by providing temporary accommodation on that basis.
- It is easily confirmed by a superficial search on the internet that this property forms part of a larger, commercial portfolio (the Getaway Gateway Collection - ) of guest houses (or boutique hotels) that are aggressively marketed across a host of internet-based accommodation search and booking sites (attachment 5), so this is no casual, '*from time to time*', standalone operation.

2.2 Undesirable effect that the approval of the application will have on the area:

- In the Notice from the Overstrand Municipality it is stated that consent is sought to operate "a single self-catering unit at first floor level containing two bedrooms" - knowing the layout of the dwelling on Erf 9854, we contend that there are three bedrooms on the first floor, so even the wording of the application would appear to be disingenuous and misleading. In any respect it has always been the stance of the SHOA that the Conduct Rules forbid the operation of self-catering units and guest houses of any form (attachment 6), as the approval of the application will have an undesirable effect on the enjoyment of the other owners of their properties in the complex and the whole dynamic and ambience

of the area will change with different guests arriving and departing on a daily basis.

#### 2.3 Impact on quality of life of other residents of complex

- It is the determination of all five of the other home owners to preserve the quiet residential nature of the Sandals Estate. This is the concept into which all the other Home Owners had invested at the time of purchasing their properties, as is confirmed and reinforced by clauses 3.1, 3.2, 3.3 and 3.4 of the SHOA Constitution. We contend that this Application violates the stated Objectives of the SHOA Constitution which is to "ensure that its Members derive maximum collective benefit by promoting the preservation of maximum privacy of Members but at the same time encouraging a strong sense of harmonious living". Our experience to-date is that the selfish, delinquent behavior of the Owner of Erf 9854 has significantly damaged the ethos, security and quality of life of the Estate and placed unnecessary, additional strain on maintenance of the common infrastructure such as sewerage and visitor parking and based on the aforementioned reasons had an undesirable effect on the use of other properties by owners in the complex. Essentially this has resulted in the other home owners subsidizing the commercial operations of Erf 9854. In addition, the continuous movement and presence of guests at the estate creates an increased risk to the security of the estate.

#### 2.4 Economic and social impact

- The Application for Consent Use on Erf 9854 submission prepared by TV3 Architects and Town Planners promises that the broader community of Hermanus will derive increased socio-economic benefits should the Application be approved. This is ironic in that Erf 9854 has been providing paid-for tourist accommodation for many years, albeit illegally, via the services of two permanent staff who are housed somewhere in the dwelling. All that consent would achieve, would be to legalize an existing arrangement and prejudice the investments made by all of the other five owners in the Estate by changing the underlying land-use rights to one of the constituent, residential erven in the same walled Estate.

#### 2.5 Incompatibility with surrounding land uses:

- In the motivation letter from TV3 Architects and Town Planners, examples are quoted of similar tourist accommodation establishments surrounding the application site. To the best of our knowledge, none of the quoted examples are located within a security estate

and are, therefore, not bound by the relevant conduct rules regarding tourist accommodation as is the case with Sandals Estate. The applicant did not address the compatibility of the proposed land uses with the other properties in the complex. The undesirable effect that it will have was already addressed in Paragraphs 2.2 and 2.3.

3. In the unwanted event that the Application may succeed, the following serious issues arise:

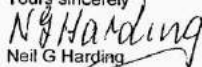
- The subject property will be awarded different land-use rights than any of the others in the Estate and this would compromise the SHOA with regard to its Constitution and Conduct Rules.
- There would be nothing stopping other future owners in the estate from applying for the same departure based on this precedent - and that would be hugely prejudicial to the owners who've invested there on the basis of the existing Conduct Rules prohibiting such activity.

4. Conclusion

- In conclusion, on behalf of the Sandals Beach Houses Home Owners Association as well as on behalf of individual owners who authorised me to submit tis objection, for all of the above-mentioned reasons, strenuously object to the Application as defined in the Notice from Overstrand Municipality and its accompanying documentation.

Please feel free to contact me on 073 156 2314 or [hardings@mweb.co.za](mailto:hardings@mweb.co.za) if you have any queries or require any additional information.

Yours sincerely

  
Neil G Harding

**Chairman Sandals Beach Houses Home Owners Association**

**ATTACHMENTS**

1. Power of Attorney from Home Owners
2. Constitution and Rules of Conduct accepted and signed by Dr Matthys De Kock
3. Minutes of Last Three AGM's.
4. Overstrand Municipality Cease and Desist Order
5. Sandals Beach Villa Websites
6. Letter to Earlyworx 647 (Pty) Ltd of 26 January 2007.

**PIETER LAUBSCHER TRUST**

TRUST NUMBER: IT 6163/99

NO 1 SANDALS, 241 ELEVENTH STREET, VOËKLIP, HERMANUS 7200  
 POSTNET SUITE 26, PRIVATE BAG X16, HERMANUS 7200  
 TEL (H): +27 28 314 1541  
 MOBILE: +27 82 456 5145  
 E-MAIL: pieter@koda.co.za

**POWER OF ATTORNEY**

We, the undersigned, **Pieter Johan Laubscher** (ID No 480202 5032 08 2) and **Lucia Laubscher** (ID No 490922 0026 08 0), being the Trustees of the **Pieter Laubscher Trust**, confirm herewith that the Pieter Laubscher Trust is the registered owner of Erf 9833, 241 Eleventh Street, Voëklip, Hermanus (No 1 Sandals Estate).

We certify that authority is hereby granted to **Neil G Harding** in his capacity as Chairman of the Sandals Beach House Home Owners Association, in terms of a resolution of the Trustees of the Pieter Laubscher Trust, to act on behalf of the Pieter Laubscher Trust on all matters relating to the Objection to the Application by the owners of Erf 9854, 141 Eleventh Street, Voëklip, Hermanus for consent use as tourist accommodation.

The undersigned Trustees, therefore, nominates, constitutes and appoints the above party with power of substitution to be the registered owner's representative/agent and to act in the name, place and stead of the registered owner in the above regard. Accordingly, Power of Attorney is hereby also granted to **Neil G Harding** to sign and receive all correspondence in respect of the matter referred to above.

Signed:



**PIETER JOHAN LAUBSCHER**  
Trustee

Date: 08 May 2019



**LUCIA LAUBSCHER**  
Trustee

Date: 08 May 2019

---

TRUSTEES: P J LAUBSCHER  
L LAUBSCHER

2 Sandals  
11th Avenue  
Voelklip  
Hermanus  
7200

May 24, 2019

#### POWER OF ATTORNEY

I, the undersigned, Brita Lomba (ID 5507180098088) as the registered owner of 2 Sandals, 241 Eleventh Street, Voelklip, Hermanus certify that authority is hereby granted to Neil G Harding in his capacity as Chairman of the Sandals Beach House Home Owners Association on all matters relating to the Objection to the Application by the owners of Erf 9854, 141 Eleventh Street, Voelklip, Hermanus for consent use as tourist accommodation.

I nominate and appoint Neil G Harding to act on my behalf with power of substitution to act in my name, place and stead of the registered owner of the above,. Accordingly, power of attorney is hereby also granted to the Neil G Harding to sign and receive all correspondence in respect of the matter referred to above.



BRITA LOMBA

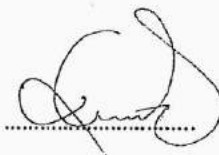
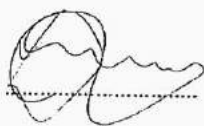
[britalom@mac.com](mailto:britalom@mac.com)  
082 2021222

Resolution of the Directors of  
Sandals No 4 (PTY) LTD  
Registration No 2002/029584/07

It is hereby agreed that the directors of Sandals No 4 PTY Ltd appoint Neil Harding, as chairman of the Sandals Home Owners Association, as their representative in the matter of the application by Grotto Beach Villa (PTY) LTD for a consent use (tourist accommodation), on Erf 9854 Hermanus.

Dated 30 April 2019

Directors



ANNEXURE D 7/32

463A Protea Street  
Lynnwood  
Pretoria  
0081


## POWER OF ATTORNEY

We, the undersigned **Chris Carl Wehmeyer** (6309115217084) and **Desiree Wehmeyer** (6309010125085) being the registered owners of Erf 9836, 241 Eleventh Street, Voëlklip, Hermanus (No.5 Sandals Estate).

We certify that authority is hereby granted to **Neil G Harding** in his capacity as Chairman of the Sandals Beach House Home Owners Association, to act on our behalf on all matters relating to the Objection to the Application by the owners of Erf 9854, Eleventh Street, Voëlklip, Hermanus for consent use as tourist accommodation.

Accordingly, power of attorney is hereby also granted to **Neil G Harding** to sign and receive all correspondence in respect of the matter referred to above.

Signed:

  
\_\_\_\_\_  
Chris Carl Wehmeyer

Date:

13 May 2019

  
\_\_\_\_\_  
Desiree Wehmeyer

Date:

13 May 2019

**CONSTITUTION FOR  
SANDALS BEACH HOUSES HOME OWNERS ASSOCIATION**

**1. NAME**

The name of the Association is Sandals Beach Houses Home Owners Association.

**2. DEFINITIONS AND INTERPRETATION**

Headings to clauses in this constitution are for purposes of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms nor any clause herein. Herein, unless a contrary intention clearly appears, words importing any one gender include the other genders; the singular include the plural and *vice versa*; and natural persons include created entities (incorporated or unincorporated) and *vice versa*.

In this constitution unless the context indicates the contrary:

- |     |                   |  |
|-----|-------------------|--|
| 2.1 | "the Development" | shall mean the 6 residential erven being developed on erf 7501, Hermanus as indicated on the diagram annexed hereto as Annexure A, as well as the Common Area adjoining such erven.  |
| 2.2 | "the Developer"   | shall mean Vennootskap Riviera ZA who will be responsible for the development.   |
| 2.3 | "the Association" | shall mean Sandals Beach Houses Home Owners Association.   |
| 2.4 | "the Common Area" | shall mean the portion of erf 7501, Hermanus, excluding the sub-divided erven as per Annexure A and depicted as such on said annexure, including all facilities to be established thereon for the benefit, use and enjoyment of all purchasers of Properties in the Development. |
| 2.5 | "the Rules"       | shall mean such rules as the Association, represented by its Committee, may make from time to time for the proper management control and maintenance of the Common Area and other relevant matters, and shall include the Conduct Rules appearing herein below.                  |
| 2.6 | "Person"          | shall include a representative of a company, trust, partnership or other Association of persons entitled by Law to hold title to immovable Property.   |
| 2.7 | "Member"          | shall mean a Member as defined in clause 4 hereof.   |
| 2.8 | "Property"        | shall mean a vacant erf or an erf improved by the erection of a dwelling thereon in the development.   |

## 3. OBJECTIVES

The objectives of the Association, are, *inter alia*, to:

- 3.1 Manage, control and administer the Common Area and all facilities established thereon for the mutual benefit, use and enjoyment of all Members, in such a manner as to ensure that Members derive the maximum collective benefit therefrom.
- 3.2 Maintain and repair from time to time the Common Area and all facilities established thereon for the mutual benefit, use and enjoyment of all Members, in such a manner as to ensure that Members derive the maximum collective benefit therefrom.
- 3.3 Promote and encourage Members to at all times maintain the external appearance of the Properties in a clean and tidy condition and to maintain acceptable standards in this regard so as to ensure that the appearance of the Property is both aesthetically pleasing and desirable when viewed from the outside and further to take steps to enforce the maintenance of such standards where necessary in the opinion of the Developer and/or the Association.
- 3.4 Promote the preservation of maximum privacy of Members, but at the same time promote and encourage a strong sense of harmonious communal life in the development.

## 4. MEMBERS

- 4.1 Membership of the Association by all Purchasers of Property in the development shall be obligatory and shall be established by registered ownership of each of the Properties at the Deeds Registry in Cape Town.
- 4.2 Upon registration of ownership of a Property in the name of a Purchaser, membership of the Association by such Purchaser shall be automatic and Members shall be obliged to comply fully with the provisions of this constitution and any Rules made or adopted in terms hereof. Conversely upon the sale by a Member of a Property, membership shall *ipso facto* cease.
- 4.3 No persons shall be entitled to cease to be a Member of the Association while remaining the registered owner of a Property.
- 4.4 Each Member shall be entitled to 1 (one) vote for each Property owned. Ownership of a Property in undivided shares shall constitute only one membership, which membership shall be represented by one individual in terms of the provisions of clause 6 hereof.
- 4.5 Membership shall be transferred by the registration of a Deed of Transfer in the Deeds Registry in Cape Town, passing transfer on a Property in a development from a current Member to a new Member.
- 4.6 To ensure compliance by the Member with the terms and conditions of this constitution and the Deed of Sale imposed against a Member on acquiring the Property from the Developer, no Member or his successors in title may transfer a Property owned by him without the prior written consent of the Association and a condition to such effect will be recorded in the title deed of each Property.

## 5. LEVIES

- 5.1 The Association shall from time to time impose levies upon Members for the purpose of meeting all the expenses which the Association has incurred, or to which the Association reasonably anticipates to incur by the way of maintenance, repair, improvement and keeping in order and condition of the Common Area, and for payment of all rates and other charges payable by the Association in respect of the Common Area, and for the services rendered to it and for payment of all expenses necessary or reasonably incurred in connection with the

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management of the Association, the Common Area and the Association's affairs. In calculating levies the Association shall take into account income, if any, earned by the Association.

6. MANAGEMENT


- 6.1 The affairs of the Association shall be managed and controlled by a Committee consisting of 3 (three) registered owners of Properties elected by majority vote and who shall remain in office for one year. Until all the Properties have been registered in the names of purchasers thereof, the Developer shall constitute the Committee and as soon as all the Properties have been sold and registered in the names of the purchasers, a General Meeting of the Members shall be called for purposes of electing a Committee as herein envisaged.
- 6.2 The Committee members as envisaged under clause 6.1 and subsequent Committee members shall, after proposal and seconding, be selected by poll or show of hands (if the meeting so determines) of those persons who attend the General Meeting of Members, and successive Committee members shall be elected likewise at each successive Annual General Meeting of Members, provided that no Member shall be eligible for election unless he has been duly proposed and seconded in writing by Members and such written proposal, endorsed by the candidate, has been handed to the Secretary not later than the day preceding a meeting and provided his levies have been fully paid to date.
- 6.3 The Committee shall consist of a Chairman, a Treasurer/Secretary, and an additional Committee member and they shall form a quorum.
- 6.4 Committee members shall cease to hold office at every Annual General Meeting but shall be eligible for re-election.
- 6.5 Casual vacancies on the Committee may be filled by the remaining Committee members subject to confirmation at the next Annual General Meeting.
- 6.6 A Committee member's appointment shall immediately cease upon the sale of his Property or that of his principal in the event of such person holding office as a representative of a company, trust, partnership or other association.
- 6.7 Committee members shall receive no remuneration.
- 6.8 No Committee member shall be liable to the Association or to any Member or to any other person whomsoever for any act or omission by himself or the Association or its servants or agents. All Committee members are indemnified against any loss or damage suffered by them in consequence of any purported liability provided that such Committee member has, upon the basis of information known to him, acted in good faith and without gross negligence or dishonesty.
- 6.9 The Members may by resolution at an Extraordinary General Meeting, remove any Committee member from his office before the expiration of his term of office and appoint another Member or nominee of another Member who is a juristic person, to hold office until the next Annual General Meeting.
- 6.10 Committee meetings shall be held when so decided by the Committee or when directed to do so in writing by 3 (three) Members. Notwithstanding anything to the contrary, a Committee meeting shall take place at least once every twelve months.
- 6.11 The Committee shall -
- 6.11.1 keep minutes of its proceedings;
- 6.11.2 cause minutes to be kept of General Meetings;

- 6.11.3 cause proper books of account to be kept in respect of all sums of money received and expended by it and matters in respect of which such receipt and expenditure occur;
  - 6.11.4 for each Annual General Meeting, prepare proper accounts, audited by a registered accountant, relating to all moneys and the income and expenditure of the Association;
  - 6.11.5 on the application of an Owner or any person authorised in writing by him, make the books of account available for inspection at all reasonable times;
  - 6.11.6 make rules regarding the group housing development, including alterations to the privately owned buildings, erection of any structure or wall additions to the privately owned buildings or erven, the colour of the unit and/or anything in connection therewith.
- 6.12 Any act performed in good faith by the Committee shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or continuance in office of any Committee member, be as valid as if such member had been duly appointed or had duly continued in office.
- 6.13 The chairman of the Committee shall sign every instrument of behalf of the Association.

#### 7. MEETINGS

- 7.1 The Annual General Meeting shall be held on a date fixed by the Committee in the month of December and 14 (fourteen) days written notice thereof accompanied by the agenda shall be sent to all Members by the Secretary.
- 7.2 Save that consideration of the accounts and the election of the Committee members at an Annual General Meeting shall be ordinary business, all business at any General Meeting shall be special business.
- 7.3 At General Meetings a quorum will consist of not less than 4 (four) Members present in person or by proxy.
- 7.4 Save as in this constitution otherwise provided, no business shall be transacted at any General Meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business.
- 7.5 If within half an hour from the time appointed for a General Meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the persons present and entitled to vote shall constitute a quorum.
- 7.6 At the commencement of a General Meeting, a chairman shall be elected for the meeting.
- 7.7 At any General Meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any Member in person or by proxy.
- 7.8 Unless a poll is so demanded, a declaration by the chairman that a resolution has on the show of hands been carried, shall be conclusive evidence of that fact without proof of the number or proportion of votes recorded in favour of or against such resolution.
- 7.9 A demand for a poll may be withdrawn.
- 7.10 A poll, if demanded, shall be taken in such manner as the chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

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- 7.11. In the case of equality in the votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to his deliberative vote.
- 7.12. Special General Meetings may be called by the Committee whenever they consider it desirable and shall be conveyed on a minimum of 14 (fourteen) days written notice to all the Members of the Association specifying therein the business to be dealt with.

#### 8. VOTES OF OWNERS

- 8.1. On a show of hands, or on a poll:
- 8.1.1. a Member shall have one vote for every Property registered in his name;
- 8.1.2. votes may be given either personally or by proxy.
- 8.2. An instrument appointing a proxy shall be in writing under the hand of the Member or his agent and may be either general or for a particular meeting.
- 8.3. A proxy need not be a Member.
- 8.4. No Member shall be entitled to vote at any General Meeting unless all contributions payable by him in respect of his Property or his undivided share in the Common Property, have been duly paid.
- 8.5. Where any Property is owned by more than one person, all the registered Member of the Property shall together be deemed to be one Member of the Association and have the rights and obligations of one Member, provided however that all co-owners of any Property shall be jointly and severally liable for the due performance of any obligation to the Association.

#### 9. POWERS

- 9.1. The management and administration of the Association shall vest in the Committee which may exercise all such powers the Association may have and shall on behalf of the Association do all such acts as may be done by the Association itself.
- 9.2. Without in any way limiting the generality of the foregoing, such powers shall include the following:-
- 9.2.1. The performance of such acts as are necessary to accomplish the objectives expressed or implied herein;
- 9.2.2. The investment and re-investment of monies of the Association not immediately required, in such manner as may from time to time be determined;
- 9.2.3. The operation of a banking account with all powers required therefor;
- 9.2.4. The making of, entering into and carrying out of agreements for any of the purposes of the Association;
- 9.2.5. The employment and payment of agents, servants and any other parties;
- 9.2.6. The making, amendment and repeal of Rules which shall be binding upon Members as if they form part of this constitution, provided these have been passed at a General Meeting of Members called for that purpose;
- 9.2.7. the formation of sub-committees and the delegation of such powers to such sub-committees as may be deemed necessary;

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9.2.8 To sue and to defend actions in the name of the Association and to appoint legal representatives for this purpose;

9.2.9 The imposition of a levy payable by Members as provided in clause 5 hereof and, subject to the said clause, the determination from time to time and as frequently as they may in their sole and absolute discretion consider necessary or expedient, of the amount of such levy.

#### 10. STATUS OF THE ASSOCIATION

The Association shall be an Association:-

10.1 with legal personality, capable of suing and being sued in its own name; and

10.2 none of whose Members in their personal capacity shall have any right, title or interest to or in the Property, funds or assets of the Association, which shall vest in and be controlled by the Committee in terms hereof; and

10.3 not for profit but for benefit of the owners of Properties in the D development.

#### 11. WINDING-UP

The Association may be wound up by a resolution of the Members in a General Meeting provided that:

11.1 90 % (ninety percent) of all Members to be convened vote in favour thereof; and

11.2 the relevant authorities consent thereto;

In the event of such winding-up it shall be the duty of the Committee or a Receiver appointed by it, to convert the Association's assets into cash, pay all the liabilities of the Association and thereafter distribute the rest to all the Members in accordance with the number of Properties that is registered in the name of each Member.

#### 12. ARBITRATION

Any dispute under or arising out of this Constitution and Regulations shall be referred to a single arbitrator in accordance with the provisions of the Arbitration Act, 1965 or any statutory modification or re-enactment thereof for the time being in force.

#### 13. AMENDMENTS TO THIS DOCUMENT

No amendment of this document will be of any force or effect unless and until such time as a document setting out such amendment has been signed by or on behalf of at least 75 % (seventy five percent) of the members.



**CONDUCT RULES****1. VEHICLES:**

No Owner/Occupier shall park or stand any vehicle upon the Common Property, so as to exceed the reasonable use of the Common Property. In determining the nature of this definition circumstances such as the reasonable number of motor-cars, the agreed rules of parking and the rights of other Owners/Occupiers shall be taken into account;

**2. SIGNS AND NOTICES:**

No advertising boards or signs may be erected for business purposes or any other purposes on any part of the Property of any Owner or of the Common Property without the prior written consent of the Association.

**3. APPEARANCE**

An Owner/Occupier shall not place or do anything on any part of its Property or the Common Property that is aesthetically displeasing or undesirable for the general appearance of the Complex.

**4. REFUSE DISPOSAL:**

Each Owner/Occupier shall ensure that his refuse is securely wrapped and placed out for removal no earlier than the night before the day of removal at the place demarcated for this purpose at the entrance of the Complex. Individual refuse bins shall be placed out of sight, in a hygienic manner and not on the Common Property.

**5. ANIMALS AND OTHER PETS**

5.1 No Owner/Occupier shall, without prior written approval from the Association, keep any pets other than a maximum of 2 dogs or 2 cats on his Property.

5.2 When unreasonably exercised, ie. excessive barking, or any other acts by such pets creating a nuisance to the general enjoyment and undisturbed use of the Property by Owners/Occupiers, the Association shall give the owner of such pets written notice to curb such nuisance.

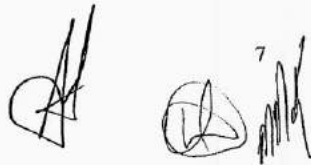
5.3 Should the nuisance continue after such notice, the Association shall at its discretion, have the right to prescribe to have the offending animal(s) removed.

**6. NOISE**

No Owner/Occupier, shall allow loud noise or any public disturbance to emanate from his Property that would adversely affect the rights of other Owners/Occupiers.

**7. ERADICATION OF PESTS**

Each Owner/Occupier shall keep his Property free of pests such as rodents, cockroaches and other pests. If the Association in its discretion decides that a health risk exists due to an Owner/Occupier not complying herewith, the Association shall be entitled to employ the services of pest controllers and such Owner/Occupier shall be liable for the cost thereof.

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8. GUESTHOUSE / B&B

No Owner / Occupier shall be allowed to use his Property for the supply of temporary accommodation for consideration in the form of a guesthouse or Bed and Breakfast establishment

I, PREKRON (Pty) Ltd

as owner of Erf ~~9838~~ <sup>9838</sup> hereby agree and accept the constitution of the Sandals Beach Houses Home Owners Association.

AS WITNESSES

1. 



2. \_\_\_\_\_



**SANDALS BEACH HOUSES HOME OWNERS ASSOCIATION****MINUTES OF MEETING HELD AT 6 SANDALS ON****FRIDAY 22 February 2019 AT 4.00 P.M.**

<b>Present:</b>	Neil Harding	Chairman of Meeting	(House 6)
	Sandra Harding		(House 6)
	Craig Browne	SHOA Treasurer	(House 4)
	Pieter Laubscher		(House 1)
	Chris Wehmeyer		(House 5)
<b>Apologies:</b>	Matthys de Kock		(House 3)
	Brita Lomba		(House 2)

Neil Harding welcomed members to the 16<sup>th</sup> AGM of the SHOA meeting. There was a quorum of 4 Home Owners present. Sympathies to Brita Lomba and her family were expressed for the passing during the year of Inge Ellis who was a long time Home Owner revered by all.

As previously the meeting focused on those key areas of operation that effect the Sandals residential experience. They are the factors which make Sandals a wonderful place for home owners, their families and friends to be and which contribute significantly to enhancing the value of home owner investments.

Items discussed at the meeting were as follows:

**Intercom System.** The intercom system continues to work properly. No problems have been reported recently and it was agreed that there is no need for preventative maintenance. Craig Browne has reported that Clive Brewell, the independent contractor who installed the existing system, is still in business and available in the case that his services may be needed in the future.

**Entrance Gates.** Problems have been experienced recently and at odd times during the year. They are currently working smoothly in particular the recently installed magnetic lock is now operating as it should. It was agreed that investigation should be made to replace the gates with a 2-leaf sliding one. A

request for quotation was sent to Carl Swart of EAC with no response received from him. Pieter Laubscher will approach another party (Yster Fouche) to establish interest. As soon as a quotation has been received it can be assessed and a decision made to proceed or not.

The code at the gate was changed approximately 3 years ago. It was decided that at this stage there is no need to re-code.

It was re-affirmed that the two rooms at and on either side of the entrance gates be kept free of debris and locked; in particular the room containing equipment for the operation of the Estate. Spare bricks for the estate paving are stored in the other room and should not be removed. Pieter Laubscher offered to clean the rooms but stated that he is not in possession of any keys for the rooms. Decided that Pieter will contact a locksmith to replace the locks and provide new sets of keys.

**Common Gardens and Lighting.** The viburnum plants against the wall between units 4 and 5 have grown nicely but unfortunately the plantings are obscuring the foot lights against the wall. This creates a security problem during night time. The suggestion to move the lights further out from the wall has proved to be impractical. Pieter Laubscher suggested that the problem could be solved by installing two additional lights next to the entrances of houses 4 and 5. He has already purchased the light fittings required and received a quotation of R1 910 from Gert Grove to install the necessary cabling. After the meeting the exact location of the lights were agreed and a decision to proceed made.

Pieter Laubscher mentioned that the two islands on entry to the Estate were looking untidy and needed refreshing. He offered to submit a planting proposal for that purpose.

It was agreed that Fynbos Gardens were providing a satisfactory service and that their maintenance contract for the common garden areas should be renewed.

**Maintenance to Communal Driveway Paving.** Pieter mentioned that he has noticed sagging of the cobblestone paving in certain areas and this can cause damage to the paved area in time. Decided that Pieter will contact a paving contractor and obtain a quote to rehabilitate the sagged portions.

**New Fence at Path to Beach & Access Keys.** Overstrand Security Fencing (OSF) erected the ClearVue fence during the year and it looks very nice. Thanks to Pieter Laubscher for the management of the project.

The lock for the gate from the path onto Piet se Bos has been replaced. Pieter Laubscher has possession of the master key and offered to get extra keys cut for the other home owners.

**Painting of Estate Boundary Wall.** The contractor that installed the ClearVue fencing (Overstrand Security Fencing), reported that the outside of the boundary wall leading to the beach gate needed attention. The paint on that side of the wall has come off exposing the bricks of which it is constructed. OSF submitted a quotation of R18 500 to repair and restore. On inspection of the wall it was decided that the damage was not too severe and unsightly and a less expensive solution would be more appropriate. Pieter Laubscher offered to ask Wilson (mobile 066 047 8061), a local painter with whom he has had satisfactory dealings, to assess and provide a quotation.

**Borehole System Maintenance.** Etienne Badenhorst of Streamline Irrigation has closed-down his business which is unfortunate in that he has delivered a good service over the years. Pieter Laubscher reported that all attempts to negotiate an acceptable service agreement with Florite have proved to be fruitless. "We Know Irrigation", owned and operated by Mark Miles who has an excellent reputation, has shown more enthusiasm for the work at much better rates. It has been decided to appoint "We Know Irrigation" for the Estate's common areas. It was further recommended that it makes sense that "We Know Irrigation" also service the individual homes. Pieter Laubscher, Craig Browne, Chris Wehmeyer and Neil Harding all indicated that this be the case for their houses. Pieter Laubscher to notify Mark Miles with the maintenance contract to commence from 1 March 2019.

**Sewerage System and Communal Tank Maintenance.** Apart from a recent problem during the Christmas holiday season, the system is currently working satisfactorily. Craig Browne expressed concern on the impact on the Estate's electricity bill when a discrepancy in effluent levels cause the submersible pumps to operate on a 24/7 basis which goes undetected. It was agreed that Pieter Laubscher would ask Mario Fernandes of Hermanus Pumps to install a siren which triggers whenever this occurs.

These services are currently being delivered by Dyna Rod for the “rodding” and Mario Fernandes of Hermanus Pumps for the submersible pumps and it was agreed that their contracts should be renewed. Pieter Laubscher to inform them.

**Control of Pets.** The problem of pets “fouling” the common areas of the Estate is very distasteful for homeowners and visitors alike. Those Home Owners and their visitors with dogs were requested to be cognizant of this.

**Guest Usage of Homes.** Despite the matter being raised and discussed at previous AGM's, house 3 continues to operate a B&B/Guest House in violation of the Rules of Conduct of the Estate. The property continues to be extensively marketed on the internet and other media as Sandals Beach Villa. At last year's AGM, Matthys De Kock committed to submitting a letter of his views on the matter to Neil Harding, Chairman of the SHOA - to date, the promised letter hasn't ever been forthcoming.

All four Home Owners at the meeting felt very strongly about the situation and the fact that Matthys continues to ignore the decisions taken at SHOA AGM meetings regarding the operation of a B&B/Guest house at House No 3. The meeting re-confirmed its unacceptability and demanded that Matthys De Kock immediately remove all advertisement material from all media platforms and cease the operation of the B&B/Guest House. It was agreed that the SHOA obtain legal assistance with regard to resolving the matter. Chris Wehmeyer offered to contact a legal associate to advise and assist the SHOA.

**Application for Membership of the CSOS.** The Community Schemes Ombuds Service is a statutory body established to resolve disputes within community schemes such a Residential Estates like Sandals. Neil Harding reported that he has submitted all forms and supporting documentation required for registering Sandals as a member and has followed up status a number of times with no feedback. It may be necessary to engage the assistance of the lawyer suggested by Chris Wehmeyer to expedite the process.

**Estate Security.** Neil Harding met with representatives of the Overstrand Municipality to show them the intrusion of a Milkwood tree and Wild Camphor shrubbery onto his property and the state of the path to the beach in front of houses 5 and 6. In the opinion of Neil Harding this posed both security and fire threats. The Overstrand representatives stated that they were authorised to

attend to the Wild Camphor which they would do, but required SA Government permission to prune the Milkwood tree. They committed to pursuing the matter and reporting back to Neil on their plans.

The vacancy of house 2 has exposed that there is unsafe access to its swimming pool from its entrance driveway. A gate or fence needs to be installed to isolate the pool from the driveway. Neil Harding will inform Brita Lomba of the problem and request that she attend to the problem.

Pieter Laubscher reported that the incidence of crime in the Voëlklip area had increased so vigilance is required. This raised concern about the unauthorized servant's gate which was installed in the outside wall of house 2 being a possible security risk. Neil Harding agreed that he would discuss the problem with Brita Lomba. When quoting for the painting of the boundary wall, Wilson will be asked to separately quote on bricking up and making good this gateway too.

Pieter Laubscher reported that there had been another incursion of baboons into the Estate.

**Review of Estate's Service Providers.** To summarise contracts for the following service providers will be appointed or renewed.

Hermanus Pumps	Mario Fernandes
Dyna Rod	Bernard Nel
Fynbos Gardens	Meindert Poerink
We Know Irrigation	Mark Miles

**Budget and Levy for 2019** Craig Browne provided statistics of actual expenditure for 2018 and previous years. The SHOA bank balance at end Dec 2018 was R5 726 which is well below Dec 2018 when it was R24 754. This was directly attributable to the SHOA having funded the unbudgeted ClearVue fence without raising a special levy. Craig proposed that the levy be set at R17 000 for 2019 which should restore reserves to R23 726 by Dec 2019 provided that unexpected expenses such as for the entrance gates, legal services are not included. These would have to be subject to a special levy should the need arise.

It was agreed that the levy be set at R17 000. Craig Browne would issue invoices to that effect and home owners were requested to settle expeditiously.

**Formalisation of Visitor Parking.** Craig Browne proposed that two of the Estate's five visitor parking bays be assigned as priority bays to houses 4 and 5. After discussion it was agreed that it's operation would be problematic and cause conflict and that the Common Areas should not in principle be compromised by allocating special use rules over parts thereof to designated homes. Chris commented that courteous and mindful parking behavior would go a long way to maintaining harmony between home owners. It was suggested that by judicious marking, the number of visitor bays could be extended beyond five. Pieter Laubscher offered to investigate and get the necessary work done.

**Appointment of SHOA Committee Members.** In accordance with the SHOA Constitution, the SHOA Committee should consist of three members elected from the Home Owners and appointed for a term running from AGM to AGM. By a show of hands committee members elected for the coming term are as follows:

Neil Harding, Chairman  
Craig Browne, Treasurer  
Pieter Laubscher, Committee Member.

#### **Updating of SHOA Constitution**

We have been advised by Mr Helgaardt Boshoff of the Overstrand Municipality that the SHOA Constitution needs to be modified to omit references to the Developer of the Sandals Estate. Craig Browne has been involved with the matter and will submit a modified Constitution for approval by the Committee Members.

**In Appreciation.** Thanks are due to all Homeowners for their contribution in ensuring that Sandals remains a wonderful estate in which to have the privilege of owning a property.

In particular thanks to Craig Browne for his time and efforts in ensuring the excellent management and administration of the SHOA finances and to Pieter Laubscher for giving up so much of his time on ensuring the ongoing operation

of the gardens, borehole, sewerage systems and other "engineering" matters affecting the Estate.

Also thanks to Chris Wehmeyer for travelling from Pretoria to attend and for extending the invitation to join him for dinner at Dutchies.

**SANDALS BEACH HOUSES HOME OWNERS ASSOCIATION****MINUTES OF MEETING HELD AT 6 SANDALS ON****FRIDAY 13 JANUARY 2017 AT 4.30 P.M.**

<b>Present:</b> Neil Harding	Chairman of Meeting.	(House 6)
Sandra Harding		(House 6)
Craig Browne	SHOA Treasurer.	(House 4)
Pieter Laubscher		(House 1)
Matthys de Kock		(House 3)
Lorraine de Kock		(House 3)
Arnold Goldstone		(House 4)
Ashleigh Goldstone		(House 4)
<b>Apologies:</b> Chris Wehmeyer		(House 5)
Inge Ellis		(House 2)

The meeting focused on those key areas which effect the convenience and pleasure of residing at Sandals and protect and enhance the value of home owner's investments. Items discussed at the meeting were as follows:

**Intercom System.** After many years of inconvenience the intercom system is now working due to the efforts of Mr Clive Brewell, an independent contractor from Hermanus. Significant cost was saved in that the new handsets installed in the houses connect directly to the existing communication infrastructure originally installed during the Estate's development. Clive was not easy to work with so thanks to Craig and Pieter for their involvement in ensuring that the work was eventually completed.

**Entrance Gates and Rooms.** The code at the gate was changed during the year by Carl Swart of EAC. At this stage there is no need to re-code. It was again agreed that the code should be restricted to homeowners and key service providers only the choice of which will be up to the discretion of the individual homeowners.

Pieter Laubscher also replaced the home owner names displayed on the intercom at the entrance gate. Their new presentation is a significant improvement but needs to be monitored and refreshed when required.

The opening of the entrance gates remain in alignment. Craig Browne informed the meeting of the death of the contractor involved in their previous repair.

It was agreed that the two rooms at and on either side of the entrance gates be kept free of debris. However spare bricks for the estate paving are stored in one of the rooms and should not be removed. Pieter Laubscher offered to get the rooms cleared accordingly.

The truncated flag pole at the entrance gates has been removed.

**Common Gardens and Lighting.** All members agreed that the plantings at the entrance gates and on the islands alongside the driveway are a great improvement and in keeping with the quality required at Sandals. There is a dead tree on the left hand island. It was decided to remove the tree and not replace it. Pieter Laubscher suggested that two Wild Camphor shrubs be planted at the end of the right hand side island. Lorraine and Ashleigh offered to assess the plantings at the entrance of the Estate and advise a course of action.

The viburnum plants against the wall between units 4 and 5 are showing encouraging growth and are pleasing. It was previously agreed that Fynbos Gardens be asked to prune these viburnums into the form of a hedge. Pieter Laubscher to monitor.

**Lighting.** From time to time problems with the common area lighting occur. It was decided to ask Gert Grove of EAC to do a check of all the existing lights. Pieter Laubscher to discuss with Gert.

**Borehole System.** The services of Louis Havenga Irrigation were terminated at end of April 2016 and replaced by Etienne Badenhorst of Streamline Irrigation. Etienne's service has proved to be very satisfactory and it was decided to renew his contract for the year ahead. Pieter Laubscher to draft a re-appointment letter for Neil Harding's signature.

Craig informed the meeting that in addition to the new booster pump acquired during 2016 there is a backup pump which is kept by Etienne. Locks have now been installed on all home standpipes. This was done to ensure that the opening and closing of spray nozzles does not cause damage to the irrigation pump.

**Sewerage System and Communal Tank Maintenance.** A number of operational problems occurred during 2016. There was also a lack of understanding of how exactly the system works. Thanks are due to Pieter for his efforts in on clarifying the workings of the system and establishing its ongoing maintenance requirements. These are:

- Preventative “rodding” of the various internal and external pipes connecting the Estate to the Overstrand Municipal Sewerage system for which the SHOA has responsibility.
- Preventative maintenance on the Estate’s submersible pumps to ensure seals are replaced before they leak.

It was decided that both of these services should be conducted once yearly in the month of October. Craig to obtain quotations for these services. Obvious candidates are Dyna Rod for the “rodding” and Mario Fernandes of Hermanus Pumps for the submersible pumps. The selected service providers would also be available to attend to the unplanned problems which are likely to occur from time to time. This would include calling in the Overstrand Municipality when the responsibility is theirs.

**Control of Pets.** An important objective of the Home Owners Association is to “promote and encourage Members to at all times maintain the external appearance of the Properties in a clean and tidy condition and to maintain acceptable standards in this regard so as to ensure the appearance of the Property is both aesthetically pleasing and desirable when viewed from both inside and outside.”

Craig Browne raised the problem of pets “fouling” the common areas of the Estate. This is very distasteful for homeowners and visitors alike. Those homeowners having pets are requested to keep them inside their properties and not allow them to freely roam the common areas.

**Guest Usage of Homes.** After some discussion of the guest usage at House No 3, the Chairman again emphasized that the Rules of Conduct of the Constitution of the Sandals Home Owners Association which forbid the operation of a B&B/Guest House in the Estate remain unchanged.

Furthermore with the rapid uptake of AirBnB in South Africa the Homeowners agreed that the posting of any Sandals residences on AirBnB for short-term accommodation should be disallowed. To that effect it was agreed that the insertion of a clause in the Sandals Constitution and Rules should be investigated. Neil Harding will pursue the matter.

**Estate Security.** Security for the Estate and the individual homes was discussed. With exception of House 3 all the homes are currently serviced by ADT. It was agreed that we should commission a Security Practitioner to advise on possible cost effective improvements that both the SHOA and the individual home owners can implement. Neil Harding will approach ADT and Matthys De Kock Safe Security on the matter.

**Review of Estate's Service Providers.** Tinus Dempsey's passing was much regretted. Neil and Sandra Harding informed the meeting that they had appointed Dee Froud-Reid as the Key Holder for their property and Janice Robey for the swimming pool maintenance and are very satisfied with their services so far. Petals provide their garden services. Neil agreed to forward their contact details to houses 3 and 4. (Craig Browne and Chris Wehmeyer)

**Budget and Levy for 2016.** Craig Browne provided statistics of actual expenditure for 2016 and previous years. The SHOA bank balance at end Dec 2016 was R5 581 which is an unhealthy and tenuous situation for the SHOA. Pieter Laubscher provided budget estimates for maintaining the Borehole Irrigation System which were incorporated together with maintenance estimates for the Sewerage System into the budget for 2017.

Because of the need to rebuild the cash reserve for the SHOA, it was decided to set the levy for 2017 at R16 000 which is the same as last year during which some once off large expenditures were incurred.

Craig Browne will issue invoices for the annual levy. It would be appreciated if payment would be made as soon thereafter as possible.

#### **General**

**Termination Levy.** Following on the budget discussion, Arnold and Ashleigh Goldstone suggested the possibility of introducing a "termination" levy to be imposed upon the sale of a property. This levy would be used to bolster the SHOA cash reserve against future and unforeseen expenditure. The magnitude

of the levy would be of the order of 1% of the actual sale value of the property. The SHOA Constitution would have to be amended which would require approval from at least 75% of the home owners. It was agreed that this could be an idea worth pursuing and home owners were encouraged to provide comment.

**Notification of Potential Sale.** Matthys De Kock suggested that the SHOA Constitution be amended to include a clause that commits a home owner intent on selling their property to notify the other home owners of that intention on a "right of first refusal" basis. It was agreed that more motivation is required for serious consideration.

**Date and Venue of AGM.** Neil Harding reported that this was the 13<sup>th</sup> AGM of the SHOA since its inception. Although understandable given the time of the year, it is unfortunately the first AGM when all six houses were not fully represented at the meeting. It is the intention that the AGM will always be scheduled at a date from mid-January to February and to accommodate as many of the home owners as is possible. The venue of the AGM has always been at 6 Sandals and it was agreed that in future the meeting will be held on a cyclic basis at the other houses. Pieter Laubscher offered to host the next AGM which will therefore be at house 1.

**In Appreciation.** Thanks are due to all Homeowners for their contribution in ensuring that Sandals remains a wonderful estate in which to have the privilege of owning a property.

In particular thanks to Craig Browne for his time and efforts in ensuring the excellent management and administration of the SHOA finances and to Pieter Laubscher for giving up so much of his time on ensuring the ongoing operation of the borehole and sewerage systems and other "engineering" matters affecting the Estate.



- ✔ Response Rate: 80%
- ⌚ Enquiry Response Time: 13 hours
- 📅 Minimum stay: 7 Days
- 👤 Type: Guest House
- 🛏 Sleeps: 6
- 📅 Check-in: 2:00 PM  
Check-out: 10:00 AM
- 🗣 Reviews: 1 Reviews

**Lekkeslaap:** [https://www.lekkeslaap.co.za/akkommodasie/sandals-beach-villa?noc=AdWords\\_LS\\_Account-2\\_g&AdPosition=1o3&clid=C0KCOmwyvPBRDBARisAA7TkiChSqYZD9NEps-a7hLGIOMwa-HOhCj8yoQNiMBdYy6\\_LHEh\\_gAAdxPALw\\_wcB](https://www.lekkeslaap.co.za/akkommodasie/sandals-beach-villa?noc=AdWords_LS_Account-2_g&AdPosition=1o3&clid=C0KCOmwyvPBRDBARisAA7TkiChSqYZD9NEps-a7hLGIOMwa-HOhCj8yoQNiMBdYy6_LHEh_gAAdxPALw_wcB)

From the Lekkeslaap site: - "Gaste het die keuse om 'n oermeelge vermaakingspakkie te ontvang. Dit sluit die volgende in: tee en koffie, vars melk, luesgemaakte botter-boskuit, muesli, Air Bran-onbygraan, vars vrugte van die oesdoen, gesnyde wit-en bruinbrood, botter en 'n verskeidenheid konfyte en kaas."

**Expedia:** <https://www.expedia.com/Western-Cape-Hotels-Sandals-Beach-Villa.h13310934.Hotel-Information>

From the Expedia site:

Beach Hermanus villa in Voelklip with free breakfast

Popular property highlights

- 🏠 Directly included
- 🅇 Free self parking
- 📶 Free WiFi
- 🏊 Outdoor pool

Location

Offering direct access to the beach, this Voelklip villa is 0.9 mi (1.5 km) from Hermanus Beach and within 9 mi (15 km) of Faraldef Nature Reserve and Whalehaven Winery. Walterbay Estate and Bikanerhead Brewery is 11.8 mi (19 km) away.

Property Features

This villa features an outdoor pool, free breakfast, and free self parking. WiFi in public areas is free.

Room Amenities

Villas offer free WiFi.

**SA Places:** <http://www.places.co.za/accommodation/sandals-beach-villa.html>

Accommodation description from SAPlaces.co.za:

**Accommodation at Sandals Beach Villa:**

*Master Suite:*

- Luxury en-suite sea-facing room with separate shower & bath & dressing room. King size/ twin beds.
- Maximum Guests: 2

*Honeymoon Suite:*

- Luxury en-suite sea-facing room with separate bath & shower. Queen size bed.
- Maximum Guests: 2

*Mountain View Suite:*

- Luxury en-suite mountain-facing room with separate bath & shower. King size/ twin beds.
- Maximum Guests: 2

**Trip Advisor:** [https://www.tripadvisor.co.za/Hotel\\_Review-g312663-d1803660-Reviews-Sandals\\_Beach\\_Villa-Hermanus\\_Overberg\\_District\\_Western\\_Cape.html](https://www.tripadvisor.co.za/Hotel_Review-g312663-d1803660-Reviews-Sandals_Beach_Villa-Hermanus_Overberg_District_Western_Cape.html)

Comment dated 03/09/2017 from Trip Advisor site: "Wonderful place but should be labeled as a b&b not a hotel"

**Orbitz.com:** <https://www.orbitz.com/Western-Cape-Hotels-Sandals-Beach-Villa.h13310934.Hotel-Information>

On the Orbitz site:

Located in Voelklip, Sandals Beach Villa is 0.3 mi (1.5 km) from Hermanus Beach and within a 15-minute drive of Whalehaven Winery. This 4-star villa welcomes guests with conveniences like an outdoor pool, free in-room WiFi, and free self parking. Fynbos Nature Reserve is also close to this Hermanus villa.

#### Dining

Free breakfast is included with your stay.

#### Rooms

Guests can expect to find free WiFi.

#### Property features

An outdoor pool and free WiFi in public areas are features at Sandals Beach Villa. A stay here includes free parking. Friendly staff can provide front-desk service during limited hours, and also offer advice about sightseeing.

#### Hotel highlights

-  Free breakfast
-  Free WiFi in rooms and public areas
-  Free parking
-  Outdoor pool

Ebookers.com: <https://www.ebookers.com/Western-Cape-Hotels-Sandals-Beach-Villa.h13310934.Hotel-Information>

Off the Ebookers.com site:

#### Property Features

Free breakfast is available. Public spaces have free WiFi. Free self parking is available.

Breakfast available (free)      Front desk (limited hours)

#### Hotel Policies

#### Family Friendly Amenities

Free WiFi

#### Internet

Available in all rooms. Free WiFi

Available in some public areas. Free WiFi

#### Parking

Free self parking

#### Transport

Parking. Free self parking

**SANDALS HOME OWNERS ASSOCIATION**  
**Hermanus, Western Cape**

26 January 2007

Jos Hooyberg  
Earlyworx 647 (Pty) Ltd  
Private Bag X22  
Gardenview 2047

Dear Sir

**Subject: No. 1 Sandals /“Avenier-at-Sandals”**

We acknowledge receipt of your letter of 18 January 2007 and have discussed the contents therein during our Sandals Home Owners Association meeting of 19 January 2007 as well as receiving further input from members on the matter.

As currently constituted the Conduct Rules of the Association specifically forbid the operation of a guesthouse or bed and breakfast at Sandals as well as the erection of advertising boards or signage for business purposes. To alter any of these rules we would have to obtain agreement from at least 75% of the members of the association. We believe this to be very unlikely as a significant number of the members feel very strongly about retaining the private residential nature of the estate. We therefore cannot accede to your request to operate a guest house at 1 Sandals.

Yours sincerely

Neil G Harding  
Chairman of the Committee of the Sandals Home Owners Association

Copy: Mr C Browne  
Dr M De Kock

**Alida Conradie - Fwd: Re: Operation of a B&B/Guesthouse at #3 Sandals, 11th Street, Voelklip.**

---

**From:** Craig Browne <craig@psion.co.za>  
**To:** Alida Conradie <alida@overstrand.gov.za>  
**Date:** 2019/05/27 02:54 PM  
**Subject:** Fwd: Re: Operation of a B&B/Guesthouse at #3 Sandals, 11th Street, Voelklip.  
**Cc:** Hardings <hardings@mweb.co.za>, Hardings <hardings@mweb.co.za>

---

Hi Alida,  
 Neil just requested that I resend the email I received from Hanneen vd Stoep in April 2010 pertaining to the illegal use of Sandals #3 as a guest house. Will this suffice or would you like me to somehow convert it into a .pdf for you?

Best regards,  
 Craig  
 Ph: +27 21 683-1192

----- Forwarded Message -----

**Subject:** Re: Operation of a B&B/Guesthouse at #3 Sandals, 11th Street, Voelklip.  
**Date:** Fri, 23 Apr 2010 12:09:23 +0200  
**From:** Helena van der Stoep <hvdstoep@overstrand.gov.za>  
**To:** Craig Browne <craig@psion.co.za>

**\*\* Low Priority \*\***

Good Morning

After investigation, it is clear that the B&B at 3 Sandals is illegal. A written notice has been handed to the owner.

Regards

hanneen

Hanneen van der Stoep  
 Senior Town Planner Overstrand Municipality  
 Tel: 028-313 8900  
 Fax: 028-313 2093

Craig Browne <craig@psion.co.za> 4/14/2010 8:43 AM >>>

Dear Sir,  
 As a member of the Sandals Home Owners Association, please could you assist me with this query?

It is my understanding that in order to operate a commercial guesthouse legally in Hermanus, it is necessary to first go through a formal approval process with the Overstrand Municipality Planning Dept. I further understand that, as part of that process, consent for the operation of such an enterprise is required from adjoining neighbours.

As is evident from the links provided below, the owners of 3 Sandals, 11th Street, Voelklip are (and have been) operating a commercial guesthouse from that address.

The Sandals HIOA has convened a meeting for Saturday 5th June 2010 to discuss the matter, and I'd like to take a clear and unequivocal declaration from you of your departments stance regarding the status of this operation, to table at this meeting.

So, could you please confirm whether or not 'Sandals Grotto Beach Villa' is a properly registered enterprise with the Overstrand Municipality - if so, could you please advise me the date when registration was effected, and why I (as a co-owner of a unit in the estate) have never been consulted on this matter and consequently haven't ever had the opportunity to object to it?

Thank you and regards,  
 Craig Browne  
 Treasurer - Sandals HIOA  
 Co-owner - Sandals # 4  
 021 683-1192

<http://www.portfoliocollection.com/go/Sandals-Beach-Villa>  
[http://www.aatravel.co.za/accommodation/ge6654\\_retawav\\_gateway\\_-\\_sandals\\_grotto\\_beach\\_villa\\_.html](http://www.aatravel.co.za/accommodation/ge6654_retawav_gateway_-_sandals_grotto_beach_villa_.html)  
[http://www.essentialtravelinfo.com/accommodation/guest\\_houses/southern\\_africa/south\\_africa/western\\_cape/hermanus/sandals\\_grotto\\_beach\\_villa.html](http://www.essentialtravelinfo.com/accommodation/guest_houses/southern_africa/south_africa/western_cape/hermanus/sandals_grotto_beach_villa.html)  
<http://www.places.co.za/html/11863.html>

file:///C:/Users/aknoetze/AppData/Local/Temp/XPgrpwise/5CEBFA34HermanusMun... 2019/05/27

FILE NO:	OF 9854 ✓
SCAN NO:	HMS 9854
COLLABORATOR NO:	1310148

Without Prejudice



3 Sandals  
241 11<sup>th</sup> Street  
Hermanus, 7200  
2 August 2019

TR A Theart  
(H Olivier)

Director: Town and Spatial Planning Department  
Overstrand Municipality  
16 Paterson Street  
Hermanus  
7200

Dear Sir

**APPLICANT'S RESPONSE TO THE OBJECTION SUBMITTED BY THE SANDALS HOMEOWNERS' ASSOCIATION AGAINST THE APPLICATION FOR A CONSENT USE (TOURIST ACCOMMODATION) ON ERF 9854, HERMANUS**

We refer to your letter of 5 June 2019.

We have carefully read and considered Mr. Harding's objections against our consent land-use planning application dated 24 May 2019 and respond below.

**1. Objection – the application is inconsistent with the Clause 8 of the Conduct Rules**

Mr Harding is of the view that the Conduct Rules of the Sandals Homeowners' Association (SHOA) prohibits the supply of temporary accommodation in all forms.

Clause 8 of the Conduct Rules expressly forbids an owner "...to use his Property for the supply of temporary accommodation for consideration in the form of a guesthouse or Bed and Breakfast establishment." It does not forbid an owner from supplying temporary accommodation in the form of guest rooms. The application is clearly consistent with the Clause 8 of the Conduct Rules.

The application seeks consent to provide temporary accommodation in the form of guest rooms. Mr. Harding is of the view that a guesthouse, bed and breakfast and guest rooms are all the same. This is not the case. The 'Provincial Gazette Extraordinary 7203, 23 November 2013' ('Gazette') makes a clear distinction between temporary accommodation in the form of a 'guesthouse' and 'guest rooms'.

The marketing of the two guest rooms fully complies with the advertising guidelines as set out in the 'Gazette'. There is no directive regarding online marketing and Mr. Harding's comments in this regard is irrelevant.

**2. Objection – the approval of the application will impact the quality of life of the other residents**

Mr. Harding is of the view that the approval of the application will have an undesirable effect on the enjoyment of the other owners of their properties.

The approval of the application will have no effect of the manner in which we will be providing temporary accommodation going forward. We have been providing temporary accommodation in the form of guest rooms at the said property since 2004. Not once have any of the homeowners complained that our activities detract from their use and enjoyment of their properties. To the contrary, individual homeowners

6107.0006.9.1.1319

*Without Prejudice*

have complimented us and expressed their appreciation for our permanent presence, the neatness of our property and the discreet manner in which we let out our guest rooms.

The objection is divorced from reality and without any merit.

3. *Objection – the approval of the application will have an undesirable effect on the area*

As one of only two homeowners who permanently reside in the Estate comprised of six properties, we have every desire and intention to preserve the quiet residential nature of the Estate. We have always been mindful to preserve the quiet residential nature of the Estate at all times, and there is absolutely no evidence to suggest otherwise.

We have always taken great care to conduct our activities in a responsible and professional manner. Mr. Harding's description of our behaviour as 'selfish' and 'delinquent' is rather ironic, given the heavy-handed approach he has adopted to prevent us from quietly going about our business, knowing full well that the rules of the SHOA does not forbid the supplying temporary accommodation *in the form of guest rooms*.

Mr. Harding's suggestion that our supply of temporary accommodation has '*placed unnecessary, additional strain on the maintenance of the common infrastructure such a sewerage and visitor parking*' is untrue. If this were really an issue, it is strange that this have never been raised at any of the past annual general meeting of the SHOA. Regarding visitor parking, Mr. Harding is well aware that our guests generally park directly in front of Erf 9854 and that this has no effect on any of the other homeowners within the Estate.

We strongly disagree with Mr. Harding's suggestion that the '*...presence of guests at the estate creates an increased risk to the security of the estate.*' Mr. Harding is well aware that when it comes to letting out our guest rooms, we limit the number of guests. Guests are carefully screened during the booking process, many being repeat customers. Guests are not left unattended at the property. At all times, we pay careful attention to our own security and that of our guests. The fact that we live at the property on a permanent basis and the occasional presence of guests contribute significantly to the safety and security of the all the homeowners in the Estate.

The objection is therefore without any merit.

4. *Objection – the approval of the application will change the land-use rights of Erf 9854*

Mr. Harding contends that the approval of the application will change the underlying land-use rights of Erf 9854.

The application clearly states that the subject property is zoned *General Residential Zone 1: Town Housing* with tourist accommodation being a permissible consent land use. It is therefore important to note that we are not applying for the rezoning of the property (to obtain additional development rights or to change the permissible development rights), but only for Council's consent to practice a permissible land use in terms of the *General Residential Zone 1* zoning's list of consent land uses. The approval of the application will not result in the change of the underlying land-use rights – it will merely give consent to the current owner to provide temporary accommodation in the form of guest rooms.

The objection is therefore without any merit.

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*5. Objection – the approval of the application will be incompatible with surrounding land uses*

As clearly mentioned in the land use planning application, the subject property is surrounded by similar tourist accommodation establishments and will consequently not be foreign to the area or create a precedent for a new type of land use. Examples of these surrounding land uses include the (former) Psychic Octopus Guest House (11<sup>th</sup> Street), Larch House (11<sup>th</sup> Street), Mosselberg on Grotto Beach (11<sup>th</sup> Street), Roofer's Nest (10<sup>th</sup> Street), Fynbos Guest House (9<sup>th</sup> Street), Old Salt – Cape Villa Connection (9<sup>th</sup> Street), Home @ Hermanus (9<sup>th</sup> Street), etc. The proposed land use will therefore be compatible with the surrounding tourist accommodation land uses (which are clearly supported by Council).

The objection is therefore without any merit.

*Conclusion*

In spite of the objections raised by Mr. Harding, it is clear that the proposed tourist accommodation establishment (in the form of guest rooms and not in the form of a guesthouse or bed and breakfast) is consistent with the Conduct Rules of the Estate and is in line with the Municipality's general planning principles and philosophies. It will be similar to the surrounding land uses and support the town's tourist-based economy by providing additional holiday accommodation. We still deem the proposed development to be desirable and we respectfully request the Overstrand Municipality to grant the application.

Yours faithfully

  
Matthys de Kock



Division of Telkom SA SOC Ltd

10 Jan Smuts Drive  
Pinelands  
7404

6 June 2019

Attention: S Muller

Overstrand Municipality  
HERMANUS

FILE NO:	EL 9854
SCAN NO:	Hermanus
COLLABORATOR NO:	1291688



TP-A Theat  
(H Olivier)

Candice Spammer  
Tel: 021 414 5582  
Fax: 086 480 0617  
Email: spammecl@telkom.co.za

Our Ref.: WWIP\_WVKL1805\_19  
Your Ref.: 9845 HVK

**PLANT AFFECTED:**

**APPLICATION FOR CONSENT USE: ERF 9854, 241 ELEVENTH STREET, VOELKLIP**

With reference to your application received April 2019.

**As important cables and other infrastructure are affected, please contact our representative Frederik Swart at 028 514 1199 / 081 363 7815 / FrederikS@openseve.co.za 48 hours prior to commencement of construction work.**

I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

As per sketch attached, Open Serve infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

28 JUN 2019

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,  
Private Bag X881, Pretoria, Gauteng, 0001

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.

Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

**Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.**

All Open Serve rights remain reserved.

Yours faithfully

pp   
\_\_\_\_\_  
Selwyn Bowers  
Operations Manager  
Wayleave Management: Western Region

## PLANT AFFECTED : COPPER

This wayleave, Reference Number WWIP WVKL1805 19 is valid for 12 months from date hereof and is subject to the following conditions:

1. No mechanical plant or vibrator type compactors may be used within three meters of any Openserve Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and Frederik Swart at Telephone No 081 363 7815 must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of the Openserve Plant will be indicated on site.
3. A written request must be submitted to Openserve for consideration, should the of the work, upon which the actual location of Openserve Plant will be applicant require our plant to be relocated. The cost of such a relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existance of the indicated plant and to notify Openserve immediately, should the applicant locate any Openserve Plant which is not indicated on the plans.
5. Should the applicant expose any Open Serve plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for any damage or loss as a result thereof.

Date: 2019/06/06

By: C Spanmer  
For Regional General Manager  
Western Cape

Legend	Green
1. Underground Pipe	
2. Underground Cable	
3. Manhole	
4. Street Distributio Cabinet (SDC )	
5. Jointing Pit / AJB	
6. Jointing Pillar ( PJ )	
7. Pipe Junction Box ( B/S )	
8. Robot Control	
9. Pole	
10. Stay	
11. Strut	
12. Aerial Cable ( A/C )	





Legend		TELKOM REGIONAL EXECUTIVE	
<input checked="" type="checkbox"/> Existing Manhole	<input checked="" type="checkbox"/> Existing SDC	<input checked="" type="checkbox"/> Existing Indoor DP	<input checked="" type="checkbox"/> Existing Underground Route
<input checked="" type="checkbox"/> Planned Manhole	<input checked="" type="checkbox"/> Planned SDC	<input checked="" type="checkbox"/> Planned Indoor DP	<input checked="" type="checkbox"/> Planned Underground Route
<input checked="" type="checkbox"/> To Be Abandoned Manhole	<input checked="" type="checkbox"/> To Be Recovered SDC	<input checked="" type="checkbox"/> To Be Recovered DP	<input checked="" type="checkbox"/> To Be Abandoned Underground Route
<input checked="" type="checkbox"/> Existing Jutting P1	<input checked="" type="checkbox"/> Existing D.L.C	<input checked="" type="checkbox"/> Existing DP	<input checked="" type="checkbox"/> Existing Overhead Route
<input checked="" type="checkbox"/> Planned Jutting P1	<input checked="" type="checkbox"/> Planned D.L.C	<input checked="" type="checkbox"/> Planned DP	<input checked="" type="checkbox"/> Planned Overhead Route
<input checked="" type="checkbox"/> To Be Abandoned Jutting P1	<input checked="" type="checkbox"/> To Be Recovered D.L.C	<input checked="" type="checkbox"/> To Be Recovered DP	<input checked="" type="checkbox"/> To Be Recovered Overhead Route
<input checked="" type="checkbox"/> Existing P1B	<input checked="" type="checkbox"/> Existing P1ar Joint	<input checked="" type="checkbox"/> Existing Pole	<input checked="" type="checkbox"/> Existing Mini OUDF
<input checked="" type="checkbox"/> Planned P1B	<input checked="" type="checkbox"/> Planned P1ar Joint	<input checked="" type="checkbox"/> Planned Pole	<input checked="" type="checkbox"/> Planned Mini OUDF
<input checked="" type="checkbox"/> To Be Abandoned P1B	<input checked="" type="checkbox"/> To Be Recovered P1ar Joint	<input checked="" type="checkbox"/> To Be Recovered Pole	<input checked="" type="checkbox"/> Existing Street and Stay
		C. Spanner Date: 08/08/2019 Client ref: WWP_19/11/1305_13 Details: COPPER SERVICES AFFECTED	
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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR CONSENT USE: ERF 9854, VOELKLIP (2970/2019)**

Stormwater (SW)	:	In order
Electricity	:	In order
Water	:	In order
Sewer	:	In order
Roads and traffic	:	In order

**Conditions**

1. that the Department Engineering Services has No Comment.

  
DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES

  
DATE