



CONFIDENTIAL

ANNEXURE

**MANGAUNG METROPOLITAN
MUNICIPAL COUNCIL**

Volume 5

**Reports of the
Executive Mayor**

ITEMS 106.12 – 106.16

**FRIDAY
NOVEMBER 17, 2017**

**MANGAUNG
METROPOLITAN
MUNICIPALITY**

Members are kindly requested
to retain this annexure for use
with the minutes

Bram Fischer Building
BLOEMFONTEIN
NOVEMBER 13, 2017

M. SIZA HA
08/4/2017



Our Ref: Dean L Maasdorp

Date: 28 August 2017

7/1/2/10/2

**CITY MANAGER
(COUNCIL ITEM)**

APPLICATION TO LEASE AIR RIGHTS FOR AN EXISTING AERIAL PEDESTRIAN BRIDGE KNOWN AS CHARLES STREET PEDESTRIAN BRIDGE SITUATED BETWEEN BLOEM PLAZA ON ERF 963 AND BLOEM ARCADE ON ERF 15904, BLOEMFONTEIN.

1. PURPOSE

The purpose of this report is to request Council to lease aerial rights over Charles Street between Bloem Plaza on Erf 963 and Bloem Arcade on Erf 15904, Bloemfontein to Vukile Property Fund.

2. BACKGROUND

Vukile Property Fund Ltd are the owners of Bloem Plaza (shopping mall) and Bloem Arcade (elevated parking decks) located in the central business district of Mangaung Metro Municipality, they also own the 21.8 meter long Charles Street Pedestrian Bridge that connects the two properties. The two properties previously belonged to JS Oldfield (Pty) Ltd and Soltay Properties (Pty) Ltd who constructed the bridge between the two buildings. In 2004 Vukile Property Fund bought said properties which included the developed bridge and aerial rights leased from Mangaung Metro Municipality, said lease agreement expired 30 September 2016. The bridge serves as an enclosed pedestrian walkway and measures 146.25 bulk m² and has a clearance of 5.3 meters measured from the highest point of the tarred road surface below.

3. DELIBERATION

The Bloem Plaza on Erf 963 and Bloem Arcade on Erf 15904 accommodates an existing pedestrian walkway ("Charles Street Pedestrian Bridge") that connects the two buildings. In the CBD where numerous retail, administrative and financial functions are concentrated, the pedestrian bridge improves access to businesses and safe parking facilities. An application was received from Excellerate Real Estate Services on behalf of Vukile Property Fund to lease air rights for the existing aerial bridge over Charles Street, said application hereto attached as Annexure A. The market related rental valuation (Annexure B) as determined by the Council's Valuer determines an annual rental of R 21 937 - 50 (Twenty-One Thousand Nine Hundred and Thirty Seven Rand and Fifty Cents) (VAT exclusive) per year thus R1 828.12 (One Thousand

Eight Hundred and Twenty Eight Rand Twelve Cents) (VAT exclusive) per month. Land Development and Property Management have no objections and support the application to lease air rights to Vukile Property Fund.

RECOMMENDATIONS

It is recommended that the application be approved subject to the following terms and conditions to be accepted by the applicant in writing, namely:

- 3.1 that notwithstanding the date of approval, the commencement date be the first day of the month following the respective signing dates of the lease agreement by the Lessee and the Lessor;
- 3.2 that the lease term be for as long as the aerial pedestrian bridge exists;
- 3.3 that termination hereof may be given by either party at least (12) months prior to the intended date;
- 3.4 that the rental be set at an amount of R1 828.12 (One Thousand Eight Hundred and Twenty Eight Rand Twelve Cents) (VAT exclusive) per month;
- 3.5 that the rental escalate at a rate of 8 % per annum on the anniversary date of the lease agreement;
- 3.6 that the rental be reviewed every ten (10) years during the run of the lease;
- 3.7 that the bridge be used exclusively for pedestrian traffic, and that it is not used particularly for goods traffic, with the exception of packages that the public may carry in the usual course of business, or carriages that they may push;
- 3.8 that the Lessee maintain and keep the bridge clean, neat and in a good and proper condition of repair;
- 3.9 that the Lessee indemnify the Council against liability in relation to any public accountability claims that may arise in relation to the existence of the bridge;
- 3.10 that the Lessee shall not cede or otherwise alienate any of its rights in pursuance of this without the Council's written permission: Provided that the Council may not be unreasonable in withholding permission;
- 3.11 that any material alteration of the bridge may not be done by the Lessee without prior written consent of the Municipality;
- 3.12 that the Lessee may not affix or permit any advertisements, notices, signwriting or anything of this nature, neither inside or outside the bridge, that had not been approved by the Council;
- 3.13 that the Lessor's officials shall have the right at reasonable times to enter the bridge for the purpose of inspecting the area. The Lessor shall notify the Lessee in writing specifying the purpose and time such entry is desired;

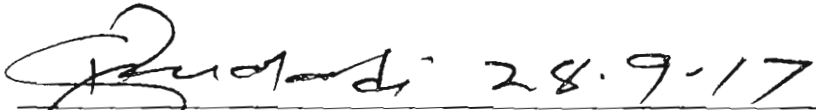
- 3.14 that the surveying and the notarial registration of the lease agreement be for the account of Vukile Property Fund; and
- 3.15 that the Legal Services Unit be tasked to draft the appropriate lease agreement on receipt of approval of this application and acceptance of the terms and conditions by the applicant.

Submitted by



Adv. NN MPOKENG
GM: LAND DEVELOPMENT AND PROPERTY MANAGEMENT

Supported / ~~Not Supported~~



Adv. M.J.N PHALADI
HEAD: HUMAN SETTLEMENTS AND HOUSING


Recommended / ~~Not Recommended~~



Adv. TB MEA
CITY MANAGER

Approved / ~~Not Approved~~

11/10/2017



Cllr. MS MLAMLELI
EXECUTIVE MAYOR

08/11/2017

08 May 2017

Mangaung Municipality
Attention: Mr. Dean L Maasdorp
Land Development & Property Management

Per email: dean.maasdorp@mangaung.co.za

Dear Sir

APPLICATION TO RENEW LEASE AGREEMENT

ERF 963, CHARLES STREET – PEDESTRIAN BRIDGE

I refer to our previous communication of the pedestrian bridge's lease agreement that expired 30 September 2016.

May we please have your lease agreement document for landlord approval and signature to enter into a renewal agreement for a further period with Mangaung Municipality.

Please do not hesitate to contact me should you require any further information.

Regards



MELINDA PIETERSE
PROPERTY ADMINISTRATOR
On behalf of Vukile Property Fund Ltd
Email: melinda.pieterse@cwexcellerate.com



OPTI PROPERTY CONSULTANTS

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The General Manager: Land Development and Property Management
 Mangaung Metropolitan Municipality
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 BLOEMFONTEIN
 9300

ATTENTION: Adv. N Mofokeng and Mr. MP Motloun

13 May 2016

HN Hartman / jh

VALUATION OF AIR RIGHTS TRAVERSING CHARLES STREET - FOOT BRIDGE BETWEEN ERVEN 15904 AND 963, BLOEMFONTEIN

Background:

Opti Property Consultants have been instructed to inspect and establish the market value of an air right servitude over Charles Street, between Erven 15904 and 963, Bloemfontein.

The footbridge (air link) measure 146.25 bulk m².

Market fundamentals:

The potentiality of property and its future use lie in its capacity for the exploitation and development of those of its attributes that have not yet materialised or have not been brought to actuality.

It is therefore understood that property is not valued only by reference to the use to which it is being put at the time when its value has to be determined, but also by reference to the uses to which it is reasonably capable of being put in the future [*Sri Raja Vyricherla Narayana Gajapatiraju Behadur Garu v Revenue Divisional Officer Vizagapatam* 1939 2 All ER 317 (PC) 321H]. It has also been held that "the potentiality of an added advantage to the existing possibilities of development is a project subject for consideration" in the valuation process. [*Katzoff v Glaser* 1948 4 SA 630 (T)]

Land use in the Republic is regulated by statutes, ordinances and town planning schemes. These do not necessarily deprive land of its potentialities and may, in certain instances, add to value.

One of the most significant effects of the regulation of use of property, apart from its zoning, is the permitted bulk or development allowed on such property. Town Planning Schemes specify what and how much may be constructed on a piece of land and the configuration thereof in relation to the coverage on the land, the maximum permitted height, the permitted bulk or floor area ratio (FAR), building lines and parking requirements.

The acquisition of an air right by the two applicants, in this instance, over a road has the effect that the permitted bulk of the respective developments are changed in one way or another. In *Thanam v Minister of Lands* 1970 4 SA 85 (D) 85F-G, the Court ruled that “[a valuer] must at least establish, upon a balance of probabilities, that the property has potential uses to which it is reasonably capable of being put in the future and that a willing buyer and a willing seller would take such potential uses into account in fixing the price.” (My underlining.)

From the above, it also follows that should any of the two subject properties be sold some time in the future, the sales / purchase price will include the air right together with the improvements effected on that “right”.

Comparable sales:

In order to establish the value of the air right cognisance must be taken of the sales of business property in Bloemfontein, reduced to a rate per bulk m².

- Portion 1 of Erf 15716, Bloemfontein was sold on 20 July 2011 for R2,012,599. The site measures 3363m². The permitted bulk on this property was 0.4 i.e. 1345m² building area indicating a unit value of R1,496 per bulk m². This property comprised vacant land and is situated approximately 500 meters north-east of the Southern Centre situated on Erf 15725, Bloemfontein Extension 101. This development site was formerly used as parking for a church.
- Erf 30379, Bloemfontein Extension 213 was sold on 28 May 2013 for R5,700,000. The site measures 11896m². The permitted bulk on this property was specified at 4000m² only indicating a unit value of R1425 per bulk m². This property comprise vacant business land and is situated immediately west of the Northridge Shopping Mall.
- Erf 30374, Bloemfontein Extension 213 was sold on 4 April 2013 for R7,980,000. The site measures 11979m². The permitted bulk on this property was specified at 9003m² indicating a unit value of R886 per bulk m². This property comprises vacant business land and is situated west of the Northridge Shopping Mall. Less desirable.
- Erf 30376, Bloemfontein Extension 213 was sold on 6 December 2013 for R9,120,000. The site measures 16314m². The permitted bulk on this property was specified at 9789m² indicating a unit value of R933 per bulk m². This property comprises vacant business land and is situated west of the Northridge Shopping Mall. Less desirable.

Of these transactions above, I consider the first two sales as the most comparable. All transactions, however, are old transactions. Consultations with developers and general observations in respect of the property market in Mangaung, indicate very small to insignificant increases in the purchase price of property. After consideration of the above and with adjustment for time as well as location and extent, I conclude that a unit value of R1,500 per bulk m² is achievable in the market today.

Property specifics and valuation:

The air right extends to an area of 146.25 bulk m². The value is calculated as follow:

$$\begin{array}{r} \times \quad 146.25 \text{ m}^2 \\ \quad \text{R } 1,500 \text{ per bulk m}^2 \end{array}$$

$$= \quad \text{R219,375}$$

Say R220,000

Lease:

I recommend that rental be calculated at an annual amount of 10% of value, calculated annually in advance and escalating at 8% per annum on lease anniversary. I also recommend that the lease be subject to a rental review after every 10-years of the run of the lease. The suggested rental is:

Air Right over Charles Street

The recommended initial annual rental will amount to R21,937.50 for the first year of the lease.

All figures in this report excludes VAT.

Yours faithfully



H N Hartman
Professional Valuer No: 1744